



## BIRMINGHAM CITY UNIVERSITY ACADEMIES TRUST

### GROSS MISCONDUCT GUIDANCE NOTES

1. The Trust has adopted a disciplinary procedure based on good practice and the employment code. The disciplinary procedure operates within the general context of employment law and the requirement for the Trust to act reasonably in cases where the disciplinary procedure is applied.
2. The disciplinary procedure is set out separately. Section 6.1 of the disciplinary procedure indicates that there may be occasions when the appropriate disciplinary action will be dismissal. ACAS (The Advisory, Conciliation and Advisory Service) advise that the Trust should make clear to its employees the sort of conduct that is likely to result in dismissal.
3. The Trust will normally only dismiss staff where they have repeatedly refused to heed procedural warnings to improve their conduct or performance; or where an offence is committed that is of such a grave nature that it is inconsistent with continued employment by the Trust and constitutes either a fundamental breach of contract or an act of gross misconduct. In such circumstances, the penalty of dismissal may be considered as an immediate sanction.
4. The list set out in item 5 below has been produced to inform you of the likely consequences of acts of gross misconduct. This list is not exhaustive, neither is it prescriptive. In all circumstances the Trust will uphold the principle of reasonableness and investigate the circumstances to establish whether it would be reasonable and fair to apply the ultimate employment sanction of dismissal.
5. The right to dismiss is defined in section 6.1 of the disciplinary procedure. Conduct likely to be considered as gross misconduct is indicated below.
  - 5.1 Refusal to obey a lawful and reasonable instruction.
  - 5.2 Gross disregard for the Health and Safety of an employee or of other persons.
  - 5.3 Dishonesty, such as for example: stealing from the Trust or colleagues; unauthorised removal of Trust property; falsification of time sheets or expense claims forms.
  - 5.4 Assault or threatening behaviour at work.
  - 5.5 Wilful and malicious damage to Trust property.
  - 5.6 Competing with the Trust in business.

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- 5.7 Any form of unlawful harassment or discrimination, and any form of harassment in general.
  - 5.8 False claims of a serious deceptive nature in the information you supplied on appointment (application forms, medical questionnaires, etc).
  - 5.9 Being materially under the influence of alcohol or drugs, not prescribed by a doctor, whilst carrying out Trust duties.
  - 5.10 Behaviour which brings the Trust into disrepute.
  - 5.11 Accepting or soliciting financial or other inducements in return for information of a confidential nature regarding the Trust's commercial or academic process.
  - 5.12 The misuse of the Trust Network and other Computing Equipment.
- 6. All cases of alleged gross misconduct will be fully investigated. Staff concerned will be given the opportunity to explain their actions and have the right of representation. Proceedings will be recorded and staff will have the right of appeal.
  - 7. The Trust will have regard to the circumstances of each case and consider evidence indicating guilt as well as innocence. Due regard will be taken of arguments in mitigation of any conduct of this type.