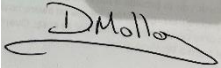
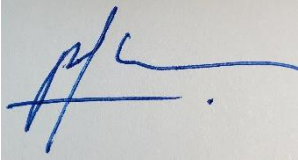




# First **Star** Scholars **UK**

## Disciplinary Policy

<b>Date of Last Review</b>	<b>29/10/2024</b>
<b>Review Cycle</b>	<b>Annually</b>
<b>Date (Month/Year) of Next Review</b>	<b>10/2025</b>
<b>Date Policy was Ratified</b>	<b>29/10/2024</b>
<b>Named Lead for Writing/Review</b>	<b>Emily Hollis MBE</b>
<b>Signed:</b>	<b>Date</b>
<b>CEO</b> 	<b>29/10/24</b>
<b>FSSUK Board of Trustees – Chair</b> 	

## Introduction

We will use this policy to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance at First Star Scholars UK (the charity). This policy applies to all employees. The aim is to ensure consistent and fair treatment for all in the organisation.

The charity follows the ACAS Code of Practice on disciplinary and grievance procedures:

<https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures/html>

A disciplinary process can be stressful for everyone involved. Different people might respond differently to stressful situations. We understand the prospect of disciplinary action might cause distress and affect your mental health.

We will support you throughout to help avoid this happening to you. Please talk to the Director of Operations, a qualified Mental Health First Aider and Senior Mental Health Leader, about how we can support your wellbeing.

## Principles

We will consider informal action, where appropriate, to resolve problems by:

- privately talking with the employee and any other staff involved
- listening to the employee's point of view
- agreeing improvements to be made
- setting up a training or development plan, if it's a performance issue

A disciplinary procedure is a formal way for the charity to deal with an employee's:

- misconduct (unacceptable or improper behaviour)
- capability (performance)

Misconduct is when an employee's inappropriate behaviour or action breaks the charity's rules.

Some misconduct examples include:

- bullying
- harassment
- 'insubordination' (refusing to do work)
- being absent without permission (some people call it absent without leave or 'awol')

Capability or performance is about an employee's ability to do the job.

An employee could face disciplinary action for misconduct outside work.

We will not take disciplinary action against the employee until the case has been fully investigated.

For formal action we will advise the employee of the nature of the complaint against them, and we will give them the opportunity to state their case before any decision is made at a disciplinary meeting.

We will provide the employee, where appropriate, with written copies of evidence and relevant witness statements before a disciplinary meeting.

An employee will not be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty is dismissal without notice and without payment in lieu of notice.

The employee has the right to appeal against any disciplinary action.

The procedure may be used at any stage if the alleged misconduct needs this.

Where possible, a different person will handle each step of the disciplinary procedure that's needed:

- the investigation
- the disciplinary hearing and outcome
- the appeal hearing (if an appeal is raised)

However, this may not always be possible as we are a small charity.

### **Reasonable adjustments**

If the employee needs any reasonable adjustments, for example for a disability, they should speak to the Director of Operations.

### **Suspension**

We might consider suspending the employee while carrying out a disciplinary investigation if there's a serious issue or situation. Suspension is when we tell the employee to temporarily stop working. The employee would be on full pay throughout any suspension period.

We will consider each situation carefully before deciding to suspend. Suspension will not be needed for most investigations. Suspension does not mean that the employee has done anything wrong and will not be used to discipline them.

We understand being suspended might be stressful so we will:

- only suspend if there is no other option
- support the employee throughout the suspension period, always considering their mental health and wellbeing

### **If the employee raises a grievance**

If the employee raises a grievance during the disciplinary procedure, the charity can pause the disciplinary and deal with the grievance first.

However, it might be appropriate to deal with both at the same time if the grievance and disciplinary cases are related. Please refer to our Grievance Policy for further information.

## **Carrying out an investigation**

The charity will carry out an investigation to get as much information as we reasonably can about the employee's alleged misconduct or poor performance.

An investigation is to:

- see if there is a case to answer
- make sure everyone is treated fairly
- gather evidence from all sides
- help to see what should happen next

At any stage the charity can still look at whether:

- the formal procedure needs to carry on
- the issue can be resolved informally instead

While an investigation should be completed as quickly as possible, it always needs to be thorough and fair.

Some investigations might take longer depending on the case and how many people need to give information.

The person investigating will set a reasonable timescale and inform the employee.

If it's found that more time is needed during the investigation, this should be allowed for. Any delays will be explained to anyone involved and written in the investigation report.

If we need to invite someone to an investigation meeting, we will:

- let them know in writing – for example, a letter or email
- confirm the date, time and location
- give them reasonable notice

If an employee needs to attend an investigation meeting, we will provide at least 48 hours notice prior to the meeting.

If an employee needs to go to an investigation meeting but they do not attend, the person investigating will rearrange the meeting once.

If the employee is too sick or continues to be not able or not willing to attend, the person investigating will need to look at all other evidence and make a reasonable decision.

The charity might decide we need to carry on with the investigation without the employee. If we do, we will inform the employee.

## **Criminal and/or safeguarding matters**

If the case could be a criminal matter, for example it is related to an assault, the police might need to be involved.

Where the case is of a safeguarding nature, we will also follow the processes and procedures as outlined in our Safeguarding Policy, contacting external services/agencies as required and appropriate.

## **Witnesses**

Witnesses can give important evidence that might help decide the outcome of a disciplinary case.

If there are any witnesses with information about the discipline issue, the person investigating can ask them to write it down in a 'witness statement'.

The person investigating can also have a meeting with a witness to ask them what they know or saw. Someone will take notes during the meeting. At the end of the meeting, the witness will sign the notes, and these can also form a witness statement.

If a large number of people witnessed the same incident, the person investigating will:

- talk to some of the witnesses
- check whether they're broadly saying the same thing

The person investigating does not have to talk to all witnesses, unless either of the following apply:

- they feel they are not getting enough information
- there are significant differences in what the witnesses say

## **Investigation report**

When there is enough information and the investigation is finished, the charity will formulate a written report. The charity will share this report with the employee.

The person investigating will give recommendations at the end of the investigation, recommending one of the following:

- formal action
- informal action
- no further action

### Formal action

Formal action could be:

- to initiate a disciplinary hearing
- changes to policy or procedure
- further investigation into other matters that were found

### Informal action

Informal action could be:

- training or coaching for parties involved
- counselling for parties involved
- mediation for parties involved
- notification that further similar action might end in disciplinary action

### No further action

The outcome of the investigation might be that no further action is needed.

However, the person investigating might still suggest anything that could help the charity and the people involved, for example:

- counselling
- mediation
- another form of support

## **Disciplinary Hearing**

Where the investigation shows the employee has a case to answer, the charity will invite them to a disciplinary meeting or 'hearing'. This is a meeting where the charity hears all the evidence before making a decision.

The hearing will be held as soon as possible after the investigation, while giving reasonable time for the employee to prepare. At least five working days notice will be given ahead of any hearing.

In good time before the hearing, the charity will put in writing to the employee:

- the alleged misconduct or performance issue
- any evidence from the investigation
- any other information we plan to talk about
- the date, time and location of the hearing
- information on the employee's right to be accompanied to the hearing
- the possible outcomes

The employee can also bring evidence to the hearing, for example emails, to show and talk about.

The hearing is the chance for both the employer (the charity) and the employee to state their case. The employer (the charity), employee and employee's companion should make every effort to attend.

The charity will:

- explain the employee's alleged misconduct or performance issue
- go through the evidence
- take a written confidential record of the hearing

The employee will be given the chance to:

- set out their case
- answer any allegations
- ask questions
- show evidence
- call relevant witnesses (with good notice and prior arrangement)
- respond to any information given by witnesses
- choose if their companion can speak for them at the hearing

The employee's companion will be allowed to:

- set out the employee's case
- respond for the employee to any comments or points made at the meeting
- talk with the employee during the hearing
- take notes
- sum up the employee's case at the end of the hearing

The charity may agree to allow the companion to answer questions on behalf of the employee, however, this is not a legal requirement.

After the hearing we will consider the case carefully before making a decision.

We will tell the employee what happens next and give a timeframe.

If the employee fails to attend through circumstances outside their control, such as illness, we will rearrange the meeting once, providing the same notice period.

### **Your right to be accompanied**

You have a statutory right to be accompanied by a companion where a disciplinary meeting could result in:

- a formal warning
- some other disciplinary action
- confirmation of a formal warning or other disciplinary action (for example, at an appeal hearing)

The right is to be accompanied by:

- someone you work with
- a trade union representative who is certified or trained in acting as a companion
- an official employed by a trade union

You should tell us as soon as possible if you would like a companion and who they will be so we can make arrangements in good time.

You may offer a reasonable alternative time for the hearing, normally within five working days of the original date, if their chosen companion cannot attend.

## **The Outcome**

After following a fair disciplinary procedure, we will decide on the best outcome based on:

- the findings from the investigation and meetings
- what is fair and reasonable
- what we have done in any similar cases before

We will inform the employee of the outcome within 14 working days, as long as this is reasonably possible, and in writing.

This will normally be either:

- an improvement plan 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. We will advise you that this is the first stage of the formal procedure. We will keep a record of the improvement note for 12 months, but it will then be considered spent – as long as you achieve and maintain 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, the change in behaviour required and the right of appeal. The warning will also tell you that a final written warning may be considered if there is no sustained satisfactory improvement or change. We will keep a record of the warning, but it will be disregarded for disciplinary purposes after 12 months.

### Informal warning

If the misconduct or performance issue was found to be small and not serious, we will have an informal talk with the employee. This will count as a 'verbal warning'.

We will still keep a confidential written record of informal / verbal warnings for future reference.



## Written warnings

A first or final written warning will state:

- what the misconduct or performance issue is
- the changes needed, with a timescale
- what could happen if the changes are not made
- what could happen if there is further misconduct or no improvement to performance
- how long the warning will stay in place
- in performance cases, any support or training the employer will provide

### First written warning

A first written warning is normally the first step we will take when misconduct or poor performance is confirmed.

The Director of Operations will keep a copy of this written warning, but it will be disregarded for disciplinary purposes after 12 months, as long as the employee achieves and maintains satisfactory conduct or performance.

### Final written warning

We can give a final written warning if, within a set timeframe, the employee either:

- repeats or commits another misconduct
- does not improve performance

In cases of serious misconduct or poor performance, we do not have to give a first written warning and can instead go straight to a final written warning. For example, where the employee's actions have, or could, cause serious harm to the organisation.

We might give you a final written warning if:

- the offence is sufficiently serious
- there is further misconduct
- there is failure to improve performance while you're still under a prior warning

This will confirm the full 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.

The Director of Operations will keep a copy of this written warning, but it will be disregarded for disciplinary purposes after 12 months, as long as the employee achieves and maintains satisfactory conduct or performance.

## **Other action**

We might look at other disciplinary action depending on the seriousness of the misconduct or performance issue.

For example, instead of dismissal, we could decide to demote the employee. This is when we move the employee to a less responsible role.

## **Dismissal**

If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal.

The charity might dismiss the employee (end their contract) in either of these cases:

- gross misconduct – some acts count as 'gross misconduct' because they are very serious or have very serious effects, for example fraud or physical violence
- the disciplinary procedure has had to be repeated and the employee previously had a final written warning

Dismissal decisions can only be taken in consultation with the Board of Trustees.

The employee will be told within 14 days, unless it is not reasonably practicable to do so:

- the reasons for the dismissal
- the date the employment contract will end
- the notice period
- their right of appeal

## **Gross misconduct**

The following list provides some examples of offences which are normally regarded as gross misconduct:

- theft or fraud
- physical violence
- bullying
- deliberate and serious damage to property
- serious misuse of an organisation's property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- discrimination, harassment or victimisation
- bringing the organisation into serious disrepute
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- a serious breach of confidence

## Appeals

If you want to appeal against a disciplinary decision, you must do so in writing to the CEO, Diarmuid Molloy, within five working days. At the appeal any disciplinary penalty imposed will be reviewed.

The employee can raise an appeal if they feel:

- the outcome is too severe
- any stage of the disciplinary procedure was wrong or unfair

Diarmuid Molloy, CEO will hear all appeals and their decision is final. You will receive the outcome of your appeal within five working days of the appeal hearing.

## Keeping written records

We will keep written records of what takes place during the disciplinary procedure.

In line with data protection law, records will be confidential and only kept for as long as required. For further information on record keeping, please refer to our Data Protection Policy.

## Protecting personal information

We will keep all personal information confidential. For further information, please refer to our Data Protection Policy.

## Other documentation

**This policy should be read in conjunction with:**

- Grievance Policy
- Safeguarding Policy
- Code of Conduct
- Data Protection Policy

## Version Control - Approval and Review

Version No.	Approved by	Approval Date	Main Change	Review Period
1.0	Diarmuid Molloy	29 October 2024	New policy format approved	Annually