



Disciplinary Policy

PURPOSE

This policy provides a consistent and fair framework to ensure that all disciplinary matters (both informal and formal) are dealt with in a consistent manner in accordance with the procedures laid out below.

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1. Introduction

Education My Life Matters is committed to ensuring that there is fair and consistent approach to the management of continuing high standards of conduct and performance amongst all employees. This policy will therefore be addressed when an employee is deemed to, or commits any breach of their terms and conditions of employment, conducts themselves (whether on Company premises or not) in a manner which is considered to be unsatisfactory or prejudicial to the interests of Education My Life Matters or anyone who continues to believe it to be acceptable to perform their role below Company standards; or is negligent in the execution of their professional duties.

Appendix 1 gives examples of misconduct and gross misconduct but these lists are not to be treated as exhaustive.

NB: In the case of Safeguarding and Child Protection matters this process should be undertaken in conjunction with OUR Safeguarding Policy; to avoid confusion or contamination.

The procedure is designed to work as quickly and effectively as possible and will be applied consistently and fairly to all employees as follows:

- A. No disciplinary action will be taken until the case has been fully investigated but in severe cases suspension from duties may occur
- B. At every stage in the procedure the employee will be advised of the nature of the complaint and given the opportunity to state their case before any decision is made
- C. Employees will not be dismissed for a first breach of discipline except in the case of Gross Misconduct when the penalty will be dismissal without notice or payment in lieu of notice
- D. The procedure may be implemented at any stage if the alleged misconduct warrants such action
- E. The Company will review this policy periodically (in light of any developments in employment legislation or good practice) and if necessary, revise it in order to ensure their continued relevance and effectiveness.

2. Application of the Procedure

This procedure will apply to all employees. Employees within their probationary period will be involved in regular reviews with their manager and will be given appropriate guidance on Company rules and on expected standards of performance and conduct. Employees failing to meet those standards may have their probation terminated. Should a manager believe that an individual's performance or conduct is falling below expected standards they will be advised of this fact. An employee will be advised by

their line manager during, or at the end of their probation period if their probation has been successful and if their employment will be confirmed.

3. Informal Action

3.1 Less serious breaches of conduct (i.e. first occurrences of some types of misconduct) can be dealt with informally by counselling the employee. This involves drawing to the employee's attention the unsatisfactory conduct, explaining what conduct is required, and setting a clear and reasonable timescale for the employee's conduct/behaviour to improve.

3.2. 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 may seek Occupational Health advice when managing staff who may have for example a disability, learning or mental health need or alcohol/substance abuse which may impact on the situation being considered.

3.3. In some cases, if agreed by both parties, it may be beneficial to use a third party to resolve conflict in the workplace.

4. Investigation

All investigations will take place as quickly as possible in order to minimise disruption to the business and uncertainty to the individual(s) concerned. Investigations should be undertaken initially by the accommodation Manager and depending on the nature of the investigation they may be assisted by other managers or lead persons within the organisation.

The employee will be advised who will be completing the investigation and who to approach for information and support.

Witness statements, reports and other information should be obtained as soon as possible, and all available evidence gathered to enable an effective investigation. Once the investigation is completed the investigating manager must decide if the matter is to be dealt with formally under the disciplinary procedure. If the case against the employee has not been proven, then no further action will be taken. All papers relating to the unproven allegation will be destroyed.

5. Suspension

There may be occasions where it is necessary and appropriate, to suspend an employee from work during the course of an investigation; or after the outcome of the investigation and pending disciplinary action for reasons where:

5.1 In all cases where Gross Misconduct is suspected/ alleged

5.2 Continued attendance at work may hamper the conduct of a fair and objective investigation

5.3 The well-being and interests of the young people could be put at risk by the staff member's continued attendance at work. Only the Director can authorise the suspension, (which will not be viewed as a disciplinary penalty in itself) the time on suspension should be kept to a minimum and it is not envisaged that it will last longer than 3 week.

5.4 All suspensions will be on basic pay. A letter will be issued confirming the suspension and arrangements will be made for a workplace contact.

6. The Procedure

When applying disciplinary procedures, it is important to be consistent, fair and open in the way matters are dealt with. It is also important to ensure not to discriminate on grounds of race, gender or disability etc and care should be taken when dealing with related issues.

In the course of a disciplinary case if a grievance is subsequently raised then depending on the circumstances, it may be appropriate to suspend the disciplinary procedure for a short period to address the grievance.

6.1 Notice to Attend

An employee will be required to attend any disciplinary hearing regarding the alleged breach of

Company rules, standards, performance or conduct. The employee will be given at least 24 hours written notice to attend, however will normally be given up to 3 days notice. They will be provided with details of the alleged misconduct and when and where the hearing will be held along with details on who will be conducting the hearing. The employee will be given copies of any documents in accordance with data protection and confidentiality policies, that will be discussed at the hearing, e.g. witness statements etc. and will be given plenty of time to prepare for the hearing. The Company welcomes any further evidence from the employee that they may wish to submit prior to a disciplinary hearing if they feel it supports their case.

6.2 Right to Be Accompanied by a Companion

The employee will be given the opportunity to bring an employee representative to the hearing. The employee representative can either be a work colleague or a trade union official. If the employee's chosen companion is unavailable on the day the hearing is set, the hearing will be rescheduled to an alternative date, provided that the reason for unavailability is reasonable and the alternative date is within a reasonable time frame i.e. 3 days. The companion's role does not involve answering questions on an employee's behalf; they are however allowed to support and guide the employee only but should be allowed to participate fully in the hearing.

6.3 Witnesses

The Company will consider any requests by the employee to bring witnesses to the hearing. Requests should be made in writing no later than 3 working days before the date of the hearing to the appropriate contact so that adequate time is allowed to consider this request. Witnesses will be colleagues from the Company who the employee believes may support their case. If the employee's witness is unavailable on the day the hearing is set for the hearing will be rescheduled to an alternative date, provided that the reason for unavailability is reasonable and the alternative date is within a reasonable time frame, typically 3 working days. The Company is also able to bring witnesses to the hearing if they feel they may be of value to the case.

6.4 The Panel

The hearing panel should ideally consist of a Manager or Member of the IEB, who has not been involved in the original investigation. Also in attendance will be another Company representative who will take notes of the hearing.

6.5 During the Hearing

During the hearing the person conducting the disciplinary will explain the complaint/allegation against the employee, go through the evidence that has been gathered, ask questions and allow the employee to respond. The employee will be given ample opportunity to respond to the complaint/allegation made against them. Both parties will be given the opportunity to cross examine any witness or evidence presented and to sum up their case.

6.6 Recording the Hearing

A record of the hearing will be provided in the form of notes taken by a Company representative at the hearing. In addition, the employee's representative will be able to take notes during the hearing. Tape recordings of the meeting are permitted in the disciplinary hearing, if all parties agree.

6.7 Deciding Upon an Outcome

Once all the information has been presented and discussed the person conducting the hearing will ask for an adjournment to allow time to make a decision. An informed decision will take into account all of the information available; any actions taken in similar cases; the explanation given by the employee and whether the intended disciplinary action is reasonable and proportionate.

6.8 Confirmation of Outcome

The employee will be verbally advised of the decision. The decision will also be confirmed to them, including any implications of the decision, in writing, within seven days. The following section details types of disciplinary action that may be taken.

7. Disciplinary Sanctions

7.1. 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 Written Warning being issued regardless of prior formal warnings.

Disciplinary Action	Authority to Issue	Duration of Warning on Personal File
First written warning	Officer hearing disciplinary meeting	9 months
Final written warning	Officer hearing disciplinary meeting	12 months
Dismissal	Officer hearing disciplinary meeting	-

7.2. Further misconduct may occur during the term of a first written warning. Where this results in a formal hearing and a final written warning is issued, the duration of the final written warning will supersede that of the first written warning.

7.3. Upon expiry, all formal warnings will be disregarded unless the allegations were relating to the safety and welfare of young people.

7.4. An employee with a live final written warning on file who is alleged to have committed a further occurrence of misconduct should be advised that if the allegation is substantiated, the employee may be dismissed.

7.5. In cases relating to safeguarding concerns a referral will be made to the Disclosure and Barring Service (DBS) where the threshold for referral is met.

Verbal Warning

Where an employee's conduct or performance is found to be unacceptable but of a not too serious nature, a verbal warning will be issued. The employee will be advised of their right to appeal, see section 8. A copy of the verbal warning will be kept on the employees file for 3 months after which the penalty will be deemed as spent.

First Written Warning

Where an employee's conduct or performance is found to be unacceptable or of a more serious nature, or if there has been further misconduct or performance since a verbal warning was issued, a first written warning will be issued. The employee should be informed of how their conduct or performance is expected to improve with time limits and advised that failure to improve may lead to further disciplinary action being taken. Where necessary, and particularly in cases of poor performance, employees should be given any necessary support to enable them to reach Company standards. A review date will be set to enable poor performance to be reviewed against the performance

expectations that have been documented and provided to the employee. The employee should also be advised of their right to appeal, see section 8. A copy of the first written warning will be kept on the employees file for the determined length of time after which the penalty will be deemed as spent.

Final Written Warning

If there is still failure to improve or conduct or performance is still unsatisfactory or if the misconduct or negligence is sufficiently serious to warrant a warning, but insufficiently serious to justify dismissal, a final written warning will be given. This will give details of the complaint, advice upon the required standards of conduct and will warn that dismissal will result if there is no satisfactory improvement. The employee will also be advised of the right to appeal, (see section 8). A copy of the final written warning will be kept on the employees file for the determined length of time after which the penalty will be deemed as spent. In cases of serious misconduct or underperformance the Company reserves the right to keep the warning on file for up to 24 months, after which time the penalty will be deemed as spent.

Stage 3 - Procedural Dismissal or other Sanction

If conduct or performance remains unsatisfactory then procedural dismissal will normally result. Only the Director or Chair of the IEB Board can take the decision to dismiss. Alternatively, other disciplinary sanctions may be imposed as an alternative to dismissal including; disciplinary transfer, suspension without pay, salary reduction, demotion, loss of seniority, loss of an increment, loss of bonus or other salary enhancement. All dismissals will be confirmed in writing by the Director.

Gross Misconduct

The following list provides examples of offences, which are normally regarded as Gross Misconduct, which may lead to summary dismissal without notice or pay in lieu of notice; even for a first offence. This list is not exhaustive:-

8. Appeals Procedure

The opportunity to appeal is essential to natural justice and you may exercise the right to appeal against any formal disciplinary penalty using the following procedure. Following any penalty imposed the employee will be advised of their right to appeal and whom they should address their appeal to. It should be noted that the Grievance Procedure should be used to appeal for matters unconnected with discipline or termination of employment. Where disciplinary action has been taken you will have the right to appeal within 5 working days of the Chair's decision of disciplinary action. The appeal should be in writing and addressed to the Director and should state which of the following grounds the appeal is to be based:

- the penalty applied is too harsh
- there is new evidence to consider
- the procedure has been carried out unfairly

Where possible an appeal shall be conducted by the Director, or nominated other not involved in any earlier disciplinary action or hearings with which the appeal is concerned and the provisions in the hearing section shall apply. Another senior member of staff will also attend if possible. You will be notified of the date and time of the appeal and your statutory right to be accompanied at the appeal. Once the appeal has been heard you will be informed of the decision as soon as possible and this will be confirmed in writing.

9. Special Circumstances

10.1. Grievances raised during the course of the disciplinary procedure

10.1.1. If an employee raises a grievance during the course of a disciplinary process it may, depending on the concerns raised, be appropriate to suspend the disciplinary procedure for a short period until the grievance is considered. Alternatively, it may be decided that an alternative manager should continue with the disciplinary procedure whilst the grievance is considered. In these circumstances the employee would have to raise the grievance in accordance with the Education My Life Matters Grievance Policy and Procedure and the line manager will inform the employee what (if any) measures are being put in place in connection with the disciplinary procedure.

10.2. Sickness Absence during Disciplinary

10.2.1. If an employee is sick leading up to or during capability review meetings, this will not usually be a ground for abandoning the meeting because Education My Life Matters believes there are ways of adjusting the procedure to enable the employee to fully participate even when unwell. If the absence is expected to be short (a day or two), it may be possible to delay proceedings until the employee recovers, however; if this is not expected to be the case, the manager can, at its discretion, propose adjusting the procedure to support the employee in one or more of the following ways:

10.2.2. **Meeting location;** the manager could consider holding the relevant meeting at an alternative venue or virtually, either to reduce the stress caused to the employee by attending the meeting in their usual work place or to accommodate any physical needs they may have.

10.2.3. **Alternative companion;** the manager may consider an employee's request for a companion at the meeting who is not a trade union official or work colleague where this may be offering suitable support to the employee, for example a family member. This does not include solicitor.

10.2.4. **Alternative ways to make their representations;** where it appears that the employee's illness may affect their ability to respond to questions asked or explain their case, the manager should discuss with the employee if they could be represented in the process by a colleague or union official on their behalf. Alternatively, the employee could be invited to respond to questions or present their case in writing.

10.2.5. **Timings**; whilst Education My Life Matters are committed to the principle that matters should be dealt with promptly, if an employee is sick the manager may consider adjusting timings of the process if this supports the employee to participate effectively, for example taking regular breaks during meetings or being more flexible around alternative dates proposed for meetings so long this does not unreasonably delay the process.

Appendix 1 - Examples of Misconduct and Gross Misconduct

GROSS MISCONDUCT

The following are examples of gross misconduct but are not intended to be exhaustive:

1. Prolonged unauthorised absence from work
2. While purporting to be absent sick, working or engaging in activities, 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 young people.
4. Serious acts of insubordination
5. Serious breaches of the company's Financial Regulations or Code of Conduct.
6. Theft or misappropriation of, or failure to account for, or falsely claiming entitlement to, the property, assets or funds of the company or its employees.
7. Fighting or acts of violence at the workplace, serious threatening or abusive behaviour towards, young people, other professionals or fellow employees.
8. Criminal offences outside work (including fraudulent activities) which may affect the individual's employment suitability.
9. Unauthorised removal and use of company 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 documents likely to be of financial benefit to the employee or other persons e.g. time sheets, bonus/expense claims, qualifications etc.
12. Obtaining a job by lies or deception in the course of selection procedures.
13. Making false claims under any of the school's policies and/or procedures.
14. Discrimination/harassment against a young person, employee or other professionals, on the grounds of sex, trans-gender status, sexual orientation, religion or belief, marital status, civil partnership status, age, race, colour, nationality, national origins, ethnic origin or disability.
15. Bullying.
16. Being incapable of adequately performing duties as a result of the intake of alcohol or drugs.
17. Serious breaches of the company's Health and Safety policies or practices.
18. Serious contravention of the company's Policy on IT and Internet Use and Access.

19. Acts or omissions that would expose Education My Life Matters to criticism or cause reputational damage.

20. Theft, including theft of time, fraud, including fraudulent claims for expenses, petty cash,

deliberate falsifications of records. Dishonesty including abuse of access to Company or client computer systems or telephones.

MISCONDUCT

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

1. Regular lateness for work.
2. Regular failure to follow employment rules e.g. reporting absence.
3. Refusal to obey a reasonable instruction of a manager.
4. Negligence at work leading to loss, damage or wastage of company or other property.
5. Improper, disorderly or unacceptable conduct at, in or near the company.
6. Wilfully inadequate work performance (poor performance or lack of capability will normally be the subject of Capability procedure).
7. Private trading.
8. Consistently poor standards of dress or hygiene