

Scope: Staff/Users	Effective Date: 24/07/2023	Responsible: Trustees
Last updated by/date: Trustees/Sept 21	Next Review Date: 01/07/2025	Jackie Evans



Disciplinary Procedure

Informal Procedure

When a staff member’s conduct has resulted in a failure to meet the standard of conduct required, the line manager will meet with them to discuss the concern and what improvement is necessary. This should be done at a scheduled one-to-one meeting or sooner, if appropriate, and a written note of the discussion made. Additional training and coaching may be needed, and the staff member will be made aware that the formal processes will be instigated if there is no improvement or if improvements fail to be maintained.

On occasion the issue may be more serious but still not warrant formal investigation or action. In such cases the line manager will hold a meeting with the staff member specifically to discuss their concerns. As part of the discussion, they should identify the unacceptable behaviour, why it was so and what is expected to be different in future. The staff member should be informed that any recurrence will most likely be considered under the formal procedure.

The outcome of the meeting will be confirmed in writing to the staff member, including confirmation that an informal warning has been issued (if the manager believes this is appropriate). An informal warning does not form part of the formal procedure (although the staff member will have a right to appeal against it, see appeals section).

Conflict and disputes are best resolved quickly and as locally as possible. Mediation can be helpful in trying to achieve this prior to invoking formal measures. In disciplinary cases this would apply for example where there have been unacceptable behaviours demonstrated between staff in a team.

Formal Procedure

The formal procedure provides for suspension where appropriate, an investigation if necessary and a disciplinary hearing, if appropriate. Before any process is started the appointed line manager must familiarise themselves with the disciplinary policy and procedures.

Suspension

Suspension is not a disciplinary penalty and should not be viewed as such. Suspension should only be used if it is deemed that the staff’s presence at the workplace will be of detriment or a risk to either:

the investigation and/or

effective service delivery and/or

any party, including themselves

Prior to taking the decision to suspend, a staff member will normally be given an opportunity to explain themselves and their response should be listened to and considered by the line manager.

The reasons for the suspension need to be fully explained to the Trustee responsible for HR who will then endorse or otherwise the decision to suspend.

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The authority to suspend a staff member lies with a Board of Trustees HR representative and their decision must be received prior to suspending.

For the duration of any suspension from work, the staff member will receive their normal pay.

The period of suspension should be kept to a minimum and regular contact should be made with the staff member throughout. In most situations the suspension will remain in effect until the disciplinary process has been concluded.

Whilst suspended a staff member should refrain from work related contact with other colleagues from the Tan Hall Community Centre. If they wish to, they may approach a workplace colleague not involved in the matter under investigation to support them at any investigatory meetings or disciplinary hearing. It is the responsibility of the line manager to maintain regular contact with the staff member during the investigation and keep them advised of progress/developments.

A staff member who is suspended is required to co-operate with the investigation and is expected to be available throughout the suspension period to attend any interviews at the request of the line manager and any subsequent disciplinary hearing. Any previously agreed annual leave will be honoured but new requests made after the start of the suspension will be subject to consideration.

Investigation

It is important to carry out necessary investigations of potential disciplinary matters without unreasonable delay to establish the facts of the case. In most cases this will require the holding of an investigatory meeting with the staff member before proceeding to any disciplinary hearing.

The line manager will normally assume the role of Investigating Officer unless there are specific reasons for someone else carrying out this role, such as outsourcing of independence.

Where there is a situation when the investigation involves several colleagues in different parts of the workplace then a discussion will take place with the trustee responsible for HR to determine the most appropriate Investigating Officer.

Once nominated, the Investigating Officer will be the 'owner' of the case, until its conclusion, and will be accountable for regular progress reports on the case and adherence to timescales.

The Investigating Officer will confirm in writing to the staff member that an investigation is to take place and the nature of the allegations. The investigation should commence as soon as possible following the alleged act of misconduct coming to light.

There is no automatic right to be accompanied at investigatory meetings, however, should the staff member wish to be accompanied by a colleague or appropriate trade union official the Investigating Officer should be informed before the meeting and every attempt will be made to arrange a time and date which is suitable to all parties.

Investigations will be conducted without unreasonable delay. The investigating officer will be responsible for ensuring that they collate all relevant information in a timely manner and that regular updates on progress, changes to agreed timescales and reasons for any delays which may occur (for example in relation to the availability of necessary witnesses) are communicated promptly to the staff member (via the line manager, where appropriate).

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The Investigating Officer will produce a report summarising the investigation undertaken, facts established, conclusion(s) reached and recommendations for future action, if any. This report will be shared with the staff member and the Trustee responsible for HR.

Disciplinary Hearing

Where the Investigating Officer has concluded that a disciplinary hearing is required the staff member will be invited to the hearing, providing at least 5 working days' notice. Unless previously provided, a copy of the Tang Hall Community Centre's Disciplinary Policy/Procedure, investigation report, all witness statements and any other documentation referred to in the investigation report will be sent to the staff member with the invitation.

If requested by the staff member, attempts will be made to convene a hearing in a shorter timescale.

To allow time for exchange and consideration of documents prior to the hearing, the staff member should submit any written information upon which they will rely at the hearing to the hearing manager at least 2 working days prior to the hearing.

The panel at the hearing will be made up of two members, the hearing manager and the investigating manager or HR specialist.

The Investigating Officer will attend the hearing to present their report and findings and to respond to any questions from the panel or staff member relating to their investigation and findings.

The staff member has the right to be accompanied at the disciplinary hearing by a recognised trade union official or workplace colleague. Staff should make every effort to attend on the set date for the hearing to avoid delaying the process. If the representative cannot attend on the proposed date, the staff member should suggest an alternative date no more than five working days after the original date.

A valid reason needs to be provided when a staff member cannot attend a hearing. Where they are unable or unwilling to attend without good cause, the organisation reserves the right to proceed with the case in their absence. Examples of 'good cause' would be illness (where a sick note/letter will be required), delayed journey (where proof of travel can be provided), or immediate family bereavement. This is not an exhaustive list.

Arrangements will be made to meet any disability-related access needs.

The Hearing Manager will be advised of any previous disciplinary sanction or any type of misconduct which was live at the time the alleged misconduct took place and will take this into account.

The staff member should be informed of the decision of the hearing after the hearing manager has considered all evidence. This decision is normally communicated following an adjournment. The decision should be confirmed in writing within 5 working days. If there is to be a delay a written explanation will be sent to the staff member giving a date when a decision will be made and communicated.

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Disciplinary Sanctions

Informal Warning

The Hearing Manager may decide that the misconduct, although proven, does not warrant a formal sanction. In such cases they may decide to issue an informal warning. This should be confirmed to the staff member as part of the written outcome of the hearing. The informal warning does not constitute formal disciplinary action.

Written Warning

This level of warning would normally be used if conduct does not meet acceptable standards, or for repeated minor offences, where misconduct fails to improve through the informal procedure. The written warning, papers relating to the investigation and disciplinary hearing will be held on file but disregarded for disciplinary purposes after 12 months thereafter if there is no further misconduct.

Final Written Warning

This will be issued in the following circumstances:

- if the misconduct is sufficiently serious to warrant a final written warning but insufficiently serious to justify dismissal; or
- where the misconduct would usually be serious enough to warrant dismissal but mitigating circumstances are considered; or
- if conduct fails to improve following a previous written warning issued in the last 12 months
- where sustained improvement in conduct is not evident after a written warning.

The final written warning, papers relating to the investigation and disciplinary hearing will be held on file but usually disregarded for disciplinary purposes for 12 months thereafter if there is no further misconduct.

The Tang Hall Community Centre reserves the right in exceptional circumstances and depending on the severity of the misconduct to issue a final written warning to last up to 18 months.

Dismissal

Dismissal can occur in one of two ways:

- Incrementally, following a series of warnings for misconduct
 - Dismissal may follow a series of breaches in conduct which have been considered at disciplinary hearings and for which the staff member has received formal warning/s. The misconduct for which the warnings were given do not have to be linked. Such a dismissal would be given with the standard notice reflecting the staff member's contract, either given or paid in lieu.
- Gross misconduct
 - Where a disciplinary Hearing Manager concludes that the staff member's conduct amounts to gross misconduct i.e., a fundamental breach of trust of confidence which results in a breach of contract, then they may be summarily dismissed. This would be with immediate effect (i.e., notice not given or paid in lieu).
- The following list provides some examples of offences which are normally regarded as gross misconduct:

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- theft or fraud
- physical violence or bullying
- deliberate and serious damage to property
- serious misuse of an organisation’s property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- unlawful discrimination or harassment
- bringing the organisation into serious disrepute
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- a serious breach of confidence.

Appeals Procedure

Grounds for appeal

A staff member has a right of appeal against any level of warning or dismissal. An appeal hearing is not a rehearing of the case; it is a review of the disciplinary sanction imposed and process followed.

An appeal may be made on one or several the following grounds:

- a serious procedural error that resulted in significant detriment to the staff member
- new evidence that has only come to light after the disciplinary meeting
- the decision reached at the disciplinary hearing was unfair and unreasonable in the circumstances having due regard to the severity of the allegations and any mitigating circumstances.

The appeal should be submitted in writing to the Board of Trustees within 10 working days of the receipt by the staff member of the written outcome of the disciplinary hearing. The appeal must set out the ground(s) for the appeal, as above and the specific reasons for citing the ground(s).

The appeal meeting should be scheduled as soon as reasonably practical. The staff member will be informed in writing of the time, date and venue for the appeal. The staff member should be reminded of their right to be accompanied by a trade union official or work colleague at the meeting.

Appeal hearing

A more senior level of management than the original hearing manager will hear appeals against an informal, written or final written warning.

At appeal, the decision of the disciplinary hearing will be reviewed against the specific grounds on which the appeal is based. The appeal panel can either:

- Dismiss the appeal and confirm the sanction issued.
- Uphold the appeal and review/reduce the level of sanctions.
- In exceptional circumstances, instruct a re-investigation/re-hearing of the case.

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The staff member should be told the decision of the appeal panel as soon as possible after the hearing. The decision should be confirmed in writing within 5 working days. If there is to be a delay a written explanation will be sent to the staff member giving a date when a decision will be made and communicated. The appeal is the final stage of the organisation’s internal procedures.

Where an appeal lies against dismissal, the original hearing manager’s decision to dismiss may have had immediate effect. If the hearing managers decision to dismiss is overturned, the staff member will be reinstated with immediate effect, and they will be paid for any period between the date of the dismissal and the successful appeal decision. Their continuous service will not be affected.

Other Procedural Issues

Where a grievance is raised during the disciplinary process relating to the same issue(s) or incident(s)

- Where a staff member raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance.
- Where the grievance and disciplinary cases are related it may be more suitable to deal with both issues concurrently. The manager dealing with the disciplinary and in receipt of the grievance will seek advice from the Trustee responsible for HR about how best to proceed and will subsequently seek agreement to the approach with the staff member who has raised the grievance.
- If a grievance issue is raised after the staff member is notified of the disciplinary hearing the grievance will be considered at the disciplinary hearing to avoid undue delay. If the staff member feels that this approach would have a detrimental or discriminatory effect, then they would be able to object to this approach and consideration would be given to their concerns.
- It is not appropriate to raise a grievance about being subjected to disciplinary action. A staff member can put forward mitigation at the hearing, or the appeals process can be utilised, to raise issues about the disciplinary hearing and outcome.

Sickness absence during a disciplinary investigation

- The organisation aims to proceed with all disciplinary matters with the minimum of delay. The disciplinary process may therefore continue during a staff member’s absence. Absence will not prevent the Tang Hall Community Centre from invoking the formal disciplinary procedure including collecting statements and conducting interviews.
- If the staff member is absent due to ill health during any of the proceedings the organisation will seek to obtain a medical opinion as to the staff member’s fitness to attend meetings and/ or a hearing. Should consent to obtain this information be declined, the organisation reserves the right to continue with the investigation/ hearing in the absence of the staff member. If they are unfit to attend any meetings/ hearing, the staff member may ask a workplace colleague to attend in their absence. The staff member can also submit their mitigation to a panel in writing, which the representative can present and answer questions about, where applicable.