



DISCIPLINARY POLICY AND PROCEDURE

1 Statement

- I. The Disciplinary Procedure, with which all employees have a responsibility to familiarise themselves, is designed to promote fairness and consistency in the treatment of all employees and to assist the School to function effectively.
- II. This policy will apply to any disciplinary situation which includes misconduct and cases of poor performance that result from misconduct. It is not contractual but applies to all employees after two years' continuous service. Performance issues that do not relate to misconduct will be dealt with in accordance with the Capability Procedure. However, the two procedures may be run in parallel at first to investigate the underlying cause of the concern.
- III. Employees with up to two years' service will be managed under a short service procedure which will include: investigation into the alleged misconduct or capability concern; notification in writing of the issues identified; a meeting to discuss the issues identified; and written notification of the outcome.
- IV. This Disciplinary Procedure is designed to ensure that standards of expected behaviour and performance are adhered to and provides a fair method of dealing with any alleged failures to observe the [Staff Code of Conduct](#) or other policy or procedure approved by the Board for use at ArtsEd. The procedure does not preclude minor disciplinary situations from being dealt with informally.
- V. In cases other than gross misconduct or in the first two years of employment, an employee whose conduct does not meet the standards will normally first be counselled to achieve the required improvement. However, the School reserves the right to commence the procedure at any stage if the circumstances warrant such action.
- VI. No disciplinary action will be taken until the case has been investigated and the employee has had the opportunity to respond to the allegations in accordance with the procedure set out below. All disciplinary situations will be dealt with without unreasonable delay.
- VII. In the event of the absence of any of those involved, except for the employee who is the subject of the procedure, a deputy may take their place if this will not jeopardise the likelihood of a fair outcome.
- VIII. Before starting a disciplinary procedure, the School should first see whether the problem can be resolved in an informal way. This can often be the quickest and easiest solution. We will try resolving the issue with the employee by:
 - privately talking with them and any other person involved;
 - listening to their point of view;
 - agreeing improvements to be made;

- setting up a training or development plan if it relates to a performance-related issue.

IX. The Head of HR must be consulted at each stage of this process.

2. Confidentiality

- I. The School aims to deal with disciplinary matters sensitively and with due respect for the privacy of any individual involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- II. An employee, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure unless agreed by the Investigating Officer / Chair of any Disciplinary Panel.
- III. Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the witnesses have not consented to the disclosure of their identity or evidence, or we believe that a witness' identity should remain confidential.

3. Criminal Allegations

- I. Where an employee's conduct is the subject of a criminal investigation, charge, or conviction, ArtsEd will investigate the facts before deciding whether to take formal disciplinary action.
- II. Subject to the receipt of external advice, we will not normally wait for the outcome of any criminal prosecution before deciding what action, if any, to take. Where an individual is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.
- III. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

4. Suspension

- I. Where an employee is accused of an act of serious or gross misconduct, or where the circumstance otherwise warrants it, after careful consideration they may be suspended from work on full pay pending the outcome of the disciplinary procedure. Such suspension is not a form of disciplinary action and does not imply that any decision has already been made about the allegations.
- II. Where appropriate, during any disciplinary investigation or suspension, the Principal will appoint a senior member of staff, who is not involved in the disciplinary process, to support the member of staff under investigation or suspension.
- III. All staff can access the Employee Assistance Programme provided by [Simply Health](#) on 0800 975 3356.
- IV. The School will maintain contact with the suspended employee as far as reasonably possible, and will ensure that the suspension lasts only for as long as necessary.

5. Formal Disciplinary Procedure

- I. If after trying to resolve the issue informally we feel that a disciplinary procedure must commence, we will notify the employee straight away. This will be done in writing and will include:
 - sufficient information about the alleged misconduct or poor performance;
 - possible consequences, for example a written warning.
- II. The employee must receive this information in time to prepare for a disciplinary meeting.
- III. The School must ensure a full and fair procedure throughout.

6. Investigation

- I. When a disciplinary situation arises, a senior member of staff will consult with the Head of HR as soon as reasonably practicable and will appoint an Investigating Officer to carry out an investigation into the matter; terms of reference and an investigation plan should be agreed with the Head of HR prior to commencing the investigation. The investigation will be confined to establishing the facts and gathering any relevant documentation, with reference to relevant policies and procedures. Where necessary, the Investigating Officer will obtain statements from any witnesses. An investigatory meeting with the employee may take place if considered appropriate by the Investigating Officer.
- II. The Investigating Officer will:
 - assess if there is a case to answer;
 - make sure everyone is treated fairly;
 - gather evidence from all parties;
 - decide what should happen next.
- III. At any stage, the School may consider whether:
 - the formal procedure needs to continue; or
 - the issue can be resolved informally instead.
- IV. The Investigating Officer should do their best to:
 - be fair and objective;
 - follow any policies or guidelines in place;
 - get as much information on the case as is reasonable;
 - not try to prove guilt, but get balanced evidence from both sides;
 - keep the case confidential;
 - write an investigation report (HR may support this process).
- V. While an investigation should be completed as quickly as possible, it must be thorough and fair. Some investigations may take longer depending on the case and how many people need to give information and therefore, no timescale is set for this process and if necessary, more time is allowed for, although any delays must be explained to anyone involved and noted in the investigation report.
- VI. The Investigating Officer may seek information from:
 - the employee;
 - other employees involved ('witnesses');
 - other witnesses, for example students or other 3rd parties (internal or external).

- VII. The Investigating Officer must consider ways in which they can gather information with consideration for data protection laws and the employee's contract.

7. The Right to be Accompanied

- I. In any meeting, the employee under investigation may be accompanied by a 'companion'. A companion must be either:
- a work colleague;
 - a workplace trade union representative who is certified or trained in acting as a companion; or
 - an official employed by a trade union.
- II. ArtsEd will make reasonable adjustments for disabled employees. This might mean allowing someone else to attend, for example a support employee or someone with knowledge of the disability and its effects.
- III. ArtsEd may, but is not obliged to, allow companions who do not fall within the above categories. For example, a professional support body, partner, spouse or legal representative.
- IV. There is no legal entitlement to representation during the investigation stage, although this may be agreed if it is reasonable to do so.

8. Absence of Person Under Investigation

- I. If the employee does not attend an investigation meeting, the Investigating Officer should rearrange the meeting, or should see if it would help to make other arrangements, for example, if the employee is absent due to stress the meeting may be held off site or virtually.
- II. If the employee is too sick or refuses to attend, the Investigating Officer will consider the available evidence and will make a reasonable decision; they should consider:
- the seriousness of the disciplinary issue;
 - how similar cases have been dealt with in the past;
 - obtaining a medical opinion as to whether the employee is fit to attend the meeting (with the employee's permission).
- III. Once all avenues have been exhausted, and the employee has had the opportunity to attend at least two meetings, the Investigating Officer will continue without the employee's input to reach a reasonable conclusion and, in such cases, will carry out the investigation in as full and fair a way as possible and will notify the employee.

9. Witnesses

- I. If many people witnessed the same incident, the Investigating Officer should talk to some of the witnesses to check whether they're broadly saying the same thing.
- II. The Investigating Officer is not obliged to talk to all witnesses, unless they feel they require further information, or where there are significant differences in what the witnesses have stated.

10. Taking Records, Sharing Information and Confidentiality

- I. The Investigating Officer can make audio recordings of interviews or assign a person to take notes, depending on what is most appropriate or possible and if the person being interviewed agrees.
- II. When obtaining information from a witness, they must also give their consent to allow it to be shared; this will include their statement, for example, should it need to be shared other people working on the investigation need to look at that information, and to permit it to be shared with the person being investigated.
- III. If someone believes they have been named in a report, they have the right to see any parts containing information about them or that depended on information they gave. They must not be allowed to see private information about other people and reports must therefore be redacted before being shared with other witnesses.
- IV. Investigation reports will be held in line with the Data Retention Policy.
- V. If the report includes people's details, it must be stored securely, and access will only be allowed when necessary. Anyone who needs access must follow GDPR guidance.
- VI. The report should be securely disposed of once it is no longer needed or is out of date.

11. Notification

- I. Following the investigation, if it is decided that there is a disciplinary case to answer, the employee will be invited to attend a disciplinary meeting.
- II. The employee will be informed in writing of the nature of the complaint and where appropriate, will be provided with copies of any written evidence gathered during the investigation.
- III. Where either party intends to call any relevant witnesses at the disciplinary meeting, advance notice of their intention to do so must be given.

12. Recommendations

- I. The Investigating Officer will make recommendations at the end of the investigation. They may recommend formal action; informal action; or no further action.

Formal action could include:

- to initiate a disciplinary hearing;
- changes to policy or procedure;
- further investigation into other matters that were found.

Informal action could include:

- training or coaching for parties involved;
- counselling for parties involved;
- mediation for parties involved;

- notification that further similar action might end in disciplinary action.

No further action:

The Investigating Officer might still suggest something that could help the workplace and the people involved, for example:

- counselling;
- mediation;
- another form of support.

- II. If it is decided that there is a disciplinary case to answer, the employee must be notified of this in writing. This notification must contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting. It would normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification.
- III. Suspended employee's will be given sufficient time and controlled access to information available on their ArtsEd email accounts and files to enable them to prepare their case.

13. Special cases

If an employee is charged with or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their School, work colleagues and stakeholders.

14. Disciplinary Meeting

- I. The disciplinary meeting will be conducted by a senior colleague or Trustee who has had no prior involvement with the investigation. The employee may be accompanied by a trade union representative or colleague if desired. The employee and their companion should make every effort to attend the disciplinary meeting. If the employee fails to attend the disciplinary meeting this will usually be rearranged once, but should they fail to attend the rearranged meeting then a decision may be reached in their absence.
- II. The employee will be given the full opportunity at the disciplinary meeting to explain the matter and respond to the allegations.
- III. A notetaker will be present but will not be involved in the decision-making process.
- IV. Following the disciplinary meeting, if it is decided that disciplinary action is warranted, the employee will be advised of the decision in writing which will specify the details of:
 - the failure to meet the required standard;
 - any action required by the employee to remedy the situation;
 - any relevant review period / duration of warning and the consequences of continued or subsequent failure to reach and sustain the required standard of performance or conduct; and
 - the right of appeal.
- V. If disciplinary action is warranted one of the sanctions below may be issued. A sanction may be imposed at any level including summary dismissal depending on the circumstances.

- **Written Warning**

In the case of a first act of misconduct, or a repetition of earlier minor offences or a failure to improve, the employee will be given a written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period.

- **Final Written Warning**

In the case of a sufficiently serious offence, or a repetition of earlier offences, the employee will be given a final written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period. This may include a statement that any recurrence or no improvement may lead to a dismissal or to some other action short of dismissal.

- **Dismissal**

This stage will normally result from continued failure by the employee to act on previous warnings or an act of gross misconduct. In the case of gross misconduct, the employee will normally be dismissed without notice or payment in lieu of notice. If the decision to dismiss is made, the employee will be informed in writing of the reason for dismissal, the date on which the contract between the parties will terminate and the appropriate period of notice.

15. **Alternatives to Dismissal**

In exceptional circumstances, suspension without pay or demotion may be considered as an alternative to dismissal.

16. **Gross Misconduct**

- I. Employees may be dismissed without notice if it has been established, after investigation and after hearing the employee's explanation at a disciplinary meeting, that there has been an act which constitutes gross misconduct.
- II. Examples of actions which constitute gross misconduct include (but are not limited to):
 - gross insubordination;
 - serious breach of health and safety rules;
 - serious breach of the School email and [IT Acceptable Use Policy](#);
 - theft or fraud from either the School or co-employees or deliberate damage to School property or that of co-employees;
 - being under the influence of drink or illegal drugs at work;
 - disorderly or threatening conduct on School premises;
 - contravention of the [Equal Opportunities Policy](#);
 - negligence resulting in serious loss, damage, or injury (to self, a 3rd party or property)
 - assault or attempted assault;
 - falsification of records;
 - conviction on a criminal charge;
 - acceptance of a police caution;
 - breach of School policies or procedures;
 - bullying or harassment of colleagues, pupils / students or parents;

- behaviour that may constitute sexual misconduct
- abuse or suspected abuse of your position of trust in relation to pupils / students at the School;
- or, bringing the School into disrepute.

17. Appeals

- I. If an employee feels that the disciplinary action taken against them is wrong or unjust, they may appeal against the decision within five working days of receipt of the written decision. Such appeals are to be made in writing to the Head of HR.
- II. The appeal hearing will be convened as soon as is reasonably practicable and will give an employee written notice of the date, time, and place of the appeal hearing. The appeal hearing will be heard by a senior colleague, usually supported by the Head of HR and a Trustee (or panel of up to three Trustees who have had no prior involvement).
- III. 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 in the light of the procedure that was followed and any new information that may have come to light. This decision will be at the School's discretion depending on the circumstances of the case. In any event, the appeal will be dealt with impartially.
- IV. Where new evidence arises prior to or during the appeal, further investigation may be required. The employee will be given access to any relevant new information or evidence and will have the opportunity to consider this before the hearing and make representations.
- V. The employee will have the right to be accompanied at any appeal hearing by a colleague or trade union representative.
- VI. The employee will be informed in writing of the decision of the appeal hearing as soon as is reasonably practicable following the conclusion of the hearing. The outcome may be that:
 - the original decision is confirmed;
 - the original decision is revoked; or
 - a lesser penalty is issued.
- VII. Such decision will be final and there will be no further right of appeal.
- VIII. In the event of an unsuccessful appeal against a decision to dismiss, the original dismissal date shall stand. However, if an employee's appeal is successful, they will be reinstated with no loss of continuity of service or pay.

18. Record Keeping

A copy of all formal warnings will be retained on an employee's personnel file and in accordance with the School's Staff Privacy Notice and Data Retention Policy but will be considered spent after a period of twelve months.

Title of Policy / Procedure	Disciplinary Policy and Procedure
Maintained By	Head of HR
Owned By	Head of HR
Approving Committee / Ratifying Body	Board of Trustees
Last Reviewed on	March 2022
Review on	March 2025
Current Version	Version 1
Location of master document	https://teams.microsoft.com/l/channel/19%3aw-ekhrkvUAYf-poCislpXAtITMpMervHPnfaS0ONC_Y1%40thread.tacv2/General?groupId=fe70d9e8-8216-4003-922e-b9bfe9e5fb9c&tenantId=02f4a62e-6e9d-4607-974c-7de2591c4698
Web location	