



# Disciplinary

CHARITY POLICY & PROCEDURE

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### Statement of Intent

This Disciplinary Policy and Procedure is designed to help and encourage employees to achieve and maintain satisfactory standards of conduct, attendance, and job performance. Its aim is to deal with instances of misconduct and to provide a framework within which managers can work with employees to encourage improvement where necessary and to ensure the consistent and fair treatment of all employees in dealing with matters relating to:

- misconduct (e.g., unacceptable behaviour or non-compliance with standards).
- attendance (e.g., unacceptable sickness levels or other reasons relating to poor attendance).
- capability or performance (e.g., where employees who, despite support and adequate training, do not deliver the required level of performance).

Talbot House Children's Charity Limited ("the Charity") expects all employees to work within the Charity's rules and procedures. All employees have a responsibility to conduct themselves in an appropriate and professional manner in accordance with the Charity's Code of Conduct, Mission and Values, and cooperate in the application of this procedure.

This policy is not intended to deal with poor performance due to ill health, however, some absences or situations linked to absence, maybe dealt with under this policy.

All disciplinary matters will be dealt with fairly. We will ensure that steps are taken to establish the facts and to give employees the opportunity to respond before any formal action is taken.

This policy applies to all employees and bank staff who have passed their probationary period. It does not apply to agency workers, or self-employed contractors.

This procedure does not form part of any employee's contract of employment, and it may be amended at any time. Talbot House Children's Charity may also vary this procedure from time to time, including any time limits, as appropriate in any case and at any time.

## Disciplinary Policy

### 1. Confidentiality

- Disciplinary matters will be dealt with sensitively and take into consideration the privacy of the individuals involved wherever possible.
- All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential. Failure to do so may result in disciplinary action.
- Any individual(s) found to have made electronic recordings of any meetings or discussions, whether informal or formal, without prior authorisation, will be subject to disciplinary action.

### 2. Informal Procedure

Misconduct and / or performance problems should be raised and dealt with promptly by both management and employees. In promoting and maintaining good employee relations, management will, where appropriate, initially attempt to resolve matters informally through support and good management practice and by means of discussion between Line Manager and employee.

- Informal discussions will be held in private and as soon as reasonably practicable to address any issue(s) for concern, expected outcomes, and improvement timescales.
- Any necessary support or training will be agreed, and arranged. The employee is expected to respond positively to any required development.
- In some cases, an informal verbal warning may be issued, for which a record of the discussions held will be kept on file in the form of a management recorded conversation or advice letter. While informal records will not form part of an employee's disciplinary record they may be reviewed as part of a performance review and / or when considering informal or formal action in future.
- For situations where an informal approach is not working or where the allegation(s) is / are more serious than initially understood and informal discussion is no longer considered appropriate, formal steps will be taken under this policy and procedure.

### 3. Employee's Right to be Accompanied

- Employees have the right to bring a companion to any formal stage disciplinary hearing or appeal hearing under this procedure this excludes the investigation stage.
- There is no right to be accompanied prior to a formal stage disciplinary hearing.
- You are entitled to be accompanied by either a trade union representative, trade union official, or a work colleague at a disciplinary or appeal hearing.
- The employee must inform the Charity of their proposed companion in good time before the hearing date to allow a reasonable amount of time to make arrangements for the companion to attend.
- The employee may be requested to identify an alternative companion where the first choice of companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days.
- The employee has a right to propose an alternative date and time for the disciplinary hearing if their companion is unable to attend at the proposed time, provided that the alternative time is both reasonable and within the following five working days of the proposed meeting date.

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- The employee's companion will be allowed to address the hearing to summarise and put forward the employee's case, respond on behalf of the employee to any views expressed, and confer with the employee during the hearing.
- The companion does not have the right to answer questions on the employee's behalf, address the meeting without the employee's consent or prevent the employee from explaining their case.
- The chosen companion should be involved in the case.

### 4. Investigations

The purpose of an investigation is to establish the facts of the case before deciding whether to proceed to any disciplinary hearing. The level of investigation required will depend on the nature of the allegation(s) and will vary from case to case.

- Investigations may involve interviewing and taking statements from the employee as well as any identified witnesses and may involve reviewing any relevant documents and / or the collation of evidence (to include CCTV where appropriate) for use at any disciplinary hearing.
- Employees are expected to fully cooperate during all investigation meetings and will be afforded the opportunity to respond to any allegation(s) made. This may involve informing the Charity of potential witnesses, disclosing any relevant documents for review, and attending any investigation meetings as required.
- During investigations meetings employees do not have the right to be accompanied by a companion. Investigations can be arranged at any time and without notice.
- An Investigating Officer may be appointed by Senior Management Team (SMT) and / or by the Chair of Trustees, if appropriate. The Investigating Officer will be tasked to undertake the investigation promptly and impartially. Any evidence will be collated as soon as practicable after the incident, any physical evidence should be collected, and statements taken from witnesses at the earliest opportunity.
- Once the investigation is complete, a decision will be made as to the appropriate action to be taken. The outcome will be confirmed in writing and may be as follows:
  - take no formal action.
  - recommend a support package to deal with the matter on an informal basis e.g., additional support and / or training and / or a change to procedure(s) / working practices.
  - recommend that the Charity proceeds to a disciplinary hearing.
- The employee will be informed of the decision to proceed to a disciplinary hearing in writing as soon as practicable.
- No decision on disciplinary sanctions will be made by the Investigations Officer, any sanctions would only be issued following any disciplinary hearing that has been held and if deemed appropriate.

### 5. Suspension

In some circumstances and depending on the nature and seriousness of the case the Investigating Officer may decide to suspend an employee from the workplace.

- Any period of suspension will be for a period that is no longer than necessary to investigate any allegation(s) of misconduct, or for so long as any disciplinary procedures against an employee are outstanding.

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- Suspension is sometimes necessary, for example, to allow for a 'cooling-off period' for both parties, for their own or others' protection, to prevent them influencing or being influenced by others, following an allegation, following LADO advice and / or to prevent possible interference with evidence, there may be other reasons for suspension.
- Where a safeguarding allegation has been made against an employee the Charity will consider taking advice from the Local Authority Designated Officer (LADO) in the first instance. This may form part of any decision made to suspend an employee and / or may form part of any decision to report the matter to relevant local authorities and / or to the police child protection unit if the LADO advises the Charity of this course of action. The Charity may have to suspend internal investigations where external authorities are involved.
- If an individual is suspended, they must immediately return all Charity property to include photo ID Badge, key cards, lanyard, access keys, employment-related identification, business cards, financial cards, etc. to the HR Department or your Line Manager (as agreed) before leaving the premises. This is specifically to protect the children, employees, and the individual under investigation and does not imply that a decision has already been made about the allegations.
- During any period of suspension, the suspended employee is not permitted to visit the premises at any time, contact any employees / trustees / clients / contractors / supplier, unless authorisation is issued in writing by the Investigation Officer, their Line Manager, or a more senior manager.
- During any period of suspension, the suspended employees will continue to be paid full basic salary.
- Suspension is not a disciplinary sanction and does not imply that any decision has already been made about the allegation(s).
- Suspension will be for no longer than is necessary to investigate the allegations and the Charity will confirm the arrangements to the employee in writing.
- Employees, who are suspended, are encouraged to liaise with Human Resources for guidance on welfare support during the process. Please let us know how we can support you during this time.

### 6. Welfare Support

The Charity recognises that being under investigation or suspended from work can be a stressful and upsetting time for an employee and their family. As a further support mechanism, a Welfare Support Officer (an employee unconnected with the case) can be appointed by a member of SMT (or Trustee(s) if appropriate) at the beginning of proceedings, please let us know if you would like to request this. Their role will be to act as the key contact for the employee and provide support during the investigation or suspension.

### 7. Notification of a Disciplinary Hearing

Following the completion of any investigation, if it is decided that there are grounds to proceed to a disciplinary hearing, the employee will be notified of this in writing outlining the allegation(s), the basis of the allegation(s) and the likely range of sanctions if the allegation(s) are found to be true.

7.1 The employee will receive the following, where applicable:

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- A copy of any relevant document which will be used at the disciplinary hearing.
- A copy of relevant witness statements, with the exception of where an employee's or child's identity is to be kept confidential, in which case the employee will be issued with as much information as possible ensuring confidentiality is maintained.

The employee will be given reasonable advance notice, in writing, of the date, time, and place of any formal disciplinary hearing. The hearing will be held as soon as is reasonably practicable and will ensure the employee has time to prepare their response to the allegation(s) of misconduct and / or poor performance at a disciplinary hearing.

### 8. Disciplinary Hearing Procedure

- All disciplinary hearings will be chaired by the Disciplinary Officer who will usually be a manager and / or member of the SMT and / or a Trustee if appropriate. Where practicable, the hearing will not be conducted by the Investigation Officer.
- The hearing may be recorded on tape and notes will be taken by a nominated impartial note taker, usually a member of the HR Department, notes can be requested if required.
- The Charity must be informed immediately if the employee or chosen companion is unable to attend the meeting. The employee is reminded that every effort should be made to attend the meeting and failure to do so may be deemed misconduct in itself.
- If an employee fails to attend a disciplinary hearing without good reason or is persistently unavailable to attend the Charity may make a decision based on the evidence that is available at the time of the disciplinary hearing.
- At the hearing, the manager will go through the allegations against the employee and the evidence that has been gathered. The employee will be afforded the opportunity to respond to the allegation(s) and present any evidence of their own.
- Once all of the facts of the case have been heard the disciplinary hearing will be adjourned. The adjournment will allow for any further investigations to take place in light of any new information the employee has raised during the disciplinary hearing or will allow time for the Disciplinary Officer to consider the responses to the allegation(s) and take advice if necessary.
- The Disciplinary Officer will make a decision as to the recommended course of action which may involve issuing a formal sanction.
- The employee will be informed of the decision in writing as soon as practicable following the hearing.

### 9. Formal Disciplinary Sanctions

Where an allegation or allegations have been upheld a decision must be made as to the appropriate level of formal disciplinary sanction. The usual levels for misconduct are set out below:

- Stage 1
  - A First Written Warning may be appropriate for a first act of misconduct or minor lapse of conduct where there are no live sanctions on the employees' record or, a failure to meet the required standards or breaches of the terms of employment.
- Stage 2
  - A Final Written Warning where there is no satisfactory improvement or if another misconduct is committed where there is already an active written warning on the employee's record, or if the misconduct is considered serious enough to warrant a final written warning even though there are no other active warnings on their record.

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- Stage 3
  - Dismissal may be appropriate where there is insufficient improvement, or if another misconduct is committed where there is already an active written warning on the employee's record, or if the employee's behaviour amounts to gross misconduct regardless of whether there are active warnings on their record.

9.1 In some cases the Charity may, at its discretion, consider alternatives to dismissal for example:

- Demotion / Loss of seniority.
- Transfer to an alternative role and / or department.
- A period of suspension without pay.
- Reduction in pay.
- Loss of future pay increment
- Loss of company / occupational sickness absence pay).
- Loss of overtime opportunities for a period of time.

These alternatives will usually be accompanied by a final written warning.

All formal warnings will be confirmed in writing to the employee setting out the nature of the misconduct and / or performance problem(s), the improvement or change in behaviour required, the period for which the warning will remain active, any help that may be provided, the consequences of any further misconduct or failure to improve performance within the set period, and the right of appeal.

### 10. Timescales of Written Warnings and Dismissals

For the purpose of this procedure, the timescales below will usually apply to determine the period of time a formal disciplinary sanction remains live:

- First Written Warning: six (6) months.
- Final Written Warning: twelve (12) months.

Where appropriate, an extended period to those stated above may be applied.

10.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period of time for which the warning will remain active, and the likely consequences of further misconduct in the active period.

- After the active period of the warning, the warning will remain on the employees file but will be disregarded in deciding the outcome of future disciplinary proceedings.
- Written confirmation of dismissal will be provided to the employee and will include the reason(s) for the dismissal, the date on which the employment contract will end / has ended, the appropriate period of notice (unless the employment is being terminated for gross misconduct) and the employee's right of appeal.

### 11. Appeals

- Where an employee feels that any formal disciplinary action taken against them is wrong or unjust, they can appeal against the decision. The employee must do so within seven (7) consecutive days of the date they were informed of the decision, setting out their full grounds of appeal in writing, to the CEO or Chair of Governors / Trustees.
- If an employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.



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- An appeal hearing will be arranged as soon as practicable following receipt of the employee's written appeal. The employee will be given appropriate written notification of the date and time of the hearing.
- Where possible, the appeal hearing will be heard by a panel, of one or more persons, which will usually include a member of the SMT (who has not previously been involved in the procedure) and / or the CEO and / or a Trustee and / or the Chair of Trustees.
- Any disciplinary penalty previously imposed will be reviewed at the appeal hearing all documents will be provided as will any new evidence relating to the matter.
- 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 pending the grounds of the appeal, any procedure followed or any new evidence that has come to light, this will be at the discretion of the Charity. In any event, the appeal will be dealt with fairly and impartially.
- Further investigation may be necessary in the light of any new points raised and it may be necessary to adjourn the appeal hearing in light of any new evidence submitted or points raised.
- The decision of the appeals panel is final. The panel may either:
  - confirm the original decision.
  - revoke the original decision.
  - substitute a different penalty.
- Written confirmation of the outcome of any appeal and sanction imposed will be provided to the employee. There will be no further right of appeal.

### 12. Criminal Offences

If an employee is charged with or convicted of a criminal offence this is not in itself a reason for disciplinary action. SMT / Trustees will determine whether it is appropriate to take disciplinary action and if so when the process may commence.

- Employees are contractually obliged to immediately report to the Charity any event that you become charged with, and / or convicted of a criminal act. In this situation, the employee is advised to inform the Charity as soon as possible following any arrest and is encouraged to be open and honest about the situation. As per your contract of employment, failure to notify the Charity will result in disciplinary action being commenced against you, which may result in the termination of your employment.
- Consideration will be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with the Charity, the young people they are supporting, and work colleagues.
- Where an offence or alleged offence relates to safeguarding the employee will be suspended immediately, and an investigation will commence.

### 13. Overlapping Grievance and Disciplinary Matters

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. However, where the grievance and disciplinary cases are related it may be appropriate to deal with both issues at the same time.

### 14. Examples of Misconduct

The following are examples of matters that will normally be regarded as misconduct, this list is not exhaustive and is a guide only:

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- Minor breaches of Charity policies.
- Minor breach of the Charity's **Code of Conduct** e.g., not following uniform standards.
- Minor breaches of the employee's contract.
- Damage to, or unauthorised use of, Charity property.
- Poor/repeated poor timekeeping e.g., coming in late, leaving early and missing shifts.
- Unauthorised absence from work.
- Not following sickness absence or other absence in accordance with the sickness absence procedures (or as amended and communicated by your Line Manager and or HR Department).
- Intermittent and / or frequent sickness absence or other absence causing disruption to the department, hitting triggers (3 absences or more, 8 days or more or a Bradford factor score of 100 or more in any 12-month rolling period, pro-rata where applicable), resulting in absence monitoring, absence meetings, absence support, absence support plans, or any absences deemed to form patterns of absence.
- Refusal to follow reasonable instructions.
- Excessive use of Charity telephones or own telephones during work time for personal calls.
- Excessive use of personal e-mail or internet usage.
- Inappropriate or excessive personal use of Charity equipment including IT, licensed software, or photocopier etc.
- Minor negligence in the performance of duties.
- Minor non-compliance of the Department of Education (DfE) Teaching Standards (school staff).
- Minor breaches of any Charity Policy and / or Contract.

### 15. Examples of Gross Misconduct

Gross misconduct is a serious breach of contract and includes misconduct, occurring during or outside of working hours, which, in the Charity's opinion, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the Charity and the employee. Gross misconduct will normally result in dismissal without notice or pay in lieu of notice.

- 15.1 The following are some examples of matters which are normally regarded as gross misconduct, this list is not exhaustive and is a guide only:
- Theft, attempted theft, unauthorised removal of Charity property or the property of a colleague, contractor, child, young person, visitor, or other individual.
  - Fraud, forgery, bribery (accepting or offering a bribe or payment) or other dishonest behaviour to include fabrication of timesheets, overtime claims, or expenses claims.
  - Deliberate falsification of timesheets resulting in overpayments or additional overtime.
  - Deliberate misuse of the holiday procedure resulting in overpayments or additional overtime.
  - Actual or threatened violence, dangerous behaviour, behaviour which provokes violence.
  - Abusive, insulting behaviour e.g., sexualised language or swearing and inappropriate physical contact.
  - Absence without leave (any absence that has no reasonable explanation, referred to as being AWOL).

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- Persistent intermittent and / or frequent sickness absence or other absence causing disruption to the department, hitting triggers (3 absences or more, 8 days or more or a Bradford factor score of 100 or more in any 12-month rolling period, pro-rata where applicable), resulting in absence monitoring, absence meetings, absence support, absence support plans, or any absences deemed to form patterns of absence.
- Bullying, including through social media and electronic communications.
- Deliberate and serious damage to property.
- Serious misuse of the Charity's property or name.
- Deliberately accessing internet sites containing pornographic, offensive, or obscene material.
- Serious insubordination or repeated failure or refusal to carry out a reasonable request or reasonable requests.
- Discrimination or harassment victimisation.
- Bringing the organisation into serious disrepute.
- Possession, use, supply, or attempted supply of illegal drugs.
- Being or appearing to be under the influence of alcohol, illegal drugs or legal highs, or other substances that affect the individuals' presentation at work and during working time.
- Smoking on company premises or outside of nominated smoking areas.
- Serious neglect of duties or a serious or deliberate breach of an employees' contract or operating procedures.
- Causing loss, damage, or injury through serious negligence.
- A serious breach or repeated breaches of health and safety rules.
- Serious misuse of, or incorrect usage of, or not using correct and appropriate safety equipment, including giving the correct instructions to children and young people to ensure their safety.
- A serious or deliberate breach of GDPR Regulations and / or unauthorised use, processing, or disclosure of confidential information and / or personal data or failure to ensure confidential information in your possession is kept secure.
- Driving company vehicles, or driving whilst on company business, without due care and attention with a lack of regard to speed and / or safety of passengers.
- Making covert recordings, either video or audio of any colleague(s) or other third party on Charity premises, during any work-related activity and / or without prior consent or knowledge.
- Refusal to disclose any information required by your employment or any other information that may have a bearing on the performance of your duties.
- Give false information including false qualifications, false grades, or entitlement to work (including immigration status) or any other false information in order to gain employment or other benefits.
- Serious misuse of the Charity's information technology systems (including misuse of developed or licensed software, use of unauthorised software, and misuse of email and the internet.
- Making a disclosure of false or misleading information under the Charity's **Whistleblowing Policy** maliciously, for personal gain, or otherwise in bad faith.
- Making untrue allegations in bad faith against a colleague.
- Safeguarding allegations and / or allegations of harm / injury.
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- Non-disclosure of personal relationships with other Charity staff during your employment with the Charity.
- Not being focused on your job during contractual working and paid hours (i.e., being on your mobile phone or talking to colleagues, therefore being distracted from the children / young people).
- Unauthorised carrying and / or use of mobile phones and / or other photographic / recording devices, mobile phones are not allowed to be on your person during normal working hours without prior authorisation.
- Safeguarding allegations and / or allegations of harm, or allegations of injury, or other forms of abuse.
- Over familiarity with children / young people and use of inappropriate de-escalation techniques such as play fighting, horseplay, or similar which is not in line with Charity practices.
- Connecting with children or young people and / or their family members, past or present, on any social media platforms during your employment with the Charity.
- Not raising safeguarding matters to the attention of the Charity.
- Supplying verbal or written character or professional references to third parties for current or former Charity employees without prior authorisation from the Charity.
- Discussing or gossiping about disciplinary matters that you are or are not involved in.
- Serious breach of the Charity's **Code of Conduct**.
- Breach of the Charity's **Social Media Policy** and / or writing social media posts or promoting or sharing social media posts or content, including political posts, that are deemed inappropriate by the Charity of any of its employees, trustees, connections, or families associated with the Charity on any social media platform.
- Breaches of the Charity's **Safeguarding Policy (School and / or Residential)**.
- Repeated refusal to follow reasonable instructions.
- Major negligence in the performance of duties.
- Major non-compliance of the DfE Teaching Standards (school staff).
- Serious breaches of any Charity Policy and / or Contract.

### 16. Policy Review

This policy is non-contractual and is subject for review in line with changes to legislation and may be subject for review prior to the date shown if deemed necessary. The HR Department will be responsible for reviewing this policy.

## Disciplinary Policy



I have read, understood, and acknowledge this policy and will endeavour to follow the guidance outlined within.

Print name:

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Job Title:

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Department:

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Sign:

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Date:

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Please complete full details above, once complete please return to the HR Department within 5 working days.

Please do not hesitate to contact me should you have any questions.

HR Department

Talbot House Children's Charity