

## Disciplinary, Capability and Grievance Policy

### STATEMENT

Merton Music Foundation (MMF) expects staff to conduct themselves to the highest professional standards at all times. All MMF employees have the right to work in a safe and comfortable environment and to expect to be supported and treated fairly by their employer and colleagues.

Where this is not the case, action must be taken to correct this.

It is preferable for cases of minor misconduct, unsatisfactory performance or staff grievance to be handled informally. A quiet word, a subtle change in working practices, and/or additional training/support may be all it takes to resolve the situation. However, if these interventions do not bring about improvement or in cases of alleged serious misconduct, formal action will be taken in line with the Disciplinary, Capability and Grievance Policy. This policy is updated regularly to encompass any legal and statutory changes as well as to reflect external best practice.

### Best Practice

Merton Music Foundation (MMF) follows the ACAS Code of Practice in disciplinary and/or grievance cases.

The code of practice can be found here: <http://www.acas.org.uk/index.aspx?articleid=2174>

### This Policy

This policy has been approved by MMF Senior Leadership and Trustees and is subject to ongoing review.

Next review date: November 2024

Last reviewed by: SLT November 2023

### Safeguarding Concerns About Staff, Contractors, and Volunteers

Any issue raised about a person working for or on behalf of Merton Music Foundation which may constitute a Safeguarding concern should be referred to the Chief Executive and dealt with under the Foundation's Safeguarding Concerns About Staff, Contractors, and Volunteers policy.

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## Disciplinary & Capability Policy

### **Purpose and Scope:**

This policy/procedure is designed to help and encourage all employees and to achieve and maintain standards of conduct, attendance and job performance.

The company rules and this procedure apply to all Merton Music Foundation employees. The aim of this is to ensure consistent and fair treatment for all in the organisation.

### **Principles:**

Informal action will be considered where appropriate for minor breaches of conduct or for performance issues which are highlighted and brought to the attention of the employee at the earliest opportunity.

No disciplinary action will be taken against an employee until the case has been fully investigated in line with the disciplinary policy in place at the time.

For formal action the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made at a disciplinary meeting.

Employees will be provided, where appropriate, with written copies of evidence and relevant witness statement in advance of a disciplinary meeting.

At all stages of the procedure the employee will have the right to be accompanied by a trade union representative or a work colleague.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.

An employee will have the right to appeal against any disciplinary action.

The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

## The Procedure:

### The First Stage

The first stage of a formal procedure will normally be either:

- An **Improvement Note** for unsatisfactory performance if performance does not meet acceptable standards. This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal. The individual will be advised that it constitutes the first stage of the formal procedure. A record of the improvement note will be retained by the line manager for six months, but will then be considered spent – subject to achieving and sustaining satisfactory performance.

*OR*

- A **First Warning** for misconduct if conduct does not meet acceptable standards. This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be retained by the line manager, but it will be disregarded for disciplinary purposes after a period of six months.

### The Second Stage

#### Final Written Warning

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will be retained by the line manager but will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance.

### The Third Stage

#### Dismissal or Action Short of Dismissal

If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal such as demotion, disciplinary suspension or a reallocation of the employee's responsibilities (subject to the allowances of the contract of employment). Dismissal decisions can only be taken by the CEO or a delegated authority and the employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that dismissal could result if there is no satisfactory improvement, and will be advised of the right of appeal. A copy of the

written warning will be retained by the line manager but will be disregarded for disciplinary purposes after 12 months subject to achievement and sustainment of satisfactory conduct or performance.

### Examples of Gross Misconduct

The following list which is not exhaustive provides some examples of offences which are normally regarded as gross misconduct;

- theft or fraud
- physical violence or bullying
- deliberate and serious damage to property
- serious misuse of the organisation's property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- unlawful discrimination or harassment
- bringing the organisation into serious disrepute
- serious incapability at work brought on by 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.

If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the outcome will normally be summary dismissal without notice or payment in lieu of notice

### Precautionary Suspension

If an employee is accused of an act of gross misconduct, they may be suspended from work on full pay, normally for no more than five working days, while the alleged offence is investigated. This period may be extended if the investigation is of a complex nature and the employee should be kept updated on the length of the suspension period.

### Appeals

An employee who wishes to appeal against a disciplinary decision must do so within five working days. The CEO or delegated authority will hear all appeals and respond, in writing, within 10 working days. At the appeal any disciplinary penalty imposed will be reviewed.

### The Disciplinary Meeting – Best Practice

Any meeting should be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case. The employee may choose to be accompanied during the meeting by a fellow employee, a trade union representative or an official employed by a trade union, in accordance with their statutory rights.

During this meeting, the employer will explain the complaint and go through the evidence that has been gathered. The employee will be invited to set out their case and answer any allegations that have been made. The employee will also be given reasonable opportunity to ask questions, present evidence and call relevant witnesses (advance notice should be given should the employer or employee wish to call witnesses).

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A note taker should be present at the meeting and a copy of the draft notes should be made available to the employee if requested.

This meeting can be recorded if the employer and employee are in agreement and the transcripts should be made available to both parties.

## **Grievance Policy**

### **Purpose and Scope:**

This policy/procedure is designed to provide a framework for employees to raise concerns, highlight problems or formally complain to MMF Senior Management and/or Board of Trustees. This procedure applies to all MMF employees.

### **Principals:**

Grievances are concerns, problems or complaints that employees raise with their employers.

Employees should aim to settle most grievances informally with their line manager; this allows for problems to be settled quickly.

MMF employees are encouraged to resolve disputes by talking to each other.

Where problems cannot be resolved informally, MMF will support employees to settle issues via the formal Grievance Procedure.

In exceptional cases, outside help, such as an independent mediator (either provided internally or supplied by an outside agency) can help resolve problems, especially those involving working relationships.

### **Examples of Grievances**

Issues that may cause grievances include:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational change
- discrimination.

This is not an exhaustive list and is included for illustrative purposes.

## Procedure:

### Dealing With Grievances Informally

If an employee has a grievance or complaint related to their work or the people they work with, they should, wherever possible, start by talking it over with their line manager. This may result in an informal, effective solution. However if the grievance or complaint is about their immediate line manager, the matter instead should be escalated to their line manager or to another senior manager in the organisation. If their grievance is against the CEO, they should write to the Head of Trustees.

### Formal Grievance

If the matter is serious and/or the employee wishes to raise the matter formally they should set out the grievance in writing to their line manager. They should stick to the facts and avoid language that is insulting or abusive.

### Grievance Hearing

The line manager will call the employee to a meeting, normally within five days, to discuss their grievance. The employee has the right to be accompanied by a colleague or trade union representative at this meeting.

After the meeting the manager will give the employee a decision in writing, normally within five days of the meeting.

### Appeal

If the employee is unhappy with their manager's decision and they wish to appeal, they should inform their manager within three days of being told the outcome. They will then be invited to an appeal meeting, normally within five days, and the CEO or a delegated authority will hear their appeal. They have the right to be accompanied by a colleague or trade union representative at this meeting.. After the appeal meeting, the CEO will give their decision, normally within five days.

If the employee is unhappy with the CEO's decision and they wish to pursue the matter further, an appeal could be made to the Chair of Trustees, whose decision is final.