




DISCIPLINARY PROCEDURE

Document Ref:	PRC001	Date revised:	08.07.19
Issued by: (Head of Finance)	Julie Pigott	Next revision due by:	30.06.2021
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Applicable to:	All	Date of approval:	11.07.19

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1. Introduction

- 1.1 We believe that an open, honest dialogue between staff and managers is key so that expectations are clear and mutually understood and misunderstanding or confusion are minimised. This procedure provides a framework for this dialogue and focuses attention on identifying positive steps that can be taken in order to maximise an individual's contribution in terms of what they do and how they do it.
- 1.2 Occasionally expectations are not met. Normally this can be resolved informally through the "right word at the right time" – re-clarification of expectations and additional support, appropriate training and encouragement offered in achieving them. In most cases this should be sufficient to avoid the need for formal procedures to be applied. Where this fails to address the problem or where the problem is of a more serious nature we operate a disciplinary process to ensure that uncertainty or unfairness is removed.
- 1.3 The disciplinary process will be used to manage both poor performance and conduct issues with the aim of bringing about improvement – remedying, rather than punishing. However for alleged gross misconduct a swifter process will be followed and sanctions up to and including summary dismissal may be applied.
- 1.4 The procedure is produced in line with the duties imposed by legislation and recognised good practice, as detailed by the Advisory, Conciliation and Arbitration Service (ACAS).

2. Purpose

- 2.1 This procedure is designed to help and encourage members of staff to achieve and maintain standards of conduct, attendance and job performance consistent with their terms and conditions of service.
- 2.2 The aim is to ensure prompt, consistent and fair treatment for all staff and to assist in enabling both the individual and Traverse Theatre to be clear about the expectations of both parties.
- 2.3 At the same time Traverse Theatre agrees that this procedure should not be regarded as a substitute for the good informal relationships which exist throughout Traverse Theatre and which may include informal admonition.

3. Applicability

- 3.1 The Procedure applies to all Traverse Theatre employees, both permanent and fixed term and to student placements, interns, volunteers and unpaid workers.

4. Roles and responsibilities

4.1 Chief Executive

- 4.1.1 The Chief Executive has overall responsibility for ensuring compliance with the Disciplinary Procedure.
- 4.1.2 The Chief Executive shall ensure that this procedure is reviewed annually and in the light of any changes in working practice and/or changes in legislation.

4.2 Management

Line Management is responsible for:

- 4.2.1 Ensuring that they understand the procedures and are able to conduct meetings, investigations and hearings effectively in accordance with the procedure.
- 4.2.2 Seeking advice from the HR Department in all cases when contemplating taking disciplinary action against a member of staff.
- 4.2.3 Ensuring that employees are informed of their right to appeal against the outcome of a disciplinary hearing.
- 4.2.4 Where a concern is raised, either by the manager or an individual, managers have a responsibility to explore solutions in a supportive and constructive way, and to seek a resolution to matters of discipline in a timely manner.
- 4.2.5 Keeping written records as appropriate and ensuring confidentiality.
- 4.2.6 Ensuring note takers are arranged during the formal stages of the hearing.
- 4.2.8 Ensuring that all employees are aware of the procedure.
- 4.2.8 Taking all reasonable steps to ensure that the timescales specified within this policy are adhered to.

4.3 HR Department

- 4.3.1 The Head of Finance and Operations and Payroll and HR Manager will advise managers in dealing with matters relating to this procedure, with the aim of ensuring fairness and consistency in the application of this procedure.

4.4 All staff

All staff are responsible for:

- 4.4.1 Familiarising themselves with the Disciplinary procedure.

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- 4.4.2 Remaining aware of their position and obligations under the disciplinary procedure and Traverse Theatre rules and to co-operate with management in the investigation and conduct of disciplinary matters.
- 4.4.3 Employees also have a responsibility to bring to management's attention any matter outside of work which may impact upon their contractual obligations to Traverse Theatre or which have the potential to affect the standing or reputation of the organisation.

5. Principles

- 5.1 All cases of formal disciplinary action under this procedure will be recorded and placed in Traverse Theatre records. At every stage in the formal procedure employees will be advised in writing of the nature of the complaint against them and be given the opportunity to state their case before any decision is made.
- 5.2.1 All Line Managers and supervisors are responsible for identifying promptly any deficiencies in conduct or performance, discussing the matter with the individual member of staff and assisting them to improve. Minor matters will normally be dealt with informally.
- 5.3 Employees will have the right to be accompanied by a trade union representative or a work-based colleague of their choosing.
- 5.4 No disciplinary action will be taken against an employee until the case has been fully investigated.
- 5.5 At every stage in the procedure 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.
- 5.6 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.
- 5.7 Employees will have the right to appeal against any formal disciplinary sanctions. In operating this procedure, managers will apply the organisation's commitment to equality by treating all employees fairly and without discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 5.8 An Employee who is subject to discipline should not normally be considered for promotion, although a "sideways" move, or work at a lower grade should not be ruled out if it is felt to be appropriate and would result in improved performance.
- 5.9 The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

- 5.10 Traverse Theatre may decide to suspend an employee with full pay, pending investigation. Suspension is not a form of disciplinary action and Traverse Theatre will ensure any suspension is for as short a period as is reasonable.

6. Investigation meetings

- 6.1 Prior to disciplinary action, an investigation will be conducted into the allegations of misconduct by their immediate supervisor/manager. The Chief Executive / Head of Finance and Operations should be consulted to agree who is the most suitable person to conduct the investigation.
- 6.2 Where the alleged disciplinary matter is straightforward, the investigation may be brief. In more complex situations, investigations may take longer and employees will be kept apprised of progress. The employee will be advised in writing should any additional allegations arise during an investigation. Investigations may require interviewing third parties and witnesses to gather evidence and provide contextual information.
- 6.3 Investigation meetings are not disciplinary hearings, and employees do not have the right of representation. However, Traverse Theatre may consider and allow a request, if considered appropriate under the circumstances.
- 6.4 The possible outcomes of an investigation (which will be confirmed in writing) are:
- No further action to be taken
 - Counselling, keep under review, management action, training
 - A disciplinary hearing is required
- 6.5 Traverse Theatre may, depending upon previous warnings issued and the nature of the employee's behaviour, issue disciplinary warnings, suspend without pay, demote or dismiss.

7. Suspension

- 7.1 Traverse Theatre may decide to suspend an employee pending investigation. This is not a disciplinary sanction and any such suspension will be with pay. The duration will vary according to the situation but timescales will be as short as reasonably possible. Employees will be given the opportunity to have someone present with them at the suspension meeting, however, there is no official right of representation, and a failure to find a suitable representative quickly, will not prevent a manager suspending an employee. Notes will be taken at the suspension meeting and a copy of the notes provided to the employee after the meeting.

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- 7.2 All suspensions must be approved in advance by the Chief Executive and / or Head of Finance and Operations. The employee will be issued with a letter confirming their suspension from work on full pay and confirming that the period of suspension will be regularly reviewed.
- 7.3 A manager or supervisor may, in exceptional circumstances, send an employee home pending a decision about suspension.
- Suspension can be used in serious situations of alleged serious or gross misconduct.
- 7.4 It may be necessary to suspend in other circumstances such as:
- Where there is a clear concern that the employee or others may be placed at risk if the employee remains in their position pending an investigation.
 - Where it is considered possible that the employee may influence witnesses or interfere with relevant evidence and the investigation.
- 7.5 In some circumstances, as an alternative to suspension, it may be considered more appropriate to request the employee to undertake alternative duties which remove them from their normal workplace, pending a full investigation.
- 7.6 Suspension or redeployment may be deemed appropriate in cases of personal harassment or bullying. If suspension or redeployment is deemed appropriate in cases of personal harassment or bullying, generally, it will be the alleged harasser who is suspended or moved.

8. Informal Procedure

- 8.1 In many circumstances it will not be appropriate to proceed immediately to formal disciplinary procedures.
- 8.2 Minor cases of misconduct may best be dealt with by informal advice, coaching and support rather than through the formal disciplinary procedure. Managers should discuss problems with individuals with the objective of encouraging and helping them to improve. It is important that staff understand what needs to be done, how conduct will be reviewed and over what period. Staff should also be made aware of what action may be taken if they fail to improve their conduct. Informal warnings are not part of the formal disciplinary procedure and the member of staff should be informed of this.

8.3 Poor Performance

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- 8.3.1 Individuals have a responsibility to perform their role to a satisfactory level and will be given reasonable help and encouragement to do so. Line Managers are responsible for setting realistic and measurable standards of performance and ensuring that members of staff understand what standard is required of them.
- 8.3.2 Where individuals may be failing to perform to the required standard the matter should be investigated (see 5.2 above). Where the reason is found to be a lack of skills, they should, wherever practicable, be assisted through training or coaching and given reasonable time to reach the required standard. Where the poor performance is due to negligence or lack of application on the part of the individual then formal disciplinary action may be taken.
- 8.3.3 An individual will not normally be dismissed because of a failure to perform unless warnings and an opportunity to improve (with reasonable targets and timescales) have been given in accordance with the Disciplinary Procedure. However where an individual commits a single error due to negligence and the actual or potential consequences of the error are, or could be extremely serious, it may be appropriate to proceed to formal disciplinary action and, depending on the nature of the allegation, summary dismissal may result.

9. Formal Procedure

9.1 Forms of disciplinary action that may be taken and levels of management authorised to take them:

9.1.1 *Stage 1 – Formal Verbal Warning*

In cases where the employee is guilty of a minor offence, e.g. persistent lateness or absenteeism or poor job performance, a Formal Verbal Warning may be issued. The Formal Verbal Warning will be confirmed in writing and will identify the instances of misconduct which have triggered the disciplinary process. The employee will be informed that continued or repeated misconduct will result in further disciplinary action. A copy of the Formal Verbal Warning will be placed in the employee's personnel file and the warning will remain active for a period of up to 6 months. The file copy of the warning will be destroyed after a period of two years following the issue of the warning.

9.1.2 *Stage 2 - First Written Warning*

If conduct or performance is unsatisfactory or does not meet the required standards, the employee will be given a written warning or performance note. This will set out the nature of the misconduct and the change in behaviour required. The warning should also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. This will be a 'live warning' for a duration of up to 6 months, after which it will be disregarded for disciplinary purposes, subject to no further misconduct during this period. A copy of the warning will remain on the employee's personal file for a period of two year's following the date the warning was issued. (Where the first offence is sufficiently

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serious, for example because it is having, or is likely to have, a serious harmful effect on the organisation, it may be justifiable to move directly to a final written warning.)

9.1.3 Stage 3 - Final written warning

If the offence is sufficiently serious, or there is a failure to improve during the currency of a prior warning for the same type of offence, 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 action under Stage 3 (dismissal or some other action short of dismissal), and will refer to the right of appeal. A copy of this written warning will be kept on file but will be disregarded for disciplinary purposes after 6 months, subject to satisfactory conduct and/or performance. The file copy will be destroyed after a period of two years following the date of issue.

9.1.4 Stage 4 – Dismissal or other sanction

If there is still a failure to improve the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or disciplinary suspension or transfer (as allowed in the contract of employment). Dismissal decisions can only be taken by the appropriate senior manager, and the employee will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which the employment will terminate, and the right of appeal. The decision to dismiss will be confirmed in writing.

If a 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 warning will be filed but will be disregarded for disciplinary purposes after 12 months, subject to satisfactory conduct. In exceptional cases the period of the warning may be extended. Managers will hold regular review meetings with employees who have a 'live' warning.

9.2 Discipline and dismissal procedure

9.2.1 If an employee faces dismissal - or certain action short of dismissal such as loss of pay or demotion - the following procedure will be followed. This involves:

- step one: a written note to the employee setting out the allegation and the basis for it
- step two: a meeting to consider and discuss the allegation
- step three: a right of appeal against any disciplinary sanction including an appeal meeting.

9.2.2 If there is no satisfactory improvement or if further serious misconduct occurs following previous warnings, after a consideration of the facts and circumstances of the case, an employee may be dismissed with notice or with pay in lieu of notice.

9.2.3 If, after investigation, an employee is found to have committed an act of gross misconduct, the normal consequence will be summary dismissal without any notice or pay in lieu of notice. While the alleged gross misconduct is being investigated, employees may be suspended with pay.

9.3 Alternative penalties

9.3.1 Following consultation with the Chief Executive / Head of Finance and Operations, managers responsible for taking formal disciplinary decisions may impose reasonable alternative penalties including:

- suspension for a period without pay
- demotion or transfer to a more suitable job, if available, with no accompanying protection of salary, or benefits
- loss of benefits for a specified period
- withholding or deferring the receipt of bonus payments and / or pay rises for a specified period
- warning will be kept live for the duration of an employee's continued employment with Traverse Theatre

They may also require a member of staff to undertake relevant development or other measures in order to improve performance where appropriate.

9.3.2 If alternative action to dismissal is considered appropriate, an employee will be issued with a final written warning of a duration of at least 12 months and up to 24 months. This will be confirmed in writing by Traverse Theatre and the member of staff will be asked to confirm whether or not they accept the alternative penalty.

9.2.3 The alternatives, short of dismissal, mentioned above are not exhaustive and Traverse Theatre reserves the right to take any action it considers reasonable and appropriate in the circumstances.

9.3.4 The employee may appeal against any action taken as an alternative to dismissal.

9.4 Gross misconduct

9.4.1 The following list provides examples of transgressions which will normally be regarded by Traverse Theatre as acts of gross misconduct. This list is not intended to be exhaustive:

- Seriously abusive behaviour (including violent or offensive language);
- Physical violence;
- Theft or fraud;
- Harassment, bullying or victimisation, including cyber-bullying;
- Deliberate and serious damage to Traverse Theatre property;
- Prolonged unauthorised absence;
- Serious misuse of Traverse Theatre property or name;
- Unauthorised computer use or access, including deliberately accessing internet sites containing pornographic, offensive or obscene material;

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- Breach of Traverse Theatre email or internet policies (see Traverse Theatre Email and Internet Usage Policy);
- Misuse of social networking sites either during or outside of working hours;
- Serious insubordination;
- Unlawful discrimination or harassment of any kind (e.g. on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, or sexual orientation);
- Bringing Traverse Theatre into serious disrepute;
- Causing loss, damage or injury through serious negligence;
- Breach of health and safety rules or policies;
- Breach of confidentiality (including a failure to maintain confidentiality in an investigation relating to a complaint of harassment) except for whistle blowing under the Public Interest Disclosure Act 1998 (see Whistle-Blowing Policy);
- misuse of or failure to safeguard confidential information;
- Serious misconduct outside work;
- Failing to comply with Traverse Theatre lawful and reasonable instructions;
- Continued failure to follow Traverse Theatre policy;
- Engaging in paid or unpaid work whilst claiming contractual or statutory sick pay;
- Professional misconduct;
- Corruption;
- Breach of any of Traverse Theatre Human Resources policies or procedures;
- Possession, use or distribution of drugs;
- Gross fundamental breach of contractual terms and conditions of employment;
- Seeking and receiving gifts and/or gratuities for services rendered;
- Failing to inform the Chief Executive's office of being arrested/charged with any criminal offence or served with a summons on criminal charges (excluding parking offences or minor motoring offences);
- Breach of Traverse Theatre Equal Opportunities Policy, regarding sex, race, disability and any other unlawful discrimination, including harassment;
- Breach of any part of Traverse Theatre policies on attendance.

9.4.2 If, on completion of the disciplinary hearing, Traverse Theatre is satisfied that the employee is guilty of gross misconduct, the result will normally be summary dismissal without notice and without payment in lieu of notice.

10. Right of Appeal

10.1 All employees have the right to appeal against any formal disciplinary action to the next level of management only, for any given stage.

10.2 If an employee wishes to appeal they must inform the Head of Finance and Operations in writing within 5 working days of receipt of the written confirmation of the disciplinary action, stating the reasons for the appeal and enclosing a copy of the

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original complaint. Traverse Theatre must invite the employee to attend a further meeting. The meeting must take place at a location and time as is reasonable. The employee must take all reasonable steps to attend the meeting. The employee will be advised that they may be accompanied by a companion.

- 10.3 An appeal hearing will normally be convened within 10 working days of receipt of notice of appeal. The employee has a right to be accompanied at this meeting.
- 10.4 The disciplinary sanction imposed as a result of the original hearing will remain in force unless and until it is modified as a result of the appeal.
- 10.5 An Appeal Meeting (Hearing) may be a review of the disciplinary sanction or a re-hearing depending on the grounds of the appeal. The employee must be specific about the grounds of the appeal. These will effectively form the agenda for the hearing and determine the parties to be present at the appeal hearing.

Appeals may be raised on any number of grounds, including;

- the procedure: a failure to follow procedure,
 - the decision - the evidence did not support the conclusion reached,
 - the penalty - this was too severe given the circumstances of the case
 - inconsistency of the penalty, or
 - new evidence - which has genuinely come to light since the first hearing.
- 10.6 The Appeal will be heard by a senior member of staff who has not previously been involved in the case (the Appeal Chair). The Appeal Chair will be appointed by the Chief Executive. The Head of Finance and Operations will provide professional HR advice to the Appeal Chair and provide a note taker.
 - 10.7 The Appeal Chair will explain the purpose of the meeting, how it will be conducted, and the action which may be taken as a result of the appeal meeting. The employee will be asked to explain the grounds for their appeal. The Appeal Chair shall have particular regard for any new evidence that has been introduced and shall allow the employee or their companion to comment on this. The Appeal Chair shall summarise the findings once all of the relevant issues have been thoroughly explored.
 - 10.8 The meeting shall be adjourned to allow the Appeal Chair to consider the decision. The disciplinary hearing decision may be re-considered if it becomes apparent there was no sound basis for this. Where an appeal against disciplinary action is upheld, reference to the disciplinary sanction shall be expunged from the employee's record and the employee so notified. If the appeal is not upheld but the Appeal Chair considered the sanction to be inappropriate it may reduce the sanction or deem that it be operative for a shorter period. Where an appeal against dismissal is upheld, the employee shall be paid in full for the period from the date of dismissal and continuity of service will be maintained.

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- 10.9 The result of the appeal will be notified to the employee orally within one day of the decision and in writing including reasons for the decision within five working days of the hearing.
- 10.10 The decision of the Appeal Chair is final. Notes of the appeal hearing will be made available on request.
- 10.11 Where an appeal against dismissal fails, the effective date of termination of employment will be the date on which the employee was originally dismissed.

11. Right to be accompanied

- 11.1.1 Employees have a statutory right to be accompanied by a 'companion' throughout the process.
- 11.1.2 The term 'companion' is defined as a trade union official (full time or lay) or work colleague.
- 11.1.3 It may be unreasonable for an employee to be asked to be accompanied by a companion who had a conflict of interests or who was from a geographically remote location if someone suitable and willing was available on site.
- 11.1.4 Where the employee's chosen companion(s) is/are not able to attend the date agreed for the disciplinary meeting, an alternative date should be proposed by the employee and will usually be within 5 days from the date the disciplinary meeting date was confirmed. As far as reasonably possible, the location and timing of any meeting will be both convenient to employee, companion(s) and the disciplinary panel.
- 11.1.5 The main role of the companion is to provide support to the employee. In addition, the companion will be able to confer with the employee, sum up the employee's case, ask questions and participate fully in the meeting.
- 11.1.6 The companion does not have a statutory right to answer questions on the employee's behalf.

11.1.7 Employee's failure to attend a hearing

If an employee fails to attend a Hearing through circumstances outside their control, and unforeseeable at the time the Hearing was arranged, Traverse Theatre will arrange another Hearing. If an employee fails to attend a Hearing or a re-arranged Hearing without good reason then a decision may be made in the employee's absence.

12. Overlapping Grievance and Disciplinary cases

- 12.1 Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both cases concurrently.

13. Records and Confidentiality

- 13.1 It is important to keep written records during each part of the disciplinary process.

The ACAS code recommends that such records should include:

- The nature of the alleged misconduct
 - A copy of the written statements, and other documentation relating to the case
 - Traverse Theatre Management's response
 - A record of the action taken
 - A record of the reasons for the action taken
 - Whether there was an appeal, and if so the outcome.
 - A record of any relevant subsequent developments.
- 13.2 All records will be kept confidential, and retained in accordance with the Data Protection Act 2018.
- 13.3 Copies of any meeting records will be available to appropriate employees, unless there are exceptional and agreed circumstances where it is necessary to withhold information, for example, to protect a witness.
- 13.4 Expired disciplinary sanctions that fall short of dismissal will not be referred to in any employment references.

14. Communication and Review

- 14.1 Traverse Theatre aims to ensure all employees will be made aware of this procedure. A copy of the procedure will be included in the Traverse Handbook and on SharePoint. Hard copies will be available in the Traverse Handbook which can be found in the Admin Office, Bar Office and Green Room.
- 14.2 Recommendations for change should be reported to the Payroll and HR Manager or Head of Finance and Operations.
- 14.3 Traverse Theatre aims to review the Procedure and its implementation on a yearly basis or more frequently if significant changes to its effective operation are necessary.

15. Document Review Record

Review/Amendment Details		Date	
General information updated		11.11.16	
9.1.1 Formal Verbal Warning section inserted.			
9.1.2 Live warning duration amended.			
General review and update		03.11.17	
9.1.1, 9.1.2, 9.1.3 File copies of expired warnings will be destroyed two years following date of issue		08.07.19	
13.2 Updated to Data Protection Act 2018			
14.1 Location of hard copies of Traverse Handbook			
General review and update			
Prepared by:	Signature:	Approved by:	Signature:
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