

## Statement of Terms & Conditions of Employment

### A 12 DISCIPLINARY PROCEDURES

#### PURPOSE

This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.

This procedure applies to all employees.

The aim is to ensure consistent and fair treatment for all and to clarify and reinforce rights and obligations.

#### INFORMAL ACTION

Since it is the organisation's aim to encourage and maintain acceptable standards of conduct and performance, every effort will be made to deal with minor problems in the first instance through informal action with the Director in order to avoid the need to implement the formal procedure. This principle should be applied in the first instance to minor issues with both conduct and performance.

Although informal, the meeting could result in an improvement note written to the employee from the line manager, detailing points discussed, actions required and support / training provided. This is to ensure fairness and clarity as to any improvements, time scale and support required, for both the employee and the line manager.

The Director will arrange for provision of support, practical assistance and/or training as appropriate to ensure that minor problems are resolved at an early stage and that acceptable standards of work performance and behaviour are met.

As employees are often reluctant to discuss matters of a personal nature which are affecting their work, the employee should be encouraged to seek independent confidential counselling out of the workplace, if applicable. This is available through the **Employee Counselling Service**.

Where informal action fails or the matter is more serious the following formal procedure will be used.

#### PRINCIPLES FOR THE FORMAL PROCEDURE

1. At any stage in the procedure the employee will be informed of the nature of the allegation against him/her and will be given the opportunity to state his/her case before any decision is made.

Written confirmation of the nature of the complaint will be supplied.

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2. There are three classes of issues that can be dealt with in accordance with the disciplinary procedure: conduct, capability (performance – after the appropriate capability procedure has been followed) and attendance. It is important to determine at the start of the procedure which one of those types applies in order to deal with the issue effectively and correctly.
3. No disciplinary action will be taken against the employee until the case has been fully investigated.

If dismissal is one of possible outcomes of the disciplinary procedure (in cases of either alleged gross misconduct or further misconduct where the employee has a valid final warning on his/her file), an employee will be placed on suspension until such investigations are carried out. Suspension will be notified to the employee in writing and will not normally exceed a period of 5 working days without a review, containing a meaningful explanation about the progress in the investigatory process. During such a suspension the employee will be paid at a rate equivalent to his/her contractual earnings.

4. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty will normally be summary dismissal, ie dismissal without notice or wages in lieu of notice.
5. At all stages of the procedure the employee will have the right to be accompanied by either his/her Trade Union representative or fellow employee of his/her choice.
6. All information/documentation forming a part of the investigation will be made available to the employee/TU representative before the hearing.
7. An employee will have the right to appeal against any disciplinary penalty imposed.
8. In appropriate cases, (eg poor performance or poor attendance) an employee will be advised in writing of the time allowed for improvement and when and how reviews will take place, and what action may be taken if there is no improvement as required.
9. The procedure may be initiated at any of stages 1-3, dependent upon the seriousness of employee's alleged misconduct.
10. For the purpose of the procedure to be followed, warnings given for different reasons shall be cumulative.
11. No disciplinary action will be taken against a Trade Union representative until discussions have taken place with a full-time official of the Union. If the full time official is unavailable, a district officer will be contacted instead.
12. The Management Committee will elect annually a 'Staffing Sub-Committee' with full delegated powers to administer appropriate stages of the Disciplinary Procedure. Membership of such Committees to remain constant throughout period of office to ensure stability, consistency of treatment for employees and to enable members to gain experience

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in dealing with staff matters. In exceptional circumstances however, in order to ensure impartiality at different stages of the disciplinary process, the organisation may resort to involving suitably experienced committee members from out with the 'Staffing Sub-Committee'.

#### FORMAL PROCEDURE

##### STAGE 1 -FIRST WRITTEN WARNING/ PERFORMANCE NOTE

If there is no improvement in the standard of conduct/performance following the informal action, or the first act of misconduct / underperformance is of a more serious nature, the employee will be interviewed by the line manager of a suitable authority and given an opportunity to explain his/her actions.

If the explanation is not satisfactory a **FIRST WRITTEN WARNING** or a **PERFORMANCE NOTE** will be issued.

The employee will be informed in writing of his/her right of appeal.

##### STAGE 2 -FINAL WRITTEN WARNING

If there is still no improvement in the standard of conduct/performance or the first / second act of misconduct / underperformance is of a more serious nature,, the employee will be interviewed by the line manager of a suitable authority and given an opportunity to explain his/her actions.

If the explanation is not satisfactory a **FINAL WRITTEN WARNING** will be issued.

The employee will be informed in writing of his/her right of appeal.

##### STAGE 3 -DISMISSAL

If:

a) There is still no sustained improvement in the standard of conduct/performance whilst a final written warning remains live.

or

b) If there is an allegation of **GROSS MISCONDUCT** the formal hearing will be conducted by the Director.

If an acceptable explanation is not forthcoming **DISMISSAL** will normally result -with or without notice as appropriate.

In cases of **GROSS MISCONDUCT** dismissal may be without notice or payment in lieu of notice. The employee will be provided within 2 working days with written reasons for dismissal, the date on which employment will terminate and the right of appeal to the Management Committee.

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### TYPES OF OFFENCES

The following are examples of the various categories of misconduct and/or poor performance, **but the lists are not exhaustive.**

It should be noted that inclusion on these lists at a particular stage does not mean that these offences will automatically be dealt with at this stage. Individual cases will be investigated and action taken at the appropriate stage dependent upon mitigating circumstances etc.

#### **Misconduct -Action taken at stage 1 of Procedure**

- a) Poor timekeeping (repeated lateness or early leaving).
- b) Failure to notify timeously reasons for absence in accordance with procedures.

#### **Serious Misconduct -Action taken at stage 2 of Procedure**

- a) Deliberate damage or misuse of the organisations property.
- b) Intentional unauthorised absence.
- c) Unsafe working practices.
- d) Wilful and persistent refusal to obey reasonable instructions.

#### **Gross Misconduct -Action taken at Stage 3 of Procedure**

- a) Theft from Organisation, its employees or clients.
- b) Fighting or threatening another employee.
- c) Being under the influence of drink or drugs whilst at work.
- d) Fraudulent wage claims or falsification of records.
- e) Serious wilful damage or misuse of Organisation property.
- f) Sexual and racial harassment
- g) Deliberately accessing internet sites containing pornographic, offensive or obscene material
- h) refusing to follow management instructions, which have led, or could have led to serious consequences
- i) Bringing the organisation into serious disrepute.

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### **AUTHORITY TO TAKE DISCIPLINARY ACTION**

First Written Warning – Director

Final Written Warning - Director

Dismissal – Director and Management Committee (or Staffing Sub Committee)

### **DURATION OF WARNINGS**

STAGE 1 -FIRST WRITTEN WARNING will remain on employee's personal record for 6 months.

STAGE 2 -FINAL WRITTEN WARNING will remain on employee's personal Record for 12 months.

### **RECORDS**

The record of any disciplinary action will be held in the employee personnel file. This file will only be accessed by the employee, their Line Manager and the Director. It is the responsibility of the Director to ensure that spent disciplinary warnings are removed from employee's files timeously.

### **APPEALS**

An employee has the right of appeal against any formal disciplinary action. The employee will be advised of the right of appeal and the right to representation at the appeal. They will be advised of how and when to exercise this right of appeal when the warning is issued.

No person involved in the original disciplinary decision should participate in the appeals hearing unless this is not practicably possible.

### **APPEALS PROCEDURE**

Appeals against any formal warnings are to one level above that at which the disciplinary action was taken, if possible.

Employees have a right to one internal appeal against the first written warning / performance note.

Appeals against dismissal are to the Management Committee.

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All appeals should be lodged within 5 working days of notification of the decision.

All internal appeal hearings should be convened within 10 working days of the appeal being lodged.

Appeal hearings to the Management Committee should be convened within 20 working days.

At all levels, appeal hearings shall be entitled to:

- (i) confirm previous action
- (ii) dismiss previous action
- (iii) substitute a lesser penalty

The appeal to the Management Committee is the final level of appeal within Trafalgar. Subsequent to this the employee may have the right to go to an Employment Tribunal. Independent advice should be sought as appropriate by the employee.