

## **DISCIPLINARY PROCEDURE**

### **COMPANY POLICY**

#### **Finalised Document**

#### **Purpose of the Policy**

To ensure that there will be a fair and consistent approach to the enforcement of standards of conduct for all employees.

#### **Introduction**

The Company aims to have standards of recruitment and performance management which make the need to refer to an unsatisfactory performance and conduct policy a rare occurrence. Recourse to disciplinary procedures is not primarily to act as a penalty but as an incentive to improvement through discussion, advice and positive action.

The Company relies on its managers to ensure that channels of communication are always open and to promote fairness and consistency in the treatment of individuals. Behaviour which is considered to be harassment or bullying of any kind in the workplace is unacceptable and subject to disciplinary action. Harassment can be verbal or non verbal, and can be defined as improper and offensive behaviour, practices of conduct which may threaten a person's job security or cause personal offence or injury. All staff are expected to conform to the standards of conduct and performance required. We rely on our managers to resolve issues concerning standards of conduct and performance as quickly as possible using an informal approach. Managers must keep records of such discussions but are not required to provide the Board with a copy.

Where disciplinary action is considered necessary, the measures taken will depend upon the gravity of the offence. In most cases, these measures will occur sequentially but in some circumstances where the nature of the offence so dictates, disciplinary proceedings may be commenced other than at Stage One. However, no disciplinary action will be taken against an employee until the case has been fully investigated and the facts collated.

#### **Disciplinary Procedures**

For employees who have completed their probationary period the procedure is in three formal stages of disciplinary action. Immediate line managers will be empowered to administer warnings at all stages and the decision to dismiss can only be taken by the appropriate person in table 1.

At all stages the employee must be made aware of the nature of the complaint and be given the right to reply.

At all formal disciplinary hearings, including appeals, the employee will have the right to be accompanied by a work colleague or a trade union representative, if they wish.

Employees must make every effort to attend a disciplinary hearing at the time specified. However if an employee is unable to attend the hearing, they must notify the Directors/HR in advance. If

employee does notify the company the hearing could continue in the employee's absence and based on the evidence already attained.

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

### **Probationary Period**

All employees are subject to a probationary period. During this time progress and suitability will be regularly monitored by the appropriate manager. Unsatisfactory performance during this period may lead to dismissal. For staff in probation, the company reserves the right not to follow the disciplinary procedure.

After this period the following disciplinary procedures will be used.

### **Stage One – First Written Warning**

At this stage a disciplinary hearing conducted with an appropriate manager will take place. The individual will be informed in writing of the nature of the offence, the evidence to support the allegation and will be invited to a disciplinary hearing to give an explanation of the matter. Once the issue has been discussed, the hearing may be adjourned for the case to be considered by the line manager and reconvened once a decision is reached. If the offence is considered to be proven, the line manager may inform the individual of the outcome orally once the hearing has re-convened or subsequently, and as soon as is practicable in writing within 5 working days, outlining their right to appeal.

The written confirmation of warning will state;

- details of the misconduct.
- Details of the action necessary to remedy the situation and any review period.
- That any further misconduct will result in a further disciplinary action which may ultimately result in dismissal.
- Details of the individual's right to appeal.

A copy of this will be kept on the individual's file.

This warning will be removed from the individual's record after 12 months, subject to good conduct being maintained for this period and no recurrence of the action for which the individual has been subjected to a disciplinary penalty.

### **Stage Two - Final Written Warning**

For more serious matters, or where there has been a failure to meet the standards set at the "first written warning" stage or in the event of a further offence within the currency of a written warning, an individual may be called to a Stage 2 disciplinary hearing, which may result in a final written warning. This hearing will be conducted by an appropriate Manager. The individual will be informed in writing of the nature of the offence, the grounds to support the allegation and will be invited to a disciplinary hearing to give an explanation of the matter. Once the issue has been discussed, the hearing may be adjourned for the case to be considered by the line manager / Senior Manager, and

reconvened once a decision is reached. If the offence is considered to be proven, the line manager /Senior Manager may inform the individual of the outcome orally once the hearing has re-convened

or subsequently, and as soon as is practicable in writing within 5 working days, outlining their right to appeal.

The written confirmation of warning will state:-

- details of the misconduct.
- Details of the action necessary to remedy the situation and any review period.
- That any further misconduct will result in a further disciplinary action which may ultimately result in dismissal.
- Details of the individual's right to appeal.

This warning will be removed from the individual's record after 12 months, subject to good conduct being maintained for this period and no recurrence of the action for which the individual has been subjected to a disciplinary penalty.

### **Stage Three - Dismissal**

Where there has been gross misconduct, or serious misconduct, or where during the currency of a final written warning an employee has failed to meet the required standard, or any further offence has been committed the individual may be dismissed.

The decision to dismiss will be taken by the person specified in table 1, only after that person has held a disciplinary hearing with the employee (who may be accompanied by a work colleague or a trade union representative). The individual will be informed in writing of the nature of the offence, the grounds to support the allegation and will be invited to a disciplinary hearing to give an explanation of the matter. Once the issue has been discussed, the hearing may be adjourned for the case to be considered by the appropriate Manager. Any decision to dismiss will be confirmed in writing and will include details of the appeals procedure. In cases of gross misconduct, the dismissal will normally be summary (i.e. without notice or payment in lieu of notice). The Company, however, reserves the right to give notice or payment in lieu of notice in the case of gross misconduct in any subsequent proceedings.

Where appropriate action short of dismissal may be taken:-

- suspension with pay for a maximum of ten working days
- demotion to a more suitable job, if available
- transfer to another team

**TABLE 1**

<b>Level of employee facing dismissal</b>	<b>Final decision taken by</b>
Director	The Board
Managers	The Directors/HR
All other staff	Line Manager/HR

### **Suspension**

Suspension will be with pay and should only be in cases where there is:

- a) a possibility of dismissal
- b) doubt about suitability to continue

- c) pending criminal investigation proceedings
- d) in any other circumstances where the company feels that it is in the interest of all parties concerned

Any period of suspension will be as short as is reasonably practicable to allow for the necessary investigation. The period of suspension lasts for up to 2 weeks, at this stage it will be reviewed with the individual, work colleague or trade union representative (if involved) and the line manager and Managing Director.

### **Gross Misconduct**

Certain issues are regarded by the Company as so serious as to warrant summary dismissal without notice or payment in lieu of notice. Matters which justify summary dismissal include, but are not limited to:-

- Being unfit for work through alcohol, drugs or solvents or being in possession of illegal drugs, or consuming alcohol or drugs whilst on duty;
- Refusing to obey a lawful and reasonable management instruction, or committing acts of serious insubordination;
- Behaving violently, bullying or harassing a colleague or willfully damaging Company, or personal, property;
- Being absent from work without permission in certain circumstances (e.g. taking unauthorised annual leave);
- Removing Company property from the premises without authorisation, or removing or having in your possession another person's property without their consent;
- Falsification of Company documentation (e.g. working time data, expenses, sickness absence or financial documentation);
- Refusing or failing to co-operate with the contractual right of search;
- Involvement in a gross breach of Company policies (including staff handbook), procedures or instructions, particularly those concerning the health and safety of your colleagues;
- Serious negligence which causes unacceptable loss, damage or injury;
- Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)
- Wilfully and/or knowingly damaging Company property;
- Sending or receiving emails of a malicious, distressing or pornographic nature;
- Using unauthorised, pirated or pornographic software on SHARPFUTURES MANCHESTER CIC computer system.

Additions, deletions or alterations to this list may be made from time to time in the light of experience.

### **Appeals Procedure**

An employee may appeal against any disciplinary decision. This should be put to the Managing Director/CEO in writing, within 10 working days of receipt of the decision, stating the grounds for reviewing the disciplinary penalty. As a result an appeal hearing will be arranged, usually within 10 days notice of the appeal being received and heard by the next management level from the original decision maker, and Managing Director.

Individuals have the right if they wish to be accompanied by a work colleague of their choosing or trade union representative at the appeals hearing and they will be given full opportunity to state their grounds for appeal.

At the appeal any disciplinary penalty will be reviewed but cannot be increased. The outcome of the appeal will be confirmed in writing to the appellant and will take one of the three forms:

- the original decision is upheld and the disciplinary action confirmed
- the original decision is over-ruled and the disciplinary action rescinded
- the original decision is substantially confirmed but a less severe sanction is substituted for that imposed originally.

The decision given at the appeal is final.

Appeals hearings are not intended to repeat the detailed investigation of the original disciplinary hearing, but to focus on specific factors which the individual feels have received insufficient consideration, such as:

- an inappropriate penalty
- extenuating circumstances
- lack of objectivity in the conduct of the disciplinary hearing
- new evidence.

Where an appeal against dismissal fails, the effective date of termination will be the date on which the individual was originally dismissed.