

Community Inclusive Trust **Disciplinary Policy**

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Document Ref: DIS-POL-002



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1. **Purpose:**

The purpose of this policy is to outline the Trust's standards of performance and behaviour while the procedures are designed to help promote fairness and consistency in the treatment of individuals. The Policy and Procedure aims 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, dismissal may result.

2. **Scope:**

This Policy applies to all employees of the Trust. It does not form part of the terms and conditions of any employee's employment with the Trust and is not intended to have contractual effect.

However, it reflects the Trust's current practices and employees are strongly encouraged to familiarise themselves with its content.

3. **Amendments:**

The Trust reserves the right to vary or amend its Disciplinary Policy depending on the particular circumstances of the case. The Trust may commence the Disciplinary Procedure, depending on the circumstances, at any of the levels. The Trust also reserves the right not to follow the Disciplinary Policy and Procedure in respect of employees with less than two years' continuous service.

In any organisation, it is necessary to have a minimum number of rules in the interests of both the employer and the employee.

4. **Definitions: Numbering needs formatting**

4.1. Not Applicable

5. **Introduction**

Every reasonable effort will be made to ensure any action taken 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:

- Keep staff, pupils, parents, governors and other stakeholders well informed of the process.

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

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- 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;
- All employees will have the right to be accompanied by a fellow employee (not a family member) 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, and therefore, there is no right to be accompanied;
- During any disciplinary hearing the employee will have a full and fair opportunity to state his or her 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 Trust may owe to another employee;
- Normally, no employee will be dismissed for a first breach of discipline except in the case of gross misconduct;
- If an employee is subject to the disciplinary process, they will receive both an explanation of the penalty imposed and will be entitled to appeal against the penalty in accordance with the appeals process set out in this policy and procedure.

6. Disciplinary Procedure

This section details the disciplinary procedure;

- In all cases, the Trust will first investigate all allegations of potential disciplinary offences to establish the facts before deciding whether to involve the formal Disciplinary Procedure
- In the event, after the initial investigation, the Trust determines it would not be appropriate to instigate the formal disciplinary process, the Trust reserves the right to issue a formal Management Guidance letter setting out any concerns and actions going forward. This will remain on the employee's personnel file for 12 months;
- It may be necessary for the Trust to suspend an employee while an investigation is taking place. Any suspension will be no longer than is reasonably necessary

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and will be on full pay. Suspension does not in itself constitute disciplinary action or imply any decision or judgment as to guilt.

- In the event that you become unfit for work or unable to attend any necessary meetings due to sickness, the Trust will review the decision to keep you on suspension, and following this review, your suspension may be lifted. If your suspension is lifted, you may no longer be entitled to full pay but will be entitled to Statutory Sick Pay in accordance with the Trust's rules and procedures.

- If the Trust decides to involve the formal Disciplinary Procedure, it will adhere to the following procedure:
 - The Trust will write to the employee inviting them to attend a disciplinary hearing;

 - In the invitation letter, the Trust 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;

 - The Trust will attach any relevant documentation including any relevant witness statements to the invitation letter;

 - The letter will also detail the employee's statutory right to be accompanied by either a work colleague (not a family member) or an accredited trade union representative and confirm how this right can be exercised;

 - The Trust will give the employee reasonable notice of the requirement to attend the disciplinary hearing to allow them a reasonable period of time to prepare their case;

 - Disciplinary hearings where dismissal is not contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by the Senior Leadership Team;

 - In the case of disciplinary concerns where dismissal is not contemplated (should the allegation(s) be proved) and the concerns involve a member of the Senior Leadership Team the Chair of Governors of the Local Governing Body will usually conduct and determine the hearing. In the case of a member of the Central staff, the Senior Leaderships Team would usually conduct and determine the hearing;

 - 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 of three governors from the Local Governing Body;

 - However, where there is a possibility of dismissal of a member of the Senior Leadership Team, the hearing will usually be conducted and

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determined by a panel of three to include Trust Board and a member of the Central SLT.

- Any disciplinary hearing will be conducted in a manner to ensure:
 - 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;
 - 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 decisions will be reached during the hearing itself. The Trust 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;
 - Once a decision has been reached, the Trust will write to the employee to confirm the outcome of the hearing;
 - Where the decision has been to take formal disciplinary action against an employee, they will be informed of the nature of the disciplinary sanction, the reasons behind the decision and any other conditions they may be required to satisfy as a result of the disciplinary process;
 - Where a disciplinary sanction has been imposed, the employee 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.

7. Severity of Disciplinary Action

The severity of disciplinary action (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 (one year) which will be notified to the employee in the disciplinary outcome letter.
 - The Trust will also specify, in the case of performance issues, reasonable and clear targets for improvement the employee is required to attain within a reasonable review period.
- **Final Written Warnings and Dismissals**
 - For more serious first offences, such as serious misconduct, the Trust may impose a final written warning which will be placed on the

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employee's personnel file for a specified period of time (one year) which will be notified to the employee in the disciplinary outcome letter.

- Alternatively, where an employee persists with an offence in relation to which they have 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 Trust may impose a final written warning having followed the disciplinary procedure in respect of any persisting or additional offences.
- Continued failure to improve 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 Trust will normally dismiss summarily, i.e. without notice or payment in lieu of notice. Employees should refer to the non-exhaustive list of examples of conduct the Trust would normally regard as constituting gross misconduct.
- **Alternative Disciplinary Sanctions**
 - The Trust 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.

8. Gross Misconduct

- An employee may be liable to summary dismissal without notice or pay in lieu of notice if they are found guilty of 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 Trust rules, regulations and policies;
 - Gross negligence or dangerous behaviour, which causes or may cause unacceptable loss, damage or injury;
 - Grossly indecent or immoral behaviour;
 - Threatening or violent behaviour, fighting or physical assault;
 - Deliberate falsification of any records (e.g. 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 instructions;
 - Deliberate and serious breach of confidence relating to the Trust's or its students' affairs;

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- Theft or misappropriation of money or property whether belonging to the Trust, 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 Trust 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 members of the Senior Leadership Team;
- Any breach of a legal statute, which has a direct effect on the employee's ability to undertake stated duties and/or on the desired characteristics of his or her position;
- Allowing or assisting any unauthorised person to gain entry to the premises;
- Any fundamental and/or substantial breach of trust or unauthorised disclosure of information relating to the Trust's affairs to third parties.
- A substantial failure to meet expected standards of work and/or behaviour amounting to serious neglect of duty;
- Deliberately driving on Trust business without an appropriate licence and/or the appropriate insurance;
- Discrimination or harassment or other breaches of the Trust's Equal Opportunities and Diversity Policy;
- Failure to inform the Senior Leadership Team of any criminal charges/convictions or police cautions that are relevant to the employee's employment;
- Serious breaches of the Trust's Safeguarding and Child Protection Policy and Procedure;
- Serious breaches of the Trust's External Communication Policy, Data Protection Policy, Acceptable use of the Internet Policy; and Photography & Social Media Policy;

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- In respect of teaching staff, a serious breach of the standards of professional conduct as set out in the Teacher's Standards.

9. Behaviour outside Working Hours

- The Trust demands employees of the highest integrity and expects all employees to maintain high standards outside working hours. Any outside activities, which could reasonably be regarded as detrimental to the reputation of the Trust, may lead to dismissal.
- As a condition of employment, employees are required to notify the Trust immediately of any criminal charges, cautions or conviction, a plea of guilty or not guilty in respect of a criminal offence or file they are questioned or arrested in connection with any criminal matter.
- It is also a condition of your employment that you notify your Manager immediately if you are suspended from work by any other employer, or have any allegations made against you inside or outside of work, that could relate to or impact on the safeguarding of children and vulnerable adults.

10. Disciplinary Appeal Procedure

- The Disciplinary Policy and Procedures, incorporate an employee's 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 Clerk of the Local Governing Body. In the case of the CIT Central team, the employee should write in the first instance to the Head of Governance.
- The Clerk to the Local Governing Body will liaise with the Local Board of Governors to convene an appeal hearing with three nominated governors from the Local Governing Body, within 10 working days of the decision he or she is complaining against, setting out the grounds and basis for the appeal. In the case of CIT Central team, the Head of Governance will liaise with the Trust Board to convene an appeal hearing within 10 working days of the decision he or she is complaining 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 Local Governing Body unless the appeal is raised by a member of the Senior Leadership Team, in which case any appeal will usually be heard by the Trust Board and a member of the Senior Leadership Team.
- The employee has the right to be accompanied by a work colleague (not a family member) or an accredited trade union official at any disciplinary appeal meeting and will be given a full opportunity to state his or her case and put forward his or her version of events.

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- The appeal 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 decisions will be reached during the hearing itself. The Trust 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.
- 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 Trust's disciplinary appeal procedure.

11. **References:**

- Trust's Equal Opportunities and Diversity Policy; Privacy Policy
- Safeguarding and Child Protection Policy and Procedure
- CIT General Data Protection Regulation Policy
- Internet Policy; and Photography & Social Media Policy

12. **Acronyms:**

- Not Applicable.

13. **External References:**

- Not Applicable

14. **Amendments to the Document:**

- This is policy had been adapted to reflect the Trust's values regarding communication.

Written By: Ann White		Reviewed By:
Signed:		Signed:
Date: March 2019		Date:

