

Journey Independent School Disciplinary Policy

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Appendix 1: Disciplinary Rules

1 Introduction

1.1 What does this policy do and who is it for?

The procedure outlined below has been developed to ensure fair and consistent treatment across the centres where conduct falls below the standards required. The procedure is designed to allow employees to improve their standards of conduct.

This procedure complies with the ACAS Code of Practice and is in accordance with the centre's Equalities and Diversity Policy.

This policy is for all Journey Independent School employees. Journey Independent School may vary any part of this procedure, including any time limits, as appropriate in any case. Employees that are currently on probation will be managed through the probation process.

1.2 Definitions

Gross Misconduct and Misconduct are defined in the Disciplinary Rules which are detailed at the end of this document.

"Representative" refers to a person chosen by the employee to accompany them, and shall be a representative of their trade union or a workplace colleague of their choice.

2 Guiding Principles

2.1 General Principles

Cases of minor misconduct are usually more effectively managed informally. If informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor, formal action may be required as set out in this Policy.

The centre's Senior Management Team have overall responsibility for ensuring consistent application of the Procedure. The Chief Executive will have responsibility for initiating disciplinary action and deciding on the appropriate level of action where the alleged misconduct involves the Chief Executive.

The Senior Management Team may only make a decision to issue up to and including a final written warning. The decision to dismiss an employee can only be made by a Director within the centre.

Unless it is totally impractical, the case against an employee will be heard by a different designated manager at each stage of the procedure.

The centre Management Team should seek advice from the Centre's HR department at the earliest opportunity whenever an employee's conduct is giving cause for concern and may result in disciplinary action.

In serious cases, the centre reserve the right to issue a Final Written Warning in circumstances where the employee has not received a First Written warning. Employees will not ordinarily be dismissed for a first disciplinary offence, except in the case of gross misconduct.

The CEO may suspend any employee with just cause including members of the Senior Management Team for the neutral purpose of an investigation. The Chief Executive of Journey Independent School shall be informed of any incident that could result in such suspension, ensuring their capacity to participate in formal proceedings is not compromised.

A member of staff is entitled to be represented by an accredited Trade Union representative or workplace colleague at all formal stages of this procedure. They should be informed of this right and given adequate notice to contact a representative, it is the employee's responsibility to arrange representation if required. The employee may request to postpone a disciplinary meeting once, to a time suitable for the employee, the representative and the line manager. The centre will postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than 5 working days after the date originally proposed.

If the employee or the representative fails to attend the re-scheduled meeting the disciplinary process may continue in the employees or representatives absence and make a decision based on the information available to them at the relevant time.

Employees may not be represented by a person who may prejudice the fairness of the disciplinary process or who may have a conflict of interest.

2.2 Confidentiality

Disciplinary proceedings are confidential between the manager, member of staff, their TU representative or a workplace colleague for professional advice or support. Any information made available during the proceedings must not be shared with anyone except those directly involved. Any breach of confidentiality may result in disciplinary action being taken against those involved.

2.3 Maintenance of Records

All disciplinary documentation will be managed as personal data and only shared where it is appropriate to do so. All paperwork relating to the disciplinary will be stored confidentially by the centre.

In certain circumstances all records of the case may have to be fully disclosed for example, at an employment tribunal.

3 Roles and Responsibilities

3.1 Individual

All employees are responsible for familiarising themselves with the centre's standards of work and their terms and conditions of employment.

Employees must ensure that their conduct is in line with the centre's established standards and in accordance with their employment contract, must co-operate with the disciplinary process.

Where a disciplinary process is underway, employees must make all reasonable attempts to co-operate with it, including during the investigation, disciplinary hearings and appeals. There may be times when the Journey Independent School will have to proceed based only on the information reasonably available at that time.

3.2 Manager

Line Managers are responsible for ensuring that their team members are aware of, and understand, what is expected of them. In the event that an employee's standards fall below expectations, Line Managers are responsible for initiating and taking action in accordance with the principles and steps set out in this policy.

3.3 Representative

At a disciplinary or appeal hearing the employee concerned may be accompanied by:

- a colleague;
- a trade union representative.

The representative is there to support employees and assist them in putting their points across. They can address the hearing, but they are not allowed to answer questions on your behalf. There will be no reprisals for the representative because they have supported an employee through this process. The representative must respect the confidentiality of the disciplinary and should not discuss this matter with anyone other than the employee whom they are supporting.

If the representative is unavailable at the time the meeting is scheduled and will not be available for more than 5 working days afterwards, the employee may be required to seek alternative representation.

If the choice of workplace representative is unsuitable, for example, if the representative has a conflict of interest, an employee may be asked to choose someone else.

Employees do not have the right to be accompanied by relatives, friends or legal advisers unless they also meet the criteria above.

3.4 Disciplinary/appeal hearer

Unless previously involved in the case, the designated disciplinary Chairperson will usually be the line manager of the individual. However, it can be any senior manager from within the centre. The appeal chairperson will be an independent senior manager within the centre, or where applicable an appropriate member of the centre's Governing Body. At all stages of the process they will be supported by an HR Business Partner.

3.5 HR Business Partner

HR Business Partners are responsible for providing advice and information to line managers and employees on the application of this policy and will be in attendance and participate where necessary at disciplinary hearings. HR Business Partners will ensure that there is a consistent approach to applying the disciplinary process across the centre.

HR Business Partners will support line managers through both disciplinary and appeal hearings where necessary, but will not be a decision maker.

4 Steps in the Process

4.1 Stage 1: Informal Process

For minor issues of misconduct it may be appropriate for a member of the senior management team to issue an informal management advice or instruction to the employee prior to a formal process commencing. However, repeated misconduct would lead to formal disciplinary action in accordance with this procedure. Journey Independent School reserves the right to go straight to a formal process where appropriate.

4.2 Stage 2: Investigation Process

Where an allegation of misconduct has been made and it appears likely, or possible, to result in disciplinary action, an investigation should be carried out in the majority of cases. The investigation will clearly demonstrate the alleged misconduct and how this breaches the disciplinary rules. The centre Director or CEO will appoint a manager, who may be the employee's line manager, to carry out an investigation to gather all the information in order to establish a fair and balanced view of the facts relating to the allegation(s) before deciding whether to proceed with the disciplinary process. This

should be carried out

as soon as possible after the alleged incident has taken place. This may involve interviewing witnesses and reviewing relevant correspondence in relation to the allegation(s) being made. The investigation officer may be assisted by a HR representative and the employee may be accompanied by a trade union official or workplace colleague during the process.

The investigating officer will ensure that there is a written record of any interviews and meeting that have taken place as part of this process. They will to prepare a report of their findings and depending on the allegations and investigation outcome, may be required to present the case at a disciplinary hearing, together with other relevant documentation and to call witnesses, where appropriate.

On the basis of this investigation it will be decided if a disciplinary hearing is necessary. Confirmation of the outcome of the investigation must be conveyed in writing to the relevant parties, with a copy to the centre Director. It is the responsibility of the investigating officer to decide on the appropriate action which may include:

- Dismissing the allegations;
- Dealing with the matter informally, or
- Proceeding to a disciplinary hearing.

If the centre Director has been previously involved in the dealing of a case it may be appropriate for the centre Director to carry out the investigation and present the case, as the investigating officer, to a more senior or equivalent member of the Senior Leadership team such as another Director, Director of Education or Chief Executive.

It may not always be appropriate to complete an investigation, for example in cases of less serious misconduct where the employee readily accepts wrong doing, or where there is substantial evidence prior to an investigation. In these circumstances there may be no need for a formal investigation meeting, although a written statement may be obtained from the employee relating to the allegation(s). The matter will be referred to a disciplinary hearing, and where this is the case, the employee must be made fully aware of the status of the meeting and the possible outcome.

4.3 Stage 3: Disciplinary Hearing

An invitation to a formal disciplinary hearing will be sent to the employee in writing at least five working days in advance of the meeting, setting out:

- The date, time and place of the disciplinary hearing
- The nature of the allegations and a copy of the relevant policy
- The employee's right to be represented by a trade union official or accompanied by a workplace colleague at the meeting
- A copy of the investigation report and associated documents to be used (if relevant)
- The names of any witnesses to be called by the senior manager
- The employee's right to call witnesses and/ or produce evidence in their defence
- Details of the person chairing the hearing and others to be in attendance

The hearing must be conducted by a senior manager who has not been involved in the investigation.

If requested by the employee, the hearing may be rescheduled to a more convenient time; however, this must be within 5 working days of the original meeting. If the employee cannot attend this rescheduled meeting, the process may continue in the employee's absence. A brief period of sickness absence may also delay the disciplinary hearing but if there are repeated short periods or one long period of sickness absence then the process may continue in the employee's absence. In either of the above instances, the disciplinary/appeal chairperson may request written representations from the

absent employee or their

representative. Journey Independent School reserves the right to impose disciplinary sanctions in the employee's absence where it is appropriate to do so.

A summary of the meeting will be taken and available for all parties to review. It is not permissible at any point to electronically record these meetings in part or in whole.

5 Formal Outcomes

5.1 First Written Warning

If the conclusion of the disciplinary hearing finds that the allegation is proven, a first written warning may be issued. A first written warning will remain on an employee's file for a period of 12 months. The employee will receive a letter detailing the outcome of the disciplinary hearing within 5 working days of the meeting. If there are any further complaints of misconduct occurring within the life cycle of the written warning which are justified after a disciplinary hearing, it may result in further formal action being taken.

If the employee is already on a first written warning, which may be a separate issue of misconduct, or if the allegation is considered gross misconduct, a final written warning may be issued.

5.2 Final Written Warning

If there is further misconduct within the life cycle of the first written warning or if the allegation is serious enough to warrant only one warning before dismissal, the same procedure as set out above will be followed.

If the designated officer at the conclusion of the disciplinary hearing finds that the allegation is proven, a final written warning may be issued. If there are any further complaints of misconduct occurring within the life cycle of the final written warning which are justified after a disciplinary hearing, it may result in dismissal.

A final written warning will remain on file for 18 months. This final warning, together with any previous warning, will be disregarded if there is no further complaint about misconduct whilst the warning is live in the employee's file. The employee will receive a letter detailing the outcome of the disciplinary hearing and the length of time the final written warning will be in place within 5 working days of the meeting.

5.3 Dismissal

The decision to dismiss must be taken by the centre Director. Where practicable, the decision will be communicated to the employee at the hearing and then confirmed in writing within 5 working days of the meeting. The employee has the right to appeal at each stage of the disciplinary process by following the procedure set out below.

The centre will give notice in writing to the employee that s/he is dismissed and the effective date of dismissal.

Dismissals for an act / or acts of further misconduct will be with notice. Dismissals for an act / or acts of gross misconduct will normally be without notice.

5.4 Suspension

If an allegation is considered so serious that it may amount to gross misconduct justifying dismissal without previous warning and without notice (see the Disciplinary Rules, Appendix 1) the employee may be suspended. Suspension for alleged misconduct should only be instigated in a situation when it is decided that in the best interests of the investigation, or the employee, the member of staff should be away from the centre whilst a serious matter is investigated. The employee will be informed in

writing that they are suspended with immediate effect on full pay pending further investigation into the complaint and provided with a nominated contact for communication during the period of suspension.

When wishing to exercise this power, the centre Director will immediately seek advice from a Human Resources representative and inform the Chief Executive and the Voluntary Governors when agreement has been made to suspend an employee.

Suspension is a neutral act and not an implication of guilt. Suspension will usually involve a total suspension from work although suspension from part of the employee's normal duties/place of work may also be considered.

6 Right of Appeal

6.1 Right of Appeal for Written Warning:

The employee has a right of appeal against a written warning issued to them. The appeal will be heard by an independent senior manager which may be but not limited to, the centre Director. The appeal chairperson will be advised by a member of the centre HR team.

Appeals against a written warning must be made in writing to the centre's HR team within 5 working days of the receipt of the written decision. An appropriate independent senior manager will hear the appeal. The employee must state the full grounds for the appeal.

An appeal hearing against any sanction is not a re-hearing of the disciplinary case and as such, an appeal may only proceed on the following grounds:-

- The proper procedure was not followed and this materially affected the decision
- The decision reached was incorrect in that the conclusion reached was not supported by the evidence presented
- The sanction awarded was too severe, taking into account the nature of the misconduct and the mitigating circumstances
- Where new evidence has become available which is pertinent to the case and was not reasonably available at the time

6.2 Outcome of Appeal:

An appeal hearing will result in one of the following outcomes:

- The appeal is upheld and any sanction imposed by the original hearing officer withdrawn
- The appeal is not upheld but a lesser sanction is considered
- The appeal is not upheld and the original sanction remains in place

The appeal hearing is the final stage and there is no further right of appeal following an appeal hearing.

6.3 Right of Appeal for Dismissal:

An appeal against dismissal will be heard by an independent senior leader who has had no previous involvement in the case, or an appropriate member of the centre's Governing Body. The appeal hearer will be advised by a member of the centre's HR team.

Appeals must be made in writing to the centre's HR team within 5 working days of the receipt of the written decision stating the full grounds of appeal. Please see 6.1 for reasons on which an appeal may be heard.

All appeal hearings will be held as soon as possible after receipt of the appeal letter.

The appeal hearing is the final stage and there is no further right of appeal following an appeal hearing.

7 Timescales

Journey Independent School aims to deal with disciplinary matters as quickly as possible. The length of time taken to deal with disciplinary matters may vary depending on factors including the complexity of the issue, the number of witnesses involved and unforeseen absences. If alternative timescales need to be applied, these must be notified to all relevant parties:

Action	Timescales
Investigation Meeting (if required)	As soon as possible after the allegation is made, but no later than 10 working days of the alleged incident
Disciplinary Hearing	This will vary depending on the complexity of the case but will usually be arranged within 10 working days of the completion of the Investigation 5 working days' notice of the hearing to be given
Outcome letter following hearing	Within 5 working days, but may be longer depending on the complexity of the case.
Appeal Hearing	To be submitted within 5 working days of the outcome letter.

Appendix 1: Disciplinary Rules

Gross Misconduct

Gross misconduct is behaviour or conduct which is deemed significantly serious to warrants a final written warning or a suspension in cases where it is inadvisable for the employee to be allowed to remain at work. Any employee suspected of committing an act of gross misconduct as indicated in the list below may be suspended with full pay pending investigation. Suspension should be considered with Journey Independent School HR on a case by case basis. If, after an investigation and a disciplinary hearing it is decided that the employee has committed an act of gross misconduct or if the act is admitted by the employee, s/he will be dismissed without further warning. The disciplinary procedure must be followed in all cases including that for summary dismissal. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- Dishonesty associated with place of work or job being undertaken:
 - Theft of property belonging to the centre, contractor, an employee or pupil, or member of the public;
 - Deliberate falsification of timesheets or expenses claims for pecuniary advantage;
 - Demanding or accepting monies or other considerations as a bribe for the use of centre's property, provision of centre service or the showing of favour on behalf of the centre;
 - Falsification of any information given on an application form for a post to gain advantage whether pecuniary or otherwise;
 - Failure to disclose criminal convictions (no convictions or cautions are exempt for employees in the centre under the terms of the Rehabilitation of Offenders Act, 1975);
 - Falsification of registration of students or students for pecuniary gain;
 - Working for another employer whilst being off work due to sickness and in receipt of sick pay.
- Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.
- Gross negligence in failing to attend to or carry out the agreed duties of the post.
- Wilfully ignoring responsibilities/instructions thus placing other employees/students in danger, e.g. ignoring handling instructions/safety regulations in respect of radioactive materials.
- Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.
- Wilful unauthorised disclosure of information (classified as confidential) by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to the centre, other employees or students.
- Acts of violence or vandalism in the course of employment:
 - Malicious damage to centre/contractor/other employees/student property;
 - Actual physical violence towards members of the centre staff/ governors/ parents/ students/ members of the public.
- Sexual misconduct at work:
 - Sexual misconduct whether criminal or not;
 - Sexual relations with students.
- Off duty misconduct:
 - An act of criminal sexual misconduct by an employee who, in the course of duty, has contact with young people;
 - Drug offences committed by employees whose job brings them into contact with young people;

- Sexual relations with students or young persons;
- Criminal offences outside work which may affect the individual's employment suitability.
- Misuse of the internet or email facilities of the centre:
 - Using the internet to access unseemly or sexually explicit material;

- Using email for communicating unseemly or sexually explicit material.
- Serious unprofessional behaviour exhibited within the centre.
- Serious unacceptable conduct outside the centre which is likely to expose the centre to criticism, or bring the centre into disrepute.
- Bullying or Harassment:
 - Exhibiting behaviour that either bullies or harasses staff, students, governors or parents.
- An intentional breach of confidential information, personal data or IT security, or an unintentional breach which has serious consequences.
- Failure to report a breach of confidential information, personal data or IT security in accordance with General Data Protection Regulation (GDPR).
- Safeguarding concerns either inside or outside the centre.
- Victimisation of other employees in the course of duty.
- Unlawful discrimination against other employees, students or members of the public in the course of duty.
- Discrimination, whether unlawful or not, in the course of duty against other employees, students or members of the public on the grounds of sex, marital status, ethnic origin, disability, sexual orientation, religion, religious beliefs or age.
- Making false or vexatious/malicious claims under any of the centre's policies.
- Any behaviour or actions which may have a damaging impact on students' education or examination results.

Misconduct

Misconduct is of a less serious degree than that which would warrant immediate suspension from duty for a first offence but which could nevertheless lead to dismissal if persistent. Some more serious acts of misconduct might justify omitting the first stage of disciplinary procedures by issuing a final warning in the first instance. Only when it can be shown that the warnings have not been heeded will misconduct lead to action being taken which will lead to an employee's dismissal. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- Absenteeism and lateness, for example:
 - failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
 - frequent failure to attend work punctually;
 - failure to notify the centre immediately or as soon as reasonably practicable when absence is due to sickness;
 - failure to provide medical certificates in accordance with the Conditions of Service;
 - failure to follow the centre process for reporting absence.
- Dishonesty / petty wrongs, for example:
 - making unauthorised private telephone calls and/or sending personal mail at the establishment's expense;
 - failure to report any loss and/or damage to any property issued to or by the employee in connection with his/her employment;
 - using the centre's telephone, fax, email or internet for unauthorised personal purposes
- Neglect of duty, for example:
 - failure to adopt safe working practices/use protective equipment where required by law or management;
 - negligent use of property in such a way as is likely to cause serious damage or loss;
 - failure to discharge without sufficient cause the obligations which statute or the contract of employment places on the employee, e.g. failure to act in accordance with

the requirements placed on the centre by the Special Education Needs Discrimination Act;

- insubordination;

- failure to exercise proper control or supervision of students.
- Abusive behaviour/offensive language which arises directly out of or in connection with work and which is directed at colleagues, governors, students or members of the public.
- Undertaking additional employment outside normal working hours which would be detrimental to the work to be performed as a full time employee of the centre.
- Unprofessional, disorderly or unacceptable behaviour exhibited within the centre.
- Behaving in a way that does not provide a good role model to students at the centre.
- Failing to work in a co-operative manner with colleagues or conduct which impairs the efficiency of managers or other colleagues.
- An unintentional breach of confidential information, personal data or IT security which does not have serious consequences.

Journey Independent School

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