



The Robert Carre Trust

Staff Disciplinary Procedures Policy

1. Aims of the Policy

- 1.1 The aims of this Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff and to provide a framework within which Headteachers, Heads of School, Trustees and Governors can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is the Trust's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This policy should be read in conjunction with the Guidance for Conducting Investigations at Appendix A
- 1.4 This procedure does not form part of any employee's contract of employment and it may be amended at any time following consultation. We may also vary application of this procedure, including any time scales for action, as appropriate. The policy has been implemented following consultation with staff and recognised trade unions. It has been formally adopted by the Trust.

2. Scope and purpose of policy

- 2.1 The procedure applies to all employees regardless of length of service excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers or self-employed contractors.
- 2.2 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure.
- 2.3 Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases an informal verbal warning or instruction may be given, which will not form part of the disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 2.4 Employees will not normally be dismissed for a first act of misconduct, unless the Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.
- 2.5 As recognisable figures in the local community the behaviour and conduct of staff in Trust outside of work can impact on their employment. Therefore conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment (see disciplinary rules).

3. Confidentiality

- 3.1 It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 3.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 3.3 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.
- 3.4 During informal action, formal investigation and any subsequent stages of the procedure, the Robert Carré Trust will collect, process and store personal data in accordance with our data protection policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Records will be kept in accordance with our Staff Privacy Notice, our Records Management Policy and in line with the requirements of Data Protection Legislation (being (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998). Any breach of data protection may constitute a disciplinary offence, and be dealt with under this procedure.

4. Allegations

- 4.1 Allegations may be brought to the Trust's attention in a number of ways and through a variety of sources. Appendix A sets out the disciplinary rules. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Executive Headteacher/Head of School will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.
- 4.2 Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Local Authority Designated Officer (LADO). See Appendix B for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the LADO has been consulted.

5. Investigations

- 5.1 Upon receiving any allegations against employees it is likely that further information will be required to establish what the next course of action should be. The Executive Headteacher/Head of School should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.
- 5.2 Preliminary Investigation meeting
A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Executive Headteacher/Head of School to determine whether further investigation is required. Such a meeting can sometimes give a reasonable explanation in response to allegations which then

enables the matter to be concluded. A preliminary meeting will not be required in all cases and it is for the Executive Headteacher/Head of School to decide if this is appropriate.

5.3 Investigating Officer

After a preliminary investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Executive Headteacher/Head of School will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person to the nature of the allegations and the role of the employee. In the case of allegations made against the Executive Headteacher/Head of School the Chair of the Trust will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally. The Investigating Officer should not normally be a person's line manager

5.4 Further investigation

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information.

5.5 Interviewing witnesses

It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

5.6 Interviewing the employee

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Employees are allowed to bring a trade union representative or work colleague to the investigation meeting if they are available, but the companion should not be a relation or a legal representative. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend]. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

5.7 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

6. Criminal charges

6.1 Where conduct is the subject of a criminal investigation, charge or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Executive Headteacher/Head of School if they are involved in a criminal investigation, or are subject to a charge or conviction.

- 6.2 The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.
- 6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.
- 6.4 Where a criminal investigation relates to allegations of abuse of children or young people the Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

7. Suspension

- 7.1 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing as soon as possible.
- 7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive normal salary and benefits during the period of suspension.
- 7.3 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within the Trust.
- 7.4 Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Appendix B.
- 7.5 The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.
- 7.6 The decision to suspend an employee can be made by Executive Headteacher. In the case of the Executive Headteacher, it will be by the Chair of the Trust.

8. Disciplinary hearing

- 8.1 Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:
- (a) a summary of relevant information gathered during the investigation;
 - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
 - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.

- 8.2 Five working days written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.
- 8.3 The Executive Headteacher/Head of School will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

9. Role of Companion at Meetings and Hearings

- 9.1 An employee may bring a companion to all meetings under this policy. The companion may be either a trade union representative or a work colleague, but should not be a relation or legal representative. The employee must inform the Executive Headteacher/Head of School conducting the meetings who their chosen companion is, in good time before the hearing.
- 9.2 Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing.
- 9.3 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 9.4 If the choice of companion is not available at the time a meeting is scheduled, the employee may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the meeting. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.
- 9.5 A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.
- 9.6 We may, at our discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability, or if they difficulty understanding English.

10. Procedure at disciplinary hearings

- 10.1 If the employee and/or their companion cannot attend the hearing they should inform the Executive Headteacher/Head of School immediately and consideration will be given to arranging an alternative time. Employees must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.
- 10.2 If the employee chooses not to attend the hearing they may choose to send a written statement for consideration at the hearing.
- 10.3 In cases where it has been possible for the Executive Headteacher to remain untainted, the hearing will be chaired by Executive Headteacher. Where this is not possible, the then hearing will be in front of a panel of Governors/Trustees. The Investigating Officer will also be present.

- 10.4 At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to the Executive Headteacher/Head of School and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.
- 10.5 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.
- 10.6 The Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.7 The employee will be informed in writing of the decision and the reasons for it, within 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

11. Disciplinary penalties

- 11.1 The Executive Headteacher/Panel may find that there is no case to answer and may refer the case back to an informal process. Alternatively the Executive Headteacher/Panel may give the employee a disciplinary warning or dismiss them.
- 11.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 11.3 First written warning. A first written warning may be authorised by the Executive Headteacher / Panel. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.
- 11.4 Final written warning. A final written warning may be authorised by Headteacher/Panel. It will usually be appropriate for:
- (a) misconduct where there is already an active written warning on the employee's record; or
 - (b) misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.
- 11.5 Dismissal. Dismissal may be authorised by Executive Headteacher / Panel It will usually only be appropriate for:
- (a) any misconduct during the probationary period;
 - (b) further misconduct where there is an active final written warning on the record;
or

- (c) any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).
- 11.6 Alternatives to dismissal. In some cases the Executive Headteacher / Panel may, at its discretion consider alternatives to dismissal. These may be authorised by the Trust and will usually be accompanied by a final written warning. Examples include:
 - (a) Demotion;
 - (b) Transfer to another department or job;
 - (c) Loss of seniority; or
 - (d) Reduction in pay.

12. The effect of a warning

- 12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 12.2 A first written warning will usually remain active for twelve months and a final written warning will usually remain active for 18 months. [In exceptional cases verging on gross misconduct or specific misconduct which may warrant indefinite warnings such as dangerous breaches of health and safety, a final written warning may state that it will remain active indefinitely. The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.
- 12.3 After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

13. Appeals against disciplinary action

- 13.1 The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Executive Headteacher within 5 working days of the date on which the employee was informed of the decision.
- 13.2 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity or pay.
- 13.3 If any new matters are raised in the appeal hearing further investigation may need to be carried out. The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.
- 13.4 The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than five working days. The employee may bring a companion to the appeal hearing (see paragraph 9).
- 13.5 Where possible, the appeal hearing will be conducted by a panel of Trustees who have not been previously involved in the case. The hearing may be a complete re-hearing 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. This will be at the Trustee Panel's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

- 13.6 Following the appeal hearing the Trustee Panel may:
- (a) confirm the original decision;
 - (b) revoke the original decision; or
 - (c) substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation
- 13.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

14. Referrals to external bodies

In cases where employees are dismissed or resign during a disciplinary process a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.

15. Review of policy

This policy is reviewed and amended every two years by the Trust. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Appendices:

- A. Standards of Conduct/ disciplinary Rules and Sanctions
- B. Managing allegations of abuse against teachers and other staff
- C. Disciplinary Hearings Procedures
- D. Disciplinary Appeals Hearings Procedures
- E. Guidelines for Conducting Investigations

Adopted by the Board on 28 September 2020

Next Review Date: September 2022 (2 years)

Standards of Conduct/Disciplinary Rules and Sanctions

Standards of Conduct

In any organisation, it is necessary to maintain high standards of conduct if it is to function in a harmonious, orderly and effective manner.

It is the policy of the school to ensure that lawful, fair and effective arrangements exist for dealing with disciplinary matters. Usually, discipline is voluntary and self-imposed, but occasionally, an employee may fall short of the expected standards. The disciplinary procedure provides a consistent framework for informing you of such shortcomings, and for developing ways of correcting the problem whenever possible.

Disciplinary Rules

The rules given below are intended to help employees understand the standards required of them by the Governing Body of the school. No set of rules can cover all disciplinary matters and this list is therefore illustrative and not exhaustive.

Attendance at Work

Examples of unacceptable standards:

- deliberate provision of false or misleading information on applications for employment or promotion;
- failure to wear or use appropriate equipment/attire made available or necessary for the job (including safety equipment);
- unauthorised absence;
- poor timekeeping: late starting, early finishing, excessive break periods;
- failure to comply with sickness absence procedures;
- falsification of official accounts or documents e.g. overtime/additional hours claims, travel/expenses claims; and
- incapacity at work, due to the effects of alcohol or non-prescribed drugs.

Behaviour

Examples of unacceptable standards:

- physical violence;
- indecent behaviour, action or language that is likely to cause offence, including racial or sexual abuse;
- harassment, bullying or victimisation of others, including racial or sexual intimidation or prejudice;
- disruption of others by unruly or disorderly behaviour;
- discourteous or improper treatment of members of the public, colleagues, students, governors or parents;
- acceptance of bribes or involvement in similar corrupt practice; and
- lack of integrity that would damage public confidence in the school.

Behaviour out of Work

Examples of unacceptable standards:

- unauthorised employment, e.g. engaging in unauthorised employment during hours when contracted to work for the school, or engaging during off-duty hours in employment that is detrimental to the interests of the school;

- engaging in political activity whilst occupying a politically restricted post, as defined in the Local Government and Housing Act 1989 (e.g. acting as a party election agent or sub-agent, failure to give notice of an intention to stand in a pending general or parliamentary by-election);
- neglect of health (e.g. activities or conduct which seriously affect your recovery during sickness); and
- conviction of a criminal offence that is inconsistent with the position held by you.

Care of Property

Examples of unacceptable standards:

- use of the school's time or property for personal reasons without permission;
- misuse of property or equipment to which you have access through your work;
- damage to or neglect of property in the course of an employee's work; and
- theft.

Neglect

Examples of unacceptable standards:

- failure to report actual or suspected abuse of any student by another member of staff or any other person who has contact with a student;
- disregard for the health and safety of others, including reckless driving or operation of vehicles or equipment, and smoking in prohibited areas; and
- conviction of a criminal offence that is inconsistent with the position held by the employee.

Standards of Work

Examples of unacceptable standards:

- failure to follow operating instructions and procedures;
- failure to achieve required levels and/or quality of performance, through carelessness or lack of application;
- maladministration; and
- failure to carry out a reasonable instruction.

Disciplinary Action as a Consequence of Breach of Rules

This is a guide to the main types of disciplinary action that the school may take in accordance with its Disciplinary Procedure. The level of disciplinary action taken will depend on how serious the employee's behaviour is viewed, whether it is a first or repeated breach of rules, the nature of the employee's work, the employee's position, work record and performance, and all the circumstances surrounding the case.

Informal, First, Second and Final Written Warnings

Where informal advice and guidance has not resulted in sufficient improvement in an employee's behaviour, or if the offence is more serious, a formal disciplinary hearing will be convened.

If the case is proved, an appropriate level of warning will be issued, which may be a first and final warning in serious cases. The employee has the right of appeal against any level of formal warning. The warning will be placed on file for a specified period.

Dismissal with Notice

Where an employee's conduct or behaviour continues to be significantly below acceptable standards, despite previous warnings and appropriate support, advice and guidance his/her employment may be terminated by giving the appropriate period of notice in accordance with statute and conditions of service.

Summary Dismissal

This is dismissal without notice or pay in lieu of notice, normally as a result of gross misconduct. This sanction will only apply ~~the~~ where the employee's conduct is so serious that all trust and confidence has been lost.

Examples of conduct or behaviour for which summary dismissal is the normal penalty are as follows:

- theft;
- fraud and deliberate falsification of records;
- fraudulent misuse of the school's property or name;
- serious physical violence;
- serious sexual or racial harassment/misconduct;
- malicious damage to school property;
- serious breaches of health and safety regulations which would endanger other people;
- serious acts of insubordination;
- corrupt or improper practice; and
- serious breach of confidence.

The list is neither exclusive nor exhaustive.

Managing allegations of abuse against teachers and other staff

In dealing with allegations of abuse against employees there is guidance that needs to be followed to ensure that children and young people are not at risk of harm as well as supporting employees through the relevant processes.

1. Scope

- 1.1 This guidance will be used alongside the Disciplinary Procedure where allegations have been made that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity.
- 1.2 It will be used in respect of all cases in which it is alleged that an employee has:
 - behaved in a way that has harmed a child, or may have harmed a child;
 - possibly committed a criminal offence against or related to a child; or
 - behaved towards a child or children in a way that indicates that they would pose a risk of harm if they work regularly or closely with children.
- 1.3 As with other conduct issues the behaviour of employees outside of work may impact on their role within the Trust. Therefore if concerns are brought to the Trust's attention about an employee's behaviour in regard to their own children or any other child/children outside of the Trust, consideration will be given to any implications for children with whom the employee has contact with at work.

2. Initial considerations

- 2.1 Where the Designated Safeguarding Lead determines that the allegations meet the criteria above they will immediately contact the Local Authority Designated Officer (LADO) and provide them with all relevant information.
- 2.2 The LADO and the Executive Headteacher/Head of School, in discussion with the Designated Safeguarding Lead will consider the nature, content and context of the allegation and agree a course of action. The LADO may ask for further relevant information to be provided or obtained such as previous history, whether the child or their family have made similar allegations, and the individual's current contact with children.
- 2.3 Outcomes of initial considerations;
 - 2.3.1 No further action by external agencies or the Trust is to be taken in regard to the individual facing the allegation. The decision and reasons for this will be recorded. The Executive Headteacher / Head of School will agree with the LADO what information should be put in writing to the employee and what if any action is appropriate to take in respect of the person making the allegation. After consulting the LADO the [Head Teacher / Principal / Manager] will inform the employee about the allegation and provide them with as much information as possible at the time.

OR

- 2.3.2 No further action by external agencies, but The Executive Headteacher / Head of School determines further action is required and will refer to the Disciplinary Procedure.

OR

2.3.3 The LADO determines that a strategy discussion is needed, or police or Local Authority's social care services need to be involved. The LADO will coordinate the appropriate arrangements and will inform the Executive Headteacher / Head of School. The Executive Headteacher / Head of School should not provide any further information to the employee. The strategy discussion will determine what action will be taken and by whom. The point at which the Trust can continue with its own disciplinary procedures will be determined. No further investigation should be carried out until agreed through this process.

3. Suspension

- 3.1 Suspension will not be an automatic response when an allegation is reported and alternative arrangements will be considered. The risks of the employee remaining in the Trust during any process of investigation will be carefully evaluated. In cases where there is cause to suspect children at the Trust's schools are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal the employee will usually be suspended.
- 3.2 Suspension will be managed as per the Disciplinary Procedure.
- 3.3 The Executive Headteacher / Head of School will consider the advice of the Local Authority children's social care services or the police with regard to suspension, but will make their own informed decision with regard to the suspension of any employee.

4. Support for Staff

- 4.1 Where an employee is the subject of an allegation of abuse the Trust recognises that in most circumstances this will be a time of stress and anxiety. Employees are advised to seek support from their trade union representative or an appropriate colleague. If the employee feels it is beneficial a referral to the Trust's occupational health provider and/or counselling service will be arranged.
- 4.2 The employee will be kept informed of the likely course of action as the case progresses unless there is an objection by the Local Authority social care services or the police.

5. Confidentiality

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

6. Investigations

- 6.1 Investigations under the Disciplinary Procedure will not usually commence until agreement from the LADO and any other external agencies involved in dealing with the allegations have agreed that the Trust can proceed. The provisions in the Disciplinary Procedure regarding investigations apply where allegations of abuse are made. Those undertaking investigations into allegations of abuse should be alert to any sign or pattern which suggests that the abuse is more widespread or organised than it appears at first sight, or that it involves other perpetrators or institutions. It is important not to assume that initial signs will necessarily be related directly to abuse, and to consider occasions where boundaries have been blurred, inappropriate behaviour has taken place, and matters such as fraud, deception or pornography have been involved.

- 6.2 Interviewing students. The Investigating Officer will avoid interviewing students unnecessarily. Information will be gathered from the Local Authority social services and the police where available and accessible.
- 6.3 Photographing students. The Investigating Officer or any other person at the Trust will not take photographs of students to support allegations of abuse. In cases where the Executive Headteacher / Head of School determines it appropriate to record injuries to a student they will use the appropriate procedure, eg body mapping, or refer to the LADO, the Local Authority social services or the police for advice. Photographs and other information provided by external agencies may be used as a part of the investigation process if appropriate and authorised by the relevant agency.

7. Possible outcomes

On the conclusion of the investigation one of the following four outcomes will be determined:

- Substantiated: there is sufficient evidence to prove the allegation (on the balance of probability)
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- False: there is sufficient evidence to disprove the allegation
- Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence

8. Malicious allegations

The Trust considers the making of malicious allegations to be unacceptable. Any allegations found to not have been made in good faith by a student, parent, other employee or any other person may result in action being taken. Any allegation that is found to be malicious will be removed from the file of the employee that has been accused.

9. Records and references

A record of the allegations, any investigation and the outcome will be kept on the employee's file. The employee will be provided with copies of any records held. These records will remain on file until normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Details of allegations that are proven to be false, unsubstantiated or malicious will not be referred to in any reference that the Trust provides for the employee concerned.

Disciplinary Hearing Procedure and Guidance Note

1. Employee and friend or representative and Executive Headteacher/Investigating Officer enter together.
2. Executive Headteacher/Chairman of Panel explains the procedure. Any procedural questions are resolved at this point.
3. The Investigating Officer presents the case.
4. Employee and/or friend/representative question Executive Headteacher/Investigating Officer (and witnesses) on statement(s).
5. Employee or friend/representative makes statement (witnesses may be called).
6. Executive Headteacher/Panel and HR Adviser, if present, questions employee/friend/representative (and witnesses) on statement(s).
7. Employee or friend/representative summarises and concludes.
8. Investigating Officer summarises and concludes.
9. When the Executive Headteacher has heard the case all withdraw except the Executive Headteacher / Panel and the HR Adviser while the case is being considered. When the Panel has heard the case, all except the Panel and the HR Adviser withdraw while the Panel considers the case.

Guidance for Executive Headteacher/ Panel:

- Have the requirements of the disciplinary procedure been properly complied with up to this point?
- Has sufficient regard been paid to any explanation put forward by or on behalf of the employee?
- Is there a genuine belief that the employee has committed the misconduct alleged?
- Are there reasonable grounds on which to sustain that belief on the balance of probabilities (i.e. is it more likely than less likely that the employee did what is alleged)?

'YES' answers to each of these questions will mean a finding that the employee has committed the act of misconduct. Three further questions will help with what to do about it:

- Is the misconduct sufficiently serious to justify the disciplinary action being contemplated?
- Has regard been given to any mitigating circumstances put forward by or on behalf of the employee?

- Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?

Disciplinary Appeal Hearing Procedure

1. Management representative, employee and friend or representative enter together.
2. The Chairman of the Panel explains the procedure. Any procedural questions are resolved at this point.
3. The appellant and/or friend/representative present case based on the grounds specified when submitting the appeal. The appellant can refer to documentation and call witnesses.
4. The management representative may ask questions of the appellant and/or friend/representative and any witnesses.
5. Members of the Panel and HR Adviser may ask questions of the appellant and/or friend/representative and any witnesses.
6. The management representative responds to appellant's presentation call any witnesses in connection with the grounds for appeal.
7. The appellant and/or friend/representative may ask questions of management representative and any witnesses.
8. Members of the Panel and HR Adviser may ask questions of management representative and any witnesses.
9. The appellant and/or friend/representative summarise and conclude.
10. The management representative summarises and concludes.
11. The management representative and appellant and friend/representative withdraw whilst Panel advised by the HR Adviser considers the appeal.

Guidelines for Conducting Investigations

The Robert Carre Trust aims to be a good employer, committed to ensuring all employees are treated fairly and consistently, with dignity and respect.

To achieve this, a range of policies and procedures has been developed to deal with issues relating to:

- discipline;
- bullying and harassment;
- more general staff grievances.

These guidelines have been written to assist managers who have agreed, and been trained, to act as Investigating Officers within the remit of the school's policies. However, some of the general principles outlined in these guidelines may also assist line managers conducting their own investigations into complaints and grievances lodged by students, staff or parents.

Roles and Responsibilities

Within the Staff Disciplinary policy there is a specific role of Investigating Officer whose function is to carry out a thorough investigation into an issue or allegation fairly, objectively and within a reasonable timescale. In cases where an independent Investigating Officer is appointed they will be independent of the *main parties* involved in the investigation and should not be implicated in any of the actions to be investigated.

The main parties are:

- anyone who has raised issues that are the subject of the investigation;
- any person whose conduct may be called into question as a result of the investigation.

The independent Investigating Officer should not be a member of the immediate line management team of any of the parties involved. All Investigating Officers will receive training in how to conduct an investigation, including relevant legal frameworks. The school will endeavour to have at least three senior members of staff who are trained as Investigating Officers.

Investigating Officer – Staff Disciplinary Policy

Within the Staff Disciplinary policy the Investigating Officer's remit is to determine:-

- whether there is substance to an allegation of a disciplinary breach by an employee;
- to inform the employee concerned and the Headteacher of the outcome of the investigation;

Investigating Officer – Anti-bullying Policy

Within the Anti-bullying policy the Investigating Officer's remit is to:

- ascertain the full details of the allegation from the complainant;
- notify the alleged bully/harasser that an investigation is to take place;
- undertake an independent investigation into the complaint;
- consider, on the basis of available evidence, if unacceptable behaviour has taken place and to what degree;
- produce a report recommending action(s) to be taken for the Headteacher.

Line Managers – Other Investigations

The Grievance policy and procedure provides a mechanism by which employees can raise problems or concerns about their work or working relationships. If such problems are not properly investigated by the line manager to whom they are made they can escalate into claims for constructive dismissal or other breach of contract claims.

Line managers will normally need to conduct some type of investigation into the grievance whether it is raised informally or formally. They should ensure that they follow the procedure outlined in the policy. Investigations must be rigorous, reasonable and as comprehensive as, for example, a disciplinary investigation. The reasonableness of the investigation will be a significant aspect of any later complaint to an Employment Tribunal. Full details of the procedure may be found in the Staff Grievance Procedure Policy.

Planning an Investigation

From the outset the Investigating Officer must be clear about:

- who has commissioned the investigation and report (for investigations into disciplinary matters and allegations of bullying and harassment this will normally be the Headteacher);
- the relevant policy and procedure under which the investigation is being conducted;
- the precise issue(s) to be investigated;
- how the investigation will be conducted;
- the proposed time frame;
- any resources available to the investigator (secretarial support, access to legal advice etc);
- who requires copies of the report at the conclusion of the investigation.

The Investigating Officer will also require all relevant documents. These may include:

- correspondence and internal memos;
- notes of meetings and telephone calls;
- diary entries;
- e-mails;
- background documents such as procedures, policies, contracts, job descriptions.

These should be collated and evaluated as soon as possible. For ease of reference they should be sorted and filed in date order.

The Investigating Officer should have full access to documents that are marked “confidential”, “private” or “for addressee only”. He/she must decide whether such documents are relevant to the investigation.

The Investigating Officer will need full details of the parties to the issue under investigation, together with those of any witnesses. He/she will then need to draw up an interview plan to include the questions he/she wishes to ask and the information that needs to be gathered.

Conducting Interviews

A reasonable order for conducting interviews would be:

- the person who has made an allegation in relation to a breach of discipline or bullying/harassment;
- any witnesses to the incident(s);
- the person whose conduct is being called into question.

It may be necessary to recall some or all of the parties involved as a result of further information coming to light during witness interviews.

Almost all investigations involve interviewing witnesses, and the Investigating Officer must impress on witnesses the seriousness of the investigation and the need for complete confidentiality. Witnesses must not discuss the investigation with people outside of it.

Interviews should be:

- Structured, preferably with full notes typed up as soon as possible;
- Held in a confidential environment;
- The meaning of “confidential” should be explained clearly to those interviewed; in this context it means that whilst the interview is held in a confidential setting the subsequent statement may be read as part of the formal procedures of the organisation;
- Held with one person at a time; if he/she has chosen to be accompanied by a companion, the Investigating Officer should ensure that the companion is not a potential witness. Where the companion is also a witness the employee should be advised to select a different companion to avoid suggestions of collusion between witnesses.
- In respect of interviewing students, it may be efficacious to ask several students who have witnessed an incident to write witness statements at the same time so as to avoid the suggestion of collusion. All statements must be signed and dated, and students made aware that they may be interviewed at a later date for points of clarification with regard to their statement.

The Investigating Officer should make a note of why each person was interviewed and, in the case of witnesses, what their relationship is to the main parties of the investigation.

At the start of the interview the Investigating Officer should:

- introduce him/herself;
- set the interview in context (e.g. it is taking place under the provisions of the Disciplinary policy);
- explain for what purposes statements will be used and the meaning of “confidential” as outlined above;
- explain how and when the individual can see and review the statements he/she makes.

Questioning techniques for investigation interviews

There are specific questions to be asked and information to gather and open questions (*who?, what?, where?, when?, why?*) are helpful in getting the interviewee to provide full answers. Closed questions (those requiring a brief factual answer) can be used to seek clarity.

There are some useful phrases which help the interviewee to understand that it is his/her perceptions of the incident or sequence of events that is required. Such phrases include:

“In your own words...”
“Tell me about...”
“Describe to me...”
“Give me an example of...”
“How did it make you feel?”

Leading questions must be avoided so that the Investigating Officer does not influence accounts. For example:

- *“Would you describe the person as aggressive or sarcastic?”*
- *“You did everything you could to be supportive did you?”*

It is important that the Investigating Officer is consistent and asks questions that reflect what has been encountered in previous interviews or in documentation. This will aid evaluation of evidence. During interviews, further evidence may come to light that was not included in the original line of enquiry. The Investigating Officer should follow up this evidence to determine its relevance to the case under investigation, but should always return to the original agenda.

At the end of each interview, the Investigating Officer should have (as appropriate and relevant):

- the names of those involved that each witness is aware of;
- date, time and place of alleged incidents;
- details of what occurred and the order in which everything happened;
- whether it was a one-off incident or part of a series of incidents;
- in the case of a complaint:
 - what impact the incident(s) has had on the complainant and on his/her ability to work;
 - how the complainant and the employee whose conduct is under investigation reacted to any documents or witness evidence that was inconsistent with his/her own account;
 - how the complainant felt after the incident/s;
 - what steps the complainant had taken to resolve the situation;
 - what the complainant's preferred solution is.

The Investigating Officer should note his/her assessment of the demeanour of the parties involved and of witnesses and their attitudes towards questions. Unease, difficulty with recall or hesitancy, *may* be indicators of a witness who is uncomfortable with the story he/she is telling.

Note-taking

It is essential that notes are taken during interviews in case the Investigating Officer's recall is called into question at a later date. A note-taker should be available to support the Investigating Officer.

It is always helpful to record responses under the question that has been asked but this is not always possible if the individual gives long responses or goes “off track”.

Notes should be typed up as soon as possible after the interview.

Witness statements

The Investigating Officer should prepare a statement for the witness to sign. This should record the facts as stated during the interview, written where possible in the language used by the witness and following the train of events as the witness experienced them. Where there is any ambiguity or gap in the account the witness should be asked to clarify. The Investigating Officer should not put his/her own interpretation on the statement. In signing the statement, the witness is confirming that he/she believes it to be a complete and accurate version of events. The statement should be signed, dated and the time noted. See below for taking statements from students. Every effort should be made to ensure that there is someone else present when the statement is being taken.

Witnesses should not be coerced into signing a statement if they are unhappy with it. It may be that they ask for modifications to the statement before signing it. Where a witness has been reluctant to participate in the investigation, he/she may also refuse to sign the statement. The Investigating Officer should then either omit the statement completely or include it, making it clear that it is unsigned and therefore not validated.

Student statements

Students should write up their own account of what has been alleged. This must be signed and dated by them.

Interviews specifically in relation to complaints of bullying and harassment

In relation to investigations into allegations of bullying or harassment there are a few additional points that the Investigating Officer should be aware of which follow:

It is helpful to try to determine, tactfully, whether the complainant may have any reason to lie, e.g. has a personal grudge with the alleged harasser. A useful way to proceed with this is to ask the complainant for details of how the alleged bully/harasser is known to them.

In the first interview with the alleged bully/harasser it is important that he/she is told clearly the nature of the complaint and is asked for his/her comments on whether there is any independent evidence available or witnesses that should be seen.

If the alleged bully/harasser remains silent or refuses to comment, the Investigating Officer must emphasise the importance of hearing what he/she has to say so that any recommendations can take it into account.

Where a witness is reluctant to talk to the Investigating Officer, he/she should try to establish the reason. It may be that he/she fears repercussions or victimisation and, if so, should be reassured on this by referring to the school's statement that any victimisation of a witness will not be tolerated and constitutes a disciplinary offence.

Where reluctance can be shown to be due to genuine fear there is a procedure set out by the Employment Appeal Tribunal. This consists of the reluctant witness providing a full statement but on the basis that:

- any part which would identify him/her to the alleged bully/harasser is deleted;
- if the matter goes to a disciplinary hearing the Chair of the hearing will see the witness in private to confirm the contents of any statement;
- any questions to be put to the witness by way of a cross-examination will be put to him/her by the Chair of the hearing, in private, and a full note made of the reply, which will then be conveyed to the alleged bully/harasser.

Dealing with Difficulties during the Investigation

The following are examples of situations which may arise during the conduct of an investigation.

Further allegations are made

If further allegations are made, regardless of the source, they should, unless clearly frivolous, be investigated independently of the investigation in hand. Where such allegations have an impact on the original investigation, the Investigating Officer will need to discuss them with the Headteacher or HR adviser so that appropriate actions can be taken. This might be to expand the original investigation to include the allegations or to investigate the allegations separately.

Threats of litigation and counter-claims

Counter-claims or litigation threats are a relatively common occurrence during an investigation. These may happen because the employee at the centre of the investigation may feel genuinely aggrieved by the treatment he/she is receiving. If it appears that the employee concerned has reasonable cause for the grievance (e.g. premature or prolonged suspension; unsubstantiated or possibly vexatious complaints) then he/she should pursue the grievance through the school's Staff Grievance procedure.

If the counter-claims or litigation threats appear to be without substance, they must still be treated seriously and the employee should be encouraged to pursue a formal grievance through the Staff Grievance policy. This type of counter-claim *may* be used as a tactic to deter or deflect further investigation. In these circumstances, the Investigating Officer should record the offer of the use of the Grievance procedure as well as the response from the individual concerned.

The risk of successful litigation can be minimised if school policy and procedure is correctly and strictly applied, if employees involved in the investigation are treated fairly and consistently, and if statutory and/or contractual rights are respected and upheld.

Confidentiality

Some witnesses may ask whether what they are about to disclose can remain totally confidential. The Investigating Officer cannot give an unqualified commitment to maintain confidentiality. In these circumstances, he/she should explain that:

- it depends on what the individual has to relate;
- anything important and relevant to the issue will have to be included in the report of the investigation;
- every effort will be made to avoid disclosing any confidential information unnecessarily.
- This may result in the individual deciding not to co-operate with the investigation. However, if he/she does make a disclosure but then wishes to retract it (e.g. by refusing to sign the statement), the Investigating Officer can at least refer to the explanation he/she gave in relation to confidentiality, which should have been documented. It is likely that the disclosure will need to be removed from the statement if the witness is to be persuaded to sign it. Therefore, where the Investigating Officer believes that the disclosure is relevant and sufficiently serious, he/she should consider including it in his/her report anyway.

Refusal to participate

The employee at the centre of the investigation may believe that by opting out of the process, the investigation cannot take place. In this scenario, it is important that the Investigating Officer, and those who may have a decision to make as a result of the conclusions and recommendations, make it clear to the employee that they will make the decision on the basis of what the evidence they are presented with. If he/she does not want to participate, then the decision will be made without the benefit of his/her side of the story. It is advisable to document all conversations on this subject, and to confirm the employee's decision in writing.

- Witnesses may fear the consequences of participating, especially if the investigation centres on bullying, discrimination or harassment. Witnesses may need particular reassurance on several points:
- who the likely recipients of the report are;
- what could happen as a result of the investigation;
- how the organisation will support them if their fears about participating are realised.

The Investigating Officer should ensure that all participants are aware of what to do if it appears that an individual is being harassed or victimised as a result of making a witness statement. Equally, the Investigating Officer should make it clear that harassing or victimising an individual on these grounds is potentially gross misconduct.

If the person refusing to co-operate is the person making the original complaint, then the Investigator should arrange to meet with the individual and explain that, unless something is done about it, the behaviour/incident he/she is complaining about may well continue unchallenged.

An individual may need reassurances as to the school's commitment to ensuring retaliation does not happen. Wherever possible, and as a last resort, the investigation should go ahead. If the investigation is discontinued at this stage, the school may be exposed at a later date to claims by the original complainant that the school did not take him/her seriously.

It may be that the organisation has to remind those refusing to participate that their decision may lead to disciplinary action. Whilst this is not likely to be a popular move, it is important to note that the bigger legal risk to the organisation lies in appearing to do nothing in the face of serious allegations.

- In cases of sexual harassment, it may be that the complainant is too embarrassed to disclose details. The Investigating Officer can give reassurance on several fronts:-
- the complainant can be accompanied by a fellow employee, or trade union official during the interview (the companion will need to be reminded of confidentiality considerations);
- the person can be interviewed by someone other than the Investigating Officer, if that makes the person more comfortable;
- as a last resort, the individual can write his/her own statement, provided there is the opportunity for the Investigating Officer to ask questions for clarity.

In certain circumstances, and always depending on legal advice, it may be permissible for a witness statement to omit certain details which identify the person giving the statement, when that statement is to be given to the alleged harasser. This can be made clear to interviewees, where required.

The indiscreet witness

The Investigating Officer should remind all witnesses of the need for confidentiality and that breaches of confidentiality will be treated as a disciplinary offence.

Complainant dissatisfied with the outcome

To mitigate the risk of a complainant feeling that the complaint has not been taken seriously the Investigating Officer will need to ensure that a thorough, unbiased, fair and consistent investigation has taken place and that the decision or recommendation for action is reasonable, based on the circumstances of the case.

Union and other representation

The Investigating Officer should ensure that all participants in an investigation are aware that they are entitled to be accompanied by a companion, who may be a trade union representative

Where a companion is a witness or is otherwise involved or potentially involved in the case, the Investigating Officer should ask the individual to select another companion to avoid any suggestion of collusion of witnesses.

The Investigating Officer should report any difficulties with trade union representatives to the Human Resources representative so that the matter may be dealt with directly with the trade union concerned.

An employee has no legal right to be accompanied by a solicitor even in a disciplinary meeting. Where an employee is accompanied by a solicitor, the Investigating Officer has the right to request (and if necessary insist) that the solicitor does not attend. The solicitor may put the employee's concerns in writing and in these circumstances the school will pass the letter to its own solicitors to be dealt with.

Accusations of bias

Accusations of bias should not normally arise because the Investigating Officer will be selected as someone who is independent of the main parties involved in the investigation. Where such an accusation is made to the Investigating Officer, he/she should report the matter to the Headteacher.

Evaluating Evidence

The requirement in terms of evaluating evidence is for the Investigating Officer to reach a conclusion based on the "balance of probabilities" that the employee whose conduct is being called into question did or did not act or behave in the way cited.

Evidence will come mainly from two sources – documents and witnesses. The evaluation of documentary evidence is usually more straightforward than the evaluation of witness evidence, however, the Investigating Officer should bear in mind the possibility that documents can be falsified or tampered with. Witness evidence may be contradictory, misleading, have omissions or discrepancies or even untruths.

The Investigating Officer should be aware of any reason why any of the interviewees might bear a grudge against the employee whose conduct is called into question. This would not necessarily negate the interviewee's account, but it should be borne in mind when evaluating evidence.

Other factors which the Investigating Officer should consider

Direct witness evidence is usually stronger than circumstantial evidence. Circumstantial evidence is that which provides only a basis for inference about the matter.

For example:

- *In an allegation of bullying the evidence of an eyewitness to the incident is likely to be stronger than the evidence of someone who saw the demeanour of the alleged victim just after the incident was said to take place.*
- *In an allegation of the theft of a handbag, evidence of an eyewitness to the theft is likely to be stronger than circumstantial evidence that the alleged thief was seen in the area of the theft just before the disappearance of the handbag.*

Evidence which is inconsistent with authenticated documents is questionable.

Evidence which contains contradictions of its own is questionable, as is evidence which is vague or omits significant details.

Anonymous evidence is highly questionable, e.g. an anonymous letter written to the Investigating Officer or line manager of the employee whose conduct is under question. In almost all circumstances anonymous evidence should be discounted. The reason to use anonymous evidence would need to be extremely compelling and the Investigating Officer should seek advice from the HR adviser.

The demeanour of those interviewed may affect the weight given to their evidence.

The possibility that witnesses have been influenced by others should be considered.

Where conflicting evidence is present, a view may still be taken that one version of a set of events is more likely than another, on the balance of probabilities.

In the absence of conclusive evidence a decision may still be made.

Similarly, where the Investigating Officer finds that some evidence is missing or feels that what is available is less than he/she would ideally like, this need not prevent a decision from being reached. If the Investigating Officer can form a view and take a decision that is justifiable on the balance of probabilities, with the evidence available, then that decision should be taken.

Concluding the Investigation

The Investigating Officer should aim to complete the investigation and produce a report as quickly as possible; however this must not be to the detriment of a full investigation.

For investigations relating to disciplinary matters

The Investigating Officer must provide a written report. This should summarise:

- the issue;
- the parties involved;
- the evidence received (both written and from witnesses);
- how the evidence was evaluated;

- any contributing or mitigating factors that impact on the situation.

Finally, the Investigating Officer should state clearly whether the findings are conclusive and whether there is a disciplinary case to answer.

Based on the findings, the employee at the centre of the investigation will be called to attend a disciplinary hearing at which the Investigating Officer will be required to present the case against the employee.

The Investigating Officer is responsible for informing the employee at the centre of the investigation what his/her findings are, why he/she has arrived at that conclusion and what the next steps will be. If there is a disciplinary case to answer this will be the convening of a disciplinary meeting as outlined in the school's Staff Disciplinary policy and procedure. If there is no disciplinary case to answer the employee should be informed of this and that the matter is now closed. Records of the investigation will be held on the employee's personal file.

For investigations relating to allegations of bullying or harassment

In these cases the Investigating Officer must submit a written report to the complainant's line manager and Headteacher. He/she must also write to the complainant and the alleged bully/harasser to inform them that the investigation has been completed and that their line manager(s) and the Headteacher will contact them to arrange a meeting to discuss the report and its findings.

The report should be more detailed than that for disciplinary investigations to ensure that every point raised in the allegations is covered.

A useful format for the report is an introduction and background to the complaint covering:

why the investigation was necessary;
any specific terms of reference for the investigation;
the position of the Investigating Officer in relation to the main parties.

Methodology

This section should cover how the Investigating Officer gathered evidence.

Where witnesses were interviewed, a full list of them should be given together with a brief rationale of why they were interviewed. For example: eyewitness, position in the organisation, special knowledge relevant to the allegation.

The Investigating Officer should also record that all those interviewed were informed why they were being interviewed, what was expected of them and how their statements would be used.

Where documentation or other media (e.g. security video) were reviewed these should also be detailed.

Findings

In this section the Investigating Officer should describe what evidence was found, how it was evaluated and what he/she believes are contributing factors to the situation. If there are mitigating circumstances, these too should be described, in full.

This section should also detail why a particular version of events was preferred where conflicting views were given. Consistencies and inconsistencies in evidence should be outlined and explanations given, if known.

Where the findings present any risk to the school these should be detailed. Such risks relate to:

- possible litigation;
- damage to reputation;
- finance;
- health and safety;
- employee relations.

The Investigating Officer should indicate whether these risks are inferred by him/her from what has arisen during the investigation or whether they are factual, e.g. he/she has been informed that one of the parties is seeking legal redress.

Conclusions and recommendations

The Investigating Officer should state clearly whether the investigation is conclusive and what the conclusions are. The actions or behaviours of the alleged bully/harasser and the sequence of events should be outlined. On reading this section, it should be clear what the Investigating Officer believes actually happened.

The Investigating Officer may make recommendations relating to the findings and conclusion. These recommendations should take account of factors such as:

- the gravity and the degree of intent of the incident(s);
- whether there was a single incident or a series of incidents;
- any guidance from the Human Resources Adviser
- any precedents.

Action recommended may include a number of options:

- disciplinary action to be taken under the school's Disciplinary Policy;
- redeployment or transfer to another department or area for either party;
- training and development for either party;
- conciliation;
- counselling.

The Investigating Officer may also find there is no case to answer and recommend that no action be taken.

Appendices to the report

These may contain information relevant to the investigation but having no place in the main report. Usually these include:-

- copies of signed witness statements;
- copies of documents or other media reviewed;

- copies of interview questions used and guidance given to interviewees about the investigation process.

Copies of all records and the report will be retained.

Part I Structure of the Investigatory interview

Opening:

Explain:

- Roles e.g. interviewer/note taker
- Context of the interview
- The meaning of confidentiality
- How the interview will be conducted
- What will happen afterwards

Main Body:

- Obtain the facts
- Ask the witnesses to follow the events through in chronological order
- Keep control of the discussion
- Clarify points
- Summarise to confirm understanding
- Make note on attached sheet

Close:

- Summarise
- Explain next steps
- Answer any final questions from the interviewee
- Thank them for their time.

Part 2 Taking notes during an investigation

Name of Interviewee	
Name of Interviewer	
Name of Note taker	
Date/Time	
Location	

	Notes
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<ul style="list-style-type: none"> • Opening <p>Introductions Explanation of structure</p>	
<ul style="list-style-type: none"> • Main Body <p>Overview of the area to be investigated</p> <p>Ask for the member of staff to take you through the issues in chronological order.</p> <p>Clarify</p>	
<ul style="list-style-type: none"> • Close <p>Summarise Explain the next steps and timescales</p>	

Signed:
Date:

Part 3 Example of an investigation report

Contents

All pages should be numbered, and the contents page should detail where each section of the report, plus any appendices, can be found.

Executive Summary

This section will summarise the background, methodology, findings, conclusions and recommendations of the investigation.

- **Introduction and background:**

After reading this section the reader should understand:

- Why the investigation was deemed necessary.
- The terms of reference of the investigation.
- Why the person carrying out the investigation was selected for the role.
- Any other factors regarding the organisation or individuals that may be relevant.

Methodology

In this section the Investigator should detail how they went about the investigation. If this involved interviewing people, a full list of interviewees should be given, together with a brief rationale as to why they were interviewed i.e. their position in the organisation or they were eye witnesses.

If the investigation involved activities such as reviewing documentation, or watching videos these should be detailed.

Findings

This will be the largest section of the report. Here, the Investigator will describe what he/she found, how evidence was evaluated, and whether/she found, how evidence was evaluated and what the investigator believes are the contributing factors to the situation. If there are mitigating factors that have contributed in some way to the situation, these should be described in full.

The chosen version events should be described with supporting reasons and any conflicting views.

Consistencies and inconsistencies should also be commented upon and explanations given if known.

Conclusions and recommendations

The Investigator should refer back to the terms of reference of the investigation. Then he/she should state whether, following the findings the investigation is conclusive, and what the conclusions are.

If fault is to be attributed it should be outlined here. If a process or procedure has not been followed or an individual has not behaved inappropriately, this is the ideal place to outline what went wrong and what should have happened instead. After reading this it should be clear exactly what the investigator believed happened.

Recommendations should be included and could include: training, introduction/updating of policies and procedures, initiation of disciplinary proceedings.