

## **Disciplinary Policy**

### **1. Introduction**

- 1.1 The Association requires you to maintain the highest possible standards of conduct, performance and attendance. The purpose of this policy is to help you understand these and encourage you to maintain them.
- 1.2 This policy will inform you of the Association's expected standards of conduct, performance and attendance. Please speak to your line manager if you are unsure of the standards expected of you. If you do not meet the Association's standards, then the Association will manage this in accordance with this disciplinary procedure.
- 1.3 This policy and procedure applies to all employees, regardless of length of service. It does not apply to agency workers or self-employed contractors. This policy does not form part of any employee's contract of employment and it may be amended at any time. The Association may also vary this policy, including any time limits, as appropriate in any case.

### **2. Policy Statement**

- 2.1 The aim of this policy is to make sure that all staff know the standards expected in respect of conduct, performance and attendance.
- 2.2 To manage you in accordance with the procedures in this policy should you fall short of our expected standards.
- 2.3 To manage any fall in standards in a fair and consistent manner.

### **3. You can expect the Association to:**

- 3.1 Inform you of all the allegations against you and give you the opportunity to state your case.
- 3.2 Not take any formal disciplinary action until the Association has fully investigated the allegations against you.
- 3.3 Conduct the Association's own investigation irrespective of any police proceedings and make decisions in accordance with this policy based on evidence and information available to the Association at the time.
- 3.4 Pay you full pay if the Association decides to suspend you pending any investigation outcome.
- 3.5 Proceed with disciplinary action after an appropriate investigation has taken place.
- 3.6 Give you the right to be accompanied by either a trade union representative of your choice, or a workplace colleague at any stage of the formal procedure.
- 3.7 Make sure if any action is taken against you, other than dismissal, that the Association makes clear the standards of improvement required, the timescale within which the Association expects this to be achieved, the frequency of reviews and the consequences of inadequate or un-sustained improvement.

- 3.8 Not dismiss you if this is the first issue with your conduct, performance or attendance unless you have committed gross misconduct. In this case, the penalty will normally be summary dismissal without notice or pay in lieu of notice.
- 3.9 Provide you with a right of appeal if the Association issues you with any formal action.
- 3.10 Keep records on your personal file of any live disciplinary action, which will only be available to you, your line manager, Departmental Manager, Corporate Services Officer, Director and Chief Executive.
- 3.11 Refuse the use of recording devices (in normal circumstances) during any investigation, disciplinary or appeal hearings.
- 3.12 Apply the procedure at any stage depending on the seriousness of the allegations against you.

**4. The Association expects that you will:**

- 4.1 Observe the terms and conditions of your contract.
- 4.2 Be honest and transparent in all aspects of your work for the Association.
- 4.3 Treat all colleagues, clients, partners and anyone in connection with the Association with dignity and respect.
- 4.4 Not abuse the Association's facilities.
- 4.5 Not disclose any confidential information obtained in connection with your employment with the Association.
- 4.6 Be frank and upfront about any connections you may have in any business that the Association deals with in accordance with the Entitlements, Payments and Benefits Policy.
- 4.7 Not publish or profit from any work done within the Association as this belongs to the Association until such time as it gives permission for its use.
- 4.8 Not accept any gift, favour or inducement from businesses or individuals in connection with the Association in accordance with the Gifts and Hospitality Policy.
- 4.9 Be loyal and ask permission before taking up any other work, paid or unpaid, particularly if this in any way affects your ability to work for the Association.
- 4.10 Meet the standards set out in all the Association's policies and procedures, in particular the Code of Conduct and Equality and Diversity Policy, regardless of any personal or political beliefs you may hold.
- 4.11 Maintain high standards of performance and carry out your role to the best of your ability.
- 4.12 Maintain high levels of attendance as described in our Absence and Attendance Management Policy.
- 4.13 Follow instructions and requests from your line manager and any other senior member of staff.

- 4.14 Participate as much as reasonably possible in all parts of the disciplinary procedure.
- 4.15 Failure to maintain satisfactory standards of conduct, performance and attendance may result in disciplinary action being taken under this policy.

## **5. Investigation**

- 5.1 Before any informal or formal action takes place, it may be necessary to conduct an investigation into the facts relating to any disciplinary allegations against you. The purpose of this is to establish a fair and balanced view of the facts surrounding the allegations against you. This will normally involve speaking to you and anyone else that may provide the Association with relevant information. The Association will also collect any other information it deems to be relevant. Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. You do not normally have the right to bring a companion to an investigative interview.
- 5.2 The length and complexity of the investigation will be determined by the circumstances and the nature of the allegations. You must co-operate fully and promptly in any investigation. This will include informing the Association of the names of any relevant witnesses, disclosing any relevant documents to the Association and attending investigative interviews if required. If you are unable, or choose not to participate in the investigation, the Association will proceed without your input.
- 5.3 The Association will usually nominate an investigating officer to carry out the investigation. Where possible, the nominated investigator will be neutral and impartial and present their findings in an unbiased, factual, coherent and relevant way. The investigation report will include all evidence referred to whilst adhering to all data protection legislation. All information will be made available to both you and the disciplinary officer / panel.
- 5.4 On completion of the investigation, the investigator will make one of the following three recommendations:
- No further action; or
  - Informal action; or
  - Formal disciplinary action.

## **6. Police Involvement and Criminal Offences**

- 6.1 The Association may treat any criminal investigation, charge or conviction connected to you as a disciplinary matter if it considers it relevant to your employment with the Association.
- 6.2 Should you be subject to any police investigation, the Association may take advice from the police and may conduct its own independent investigation.
- 6.3 If you are subject to any of the above, and believe this may in any way affect your ability to do your job or the Association's reputation, you must discuss this with your line manager as soon as you possibly can.

## **7. Suspension**

- 7.1 In some circumstances, the Association may need to suspend you from work on full pay. The Association will aim for your suspension to last no longer than is reasonably necessary to

investigate the allegations. After one week, the Association will update you on the progress of its investigation. While on suspension you should not have any contact with any of the Association's clients, customers, suppliers, contractors or other employees other than the person named on your suspension letter.

- 7.2 The Association may also suspend you if it feels you are interfering with an investigation in any way, even if the allegations are not at gross misconduct level.
- 7.3 Suspension pending investigation is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary and benefits during the period of suspension.

## **8. Time Limits of Warnings**

- 8.1 The Association may extend the time limits referred to throughout this procedure, depending on the circumstances of individual cases.

## **9. Alternatives to Disciplinary Action**

- 9.1 In addition to issuing warnings, the disciplinary panel / officer may consider other actions instead of dismissal including, redeployment, demotion, or an extension to the time limit of a warning.

## **10. Examples of when the Disciplinary Procedure may be used**

- 10.1 Any issues relating to your conduct / performance / attendance.
- 10.2 Poor timekeeping and/or attendance.
- 10.3 Unauthorised absence.
- 10.4 Time wasting.
- 10.5 Failure to follow instructions.
- 10.6 Failure to follow absence notification procedures.
- 10.7 Abuse of flexi time and/or TOIL.
- 10.8 Failure to meet and/or maintain the improvements required in an informal action.
- 10.9 Major and minor breaches of our policies.
- 10.10 Major and minor breaches of your contract of employment.
- 10.11 Performance below our expected standards.
- 10.12 Deliberate misuse or damage of the Association's property (including corporate clothing, electronic devices, email and internet).
- 10.13 Not following the Association's health and safety instructions.

10.14 Unsafe working practices.

10.15 Willful and persistent refusal to obey reasonable instructions.

10.16 Professional incompetence.

10.17 Excessive use of our telephones for personal calls.

10.18 Excessive personal e-mail or internet usage.

10.19 Obscene language or other offensive behaviour.

10.20 Smoking in no-smoking areas.

10.21 This list is intended as a guide and is not exhaustive. The level and type of warning issued will depend on the circumstances and severity of individual cases.

## **11 Informal Procedure**

11.1 We will normally use the informal procedure first. Minor conduct issues can often be resolved informally between you and your line manager. If your conduct, performance or attendance does not meet the Association's required standards then your line manager will meet with you informally if appropriate. They will discuss the issues with you, and tell you what improvements are required, the support available, and explain any further consequences if you do not meet or maintain the standards the Association requires. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file and may be referred to for the purposes of any future disciplinary action. In some cases an Informal Action Note may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate, for example, because of the seriousness of the allegation.

## **12 Formal Procedure**

12.1 The Association will follow its formal process when attempts to improve any conduct, performance or attendance which have not improved through the informal process. The Association will also instigate the following formal process immediately for more serious matters.

12.2 Following any investigation, if the Association considers there are grounds for formal disciplinary action, you will be required to attend a disciplinary hearing. The Association will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if it decides after the hearing that the allegations are true. The Association will also include the following where appropriate:

- A summary of relevant information gathered during the investigation;
- A copy of any relevant documents which will be used at the disciplinary hearing; and
- A copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Association will give you as much information as possible while maintaining confidentiality.

- 12.3 The Association will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable. You will also be given a minimum of 5 working days' notice of the hearing.
- 12.4 At the disciplinary hearing the Association will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own.
- 12.5 You may ask relevant witnesses to appear at the hearing, provided you give the Association sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Association decides that a fair hearing could not be held otherwise.
- 12.6 The Association may adjourn the disciplinary hearing if it needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 12.7 The Association will inform you in writing of its decision and its reasons for it, usually within 5 working days of the disciplinary hearing. If the Association issues you with a formal warning, you will have the right to appeal and the Association will give you the details of how to do this in the letter confirming the outcome of your hearing.

### **13. Right to be Accompanied**

- 13.1 At all stages of the formal process you will have the right to be accompanied by a trade union representative or a workplace colleague. You must notify the person holding your grievance meeting who your chosen companion is, at least 2 working days prior to the date of the meeting.
- 13.2 Your chosen companion is allowed to make representations, summarise your case, ask questions and confer with you. However they do not have the right to answer questions on your behalf.
- 13.3 If your chosen companion is unavailable at the time a meeting is scheduled, then we will arrange another date within 10 working days of the original meeting date. If they are not available within this period, we may ask you to choose someone who is available within the time period to be your companion.
- 13.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative if this will assist with a protected characteristic as defined by the Equality Act 2010. For example, if you have a disability or if you have difficulty understanding the English language.
- 13.5 You are not permitted to be accompanied by a solicitor, whether or not a family member or friend, or other legal representative.
- 13.6 The Association has three stages of penalty in its formal procedure:

#### **14. First Stage**

14.1 A first written warning will usually be appropriate for a first act or omission to act where there are no other active written warnings on your disciplinary record. This will remain on your file for 6 months.

#### **15. Second Stage**

15.1 A final written warning will usually be appropriate where you remain below the Association's standards and already have an active written warning on your record, or where the Association considers the issue to be sufficiently serious to warrant a final written warning even though there are no other active warnings. This will remain on your file for 12 months.

#### **16. Third Stage**

16.1 Dismissal will usually only be appropriate for:

- Any conduct, performance or attendance issues during your probationary period which the Association regards as material;
- Further misconduct where there is an active final written warning on your record;
- Any gross misconduct regardless of whether there are active warnings on your record.

16.2 Examples of gross misconduct are set out in para 17.1 below.

16.3 The Association will make a payment in lieu of notice if the reason for dismissal is anything other than gross misconduct. If the Association dismisses you for gross misconduct, it will not give you notice or make a payment in lieu of notice (summary dismissal). Representatives of the Management Committee will hear appeals against dismissal.

#### **17. Gross Misconduct**

17.1 Gross misconduct equates to a serious breach of contract and includes actions that will have a serious effect on the Association's business, reputation or damage the relationship of trust and confidence. The Association will normally regard the following as gross misconduct - this list is not exhaustive.

17.1.1 Theft and/or serious willful damage or misuse of the Association's property from it, its staff, clients, customers or anyone connected with it.

17.1.2 Bullying, threatened / actual violence, or provoking violence.

17.1.3 Under the influence due to alcohol or any other substance.

17.1.4 Possession, use, supply or attempted supply of illegal and/or legal substances.

17.1.5 Fraud, forgery or other dishonesty including, fraudulent wage claims or falsification of records / expenses including time sheets and overtime.

17.1.6 Harassment, discrimination or victimisation.

17.1.7 Serious infringement of health and safety rules and procedures, or any other policies, operating procedures or workplace rules put in place by the Association.

- 17.1.8 Acts of gross professional incompetence.
- 17.1.9 Bringing the Association into serious disrepute.
- 17.1.10 Serious breaches of security or confidentiality, including misuse or disclosure of confidential information.
- 17.1.11 Acceptance of bribes or other concealed payments.
- 17.1.12 Deliberately accessing internet sites containing illegal, pornographic, offensive, obscene, and/or information to incite or carry out any acts of violence.
- 17.1.13 Being charged or convicted of a criminal offence that in the Association's opinion may affect its reputation, or relationships with staff, clients, customers or anyone connected with it and/or affects your suitability to work for it.
- 17.1.14 If the Association becomes aware of any official information from outside agencies that may compromise your suitability for your role.
- 17.1.15 Malicious or untrue allegations against others.

## **18. Notice of Decision**

- 18.1 The Association will endeavor to issue you with its decision and reasons for its decision, in writing to you within 5 working days following the formal disciplinary hearing.
- 18.2 If a decision has been made to issue you with a written warning or final written warning, the letter will set out the nature of the issue, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further disciplinary issues in that active period.
- 18.3 If the Association dismisses you, you will be provided with details of your last date of employment and the financial information in respect of your dismissal.

## **19. Appeals**

- 19.1 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Chief Executive, or Chair if the Chief Executive led the original hearing, within 5 working days of the date on which you were informed of the decision. Details on how to appeal will be included in your decision letter confirming the action taken against you. The Association will arrange an appeal hearing within 10 working days of the date of receiving your request.
- 19.2 Any appeal will be taken, where possible, by someone who was not involved in the original disciplinary hearing.
- 19.3 The Association will write to you within 5 working days after the appeal hearing confirming its decision regarding your appeal.

## **20 Appeals Procedure**



- 20.1 Appeals against any formal warnings will be made to one level above that at which the disciplinary action was taken, if possible.
- 20.2 You have the right to one internal appeal against any formal warnings or performance note.
- 20.3 You should raise your appeal within 5 working days of receiving your letter confirming the disciplinary decision.
- 20.4 The Association will give you written notice of the date, time and place of the appeal hearing.
- 20.5 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.
- 20.6 At the appeal you will be asked to state the reason for your appeal and provide evidence to substantiate your reasons.
- 20.7 The manager / panel will ask any appropriate questions.
- 20.8 If you raise any new matters in your appeal, the Association may need to carry out further investigation. If any new information comes to light the Association will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing, and you or your companion may comment on any new evidence arising during the appeal before any decision is taken.
- 20.9 The Association may adjourn the appeal hearing if it needs to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 20.10 The Association will advise you of the outcome of your appeal in writing. This decision will be final and there will be no further right of appeal.
- 20.11 At all levels, the outcome of an appeal hearing may:
  - Confirm a previous action; or
  - Dismiss the previous action; or
  - Substitute a lesser penalty.

## **21. Authority to take disciplinary action**

- 21.1 First written and final written warning - Departmental Manager, Director or Chief Executive.
- 21.2 Dismissal - Chief Executive and Chair.

## **22. Records**

- 22.1 The Association will keep records on your personal file of any disciplinary action, which will only be seen by you, your line manager and the senior officer if appropriate. The Corporate Services Officer will remove disciplinary warnings from your file when no longer live.

**23. Data Protection**

- 23.1 The Association will treat your personal data in line with our obligations under the current data protection legislation and its own Privacy and Data Protection Policy. Information regarding how your data will be used and the basis for processing your data is provided in the Association's Fair Processing Notice for employees.

**24. Risk Management Statement**

- 24.1 The risks associated with disciplinary action are comprehensively incorporated within Association's Risk Management Framework.

**25. Equality and Diversity Statement**

- 25.1 The protected characteristics enshrined in the Equality Act 2010 will be respected when ensuring compliance with the Association's Disciplinary Policy and all human resources policies and practices.

**26. Policy Monitoring and Review**

- 26.1 The Chief Executive and Corporate Services Director will monitor the implementation and operational effectiveness of the Disciplinary Policy.
- 26.2 The Association will regularly monitor advice and good practice in respect of employment law and human resource management and adopt such advice when formulating the review of the Disciplinary Policy.
- 26.3 The Disciplinary Policy will be reviewed every three years or as and when deemed necessary.