

Staff Disciplinary Policy and Procedure

Aim

This procedure is designed to assist in resolving issues in relation to discipline and to clarify the rights and responsibilities of management, staff and their representatives. The disciplinary procedure will be used primarily to help and encourage staff to improve rather than imposing punishment and applies to all members of staff irrespective of their length of service or status.

Policy

This part of the procedure applies to circumstances where there has been failure to achieve the prescribed standards, such as unsatisfactory job performance, absence from work and behaviour towards other staff which is anti-social and likely to cause offence.

The scheme has a duty to advise, counsel and train all staff and may give informal counselling for the purpose of improving conduct or performance when employees commit minor infringements of the established standards. These will be documented by the Manager as a record of their discussion. However, if counselling proves unsuccessful, formal warnings will be given.

If it is considered that a member of staff's conduct has fallen below the standards required, the Manager/ Chair of the Committee will follow the five step process outlined below.

1. **Establish the Facts**

The incident will be fully investigated and the facts established. Investigations will be non-discriminatory and apply equally to all staff irrespective of gender, marital status, sexual preference, race or disability. Investigations will be conducted by the Manager/Chair of the Management Committee.

2. **Put in Writing**

If it is decided that there is a disciplinary case, the relevant staff member will be notified with a written explanation of the conduct, and other circumstances that have led to the decision about taking disciplinary action. If it is necessary, the staff may be suspended on full pay or reassigned to alternative duties.

3. **Meet and Discuss**

The meeting will be held without delay whilst giving the staff reasonable time to prepare their case. Staff may be accompanied at the disciplinary meeting by a work colleague or trade union representative. The scheme may also choose to have someone appropriate there on their behalf too. The Manager/ Chair of the Committee will explain the complaint against the member of staff and present evidence. The staff will also be allowed to answer all allegations and present evidence.

4. **Management Decision**

After hearing all the evidence, the Manager/Chair of the Committee will decide whether disciplinary or other action is required. For misconduct or unsatisfactory performance a first written warning may be given. If the staff first misconduct is sufficiently serious, but falls short of gross misconduct, the staff may be given a final written warning. If the Manager/Chair of the Committee considers that the complaint is of a more serious nature, the meeting will be adjourned and the staff may be suspended on full pay or reassigned to alternative duties, to enable further investigations. Suspensions will be as brief as possible and are not considered a disciplinary action.

5. **Appeal**

After the meeting the employee will be informed of the decision and if the member of staff feels that the disciplinary action taken against them is wrong, they may appeal in writing within ten working days. The appeal will be dealt with impartially and, if possible, the Manager/Chair of the Committee, or a senior member of staff who was not involved in the original disciplinary action will hear the appeal and impartially adjudicate the case. The staff will then be invited to a second meeting to discuss the appeal. The member of staff has the right to be accompanied by a work colleague or trade union representative at appeal hearings. The final decision will be confirmed in writing to the staff concerned to be despatched within ten working days of the appeal meeting.

Special Cases

If a member of staff is charged or convicted with a criminal offence it is not normally a reason for disciplinary action. The offence needs to be considered in terms of whether it affects the staff member's suitability to do the job or their relationship with colleagues and families.

Gross Misconduct

In the case of some acts termed gross misconduct, staff will be dismissed for the first offence. In these cases, immediate suspension with pay followed by dismissal will normally result, if the allegation(s) against the member of staff is substantiated. However, a fair disciplinary process will be followed before dismissing for gross misconduct and staff will still be given the opportunity to respond to allegations against them before a discussion to dismiss them is taken. The following are examples of serious offences, which are considered as gross misconduct (but the list is not exhaustive):

- Theft.
- Fraud or deliberate falsification of the scheme's documents.
- Being an unfit person under the terms of the Care Standards Act 2000 or the Children's Act 2006.

- Gross negligence that either causes or might cause injury, loss or damage to persons or property.
- Child abuse (for further details refer to the Safeguarding Children/Child Protection policy).
- Indecent conduct.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- A criminal offence outside employment which renders the employee unsuitable for work and which is unacceptable to other employees.
- Inability to fulfil his/her duties because of intoxication by alcohol or drugs.
- Failure to attend an interview arranged under the disciplinary procedure without reasonable explanation.
- Physical violence towards a colleague, user of the provision or member of the public.
- Deliberate damage or misuse to club property.
- Serious infringement of health and safety rules (for further details refer to the Health and Safety policy).
- Persistent bullying.
- Racial or sexual harassment and breaches of the Equal Opportunity and Race Relations legislation.
- Any act of misconduct which is sufficiently serious to destroy the mutual trust and confidence between the club and the employee concerned.

In the case of gross misconduct, the police may be notified. If the police are involved in an investigation, then the suspension deadline will be extended.

While the alleged incident of gross misconduct is being investigated, the individual concerned is likely to be suspended, during which time normal pay levels will prevail. Such suspension is not to be regarded as a form of disciplinary action and will be for as short a period as possible. Any decision to dismiss will be taken only after a full investigation.

Allegations Against Staff

All staff are advised to minimise time spent alone with children and be aware of the potential risks in doing so (for further details refer to the Safeguarding Children/Child Protection policy).

If an allegation of abuse has been made against a member of staff, the manager will follow the procedures of the Child Protection policy

If an allegation of abuse is made against the manager, then another designated member of staff will report the matter directly to the Person in Charge, local Social Services department and Ofsted.

Any member of staff who is dismissed on the grounds of safeguarding concerns, or who leaves under investigation for being unsuitable for work with children will be referred to the DBS (Disclosure and Barring Service).

Timescale for Review

Stage 1: First written warning to remain on file for 12 months.

Stage 2: Final written warning to remain on file for 2 years.

If a warning is given, it will include:

- The level of improvement required.
- The date by which it is to be achieved.
- What will happen if the improvement is not achieved.
- How to appeal.

Definitions

Harassment

It is a condition of service that employees do not harass colleagues or members of the public. Our scheme recognises the problems of sexual and racial harassment and is committed to preventing them.

Harassment is considered to be gross misconduct and will be dealt with under the disciplinary procedure.

Harassment is defined as occasional or systematic expressions of discriminatory or oppressive attitudes which understandably cause offence or discomfort or which a person finds objectionable. This may occur on a person to person basis or as a result of the policies or attitudes of institutions or other bodies.

Sexual Harassment

Examples of sexual harassment may include unnecessary touching or unwanted physical contact, suggestive remarks or other verbal abuse, leering at a person's body, unwanted sexual advances, offering inducements for sexual favours, physical abuse or assault, or pornographic displays.



Racial Harassment

Examples of racial harassment may include offensive or unnecessary comments on colour, race, customs, dress, nationality, ethnic or national origin, religious beliefs, racial abuse or physical attack.

Because of the nature of harassment, the club recognises that staff may find it easier to talk to a woman rather than a man, or a person of the same cultural background or with the same religious beliefs, about the problems they are experiencing.

Grievances under this clause will be handled with all possible speed, sensitivity and confidentiality. In settling the grievance, every effort will be made to discipline the harasser and any disciplinary proceedings will be dealt with under the procedures of grievance and discipline.