



LAURUS

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TRUST

Employee Discipline Policy

Policy Title and Summary	Employee Discipline Policy
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Date and Responsibility of next update/review	The Employee Discipline Policy will be monitored and reviewed every 3 years unless there is a statutory change
Trade Union Consultation	TBC
Ratification Date	July 2020
Audience	All Employees
Equality Impact Assessment	
Related Documents	Bully and Harassment Policy Hearing Procedure Grievance Policy Capability Policy
Legal Framework	ACAS Code of Practice Employment Rights Act 1996 Equality Act 2010 School Governance and Staffing Regulations, 2003
Glossary	Misconduct - unacceptable or improper behaviour. Gross Misconduct - very serious/significant unacceptable or improper behaviour.

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Introduction

The Laurus Trust is committed to adopting a working environment that is conducive to good working relationships and practices. In order to do this, it is expected that the conduct of employees will reflect the Trust's values.

It is the policy of The Laurus Trust to help and encourage all employees to achieve and maintain acceptable standards of behaviour and conduct, attendance and performance in relation to their employment with the Trust. To support this, separate procedures are in operation, applicable to all employees, to be followed when dealing with potential or actual misconduct, unsustainable attendance matters and poor performance. Their application will ensure that all employees receive consistent, fair and equal treatment.

The Laurus Trust recognises the need for an appropriate procedure for dealing with employee Discipline matters and misconduct and that such issues and concerns can impact on the wellbeing of employees and students. The Trust is committed to ensuring a fair and established procedure exists in the Trust in line with the relevant legislation and ACAS guidance and ensuring that every employee knows and understands the Trust's Discipline rules, that they are aware of the likely consequences of breaking the rules, and that they have an indication of the type of conduct which may warrant Discipline action, including summary dismissal.

The following Employee Discipline Policy and Procedure has been produced in accordance with the Employment Rights Act 1996, the ACAS Code of Practice and the Trade Union and Labour Relations (Consolidation) Act 1992 through consultation with the associations representing Heads of School and Teachers, and Trade Unions representing support staff employed by The Laurus Trust.

Any action following a breach of conduct should be the minimum and at an adequate level to bring about an improvement in behaviours. It should be implemented as soon as possible.

Scope

1. This guidance covers the scope of the procedure for dealing with behavioural concerns and issues of potential misconduct, the requirement to undertake an appropriate investigation; the stages of the procedure, the sanctions available to the employer, the rights of the employee, and the appeal mechanism etc.
2. This policy is not intended to cover all possible circumstances which may arise. The application of this policy may vary according to the particular circumstances of each case. The omission of a particular kind of conduct from this policy does not mean that Discipline action is thereby excluded; this policy give examples only. Any breach of normal good conduct will be subject to Discipline action.
3. The procedure is available to deal with matters of misconduct in the workplace or outside of the workplace which has an impact on the Laurus Trust, which may bring the organisation into disrepute.
4. If the complaint has any potential Child Protection issues, advice must be sought immediately from the Local Designated Officer or the Senior Safeguarding Officer within the appropriate Local Authority. Child Protection issues will always take precedence initially over Discipline action. An extract from the Stockport Child Protection Committee's Child Protection Handbook is included as Annex A of this policy for guidance.

5. The policy covers the process which should be adhered to when an allegation of misconduct is raised. Examples of behaviour which are contrary to The Laurus Trust values and may be deemed as misconduct are as follows, but not limited to:
 - any breach of safeguarding guidelines;
 - bad behaviour, such as fighting or drunkenness;
 - unsatisfactory work performance;
 - harassment, victimisation or bullying;
 - misuse of company facilities (for example e-mail and internet);
 - poor timekeeping;
 - unauthorised absences;
 - repeated or serious failure to follow instructions.

6. Acts which constitute gross misconduct are actions which are considered to be a serious breach of the Laurus Trust values. Examples of gross misconduct are, but not limited to:
 - any breach of safeguarding guidelines;
 - breach of contractual terms;
 - theft or fraud;
 - physical violence or bullying;
 - deliberate and serious damage to property;
 - serious misuse of the Trust's property or name;
 - deliberately accessing pornographic, offensive or obscene material;
 - unlawful discrimination or harassment;
 - bringing the Trust into serious disrepute;
 - serious incapacity at work brought on by misuse of alcohol or illegal drugs;
 - causing loss, damage or injury through serious negligence;
 - a serious breach of health and safety rules;
 - a serious breach of confidence.

7. The policy covers misconduct in the workplace and in any work-related setting outside the workplace.
8. The policy does not cover grievances with regards to the application of policy or workplace terms and conditions. Any concerns of this nature are to be addressed and resolved in line with the Laurus Trust Grievance Policy.
9. If the complaint is in relation to any formal action taken against an employee, this should be dealt with in line with the appeal process set out within the related policy and procedure.
10. This procedure does not apply to:
 - contractors, external consultants, agency staff and volunteers;
 - the termination of fixed-term and other temporary contracts of employment (matters of misconduct will normally be dealt with under this procedure);
 - in the event of redundancy or early retirement which will be dealt with under separate arrangements;
 - sickness absence will be dealt with under separate procedures (should these cases reach a stage where a hearing panel process is required the process set out within the Trusts Hearing Procedure shall apply).

11. It is not intended that anything in this procedure will inhibit the day to day management of staff which may require informal discussions and advice about conduct and performance without recourse to the formal procedures.

Principles

1. Taking action under the Discipline Procedure is difficult and often unpleasant. To ensure that the process goes as smoothly as possible the appropriate advice should be sought at all stages of the process.
2. The use of this process may be necessary in some cases, however it should not be a substitute for good day to day management of staff whereby expectations are clearly communicated and minor issues dealt with promptly by line managers.
3. The principle of natural justice (procedural fairness) should be implicit in all actions taken under this policy. An employee must be informed of allegations made against them and the detail; they should be given the opportunity to challenge this before decisions are made to progress to a conduct hearing; they should be allowed representation at all stages of the formal process and have the right of appeal.
4. Managers should use these procedures consistently and proactively. The aim is to help and encourage an employee to improve rather than just imposing a sanction.
5. Managers should avoid taking action until the facts of the case have been established through an informal fact finding exercise or formal investigation process and any subsequent action taken should be reasonable in the circumstances.
6. An employee will not be dismissed for a first conduct offence, unless it is a case of gross misconduct. If the breach is considered to be gross misconduct, and a decision is taken to dismiss the employee this will normally be summary dismissal i.e. without notice.
7. The Chair of the Panel Hearing should not have had any prior involvement with the investigation.
8. Those hearing an appeal should not have had any prior involvement with the investigation or any previous hearing.
9. All parties involved must maintain confidentiality at all times throughout the process. The facts should only be discussed with the people assigned and authorised to deal with the case. The case should not be discussed outside of The Laurus Trust unless the allegations require disclosure under the law.
10. Consideration should be given at any stage of the process as to whether the use of an independent mediator may be helpful.
11. The circumstances leading to the Discipline action being taken shall be recorded in writing and retained on the employee's personnel file.
12. No action shall be taken against any individual who is a recognised officer or representative of a professional association or trade union, other than temporary suspension, until the circumstances have been discussed with a full time or other official of the individual's trade union.
13. Warnings will be disregarded for Discipline purposes after the expiry of one year from the date of the issue of the warning unless there is a recurrence of the same or similar offence within the twelve month period.
14. If a case is dismissed any record will be expunged.

Roles

Employee

1. Employees should adhere to the Laurus Trust values and set policies and procedures in line with their employment contract.
2. Where an allegation arises, employees should take a proactive approach to any process applied. It is a requirement that where requested to do so employees attend meetings and appointments arranged and identified as necessary unless there is a justifiable reason for them being unable to attend.

3. Employees are expected to maintain appropriate and honest communication.
4. Any allegations raised under this procedure must be made in good faith. Employees who are found to have made malicious, vexatious or spurious allegations may themselves become subject to Discipline investigation.

Line Managers

5. In addition, all those who act in a line management role are responsible for:
 - ensuring that employees understand what constitutes potential misconduct and the need to take action to resolve it;
 - the implementation and communication of this policy and for ensuring that their teams have an awareness of it and know the standards of behaviour expected of them;
 - demonstrating the behaviours expected from all employees;
 - ensuring that any complaint is dealt with seriously, swiftly and confidentially;
 - supporting employees so that they are confident that they will be protected against victimisation or retaliation for bringing a grievance;
 - appropriately manage malicious, spurious or vexatious grievances.
6. Managers should be responsive and supportive to any employee who raises a complaint or is the subject of an allegation and provide clear advice on the procedure to be followed and sources of support which might be available, maintain confidentiality and take appropriate action to address the issues.
7. Managers should encourage employees to openly discuss their concerns with them in order to support fast and informal resolution.

Head of School and CEO.

8. The general direction of the conduct of the schools within the Laurus Trust is the responsibility of the CEO in consultation with the Heads of School and in accordance with the School Governance and Staffing Regulations, 2003. Subject to the provisions of the Regulations, the Heads of School is responsible for the internal organisation, management and discipline of the schools including the exercise of supervision over staff.
9. The CEO and the Heads of School are responsible for applying this procedure in a fair and equitable way.

HR

10. The HR team will provide advice and guidance to line managers and employees on the application of the Policy.
11. The HR team will work to ensure consistency in application across the Laurus Trust.
12. The HR team is responsible for this Policy and will, where necessary, undertake reviews and amendments.

Informal Procedure

1. Managers are expected to address behavioural issues appropriately as soon as they arise. For minor behavioural concerns managers will carry out an informal fact finding process. Depending on the outcome of this process it may be appropriate to address some behavioural concerns informally. Where this is the case managers will hold an

informal documented discussion with the employee, bringing to their attention the following:

- what the behavioural concerns are and examples of when these have occurred;
- confirming what the required standards are going forwards;
- discuss any required support and putting this in place (e.g. training gaps, occupational health, counselling).

2. This discussion will then be recorded on the employees personnel file as a Professional Note of Guidance and the employee will be provided with a copy of this.

Formal Procedure

Preliminary Investigation

1. Where an employee's conduct or omission is such that it may warrant Discipline action, the matter should be brought to the attention of the Head of School or CEO. If the matter is initially reported to the Trustees, the information should be passed on to the CEO or Head of School. The Head of School or CEO will determine the appropriate process to follow, this may be informal action, investigation by themselves or delegation of the matter for investigation to an independent manager at the appropriate level, this will normally be the Deputy Head of School, or equivalent, or another appropriate member of the senior management team. This manager will carry out the role of Investigating Officer.
2. Any individual who is the subject of a complaint will be advised in writing, as soon as is reasonably practicable, of the detail of all the complaints against them. If the allegation is against the Head of School then the CEO should inform the Board of Trustees.
3. If the complaint has any potential Child Protection issues, advice must be sought immediately from the Local Designated Safeguarding Officer or the Senior Safeguarding Officer within the school. Child Protection issues will always take precedence initially over Discipline action.
4. The designated Investigating Officer will conduct a full, thorough and fair investigation into the allegations raised, considering all relevant information available. This process may involve considering the following, but is not limited to:
 - any prior behavioural issues or sanctions;
 - actions and previous support put in place by management;
 - training records, acknowledgement of policies and procedures;
 - interviewing witnesses, colleagues or external persons where relevant to the investigation process;
 - any IT or device information relevant to the allegation, including email, internet browser history.
5. where action is to be taken against the Head of School, the CEO or appropriate alternative manager at a more senior level shall be nominated as the Investigating Officer.

Discipline Action

6. This procedure should be read in conjunction with the behavioural and misconduct concerns identified within the Scope section of this policy. Offences are, in general, divided as follows:
 - minor offences for which the normal Discipline action would be a recorded oral warning;
 - more serious offences or repeated minor offences, for which a written warning, up to and including a final warning, would be appropriate;
 - very serious offences which may constitute gross misconduct and which may merit summary dismissal, or repeated less serious offences taken together, for which dismissal, or other Discipline action would be appropriate. Other Discipline action will be determined with regard to the seriousness of the offence.

7. The following procedure will apply to all staff with the exception of the Head of School.
8. The Head of School shall arrange for the School's Deputy Head of School or equivalent, or another appropriate member of the senior management team (known as the Investigating Officer), to undertake an investigation into the matters which raise the question of Discipline action against an employee. The Investigating Officer will also be the Presenting Officer in any subsequent hearing (if the findings of the investigation suggest there is a case to answer and a hearing is required).
9. The Investigating Officer can recommend to the Head of School, if satisfied on the basis of the evidence found, that no further action need be taken, or that an informal oral reprimand will be sufficient. Otherwise, the Investigating Officer shall call the employee to a Discipline hearing to consider the matter.
10. The employee will be given at least seven days written notice of the hearing and the nature of the complaint and advised of their right to representation.
11. The hearing will be conducted and chaired by the Head of School and in line with the Laurus Trust Hearing Procedure. At the hearing the member of staff shall be told that Discipline action is being considered, the Investigating Officer will state the nature of the allegations and present the evidence. The employee will have the right to answer those allegations with assistance from a representative if they wish. The Investigating Officer and the employee, or their representative, will be given the opportunity to address the panel to summarise their respective submissions.
12. At any hearings or appeals the employee or their representative shall have the right to present written and/or oral evidence and have the right to call witnesses and cross-examine. Copies of any documents will be made available to all parties in advance of any hearing.
13. On completion of the proceedings and following an adjournment to consider the evidence and submissions, the Head of School will announce the decision and the Discipline action to be taken which may include:
 - dismissal of the case;
 - no further action to be taken;
 - give an oral warning;
 - give a written warning;
 - give a final written warning; or
 - dismissal with notice (only in cases of repeated minor misconduct)
 - summary dismissal.
14. An explanation of the outcome of this process and action to be taken will be given and the Head of School will explain the employee's right of appeal under this procedure.
15. If the Head of School is the Investigating Officer or if the Head of School is subject to Discipline action, the case will be heard by the Board of Trustees which shall be composed of not less than 3 members of the Board of Trustees (who have not previously been involved in the case) supported by HR.

Dismissal Authority

16. The CEO has the overall responsibility for all dismissals within its schools, with the exception of dismissals of Head of Schools. They may choose to delegate these responsibilities other than in exceptional circumstances (outlined below).
17. In certain circumstances the CEO may consider applying alternative arrangements. If an alternative arrangement is decided, the Head of School has a right to attend to offer advice. The circumstances are as follows:
 - a Head of School who is unwilling to perform these functions and whose previous history of service at the school did not include any such responsibilities. This gives existing Heads of Schools the option of preserving current working arrangements.
 - where the Head of School has been directly involved in Discipline procedures leading to dismissal, has instigated a proposal to dismiss, or is a witness of particular conduct

giving grounds for the dismissal in question. The arrangements for delegating initial dismissal decisions will therefore need to be considered on a case by case basis in light of the circumstances;

- a Head of School subject to suspension, Discipline procedures (including capability), or Discipline sanction;
- where the Head of School has failed to abide by financial limits agreed for any school purpose.

18. Where the Head of School is exercising delegated responsibility for decisions, this cannot be delegated to another person.

19. Where a Head of School is absent long-term due to sickness, secondment or some other long-term absence, the Trustees should consider whether it is appropriate to pass delegated responsibility to the person acting in the Head of School place.

20. Any decision to dismiss taken by the CEO, Head of School will be effective from the date of the initial dismissal decision. Should any subsequent appeal against dismissal be successful the employee's contract of employment will be reinstated and they will receive pay as if the original decision had not been made.

Appeals

1. The employee shall have the right of appeal against any decision to take Discipline action as follows:
 - in the case of any decision of the Head of School through a hearing process, an appeal should be made to the CEO. A panel will be convened which shall be composed of not less than 3 members of the Board of Trustees. The Appeals Panel shall have the power to uphold the decision of the Head of School, or to impose a lesser penalty including withdrawing any Discipline action;
 - in the case of any decisions by the CEO, an appeal should be made to an Appeals Panel of the Board of Trustees, which shall be composed of not less than 3 members of the Board of Trustees not involved in the initial hearing. The Appeals Panel shall have the power to uphold the decision of the original panel members or to impose a lesser penalty including withdrawing any Discipline action.
2. Trustees involved in such hearings will need to consider the rules surrounding personal interest when taking part in such hearings.
3. Where the employee wishes to appeal against the Discipline action taken they may do so by giving written notice of appeal within 14 days of receipt of the written confirmation of that action.
4. An appeal to the CEO or the Board of Trustees against dismissal does not affect the right of the employee to appeal to an employment tribunal nor does it affect the time limit for such an appeal.
5. Notice of appeal to an employment tribunal will not prejudice the outcome of an appeal to the CEO or Board of Trustees.

Suspension

1. The Laurus Trust views suspension as a last resort in every situation and alternatives to suspension will be explored including, but not limited to:
 - temporary redeployment to a different post or work location;
 - possible alternative or restricted duties.
2. Any alternatives to suspension would be put in place until the matter is resolved or it is deemed appropriate for the employee to return to their substantive working arrangement.

3. In the event of any allegation which might be construed as serious or gross misconduct, the CEO, Head of School may make the decision to suspend the employee (in the case of the Head of School, the CEO may make such a decision) from work pending the resolution of the matter. Any decision to suspend will take into consideration the impact and nature of the allegations raised on but not limited to the following areas:
 - there is a safeguarding risk;
 - working relationships have severely broken down;
 - the employee could tamper with evidence, influence witnesses and/or sway the investigation into the allegation;
 - there is a risk to students, other employees, property or other stakeholders of the Trust;
 - the employee is the subject of criminal proceedings which may affect whether they can do their job.
4. In the event of such suspension, steps will be taken to hold the appropriate meetings referred to in this procedure as soon as possible in order that the suspension may be terminated and the matter resolved timely, be this by reinstatement, dismissal or otherwise as may be decided.
5. In certain circumstances, it may be appropriate for the Head of School to remove an employee from the workplace temporarily without prejudice, pending a decision whether formally to suspend. Facilities will be provided for the employee to discuss the matter with their Trade Union representative or other person. Full remuneration of salary will be paid during any period of suspension. Departure from this will only be made when it is expressly decided by the CEO or Board of Trustees that there is a lawful reason to do so.

ANNEX A

EXTRACT FROM STOCKPORT CHILD PROTECTION COMMITTEE'S "CHILD PROTECTION HANDBOOK" GUIDANCE ON BEHAVIOUR BY PROFESSIONALS OR FOSTER CARERS TOWARDS CHILDREN AND YOUNG PEOPLE

	<u>Physical</u>	<u>Sexual</u>	<u>Emotional</u>
Level 1: Behaviour falling within permitted limits	Physical restraint within permitted limits in circumstances where it is necessary for the protection of the safety of others.	There can be no permissible behaviour which either implicitly or explicitly has sexual connotations.	There will be little behaviour in this category which falls within permitted limits. Children and young people should always be treated with dignity, respect and positive regard. However occasional admonition or criticism may be permissible.
Level 2: Inappropriate or unacceptable behaviour	Verbal abuse and/or threatening words or behaviour. Excessive use of force in control and restraint situations.	Lack of proper privacy. Suggestive remarks, direct contact which, although not overtly sexual, makes the child feel uncomfortable.	Persistent admonition, direct insults, severe criticism, shaming and embarrassing behaviour. The persistent use of scorn or ridicule.
Level 3: Abusive or potentially abusive behaviour	Persistently inappropriate behaviour of the type referred to above. (Corporal punishment or other assaultive behaviour which results in a persisting bruise or laceration would almost certainly constitute prima facia evidence of a criminal offence).	Persistently inappropriate behaviour of the type above. An overtly sexual contact. (This latter category would almost certainly constitute a criminal offence).	Gross examples of the type above, and including persistent and sexist behaviours or language.

The threshold of significant harm and the likely invocation of the Child Protection Procedures is between Levels 2 and 3.