

NYJO Disciplinary Policy & Procedure

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Introduction

This policy is designed to help and encourage all NYJO professionals to achieve and maintain satisfactory standards of conduct, attendance and job performance. NYJO is committed to ensuring that any allegations of inappropriate conduct, unsatisfactory attendance and/or job performance is managed fairly and consistently.

Scope

This policy applies to all employees of NYJO. It does not apply to contractors, sub-contractors, musicians in NYJO Academies, clients, partners, and/or other stakeholders. This policy does not form part of your contract of employment with NYJO and may be amended from time-to-time.

Key Principles

The disciplinary process is not intended to be punitive in nature. Wherever possible, disciplinary matters should be managed informally and formal action should only be taken in cases of more serious or repeated misconduct, poor attendance and/or unsatisfactory job performance.

- The policy will be applied consistently; all staff will be treated fairly and sensitively and supported during the process.
- Formal disciplinary matters will be investigated promptly, considered in an impartial manner and, where possible, in confidence.
- If you are required to attend a formal disciplinary meeting, or an appeal hearing, you have the right to be accompanied by another member of staff. While we do not recognise a trade union, if you are a member of a union you can ask a qualified union official to accompany you. Legal representation is not permitted.
- Reasonable adjustments will be considered to accommodate individual needs throughout the disciplinary process. Where appropriate, advice will be taken from the HR Trustee to help determine what adjustments are reasonable under the specific circumstances.
- Where the process involves the Chief Executive, their role in handling the matter will be assumed by the Chair and the HR Trustee.

Suspension

In some circumstances, it may be necessary to suspend you on full pay pending the outcome of the investigation and/or prior to a disciplinary hearing. Suspension can occur at any stage of the disciplinary process. It is without prejudice and not a disciplinary sanction. The decision to suspend will be taken by the Chief Executive, upon consultation with the HR Trustee, and will be for as short a period as possible.

Informal process

Wherever possible your manager should seek to resolve minor misconduct, poor attendance and/or unsatisfactory performance concerns informally. This is most appropriate when the alleged concerns are not of a serious nature; raising them at an early stage can hopefully identify any underlying causes and remove the need for any further, more formal, action.

Discussions at this informal stage should consider what action is needed and whether you may require any training, support, or if additional interventions (such as counselling) may be necessary. Although no sanction will normally be given in these circumstances you will receive a written note of the discussion from your manager, including details on how the matter is to be resolved and the timescales.

Your manager should arrange a follow-up meeting to keep the situation under review. If there has been insufficient or no satisfactory improvement, then the matter will progress to the formal disciplinary procedure.

Formal Procedure

We recognise that formal disciplinary proceedings can be a difficult experience for all parties involved, whether an allegation is upheld or not. The aim is to resolve issues fairly and quickly to minimise any stress caused during the process.

It is important that necessary investigations are carried out thoroughly and without unreasonable delay. In some cases, this may require holding investigation meetings with you and other witnesses, and in other cases the investigation may simply be the gathering of facts through reviewing documentary evidence. Where appropriate, written notes of any informal meetings and any action plans will form part of the investigation.

If investigation meetings are required, you and or any witnesses will be invited, in writing, to attend a meeting with at least five working days' notice. A written record of the meeting will be given to you and/or any witnesses to review and return, ideally within three working days and no longer than five working days.

The purpose of an investigation is to ensure that all the facts have been established, and to determine if there is a disciplinary case to answer.

Disciplinary Meeting

If it is decided that there is a disciplinary case to answer, you will be notified of this in writing. This notification will contain details about the alleged misconduct, unsatisfactory performance and/or poor attendance, the possible consequences and will also include any investigation documentation to enable you to prepare to answer the case at a disciplinary meeting.

If you or your companion are unable to attend the scheduled meeting, an alternative date will be offered within a reasonable timeframe. If, despite the reasonable efforts of the Hearing Manager, you or your companion are not able to attend the alternative date, the meeting may take place in your absence.

At the meeting, you will have the opportunity to give a full explanation of your case and be invited to comment on the content of the investigation. Your companion may address the meeting to put forward and sum up your case, respond on your behalf to any views expressed at the meeting and confer with you during the meeting. Your companion does not, however, have the right to answer questions on your behalf.

The Hearing Manager will determine the appropriate disciplinary sanction and may seek advice from the HR Trustee before reaching a decision. The decision and any resulting actions will be confirmed in writing within five working days of the meeting. If more time is required, you will be notified of this delay as soon as possible and given the reasons for it.

Disciplinary Sanctions

If the Hearing Manager decides not to uphold the allegation, no disciplinary sanction will be required, however, recommendations may be given. In exceptional circumstances, the allegation may be upheld whilst mitigation is such that no sanction is imposed. If an allegation is upheld, and the Hearing Manager considers that a sanction is appropriate, one of the following disciplinary sanctions may be issued:

- **Written warning** – A written warning will remain in force for a set period (no longer than 12 months). During the period of the warning, your conduct, attendance, or performance should improve to a fully satisfactory standard. Where there is insufficient or no improvement, further disciplinary proceedings may result which may lead to a more severe disciplinary sanction being imposed. In cases of unsatisfactory attendance, consideration will be given to the nature of any further periods of absence before invoking further disciplinary action.
If you have an extended absence during the period the warning is live and this absence may have been detrimental to your ability to demonstrate an improvement, it may be extended proportionately to the duration of the absence.
- **Final Written Warning** – This disciplinary sanction will normally remain in force for an 18-month period and would typically be applied for repeated instances of misconduct, where there is insufficient or no improvement in attendance, conduct or performance during the period of a current written warning or where the matter is deemed more serious. In cases of unsatisfactory attendance, consideration will be given to the nature of any further periods of absence before invoking further disciplinary action.
Exceptionally, when a final written warning is current, this may be extended or broadened, where appropriate, as an alternative to dismissal. If you have extended absence during the period the warning is live and this absence may have been detrimental to your ability to demonstrate an improvement, it may be extended proportionately to the duration of the absence.
- **Dismissal** – This disciplinary sanction would typically be applied for acts of gross misconduct, repeated instances of misconduct or where there is insufficient or no improvement in attendance, conduct or performance during the period of a current final written warning. In cases of unsatisfactory attendance, consideration will be given to the nature of any further periods of absence before invoking further disciplinary action. If you are dismissed for gross misconduct, you will normally be dismissed without notice or payment in lieu of notice.

Misconduct and gross misconduct examples are contained in the appendix.

Grievances raised during disciplinary proceedings

If you raise a grievance during disciplinary proceedings, and the grievance is substantially connected with the disciplinary matter, consideration will be given whether to suspend the disciplinary and hear the grievance, run both procedures in parallel, or to pass the grievance to another manager to hear so as not to delay the disciplinary process.

Criminal Charges

If you are charged with, or convicted of, a criminal offence outside of your employment with NYJO we reserve the right to investigate to determine if the disciplinary procedure is appropriate in the circumstances. We will not normally wait for the outcome of any criminal prosecution before convening a disciplinary hearing and reaching a decision if, in our discretion, prompt action is required. In such cases, consideration will be given to what effect the charge or conviction has on your suitability to do the job, including maintaining appropriate DBS clearance, and your relationship with NYJO and other staff, as well as with musicians in NYJO Academies, partners, clients, and/or other stakeholders.

Appeals

You have the right to appeal against formal disciplinary sanction. Any appeal must follow the process set out in the Appeals Policy.

Related Policies

Dignity at Work Policy
Grievance Policy

Document Control

Previous version	January 2021
Reviewed	July 2022
Board approved	October 2021
Next Review	January 2024
Trustee Responsible	Janet Campbell, HR Trustee janet@nyjo.org.uk

Appendix I: Examples of general misconduct and gross misconduct

The following table provides some examples of **general misconduct** and **gross misconduct**. These lists are indicative and not exhaustive.

Examples of General Misconduct may include	<ul style="list-style-type: none"> • Refusal to comply with reasonable management instructions or requests. • Poor timekeeping (repeated lateness without reasonable explanation). • Unauthorised absence from work. • Improper use of the telephone, e-mail, or internet (e.g., excessive levels of personal calls or correspondence). • Instances of inappropriate behaviour towards other staff, musicians in NYJO Academies, partners, clients, or other stakeholders which could include discourtesy or rudeness. • Improper use of IT equipment and software. • Breach of Health & Safety rules and regulations. • Failure to comply with NYJO's policies and procedures. • Being under the influence of alcohol or drugs whilst at work. • Posting social media content what has the sufficient potential to or does bring NYJO into disrepute, or reflects negatively on NYJO, its staff, musicians in NYJO Academies, partners, clients, or other stakeholders. • Making untrue / vexatious and malicious allegations against a fellow member of staff, musicians in NYJO Academies, partners, clients, or other stakeholders. • Unauthorised disclosure of confidential information, subject to provisions under the Public Interest Disclosure Act 1998. • Failing to declare any private, business and/or financial interests that would potentially conflict with your role and duties.
Examples of Gross Misconduct may include this list, or repeated instances of the list above	<ul style="list-style-type: none"> • Harassment on any grounds including gender, sexuality, race, religion, nationality, disability, age, sexual orientation, or any characteristics of an individual. • Any form of bullying, including aggressive physical or verbal conduct, victimisation, exclusion, or intimidation (including "cyber bullying"). • Assault – physical violence or the malicious ill-treatment of other members of staff, musicians in NYJO Academies, partners, clients, or other stakeholders, including the threat of violence. • Gross negligence or recklessness which seriously endangers the health and safety of other staff, musicians in NYJO Academies, partners, clients, or other stakeholders or causes (or might cause) unacceptable loss, damage, or injury. • Behaviours which have the potential to or do bring NYJO into disrepute (which can include behaviour outside work premises or hours).

	<ul style="list-style-type: none"> • Dishonesty, theft, fraud, including accepting or offering a bribe and/or falsification of company records. • Wilful damage to, or deliberate / unauthorised possession of, property belonging to NYJO or a visitor at our premises. • Serious incapability to perform normal duties through the consumption of alcohol or illegal substances. • Extended period of unauthorised absence from duty. • Illegal or inappropriate use of, or copying of, IT equipment or software (including viewing, copying, or sending pornographic material or violent images on the internet). • Criminal activities outside work, where such conduct is judged to be incompatible with your employment and ability to maintain appropriate DBS clearance, or where it could bring NYJO into disrepute. • Deliberate and / or serious breach of confidentiality. • Serious breach of trust and confidence (subject to the provisions of under the Public Interest Disclosure Act 1998). • Wilful misuse of NYJO's property or name.
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