



# Disciplinary

## EMPLOYEE POLICY & PROCEDURE

Disciplinary Policy & Procedure	
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## Disciplinary

### Introduction

This Disciplinary Policy and Procedure is designed to help and encourage employees to achieve and maintain satisfactory standards of conduct, attendance and job performance. Its aim is to deal with instances of misconduct and to provide a framework within which managers can work with employees to encourage improvement where necessary and to ensure the consistent and fair treatment of all employees in dealing with matters relating to:

- misconduct (e.g. unacceptable behaviour or non-compliance with standards);
- attendance (e.g. unacceptable sickness levels or other reasons relating to poor attendance); and / or
- capability or performance (e.g. where employees who, despite support and adequate training, do not deliver the required level of performance).

Talbot House Trust (North East) Limited ("the Trust") expects all employees to work within the Trust's rules and procedure. All employees have a responsibility to conduct themselves in an appropriate and professional manner in accordance with the Trust's Code of Conduct and Core Values, and co-operate in the application of this procedure.

This policy is not intended to deal with poor performance due to ill health.

All disciplinary matters will be dealt with fairly and we will ensure that steps are taken to establish the facts and to give employees the opportunity to respond before any formal action is taken.

This policy applies to all employees who have passed their probationary period. It does not apply to workers, agency workers or self-employed contractors.

This procedure does not form part of any employee's contract of employment and it may be amended at any time. Talbot House Trust may also vary this procedure, including any time limits, as appropriate in any case.

Signed by:

\_\_\_\_\_  
Emma Charlton – HR Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
Chris Matthews – Chair of Governors

Date: \_\_\_\_\_

## Disciplinary

### 1. Confidentiality

- 1.1 Disciplinary matters will be dealt with sensitively and take in to consideration the privacy of the individuals involved wherever possible.
- 1.2 All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential. Failure to do so may result in disciplinary action.
- 1.3 Any individual(s) found to have made electronic recordings of any meetings or discussions, whether informal or formal, without prior authorisation, will be subject to disciplinary action.

### 2. Informal procedure

- 2.1 Misconduct and / or performance problems should be raised and dealt with promptly by both management and employees. In promoting and maintaining good employee relations, management will, where appropriate, initially attempt to resolve matters informally through support and good management practice and by means of discussion between Line Manager and employee.
- 2.2 Informal discussions will be held in private and as soon as reasonably practicable to address any issue(s) for concern, expected outcomes and improvement timescales.
- 2.3 Any necessary support or training will be agreed and arranged. The employee is expected to respond positively to any required development.
- 2.4 In some cases an informal verbal warning may be issued, for which a record of the discussions held will be kept on file. While informal records will not form part of an employee's disciplinary record they may be reviewed as part of a performance review and / or when considering informal or formal action in future.
- 2.5 For situations where an informal approach is not working or where the allegation(s) is / are more serious than initially understood and informal discussion is no longer considered appropriate, formal steps will be taken under this policy and procedure.

### 3. Employee's right to be accompanied

- 3.1 Employees have the right to bring a companion to any formal stage disciplinary hearing or appeal hearing under this procedure.
- 3.2 You are entitled to be accompanied by either a trade union representative, trade union official or a work colleague.

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- 3.3 The employee must inform the Trust of their proposed companion in good time before the hearing date to allow a reasonable amount of time to make arrangements for the companion to attend.
- 3.4 The employee may be requested to identify an alternative companion where the first choice of companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.
- 3.5 The employee has a right to propose an alternative date and time for the disciplinary hearing if his or her companion is unable to attend at the proposed time, provided that the alternative time is both reasonable and within the following five working days of the proposed meeting date.
- 3.6 The employee's companion will be allowed to address the hearing to summarise and put forward the employee's case, respond on behalf of the employee to any views expressed and confer with the employee during the hearing.
- 3.7 The companion does not have the right to answer questions on the employee's behalf, address the meeting without the employee's consent or prevent the employee from explaining his or her case.

### 4. Investigations

- 4.1 The purpose of an investigation is to establish the facts of the case before deciding whether to proceed to any disciplinary hearing.
- 4.2 The level of investigation required will depend on the nature of the allegation(s) and will vary from case to case.
- 4.3 Investigations may involve interviewing and taking statements from the employee as well as any identified witnesses and may involve reviewing any relevant documents and / or the collation of evidence (to include CCTV where appropriate) for use at any disciplinary hearing.
- 4.4 Employees are expected to fully cooperate during all investigation meetings and will be afforded the opportunity to respond to any allegation(s) made. This may involve informing the Trust of potential witnesses, disclosing any relevant documents for review and attending any investigation meetings as required.
- 4.5 During investigations meetings employees do not have the right to be accompanied by a companion.
- 4.6 An investigating officer may be appointed by Senior Management Team (or Trustee(s), if appropriate). The investigations officer will be tasked to undertake the investigation promptly and impartially. Any evidence will be collated as soon as practicable after the incident, any physical evidence should be collected and statements taken from witnesses at the earliest opportunity.

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- 4.7 Once the investigation is complete, a decision will be made as to the appropriate action to be taken. The outcome will be confirmed in writing and may be as follows:
- take no formal action;
  - recommend a support package to deal with the matter on an informal basis e.g. additional support and / or training and / or a change to procedure(s) / working practices;
  - recommend that the Trust proceeds to a disciplinary hearing.
- 4.8 The employee will be informed of the decision to proceed to a disciplinary hearing in writing as soon as practicable.
- 4.9 No decision on disciplinary sanctions will be made by the investigations officer, any sanctions would only be issued following any disciplinary hearing that has been held and if deemed appropriate.

### 5. Suspension

- 5.1 In some circumstances and depending on the nature and seriousness of the case the investigations officer may decide to suspend an employee from the workplace.
- 5.2 Any period of suspension will be for period that is no longer than necessary to investigate any allegation(s) of misconduct or for so long as any disciplinary procedures against an employee is outstanding.
- 5.3 Suspension is sometimes necessary, for example, to allow for a 'cooling off period' for both parties, for their own or others' protection, to prevent them influencing or being influenced by others and to prevent possible interference with evidence.
- 5.4 Where a safeguarding allegation has been made against an employee the Trust will consider taking advice from the Local Authority Designated Officer (LADO) in the first instance. This may form part of any decision made to suspend an employee.
- 5.5 If an individual is suspended they must immediately return all access keys, employment related identification, business cards, financial cards etc. to management before leaving the premises. This is specifically to protect the children, employees and the individual under investigation.
- 5.6 During any period of suspension the suspended employee is not permitted to visit the premises at any time, contact employees, trustees, clients, contractors, supplier, unless authorisation is issued in writing by the investigation officer, their line manager or a more senior manager.
- 5.7 During any period of suspension the employees will continue to be paid full basic salary.
- 5.8 Suspension is not a disciplinary sanction and does not imply that any decision has already been made about the allegation(s).
- 5.9 Suspension will be for no longer than is necessary to investigate the allegations and Talbot House Trust will confirm the arrangements to the employee in writing.

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- 5.10 Employees, who are suspended, are encouraged to liaise with Human Resources for guidance on welfare support during the process.

### 6. Welfare Support

- 6.1 The Trust recognises that being under investigation or suspended from work can be a stressful and upsetting time for an employee and their family.
- 6.2 As a further support mechanism, a welfare support officer (an employee unconnected with the case) will be appointed by member of Senior Management Team (or Trustee(s) if appropriate) at the beginning of proceedings. Their role will be to act as the key contact for the employee and provide support during the investigation or suspension.

### 7. Notification of a disciplinary hearing

- 7.1 Following the completion of any investigation, if it is decided that there are grounds to proceed to a disciplinary hearing, the employee will be notified of this in writing outlining the allegation(s), the basis of the allegation(s) and the likely range of sanctions if the allegation(s) are found to be true.
- 7.2 The employee will receive the following, where applicable:
- 7.2.1 A copy of any relevant document which will be used at the disciplinary hearing;
  - 7.2.2 A copy of relevant witness statements, with the exception of where an employee's or child's identity is to be kept confidential, in which case the employee will be issued with as much information as possible ensuring confidentiality is maintained.
- 7.3 The employee will be given reasonable advance notice, in writing, of the date, time and place of any formal disciplinary hearing. The hearing will be held as soon as is reasonably practicable and will ensure the employee has time to prepare their response to the allegation(s) of misconduct and / or poor performance at a disciplinary hearing.

### 8. Disciplinary hearing procedure

- 8.1 All disciplinary hearings will be chaired by the disciplinary officer who will be a member of the Senior Management Team (SMT) (and / or a Trustee if appropriate). Where practicable, the hearing will not be conducted by the investigation officer.
- 8.2 The hearing may be recorded on tape and notes will be taken by a nominated impartial note taker, usually a member of the HR Department, notes can be requested if required.

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- 8.3 The Trust must be informed immediately if the employee or chosen companion is unable to attend the meeting. The employee is reminded that every effort should be made to attend the meeting and failure to do so may be deemed misconduct in itself.
- 8.4 If an employee fails to attend a disciplinary hearing without good reason or is persistently unavailable to attend the Trust may make a decision based on the evidence that is available the time of the disciplinary hearing.
- 8.5 At the hearing, the manager will go through the allegations against the employee and the evidence that has been gathered. The employee will be afforded the opportunity to respond to the allegation(s) and present any evidence of their own.
- 8.6 Once all of the facts of the case have been heard the disciplinary hearing will be adjourned. The adjournment will allow for any further investigations to take place in light of any new information the employee has raised during the disciplinary hearing, or will allow time for the disciplinary officer to consider the responses to the allegation(s) and take advice if necessary.
- 8.7 The disciplinary officer will make a decision as to the recommended course of action which may involve issuing a formal sanction.
- 8.8 The employee will be informed of the decision in writing as soon as practicable following the hearing.

### 9. Formal disciplinary sanctions

- 9.1 Where an allegation or allegations have been upheld a decision must be made as to the appropriate level of formal disciplinary sanction. The usual levels for misconduct are set out below:
- Stage 1 A First Written Warning may be appropriate for a first act of misconduct or minor lapse of conduct where there are no live sanctions on the employees record or, a failure to meet the required standards or breaches of the terms of employment.
- Stage 2 A Final Written Warning where there is no satisfactory improvement or if another misconduct is committed where there is already an active written warning on the employee's record, or if the misconduct is considered serious enough to warrant a final written warning even though there are no other active warnings on their record.
- Stage 3 Dismissal may be appropriate during a probationary period, where there is insufficient improvement or if another misconduct is committed where there is already an active written warning on the employee's record, or if the employee's behaviour amounts to gross misconduct regardless of whether there are active warnings on their record.
- 9.2 In some cases the Trust may, at its discretion, consider alternatives to dismissal for example:
- Demotion / Loss of seniority
  - Transfer to an alternative role and / or department
  - A period of suspension without pay



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- Reduction in pay
- Loss of future pay increment and / or bonus and / or
- Loss of overtime opportunities for a period of time.

These alternatives will usually be accompanied by a final written warning.

- 9.3 All formal warnings will be confirmed in writing to the employee setting out the nature of the misconduct and/or performance problem(s), the improvement or change in behaviour required, the period for which the warning will remain active, any help that may be provided, the consequences of any further misconduct or failure to improve performance within the set period, and the right of appeal.

### 10. Timescales of written warnings and dismissals

- 10.1 For the purpose of this procedure the timescales below will usually apply to determine the period of time a formal disciplinary sanction remains live:
- First Written Warning: six (6) months
  - Final Written Warning: twelve (12) months
- 10.2 Where appropriate, an extended period to those stated above may be applied.
- 10.3 Written confirmation of a dismissal will be provided to the employee and will include; the reason(s) for the dismissal, the date on which the employment contract will end, the appropriate period of notice (unless the employment is being terminated for gross misconduct) and the employee's right of appeal.

### 11 Appeals

- 11.1 Where an employee feels that any formal disciplinary action taken against them is wrong or unjust, they can appeal against the decision. The employee must do so within seven (7) consecutive days of the date they were informed of the decision, setting out their full grounds of appeal in writing, to the CEO or Chair of Governors / Trustees.
- 11.2 If an 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 the employee will be reinstated with no loss of continuity or pay.
- 11.3 An appeal hearing will be arranged, as soon as practicable following receipt of the employee's written appeal. The employee will be given appropriate written notification of the date and time of the hearing.
- 11.4 Where possible, the appeal hearing will be heard by a panel which may include a member of the SMT who has not previously been involved in the case and / or the CEO and / or a Trustee and / or the Chair of Trustees.

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- 11.5 Any disciplinary penalty imposed will be reviewed at the appeal hearing and copies provided of any new evidence relating to the case.
- 11.6 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision pending the grounds of the appeal, any procedure followed or any new evidence that has come to light, this will be at the discretion of the Trust. In any event the appeal will be dealt with fairly and impartially.
- 11.7 Further investigation may be necessary in the light of any new points raised and it may be necessary to adjourn the appeal hearing in light of any new evidence submitted or points raised.
- 11.8 The decision of the appeals panel is final. The panel may either:
- confirm the original decision;
  - revoke the original decision;
  - substitute a different penalty.
- 11.9 Written confirmation of the outcome of any appeal and sanction imposed will be provided to the employee. There will be no further right of appeal.

## 12 Criminal offences

- 12.1 If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Senior Management Team/Trustees will determine as to whether it is appropriate to take disciplinary action and if so, when process may commence.
- 12.2 Consideration will be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with the Trust, the young people they are supporting and work colleagues.
- 12.3 Where an offence or alleged offence relates to safeguarding the employee will be suspended immediately.

## 13 Overlapping grievance and disciplinary matters

- 13.1 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. However, where the grievance and disciplinary cases are related it may be appropriate to deal with both issues at the same time.

## 14 Examples of misconduct

- 14.1 The following are examples of matters that will normally be regarded as misconduct, this list is not exhaustive and is a guide only:
- Minor breaches of Trust policies;

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- Minor breaches of the employee's contract;
- Damage to, or unauthorised use of, Trust property;
- Poor timekeeping;
- Unauthorised absence from work;
- Refusal to follow reasonable instructions;
- Excessive use of Trust telephones or own telephone during work time for personal calls;
- Excessive use of personal e-mail or internet usage;
- Serious misuse or excessive personal use of Trust equipment including IT, licenced software or photocopier etc.;
- Minor negligence in the performance of duties.

### 15 Examples of gross misconduct

15.1 Gross misconduct is a serious breach of contract and includes misconduct which, in the Trust's opinion, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the Trust and the employee.

15.2 Gross misconduct will normally result in dismissal without notice or pay in lieu of notice.

15.3 The following are some examples of matters which are normally regarded as gross misconduct, this list is not exhaustive and is a guide only:

- Theft, attempted theft, unauthorised removal of Trust property or the property of a colleague, contractor, child, young person, visitor or other individual;
- Fraud, forgery, bribery (accepting or offering a bribe or payment) or other dishonest behaviour to include fabrication of time sheets, overtime claims or expenses claims;
- Actual or threatened violence, dangerous behaviour, behaviour which provokes violence;
- Abusive, insulting behaviour e.g. sexualised language or swearing and inappropriate physical contact;
- Absence without leave (any absence that has no reasonable explanation, referred to as being AWOL);
- Bullying, including through social media and electronic communications;
- Deliberate and serious damage to property;
- Serious misuse of the Trust's property or name;
- Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- Serious insubordination or repeated failure or refusal to carry out a reasonable request or reasonable requests;
- Discrimination or harassment victimisation;
- Bringing the organisation in to serious disrepute;
- Possession, use, supply or attempted supply of illegal drugs;
- Being or appearing to be under the influence of alcohol, illegal drugs or legal highs or other substances that affects the individual's presentation at work and during working time;
- Smoking on company premises outside of nominated smoking areas;

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- Serious neglect of duties or a serious or deliberate breach of an employee's contract or operating procedures;
- Causing loss, damage or injury through serious negligence;
- A serious breach or repeated breaches of health and safety rules;
- Serious misuse of, incorrect usage of, or not using correct safety equipment;
- A serious or deliberate breach of GDPR Regulations to include unauthorised use, processing or disclosure of confidential information or personal data or failure to ensure confidential information in your possession is kept secure;
- Driving company vehicles, or driving whilst on company business, without due care and attention with a lack of regard to speed and / or safety of passengers;
- Making covert recordings, either video or audio of any colleague(s) or other third party on Trust premises, during any work-related activity and / or without prior consent or knowledge.
- Refusal to disclose any information required that may have bearing on the performance of your duties;
- Give false information to include false qualifications or entitlement to work (including immigration status);
- Making a disclosure of false or misleading information under the Trust's Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- Making untrue allegations in bad faith against a colleague;
- Undertaking unauthorised paid or unpaid employment during your working hours.

## 16 Review

- 16.1. This policy is non-contractual and is subject for review in line with changes to legislation.
- 16.2. This policy may be subject for review prior to the date shown if deemed necessary.
- 16.3. The HR Department will be responsible for reviewing this policy.

## Disciplinary



I have read, understood and acknowledge this Policy and will endeavour to follow the guidance outlined within.

Print name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Department: \_\_\_\_\_

Sign: \_\_\_\_\_

Date: \_\_\_\_\_

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Please complete full details above, once complete please return to the HR Department within 5 working days.

Please do not hesitate to contact me should you have any questions.

HR Department

Talbot House Trust