

Disciplinary Policy

Introduction

1. The purpose of this disciplinary policy and procedures is to set and maintain standards of conduct within the Foundation, and in doing so, ensure that all employees are treated fairly and consistently. It is designed to help and encourage all employees to achieve and maintain satisfactory standards of conduct. It is subject to review every three years or to reflect changes in legislation or in the light of experience
2. For newly appointed employees who are in their probationary period, the Foundation retains the discretion to vary the procedure accordingly in respect of formal warnings, up to and including termination for a first breach of conduct rules. The disciplinary procedure is normally only used where other interventions have failed to produce the required improvement or when the matter is sufficiently serious to require immediate formal action.

Coverage of this policy

3. This policy covers the Foundation's procedures when a disciplinary matter arises, usually where there is reasonable concern or suspicion that an employee has engaged in one or more actions that can be classified as 'misconduct'. Although this is not an exhaustive list, we treat 'misconduct' as comprising one or more of the following activities:

- Minor breaches of our policies
- Minor breaches of the employment contract
- Unauthorised use, or damage to, Foundation property and equipment
- Absence from work that has not been authorised
- Poor attendance and timekeeping
- Refusing to follow instructions, where it is not serious enough to constitute gross misconduct
- Misuse of the internet or work e-mail for personal purposes, including sending and receiving an excessive number of personal emails
- Misuse of the Foundation's devices or communication accounts, including making an excessive number of personal calls using the Foundation's telephones
- Behaving offensively, including making lewd gestures and using obscene language (verbally or otherwise)
- Being careless in the performance of work duties
- Time-wasting during contracted working hours
- Smoking where smoking is not allowed

4. 'Gross misconduct' typically comprises one or more of the following activities:
- Malicious misuse of any of Foundation procedures, for example if you make up allegations when taking out a grievance against someone
 - Negligence, recklessness, or carelessness, particularly if it leads to the Trust and its management losing trust and confidence in you
 - Serious breach of all data privacy and data protection legislation applicable to our business - Serious health and safety breaches
 - Unlawful harassment or discrimination
 - Viewing, receiving, or sending anything that breaches the Charity's Harassment and Bullying Policy or our Equal Opportunities Policy
 - Bullying or physical violence
 - Fraud, theft, or any act of dishonesty
 - Being under the influence of, or possessing, illegal drugs
 - Being under the influence of alcohol, unless this is with your manager's express knowledge and permission – for example, where you are involved in entertaining on the Trust's behalf
 - Serious and intentional damage to Trust property
 - Knowingly accessing websites containing offensive, obscene, or pornographic material
 - Serious insubordination or refusal to obey management instructions
 - Serious breaches of confidence (such as disclosing Trust's confidential information without authorisation and/or putting Trust's IP or trade secrets at risk)
 - Conduct that breaches common decency or brings the Charity into disrepute.
5. Our approach in relation to gross misconduct is set out below. This is different from our approach to allegations of misconduct. There is also a third category of misconduct that falls in between these two: 'serious misconduct'. We define this as misconduct that falls short of gross misconduct but that, taken with any previous and non-expired written warning(s) on an employee's record, would justify the imposition of a final written warning. We will normally follow this policy in a disciplinary situation, but we are not obliged to do so (particularly if you are in your probationary period).

Application

6. This policy applies to all employees. It does not apply to self-employed contractors, workers and agency workers. It is not part of any employment contract. The Foundation may amend this policy at any time.

Right to be accompanied at disciplinary meetings

7. During any meeting that takes place under this policy, you may bring someone with you. That person is generally a colleague or, if relevant, a trade union representative. We will remind you of this entitlement when we send you a meeting

invitation. You must then let us know if you intend to ask someone to accompany you and who that person is, as well as their relationship to you if this is not known to us. You will be responsible for making their attendance (including any travel) arrangements and costs.

8. You are entirely free to choose a work colleague to accompany you. If you do choose a work colleague, please be aware that, on occasion, we may need to adjust scheduled meeting timings to ensure your colleague's attendance (and absence from their usual work duties) does not cause any operational problems. Speaking on your behalf If you would prefer them to do so, your companion may present the key points of your grievance and they may also speak openly on your behalf at the meeting. You should feel free to seek their views and confer with the during the meeting and you are entitled to leave the room for reasonable periods of time to do so. Your companion is not permitted, however, to answer questions put directly to you or try to prevent the Foundation asking questions or outlining its views.

The procedure when disciplinary matters arise

9. This part of the policy sets out the steps which will be taken when a disciplinary concern first arises, with the exception of allegations of gross misconduct, dealt with separately below.

Before formal action is taken

10. Where we feel it is appropriate, we will aim to talk through concerns about your conduct or performance with you informally, including where a disciplinary matter is raised. Following that conversation, we may send you a Letter of Concern, recording what we have discussed during this informal meeting. If matters cannot be resolved in this way, or we consider that the circumstances in which our concerns have arisen make an informal discussion inappropriate, we will follow the formal procedure described below.

Stage 1a: formal disciplinary action – formal meeting

11. We will not take disciplinary action without first having invited you to a formal meeting to discuss the concerns that have arisen. The meeting will take place with two Trustees identified by the Chair. This may be the only meeting to which we invite you. We will write to you to invite you to this formal meeting and provide you with the key details that you need to know, including when and where the meeting will take place, details of misconduct allegations that you may face, and the potential ramifications of these allegations being proven, or not. Unless we believe there is a good reason not to do so, we will also provide you with copies of any documents relevant to the facts of the case, and any witness statements that we have taken.

12. Your attendance at this meeting is important and you are responsible for ensuring that you do so. We will usually agree to reschedule the meeting once if, for

good reason, you are unable to make the first time that we propose. But we will not allow unreasonably delay. If after rescheduling once, we remain unable to schedule your attendance at this meeting, and we do not consider that your requests for other times are reasonably made, we may be forced to proceed without your presence.

13. You are entitled to be accompanied at the meeting. See above for the relevant rules. If you want to bring your own witnesses to the meeting and/or you have documents or other evidence you want to present, you must let us know as soon as possible in advance of the meeting.

14. During the meeting, we will go through the details of the allegations against you, and we will outline the information, documentation and witness statements that comprise the available evidence. We will ask you to confirm that you understand all that we have presented to you, and you will be given sufficient opportunity to respond and to ask questions of us, as well as to put forward your own evidence for us to consider. You may also invite your own witnesses to speak on your behalf. If you want to ask questions of our witnesses, please let us know in advance and (unless we believe there is good reason not to) we will ensure that they are asked those questions, respond, and that we share their responses with you in a suitable manner.

15. We will not record this meeting without your knowledge. Please do not record the meeting yourself without our knowledge and consent. If at any time you have concerns about our grievance process or the individual(s) leading it on our behalf, you should tell us promptly and openly, so that we can address your concerns.

Stage 1b: formal disciplinary action – suspension for misconduct

16. It is possible that we may suspend you from work if you are accused of misconduct. This is not a prejudgment of any decision that we may ultimately reach. No decisions will have yet been made. Suspension typically arises because of the disciplinary concerns that have been raised and the factors considered thus far in the process. If we suspend you, it will be in order to cause the least disruption to the business while we investigate the matter.

17. If you are suspended from work, you will be prohibited from coming into your normal workplace, or any other premises from which we conduct our business. Unless we give you written authorisation to do so, you must not contact any staff, clients, customers or suppliers – unless your need to contact a particular individual arises from your intention to request them to act as a witness for you (in which case, you do not need to ask us first).

18. Provided that your contract terms do not contradict this, we will continue to pay you your full entitlement. If you fall sick during this suspension period and are unfit to work, you will be paid according to our Sickness Policy, which might mean you do not receive your full pay (e.g. if you are only entitled to statutory sick pay under your contract terms). If pre-approved holidays fall during a period of suspension, they will

still count as holiday leave and will be deducted from your holiday entitlement as normal.

Stage 1c: formal disciplinary action – if you raise a grievance

19. Our disciplinary process will usually continue uninterrupted, even if you raise a grievance while we are conducting our disciplinary investigation. If your grievance is linked to the matters that we are investigating under the disciplinary process, we will normally consider the matters you raise as part of the disciplinary process and will not start a separate grievance process.

Stage 2: formal disciplinary action – the Foundation's decision

20. Normally within 2 weeks of the formal meeting, we will provide you with the Foundation's written decision, outlining our conclusions and what we have decided.

Stage 3: formal disciplinary action – disciplinary action and our dismissal process

21. Where our decision identifies misconduct on your part, we generally take the approach set out immediately below. If we have identified gross misconduct, our approach is different. Please see further below.

- **Step 1:** You will receive a written warning from us, which will normally remain on your work record for 12 months from the date you receive our decision. It will then be removed from your record. The only exceptions will be if: you already have one or more non-expired written warnings on your work record; or your misconduct was serious (but not gross), in which case, we will move straight to Step 2 below. (For gross misconduct, see further below.)
- **Step 2:** If one (or both) of the exceptions in Step 1 have been met, we will issue you with a final written warning which will also go on your work record alongside any existing, still active, written warning(s). That final written warning will stay 'active' on your work record and expire 12 months from the date that you receive our written decision. After that 12-month period, it will be removed.
- **Step 3:** If Step 2 has already been taken and you are involved in further misconduct, you may be dismissed. You may also be dismissed for a serious case of misconduct, or if you are involved in gross misconduct. Occasionally at this point, although we are not obliged to do so, we may be prepared to consider other actions besides your dismissal. This might include, for example, extending your final written warning period, to provide additional time for you to convince us that your behaviour can reliably be improved, moving you into a different role within our business, or demoting you from your current position. Either of these latter two actions can result in reduced pay.

Stage 4: formal disciplinary action – appeals

22. You are entitled to appeal against any of the decisions we take under this process. Appeals will be heard by the Chairman and one other Trustee unless there are no remaining un-conflicted Trustees who did not hear the original case. If you want to appeal, you must write to us within a week of receiving our decision. You should address your letter to the person whom we have identified in our decision communication and you will need to give clear grounds for your appeal.

23. Once we have received your appeal letter, we will invite you to an appeal meeting. We will aim to hold this meeting within 2–3 weeks of receiving your appeal letter. Wherever we can reasonably organise this, the appeal meeting will be led by someone other than the person who led and made decisions relating to earlier disciplinary meetings about this instance of misconduct.

24. You are entitled to invite someone to accompany you at this meeting. (The rules outlined above apply here.)

Stage 5: formal disciplinary action – final decision, after an appeal

25. Our final decision will be sent to you in writing, normally within 2 weeks of the appeal meeting. You do not have any further right to appeal against our decision.

Gross misconduct

26. You will usually be dismissed without warning, without notice, and without payment in lieu of notice, if we find you have committed an act of gross misconduct. This is known as summary dismissal. You have the same rights of appeal as set out above in our misconduct process.

Adopted by a meeting of the Trustees on 1st February 2023