



*Creative
Education
Trust*

Disciplinary Policy

1. Introduction

- 1.1 Creative Education Trust expects all its employees to recognise their obligations to their school, the public, pupils and other employees and to conduct themselves properly at all times and in accordance with its Code of Conduct. Appendix 1 gives examples of misconduct and gross misconduct, but these are not to be treated as exhaustive.

2. Purpose

- 2.1 The purpose of this policy is to ensure that all employees are helped and encouraged to achieve the expected standards of conduct required by Creative Education Trust in order to achieve high quality education and good employee relations. This procedure aims to:

- Improve conduct primarily by advice and correction rather than by disciplinary measures.
- Provide a fair and equitable method of dealing with alleged breaches in standards of conduct.

3. Scope

- 3.1 This procedure applies to all employees employed by Creative Education Trust who either (a) have a permanent contract of employment, or (b) are fixed-term employees with more than six months' continuous service. It does not apply to employee's subject to probation¹, who are subject to separate procedures.
- 3.2 Workers that are engaged through agency contracts, casual contracts and volunteers will be expected to follow the code of conduct, but the process of disciplinary investigation and sanction will not apply, these will be vary in accordance with the workers contract of engagement.

4. Equal Opportunities

- 4.1 Creative Education Trust are committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation including the requirement to make reasonable adjustments for employees with disabilities.

5. Timing

- 5.1 Disciplinary matters should normally be conducted within the timescales laid down in the procedure. However, if there is a valid reason to do so, timescales can be varied. If this

¹ Where there are alleged disciplinary breaches for employees that are subject to probation, refer to the Probation Policy.



is initiated by management, the employee should be given an explanation and informed when a response or meeting can be expected.

- 5.2 All efforts should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings, then these should be rearranged without undue delay, usually within five working days.

6. Informal Action

- 6.1 Less serious breaches of conduct (i.e. first occurrences of some types of misconduct) may be dealt with informally, without a hearing taking place, by providing management guidance to the employee.
- 6.2 This involves drawing to the employee's attention the alleged unsatisfactory conduct, seeking their response and where appropriate explaining what conduct is required, and setting a clear and reasonable timescale for the employee's conduct/behaviour to improve. This will be communicated to the employee through a letter of management guidance.
- 6.3 Consideration should be given to any difficulties which an employee may be facing, and a genuine attempt should be made to help the employee to overcome them. Where considered appropriate, managers should seek Occupational Health advice when managing staff who may be suffering from mental illness or alcohol or substance abuse.
- 6.4 Human Resources must be consulted prior to the initiation of any action.

7. Disciplinary Sanctions

- 7.1 The following formal disciplinary sanctions may be imposed for breaches of conduct.
- 7.2 Warnings are progressive from first to final except for:
- Cases of gross misconduct (which if substantiated through the disciplinary process may result in summary dismissal with no entitlement to notice).
 - Cases which are less serious than gross misconduct but warrant a final warning being issued regardless of prior formal warnings.
- 7.3 If further misconduct occurs during the term of a first written warning and a final written warning is issued, the duration of the final written warning will supersede that of the first written warning.
- 7.4 First warnings have a duration of six months and final warnings have a 12-month duration on an employee's personnel records. Upon expiry, all disciplinary warnings will no longer be live.
- 7.5 An employee with a final written warning on file who is alleged to have committed further misconduct must be treated as if the allegation was of gross misconduct. This is because if the allegation is substantiated, the employee may be dismissed. Therefore, letters to the employee should state that dismissal is a possible outcome (as for allegations of gross misconduct).



- 7.6 For cases of teacher misconduct resulting in dismissal (or cases which would have resulted in dismissal if the teacher had not resigned) consideration will be given to whether the matter should be referred to the Teacher Regulation Agency (TRA). This referral will usually be made following the conclusion of any appeal process, however in circumstances where there are prolonged delays in the appeal process the referral may be made sooner and this should not be taken as an assumption of the outcome of any subsequent appeal.
- 7.7 Schools and colleges have a legal duty to refer to the Disclosure and Barring Service (DBS) anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult where:
- the harm test is satisfied in respect of that individual;
 - the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and
 - the individual has been removed from working (paid or unpaid) in regulated activity or would have been removed had they not left.
- 7.8 The legal duty to refer to the DBS applies equally in circumstances where an individual is deployed to another area of work that is not regulated activity, or they are suspended. Referrals will be made as soon as possible after the resignation, removal or redeployment of the individual.

8. Disciplinary Investigations

8.1 The Investigating Officer

- 8.1.1 The Principal (in this document, the term “Principal” refers to Principals of secondary schools and Head teachers of primary schools) or a member of the Leadership team is responsible for appointing an Investigating Officer who must be competent to undertake the role. The Principal or the member of the Leadership team is the Commissioning Officer for the process.
- 8.1.2 Investigations will usually be carried out by a member of the Leadership team. If this is impractical or inappropriate, another Investigating Officer should be chosen. Alternatives could include a member of the Leadership team of another school within the Creative Education Trust or an external investigator.
- 8.1.3 Each case must be thoroughly investigated, and a clear written report produced supported by evidence.

8.2 Pre-Investigation Stage or Management Investigations

- 8.2.1 In certain cases it will be necessary to gather information regarding complaints, incidents and allegations before the start of a disciplinary investigation. This process should be used to establish the key facts of the case and should not be used to carry out a full investigation. Interviewing of witnesses would not be appropriate at this stage.
- 8.2.2 This type of information gathering may only be appropriate for prima-facie serious allegations which are particularly sensitive or complex to determine whether:



- There is any substance to the complaint and a full disciplinary investigation is appropriate.
 - The allegations warrant suspension of the employee.
- 8.2.3 This is not a formal stage of the procedure and would not be considered within the stipulated timescales of the procedure but must be carried out as speedily as possible.
- 8.2.4 Any information uncovered at this stage would be provided to the Investigating Officer as a starting point for their investigation.

8.3 Timescales for Investigations

- 8.3.1 All allegations and complaints against employees must be investigated without delay (particularly in cases of potential gross misconduct). The Principal/member of the Leadership team should ensure the Investigating Officer has reasonable time off from normal duties to complete the investigation promptly.
- 8.3.2 As a guide, from the time the Investigating Officer begins their investigation, the investigation report should be completed within 15 working days² for allegations of misconduct and other cases where the fact finding is relatively straightforward. For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 20 working days (unless agreed by mutual consent in advance).
- 8.3.3 These timescales should be viewed as maximum periods and investigations should be completed as soon as is reasonably practicable. In exceptional circumstances e.g. very complex cases or where the Investigating Officer or an important witness falls sick, the timescales may be extended following consultation with the individual. However a reasonable date for completion should be set.
- 8.3.4 On completing the investigation, the Investigating Officer will recommend to the Commissioning Officer whether a formal disciplinary hearing is necessary and, if so, on what basis.

8.4 Allegations against Principals and Members of the Leadership team

- 8.4.1 Where allegations of misconduct involve the Principal, the Chief Executive will be the Commissioning Officer, delegated to an appropriate Executive Director.
- 8.4.2 The power to suspend the Principal will rest with the Chief Executive or delegated to an appropriate Executive Director. Any investigation of a Principal will be carried out by an Executive Director of the Trust.
- 8.4.3 Where allegations of misconduct involve a member of the Leadership team, the Principal will initiate any necessary action and have responsibility for suspension if appropriate.

9. Disciplinary Hearings

² Working days refers to actual school days for term-time only staff.



- 9.1 Where the investigation concludes that there is a case to answer, a disciplinary hearing should be arranged as soon as possible but within 20 working days of completion of the investigation. Reasons for any delay in convening a hearing must be communicated by the Commissioning Officer to all interested parties.
- 9.2 The Investigating Officer's report and all relevant documentation will be sent to the employee and their representative with a letter specifying the date, time and place for the hearing, giving five working days' notice. The letter must set out the allegations and the possible outcomes of the hearing. The letter should inform the employee of their right to be accompanied by a trade union representative or work colleague. If an employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable. This should usually be within five working days of the date originally set. If the employee fails to attend the disciplinary hearing without good reason on at least one occasion, the decision may be taken to hold a meeting in the absence of the employee, this possibility will be communicated to the employee in advance.

10. Composition of the Panel

- 10.1 The composition of the panel will need to reflect the possible disciplinary sanction levels set out in the table below.

Employee Level	Possible Sanction	Issued by
Head office or school employee	Management guidance First written warning Final written warning	Member of the Leadership Team
	Dismissal	Member of the Leadership Team with CET representative (School) Or Director with one other senior manager (Head Office)
Member of the Leadership Team	Management guidance First written warning Final written warning	Principal/Headteacher or Director
	Dismissal	Principal/ Headteacher with CET representative Or Director with one other senior manager
Principal/Headteacher	All sanctions	Director
Director	All sanctions	Chief Executive
Chief Executive	All sanctions	Chair of the Audit and Risk Committee

- 10.2 For all meetings a note taker will attend to take minutes of proceedings. It is their role to minute the significant points of the hearing and the decision of the panel, but not to produce a verbatim record.
- 10.3 Advisors (for example a Human Resources representative or appropriate professional advisor) may be invited to attend disciplinary hearings as appropriate.



11. Conducting the hearing

- 11.1 At the hearing, both parties will have an opportunity to present their case and to ask questions or challenge the reports/evidence submitted by all witnesses. A model structure of a disciplinary hearing is included within appendix 2.
- 11.2 At the end of the hearing, both parties will be asked to withdraw whilst the deciding officer/panel considers the evidence and deliberates. Where reasonably practicable, the employee and their representative should be informed of the decision of the disciplinary hearing immediately after it has been made, and this will be confirmed in writing within five working days. The letter must also explain the employee's right of appeal.

12. Appeals Procedure

- 12.1 Employees have the right of appeal against all formal disciplinary sanctions.
- 12.2 Appeals must be submitted in writing to the person named in the decision letter within ten working days of the date of the letter confirming the disciplinary decision. Appeals received after this period will not be heard.
- 12.3 The appeal hearing will concentrate on the area(s) of dispute only and will not be a re-run of the whole disciplinary hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing. Such written notice of appeal must include reference to any new facts the employee/appellant intends to raise at the appeal.
- 12.4 Employees/appellants must present any new evidence with their appeal document, so that management has an opportunity to respond.
- 12.5 Appeals will be usually be on one or more of the following grounds:
- i) The procedure – the letter of appeal should set out how procedural irregularities prejudiced the disciplinary decision.
 - ii) The evidence – the letter of appeal should explain how relevant evidence was either misinterpreted or disregarded and/or that irrelevant evidence was given undue weight. It should also include any new evidence to be considered.
 - iii) The decision – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.
- 12.6 Appeals against decisions made at a disciplinary hearing must be considered by an appeals panel of two people who will have had no prior involvement in the case. The appeal panel is set out in the table below.



Employee Level	Possible Sanction	Issued by	Appeal heard by
Head office or school employee	Management guidance First written warning Final written warning	Member of the Leadership Team	Principal/ Headteacher with CET representative (school) Director with CET representative (Head office)
	Dismissal	Member of the Leadership Team with CET representative Director with CET representative	Director with one other CET representative Director or Chief Executive with CET representative
Member of the Leadership Team	Management guidance First written warning Final written warning	Principal/Headteacher or Director	Director or Chief Executive with CET representative
	Dismissal	Principal/ Headteacher with CET representative Or Director with one other senior manager	Director or Chief Executive with CET representative
Principal/Headteacher	All sanctions	Director	Chief Executive with CET representative
Director	All sanctions	Chief Executive	Chairman of the Trust Board and one other Non-Executive Director
Chief Executive	All sanctions	Chair of the Audit and Risk Committee	Chairman of the Trust Board and one other Non-Executive Director

12.7 Appeal hearings will be convened as soon as is reasonably practicable and the appellant will be given five working days' notice of the time and place of the appeal hearing.

12.8 The purpose of the hearing is to review the decision to give a written warning or to dismiss. The outcome will be to confirm it, substitute a lesser penalty or to cancel it. Where the reasonableness of the decision is being questioned the test that should apply for overturning a formal warning is that the decision was so unreasonable that it was one that no other senior manager, acting with proper regard to his or her responsibilities, could have chosen to take. The outcome of the appeal and the reasons for the decision, where reasonably practical, will be conveyed to the appellant immediately after the hearing and will be confirmed in writing to the appellant and his/her representative within five working days by the chair of the appeal panel.



12.9 A model structure of an appeal hearing is included within appendix 3.

13. Right to be accompanied

13.1 Where allegations are made against an employee, he/she should be informed that they may be represented at all formal meetings including during the investigation and hearings by a representative of a recognised Trade Union or a workplace colleague.

14. Suspension

14.1 An employee may be suspended on full pay when there is an allegation of gross misconduct; or to ensure that the integrity of an investigation will be preserved; or in the interests of protecting children and/or staff. All alternatives to suspension should be considered before a member of staff is suspended. The period of suspension should be as brief as possible and should be kept under review. In all cases Human Resources advice must be sought before the suspension taking place and a suspension risk assessment will be completed, a template is at Appendix 4.

14.2 If necessary, a senior manager can send a member of staff home pending ratification by the Principal or a member of the Leadership team the following day.

14.3 Where suspension occurs, this should be confirmed in writing giving details of the allegation and the reasons for suspension. The employee will be given details of a member of staff not involved in the investigation who will act as their point of contact during their suspension.

14.4 The suspension of a member of staff is a neutral act. Suspensions are a precautionary measure and should not be regarded as prejudging the matter. If at any stage during or at the end of the investigation, or at any stage of the disciplinary procedure, it is considered that the suspension should be lifted, the employee will be informed immediately.

14.5 The suspension of a member of staff will be reviewed every two weeks and the employee will be notified in writing of the decision made at each review.

14.6 Suspension from duty is a 'working arrangement' whereby the employee must not enter any Creative Education Trust building or contact any school employee without the express permission of a member of the Leadership team or the Investigating Officer. Nor must a suspended employee contact pupils' or their parents or anyone else with whom they would come into contact during the course of their duties. Failure to observe this requirement may render the suspended employee liable to disciplinary action.

14.7 Where an employee is suspended and needs to contact witnesses to provide evidence for a hearing, then this may be achieved via their union representative and Human Resources.

14.8 Where periods of sickness occur during the employees suspension, this will be recorded as sickness absence and the absence will be managed in line with the Absence Management Policy.



15. Child Protection

- 15.1 If allegations are made against an employee that have implications for child protection, the safeguarding procedure must be followed irrespective of how the allegation arises and the Designated Safeguarding Lead (DSL) will be notified to determine if a referral to the Local Authority Designated Officer (LADO) needs to be completed. Employees may be suspended on full pay pending the outcome of the safeguarding procedure. If the relevant child protection agencies decide not to pursue action against the employee, the matter will be referred back to the school for consideration under the appropriate procedure.
- 15.2 If the safeguarding procedure is involved, other disciplinary procedures will begin only if and when the matter has been referred back to the school. The fact that external agencies have not taken action should not be taken as an indication of the employee's innocence or guilt and will not prevent the internal disciplinary procedure from being followed.
- 15.3 Where allegations arise that may indicate a supply teacher or agency worker is unsuitable for working with children the Trust will work with the individual's employer to ensure that a proper investigation is conducted and will report allegations to the LADO where appropriate.

16. Record keeping

- 16.1 Managers and panel members must keep written records of meetings and discussions relating to the disciplinary process. These must be written during or as soon after the event as possible to ensure the accuracy of the record but will not be a verbatim record. Written records of witness interviews and investigatory meetings should be signed and dated by all parties. Copies of all final meeting records must be given to the employee and their representative. Written confirmation of the outcome of any meetings will be sent to the employee and their representative for their information and a copy kept on the employee's personnel file in accordance with the General Data Protection Regulations 2018. Records should include:
- The nature of the alleged misconduct;
 - What was decided and actions taken;
 - The reason for the actions;
 - Whether an appeal was lodged;
 - The outcome of the appeal; and
 - Any subsequent developments
- 16.2 Expired warnings held on personnel record should not be referred to in references
- 16.3 Employees may also wish to keep records of events to support their case. Recording of any meeting will only be with explicit consent of all parties, covert recording by mobile phone or any other device will be considered a disciplinary offence.



17. Special Situations

17.1 Grievances raised during the course of the disciplinary procedure

- 17.1.1 Sometimes an employee may raise a grievance during the course of a disciplinary case. Where the grievance is related to the disciplinary process it will not be dealt with separately under the grievance procedure and should be considered as mitigation in the employees' case. In exceptional circumstances it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered. The employee, will however, have to raise the grievance in accordance with the grievance policy.
- 17.1.2 Depending on the nature of the grievance it may be appropriate to consider bringing in another manager to continue to hear the disciplinary case.

17.2 Discipline of Employee Representatives

- 17.2.1 No disciplinary action should be instigated against a representative of a recognised trade union without first notifying a full-time official or nominee, of the relevant Trade Union.

17.3 Absences during the disciplinary process

- 17.3.1 Where a member of staff is absent during the disciplinary process this will be managed in conjunction with the Absence Management Policy, to establish if the employee is fit to engage in the process. This may result in a referral to Occupational Health for advice.
- 17.3.2 If the employee is absent due to maternity leave they will be notified in writing of the investigation and asked to attend any relevant meetings/hearings. On the occasions where employees are asked to attend the workplace these will be classed as keeping in touch days. Employees will not be contacted or invited to attend any meetings in the 2 weeks following the birth of their child. Disciplinary warnings will be paused during maternity leave and restarted upon the return to work.

18. Review

- 18.1 This policy will be reviewed every three years in consultation with the recognised trade unions.



Appendix 1 - Examples of Misconduct and Gross Misconduct

Gross Misconduct

The following are examples of gross misconduct, but this is not an exhaustive list:

- 1 Prolonged unauthorised absence from work.
- 2 Working or engaging in activities while on sick leave, which are likely to be inconsistent with the reason for absence and/or which are unlikely to be conducive to recovery.
- 3 Inappropriate conduct towards or contact with pupils.
- 4 Serious acts of insubordination.
- 5 Serious breaches of the school's financial regulations, code of conduct or other policies (including health and safety; IT policies, for example inappropriate internet or email use, social media; data protection policy etc).
- 6 Theft or misappropriation of, or failure to account for, or falsely claiming entitlement to, the property, assets or funds of the school or its employees.
- 7 Fighting or acts of violence at the workplace, serious threatening or abusive behaviour towards, pupils, parents, fellow employees, visitors etc.
- 8 Criminal offences outside work (including fraudulent activities) which may affect the individual's employment suitability.
- 9 Unauthorised removal and use of Creative Education Trust property or deliberate damage to Creative Education Trust property.
- 10 Failure to report or record any serious matter which it is the employee's contractual duty (either expressed or implied) to report.
- 11 Falsification of or destruction of documents such as time sheets, bonus/expenses claims, qualifications likely to be of financial benefit to the employee or other persons.
- 12 Obtaining a job by lies or deception or omission in the course of selection procedures or assisting another person to do so.
- 13 Making false or vexatious claims under any of the school's policies and/or procedures.
- 14 Discrimination/harassment against a pupil, employee or parent, on the grounds of sex, trans-gender status, sexual orientation, religion or belief, marital status, civil



partnership status, age, race, colour, nationality, national origin, ethnic origin or disability.

- 15 Bullying of colleagues or students.
- 16 Being incapable of adequately performing duties as a result of the intake of alcohol or drugs or being in possession of illegal drugs at work.
- 17 Smoking or vaping anywhere on school property or whilst engaging in off-site school activities, for example on residential trips, whilst using the school minibus etc.
- 18 Acts or omissions that would expose the school or Creative Education Trust to criticism or cause reputational damage.
- 19 Deliberate or negligent breaches of external examination codes and regulations or other professional codes of conduct.

Misconduct

The following are examples of misconduct but the list is not intended to be exhaustive:

- 1 Unacceptable lateness for work.
- 2 Failure to follow employment procedures e.g. reporting absence.
- 3 Refusal to obey a reasonable management instruction.
- 4 Negligence at work leading to loss, damage or wastage of school or other property.
- 5 Improper, disorderly or unacceptable conduct at, in or near the school, or whilst on school business.
- 6 Wilfully inadequate work performance (poor performance or lack of capability will normally be addressed under the capability policy).
- 7 Unprofessional standards of dress or poor standards of hygiene.



Appendix 2 – Disciplinary hearing procedure

- 1 Introduction by Chairperson and explanation of procedure.
- 2 Investigating Officer should present the investigation findings, conclusions and recommendations.
- 3 Employee (or representative) may ask questions of the Investigating Officer.
- 4 The Chairperson/panel members and HR advisor (if present) may ask questions of the Investigating Officer.
- 5 Investigating Officer to call witness(es) if applicable.
- 6 Employee (or representative) may ask questions of Investigating Officer's witness(es).
- 7 The Chairperson/panel and HR advisor (if present) may ask questions of the Principal/Investigating Officer's witness(es).
- 8 Employee (or representative) should present his/her case.
- 9 The Investigating Officer may ask questions of the employee (or representative).
- 10 The Chairperson/panel and HR advisor (if present) may ask questions of the employee (or representative) and ask further questions of the Principal/Investigating Officer regarding the case made on behalf of the employee.
- 11 Employee (or representative) to call witness(es) if applicable.
- 12 The Investigating Officer may ask questions of the employee's witness(es).
- 13 The Chairperson/panel and HR advisor (if present) may ask questions of the employee's witness(es).
- 14 The Investigating Officer to sum up case.
- 15 The employee (or representative) to sum up case.
- 16 Parties to retire; the HR advisor (if present) may remain with the Chairperson/panel to offer advice. The Chairperson/panel to consider the cases presented. The Chairperson will notify the parties of their decision. This may be conveyed at the conclusion of the hearing but will in any case be confirmed in writing, with information on any further appeal rights where appropriate.



Appendix 3 – Disciplinary appeal procedure

1. Introduction by Chairperson and explanation of procedure.
2. Appellant (and/or trade union representative or workplace colleague) present the grounds for appeal.
3. The Chairperson/panel and HR advisor may ask questions of the employee (and/or trade union or workplace colleague).
4. The Management Representative may ask questions of the employee (or representative).
5. The Management Representative present the findings of the original hearing and the reasons for the level of the disciplinary sanction
6. The Chairperson/panel and HR advisor may ask questions of the Management Representative.
7. The employee (and/or trade union or workplace colleague) may ask questions of the Management Representative.
8. The employee (and/or trade union or workplace colleague) may sum up their case.
9. The Management Representative may sum up their case.
10. All the parties to retire; the HR advisor may remain with the Chairperson/panel to offer advice. The Chairperson/panel to consider the cases presented. The Chairperson will notify the parties of their decision. This may be conveyed at the conclusion of the hearing but will in any case be confirmed in writing within five working days.



Appendix 4 Suspension risk assessment

The following factors need to be considered and discussed with Human Resources prior to suspension taking place.

	Consideration notes
<p>Nature of the alleged incident</p> <ul style="list-style-type: none"> • Degree and nature of alleged offence • Duration and frequency of allegation • Extent of pre-meditation • Degree of any threat or coercion 	
<p>Information re: member of staff</p> <ul style="list-style-type: none"> • Previous concerns • Previous allegations • Contact with child(ren) / young person / people concerned and generally 	
<p>Advice from other stakeholders</p> <ul style="list-style-type: none"> • Police • LADO etc 	
<p>Investigation</p> <ul style="list-style-type: none"> • Possibility of the investigation being impeded or corrupted should the person remain in work • Possibility of further allegations being made / issues arising for person if in school during investigation 	
<p>Health and Safety</p> <ul style="list-style-type: none"> • Potential risks to the person's health and safety should they remain in school (impact of threats from parents / carers / potential press interest etc) • Potential risks to the health and safety of others. • 	
<p>Alternatives to suspension</p> <p>Explore and assess all other potential options e.g. redeployment or supervision or working from home etc</p>	



Risks identified and action plan:

Decision to Suspend:

Date:

Human Resources sign off.....

Principal sign off...a.....

A copy of the letter communicating the decision to suspend should be retained with the investigation file.