

# Disciplinary and Conduct Procedure

## Rationale

To determine the procedure to be followed when standards of conduct, behaviour, and attendance (not medically related) are not met.

The policy should be applied consistently and fairly, confidentially, and appropriately. At every step of the process the employee will be advised of the nature of the complaint in writing and will be given the opportunity to state their case before a decision is made. Where a warning is given, the employee will be provided with appropriate support to improve their conduct.

Where possible informal action should be taken. No disciplinary action should be taken without an investigation and where the investigation recommends, a hearing would be undertaken to review the facts.

## Scope

This policy applies to all Green Corridor employees except those who are still within their probationary period, they are covered by the induction and probation policy

Issues of underperformance or should be dealt with under the capability policy.

Issues relating to sickness absence should be dealt with through our sickness policy and/ or capability policy.

Grievances should be dealt with under the Grievance procedure.

Set out below is the employer's current disciplinary procedures; these do not form part of the contract but represent the employer's current practice, which it may vary from time to time.

## Disciplinary Procedure

The employer's aim is to encourage improvement in individual conduct. This procedure sets out the action, which will be taken when disciplinary rules are breached.

Minor faults will be dealt with informally. However, if the informal discussion does not lead to an improvement or where the matter is more serious e.g., unjustified absences or unsatisfactory standards of work, the following procedure is to be used.

## **Informal action**

Cases of minor misconduct should be dealt with by the employee's line manager informally and without delay.

A one-to-one confidential discussion should be held between the manager and the employee to ensure that the employee understands the nature of any concerns. This discussion should enable the manager to provide constructive feedback and the employee to express views on the issue.

Managers should ascertain whether any alleged failure to meet required standards or breach of policy or procedure is due to misconduct, capability or some other reason when determining the appropriate approach to take.

Where the need for improvement is identified, the manager should explain to the employee what needs to be done, how the conduct will be reviewed in a given period and the nature of any support available.

Brief confidential notes of this meeting, including details of any required actions or improvements, should be kept by the manager and a copy sent to the employee.

It is important that both parties understand that informal action is not part of the formal disciplinary procedure and that employees are not entitled to representation at these meetings.

## **Formal Disciplinary Action**

Where informal action does not lead to improved behaviour, or where alleged misconduct is more serious formal action should be initiated.

Where the alleged misconduct is potentially gross misconduct (see appendices for examples) the employee may be suspended on full pay whilst the investigation is undertaken.

Careful consideration must be given before a decision to suspend is taken. Reasonable grounds for suspension include, but are not limited to, concern that evidence may be tampered with or destroyed; concerns that an employee accused of misconduct may seek to inappropriately influence witnesses; or when there is potential risk to other employees, learners, or Green Corridor property if the individual remains at work. The fact and conditions of the suspension should be confirmed in a letter to the employee at the earliest opportunity.

Suspension is not a disciplinary sanction and is not an assumption of guilt. Normally an employee will be suspended by the Head of Education, CEO or Human Resources Manager. Exceptionally, it may be necessary for a Head of Department to send an employee home before being able to consult the Human Resources Manager.

## **Investigation**

An investigating manager will be assigned to undertake the investigation. This will normally be the line manager, but if the line manager is a witness, is impartial, or is otherwise involved in the matter prior to investigation another manager will be assigned to investigate. The investigating manager will always be more senior to the person being investigated. HR will support the process of the investigation but will not normally investigate.

Investigations should be conducted fairly and as quickly as possible, any suspensions should be reviewed throughout the investigation process to ensure that they are still appropriate.

Following the investigation, the investigating manager will produce a report and will recommend if further action is required, if it should be dealt with under a different process (for example capability) or if there is no further action required.

## **Disciplinary Hearing**

Where the investigating manager determines that a formal disciplinary action is required the employee will be written to as soon as practicable to invite the employee to a hearing. Prior to the hearing, the employee will be provided with a pack of all the information to be presented to the hearing. The employee will be given sufficient time to review the documentation, whilst not delaying the process unnecessarily.

At every stage you will have the opportunity to state your case and be accompanied, if you wish, at the hearing by a trade union representative or by a fellow employee at any disciplinary interview.

Prior to a disciplinary hearing you will be told the nature of the alleged offence, the nature of the evidence of the offence, the range of possible outcomes and reminded of your right to be accompanied.

## **Right to be accompanied**

Each employee has the right to be accompanied to any formal stage of the process. The representation can be either a fellow employee, or a trade union representative.

Where an employee has requested representation from a colleague this should be confirmed in advance with HR prior to the hearing. Whilst Green Corridor will endeavour to facilitate the request, there will be occasions where it is not appropriate to have the representative requested, and another representative may have to be chosen.

Where the representative is unavailable the employee can request that the hearing is rescheduled – the employee should provide alternative dates within 5 working days of the original hearing date.

## Appeals

If you wish to appeal against any disciplinary decision including dismissal you must notify the employer in writing within five working days. The notice must specify the issues you wish to appeal or contest.

The appeal will usually be heard by the CEO. Where the CEO was involved in the previous hearing, a member of the board of trustees will hear the appeal.

You have the right to be accompanied by a trade union official or fellow employee at any appeal hearing.

A warning will usually contain a date after which it will be disregarded in any further disciplinary hearing. This will generally be 12 months but in appropriate cases, the right is reserved to extend this period.

The procedure may be implemented at any stage where in the opinion of the trustees or the CEO the circumstances justify such a course of action.

## Potential outcomes

### Stage 1 – First Warning

If conduct or performance is unsatisfactory, you will be given a formal first warning, which will be recorded on your personnel file. You will be advised of the reason for the warning and a note that if there is no improvement or a repeat of the offence a written warning may be given.

### Stage 2 – Written Warning

If the offence is serious or if there is no improvement in standards of conduct or work performance, or if a further offence occurs, a written warning will be given which will include the reason for the warning and a note that, if there is no improvement or a repeat of the offence a final written warning may be given.

### Stage 3 – Final Written Warning

If the offence is very serious or if conduct or performance is still unsatisfactory, a final written warning will be given making it clear that any recurrence of the offence or other serious misconduct may result in dismissal. The warning will also include details of the complaint and the length of any period over which the employee's performance or conduct will be reviewed.

### Stage 4 – Dismissal

If there is no satisfactory improvement or if further misconduct occurs, the employee may be dismissed with appropriate notice.

## Gross Misconduct

If, after investigation, it is confirmed that you have committed gross misconduct, (examples being listed in Appendix 1) the normal consequence will be dismissal without notice or pay in lieu of notice.

<b>Formal Sanction</b>	<b>Duration of warning</b>
First Warning	6 months
Written Warning	12 months
Final Written Warning	12 months
Dismissal	N/A
Summary Dismissal	N/A

Once a warning period has been completed, unless escalated, the warning will lapse and, together with any associated documentation, be considered 'spent'.

## Appeals

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You have the right to be accompanied by a trade union official or fellow employee at any appeal hearing.

## General

Any warning given will usually contain a date after which it will be disregarded in any further disciplinary hearing. This will generally be 12 months but in appropriate cases, the right is reserved to extend this period.

The procedure may be implemented at any stage where in the opinion of the trustees or the CEO the circumstances justify such a course of action.

## Appendix 1:

### Examples of behaviour that may be considered misconduct and gross misconduct

Misconduct is any type of behaviour or conduct at work that falls below the standard required by Green Corridor or is a breach of Green Corridor policies and procedures including, but not limited to, a range of issues such as:

- Breach of health and safety.
- poor timekeeping.
- unauthorised absence,
- bullying and harassment.
- not obeying reasonable instructions.
- breach of intellectual property.
- claiming expenses fraudulently.
- lack of care in handling Green Corridor property.
- unauthorised removal of Green Corridor property from the premises
- misuse of email and the internet, including social media.

Minor offences or breaches should be dealt with informally. More serious offences should be dealt with formally. Persistent offences of misconduct may lead to termination of employment.

Gross misconduct is misconduct of such a serious nature that it fundamentally breaches the contractual relationship between the employee and the organisation. In the event that an employee commits an act of gross misconduct, the employer will be entitled to dismiss the employee summarily (without pay).

### Gross Misconduct

Examples of Gross Misconduct which may lead to summary dismissal include but are not limited to:

- theft, fraud or deliberate falsification of records or Green Corridor documents;
- serious or gross negligence resulting in unacceptable loss, damage or injury;
- intentional serious breach of Green Corridor policy or regulations or improper conduct in relation to job responsibilities;
- assault or attempted assault of a physical or sexual nature;
- malicious damage to Green Corridor property;
- intentional misuse of confidential information;
- fraudulent misuse of Green Corridor's property or name;
- unauthorised entry to computer records or inappropriate use of Green Corridor data or computing equipment, including social media;
- serious breaches of Health and Safety rules

- bringing Green Corridor into serious disrepute including Serious Misconduct outside work.\*

\*Conviction or being charged with a criminal offence outside the workplace and normal working hours may be deemed as misconduct or gross misconduct, though not automatically. Each case should be considered as to the individual circumstances including the nature of the offence, effect of the charge on the employee's suitability to do the job and their relationship with Green Corridor, colleagues, learners and those external to Green Corridor and any sentence incurred.

## Document Control

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