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YORK STEINER SCHOOL

STAFF DISCIPLINARY POLICY

AND PROCEDURE

Approved by:	Board of Trustees	Date: May 2023
Last reviewed on:	May 2023	
Next review due by:	May 2025	

This policy and procedure applies to all members of staff of York Steiner School ('the School', 'we' or 'our') only. It does not form part of the terms and conditions of any employee's employment with the School and is not intended to have contractual effect. However, it reflects the School's current practices and employees are strongly encouraged to familiarise themselves with its content.

The School reserves the right to vary or amend its Disciplinary Policy and Procedure depending on the particular circumstances of the case. The School also reserves the right not to follow the Disciplinary Policy and Procedure in respect of employees with less than two year's continuous service.

Rules set standards of performance and behaviour whilst the procedures are designed to help promote fairness and consistency in the treatment of individuals. It is the aim of the rules and procedures to emphasise and encourage improvement in the conduct of individuals where they are failing to meet the required standard. However, it is recognised that where improvement is not possible, within a disciplinary process, then dismissal may result.

In any organisation, it is necessary to have certain rules in place in the interests of both the employer and the employee. Every reasonable effort will be made to ensure that any action taken by the School under this procedure will be fair and all employees will be given the

opportunity to state their case and appeal against any decision they consider to be unjust.

The following principles will be adhered to when following the disciplinary process:

- All employees are made fully aware of the standards of performance, action and behaviour required of them;
- Disciplinary action, where necessary, will be taken without unreasonable delay and in a fair, uniform and consistent manner;
- An employee will only be subject to disciplinary action once there has been a reasonable investigation of the facts;
- The employee will have an opportunity to present their side of the case at a formal disciplinary hearing convened under this policy and procedure;
- All employees will have the right to be accompanied by a fellow employee or an accredited trade union official at any disciplinary or appeal hearing. Please note that an investigatory interview prior to a disciplinary hearing is not a formal stage in the disciplinary process;

- During any disciplinary hearing the employee will have a full and fair opportunity to state their case and answer any allegations that have been made;
- During any hearing, the employee will also be allowed to ask questions, present evidence, and be given an opportunity to raise points about any information provided by witnesses or relevant documentation;
- Requests to call witnesses or cross examine witnesses will be considered and accommodated where reasonable, practicable and proportionate in the circumstances of the case and where this does not conflict with any overriding duty the School may owe to another employee;
- Normally, no employee will be dismissed for a first breach of discipline except for the case of gross misconduct;
- If an employee is subject to the disciplinary process, they will receive both an explanation of any disciplinary action to be taken by the school and will be entitled to appeal against that decision in accordance with the appeals process set out in this policy and procedure.

Disciplinary procedure

In all but a few straightforward cases the School will first investigate all the allegations of potential disciplinary offences to establish the facts before deciding whether to involve the formal Disciplinary Procedure.

It may be necessary for the School to suspend an employee whilst an investigation is taking place. Any suspension will be no longer than is reasonably necessary and will be on full pay. Suspension does not in itself constitute disciplinary action or imply any decision or judgment as to the outcome of the procedure.

If the School decides to proceed with the formal disciplinary procedure it will adhere to the following procedure:

1. The School will write to the employee inviting them to attend a disciplinary hearing.
2. In the invitation letter, the School will set out the issues or allegations that are to be considered, the basis for them, indicate how seriously these are being viewed, the potential consequences and detail any intention to call witnesses.
3. The School will attach any relevant documentation including any relevant witness statements to the invitation letter.

4. The letter will also detail the employee's statutory right to be accompanied by either a work colleague or a trade union representative and confirm how this right can be exercised, including expectations on how the colleague or trade union representative will conduct themselves at such a meeting.
5. The School will give the employee reasonable notice of the requirement to attend the disciplinary hearing in order to allow them a reasonable period of time to prepare their case.
6. Disciplinary hearings where dismissal is not contemplated as a potential disciplinary sanction, should the allegation(s) be proved to the satisfaction of the School, will usually be conducted and determined by one of the School Managers, or in the case of disciplinary proceedings involving the Managers, the Chair of Trustees or other Appointed Person – to be appointed at the discretion of the School, under obligations of confidentiality and data protection. Disciplinary hearings where dismissal may be contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by a panel made up of the School Managers and Trustees.

Any disciplinary hearing will be conducted in a manner to ensure that:

1. The employee will be given a full and fair opportunity to answer any allegations against them and to present their case and any relevant evidence they wish to be considered and on which they would like to rely.
2. The hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing. No recording devices, including a mobile phone, will be used at the meeting unless the School, at its discretion decides to use a recording device.
3. No decisions will be reached during the hearing itself. The School will need to consider all the evidence together with the representations the employee has made, and in some cases may need to carry out further investigations before a decision can be reached.
4. Once a decision has been reached, the School will write to the employee to confirm the outcome of the hearing.
5. Where the decision is to take formal disciplinary against an employee, they will be informed of the nature of the disciplinary action, the reasons behind the decision and any other conditions that they may be required to satisfy as a result of the disciplinary process.

6. Where a disciplinary sanction has been imposed, they will also be informed of their right to appeal and the process to be followed should the employee wish to exercise this right in relation to the disciplinary decision reached.

Severity of Disciplinary Action

The severity of disciplinary action, or sanction (if any) will be determined by the severity of the offence and any prior “live” disciplinary sanctions in the employee’s history. Due consideration will be given to any bona fide mitigating circumstances raised during the disciplinary process. The following is provided as guidance only.

First Written Warning

This will generally be applied as the first step of formal corrective action following unsatisfactory performance or conduct offences.

A first written warning imposed as an outcome to the disciplinary process will be placed on the employee’s personnel file for a specified period of time, which will be notified to the employee in the disciplinary outcome letter. This will generally be for a period of between 6 – 12 months.

Final Written Warnings and Dismissals

For more serious first offences, such as serious misconduct, the School may impose a final written warning.

Alternatively, where an employee has a current and active first written warning or where an employee fails to achieve the required improvements within the review period specified in a previous disciplinary outcome, the School may impose a final written warning having followed the disciplinary procedure in respect of any persisting or additional offences.

A final written warning imposed as an outcome to the disciplinary process will be placed on the employee’s personnel file for a specified period of time, which will be notified to the employee in the disciplinary outcome letter. This will generally be for a period of between 12 – 24 months.

Continued or repeat offences during an active period of a current final written warning may result in dismissal with notice or payment in lieu of notice.

Where an allegation of gross misconduct is upheld, the School will normally dismiss summarily i.e. without notice or payment in lieu of notice. Employees should refer to the non-exhaustive list below of examples of conduct that the School would normally regard as constituting gross misconduct.

Alternative Disciplinary Sanctions

The School may also consider and impose, having followed the Disciplinary Procedure in each case, additional or alternative sanctions including, but not limited to, demotion, disciplinary transfer, loss of seniority/pay or suspension without pay, as an alternative to dismissal.

Gross Misconduct

An employee may be liable to summary dismissal without notice or pay in lieu of notice if they are found to have committed gross misconduct.

The following are examples of issues which might constitute gross misconduct. These are illustrative only and do not constitute an exhaustive list:

- A fundamental and/or wilful breach of the School rules, regulations and policies, with particular reference to safeguarding and/or health and safety of pupils;
- Gross negligence or dangerous behaviour, which causes or might cause injury or death, or unacceptable loss or damage (including to School property and/or reputation);
- Grossly indecent or immoral behaviour both during School working hours or within the employee's personal life (if the latter could adversely impact on the reputation of the School);
- Threatening or violent behaviour, fighting or physical assault;
- Deliberate falsification of any records (e.g. Sickness Self-Certification Form and time-sheets) in respect of the employee or any fellow employee;
- Undertaking private work on the premises and/or during working hours and wilful disregard of duties or of instructions;
- Deliberate and serious breach of confidence relating to the School's or its pupils' affairs;
- Theft or misappropriation of money or property whether belonging to the School, another employee or a third party;
- Unauthorised consumption of alcohol on the premises, or reporting for work under the influence of alcohol or controlled drugs;

- Any taking or possession of controlled drugs or stimulants, which have not been prescribed by a registered medical practitioner;
- Destruction/sabotage of School property or any other property on the premises;
- Serious Health and Safety breaches;
- Gross insubordination and/or refusal to obey legitimate instructions given by any of the School Managers;
- Any breach of a legal statute, which has a direct effect on the employee's or the School's ability to undertake stated duties and/or on the desired characteristics of the employee's position;
- Allowing or assisting any unauthorised person to gain entry to the premises;
- Repeated absences from duty without authorisation;
- Any fundamental and/or substantial breach of trust or unauthorised disclosure to third parties of information relating to the School's affairs or of personal data (including special category personal data) that the School controls;
- A substantial failure to meet expected standards of work and/or behaviour amounting to serious neglect of duty;
- Deliberately driving on School business without an appropriate licence and/or the appropriate insurance;
- Discrimination or harassment or other breach of the School's Equal Opportunities and Diversity Policy;
- Failure to inform the Head Teacher of any criminal charges/convictions or police cautions that are relevant to the employee's employment;
- Serious breaches of the School's Safeguarding and Child Protection Policies and Procedure;
- Serious breaches of the School's E-Safety Policy;
- In respect of teaching staff, serious breach of the standards of professional conduct as set out in the Teacher's Standards.

Behaviour Outside Working Hours

The School seeks to operate with the highest integrity and expects all of its employees to do the same and maintain high standards outside working hours. Any outside activities, which could reasonably be regarded as detrimental to the reputation of the School, may lead to dismissal.

As a condition of employment, employees are required to notify the School immediately of any criminal charges, cautions or conviction, plea of guilty or not guilty in respect of a criminal

offence. Further, to inform the School immediately of any actual or perceived conflicts of interest they may have in relation to their role at the School and their personal life.

Disciplinary Appeal Procedure

If a formal sanction is issued by the School, an employee has the right to lodge an appeal in respect of any disciplinary action taken against them.

If an employee wishes to exercise this right of appeal, they should write in the first instance to the Chair of Trustees who will liaise with the Board of Trustees to convene an appeal hearing with three nominated Trustees, within 10 working days of the decision they are appealing against, setting out the grounds and basis for the appeal.

Disciplinary appeals will usually be conducted and determined by a panel of three members of the Board of Trustees. However, if that is not possible, the panel will be constituted at the discussion of the School and may include an independent third party, such as a HR consulted, who will be appointed by the School under obligations of confidentiality and data protection.

The original decision maker, or chair of the original disciplinary panel will attend the appeal on behalf of the School.

The employee has the right to be accompanied by a work colleague or an accredited trade union official at any disciplinary appeal meeting and will be given a full opportunity to state their case and put forward their version of events.

A copy of the documents from the original hearing, the outcome letter and notes from the original hearing should be sent to all parties attending the appeal hearing in advance, together with any additional relevant documents.

The appeal hearing will usually be minuted by a note taker and a copy of that note will be provided to the employee as soon as is reasonably practicable. No recording devices, including a mobile phone, will be allowed at an appeal hearing, unless the School, at its discretion will use a recording device at the hearing.

No decisions will be reached during the hearing itself. The School will need to consider all the evidence together with the representations the employee has made, and in some cases may need to carry out further investigations or seek independent advice before a decision can be

reached. The employee will be notified of the result of the appeal in writing without unreasonable delay. The appeal decision is the final stage of the School's disciplinary appeal procedure.

DISCIPLINARY PROCEDURE

