

Disciplinary Policy and Procedure (GWHR47)

This Policy applies to all Groundwork South and North Tyneside, Windmill and TEN North East staff and volunteers (hereafter referred to as Groundwork).

1. INFORMAL PROCEDURE/ADVISE THE EMPLOYEE OF THE PROBLEM

Lapses of discipline, a failure to meet required standards or breaches of the terms of an employee's employment will normally be dealt with by means of an informal discussion between the employee and their manager.

Where appropriate, a note of any such discussion may be placed on the employee's personnel file

If this step fails or where an employee's behaviour justifies it, more formal action will be taken.

2. FORMAL PROCEDURE

2.1 Establish the facts of the Case

It is important to carry out necessary investigations of potential disciplinary matters without unreasonable delay to establish the facts of the case.

The nature of the investigation will depend on the circumstances, however the investigation may include the collation of evidence and/or taking of witness statements and/or the holding of an investigatory (fact finding) meeting with the employee before proceeding to any disciplinary hearing.

There is no statutory right for an employee to be accompanied at the formal fact finding meeting but the employee will be allowed to be accompanied by a work colleague if they wish. This meeting should not by itself result in any disciplinary action but is purely held to establish the facts of the case.

In misconduct cases, where practicable, different people should carry out the investigatory (fact-finding) interview and the disciplinary hearing

An Investigation Manager will be appointed to carry out the investigation. Should disciplinary action be recommended by the Investigation Manager a Disciplinary Hearing Manager will be appointed.

The investigation should take no longer than 2 weeks to complete. If additional time is required this will be notified to the employee in writing.

2.2 Suspension

In certain cases suspension on full pay may be considered necessary in order that facts can be further investigated without the employee on site.

Suspension in itself is not a disciplinary sanction. Suspension will be on full pay and can only be authorised by Operations Managers or the Executive Team.

The period will be as brief as possible and will be reviewed on a weekly basis.

2.3 Notice of disciplinary action

If as a result of the investigation / fact finding interview it is decided there is a disciplinary case to answer, the employee will be notified of this in writing. This notification will contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting.

At this stage it would normally be appropriate to provide any copies of written evidence, which may include witness statements.

This notification should give details of the time and date and venue for the disciplinary meeting and advise the employee of their right to be accompanied at the meeting. It would be normal to provide at least 48 hours' notice of the meeting in order that the employee can arrange to be accompanied. The employee must take all reasonable steps to attend the meeting.

2.4 Disciplinary Meeting

At the meeting the Investigation Manager should explain the complaint against the employee and go through any evidence that has been gathered. The employee should be allowed to set out their case to the Disciplinary Hearing Manager and answer any allegations that have been made.

The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points of information provided by witnesses.

If either the employer or the employee intends to call relevant witnesses they should give advance notice that they intend to do this. The employee is responsible for arranging any witness they intend to call.

Employees have a statutory right to be accompanied; this may be a colleague, a trade union representative or an official employee of a trade union, but not a relative.

The person accompanying the employee should be allowed to address the hearing in order to sum up the employee's case and to confer with the employee during the meeting. They do not however have the right to answer questions on behalf of the employee, address the hearing in the absence of the employee or prevent the employee from explaining their case.

2.5 Sickness Absence during the Disciplinary Process

If an employee is absent from work due to sickness at any stage during the disciplinary process occupational sick pay shall not apply and they will be entitled to qualifying SSP payments only.

2.6 Types of disciplinary sanction

Depending on previous disciplinary action, the outcome of the disciplinary meeting and the nature of the employee's behaviour, the organisation may issue disciplinary warnings, suspend without pay, demote or dismiss. The disciplinary action taken will depend on the seriousness of the case and will be the action that is most appropriate in the circumstances. **Appendix 1** sets out the type of offences that may result in disciplinary action, although this is not an exhaustive list.

2.6.1 Written Warning/Improvement Note

If the misconduct or failure to meet the required standards is sufficiently serious to warrant it, or if there has been no satisfactory improvement following an informal procedure being followed, a written warning/improvement note will be given.

A copy of this written warning/improvement note will be kept on the employee's personnel file, but it will be disregarded for disciplinary purposes after 1 year.

2.6.2 Final Written Warning

If an employee's conduct or performance remains unsatisfactory or if the misconduct is sufficiently serious to warrant it, then a final written warning will be given.

A copy of this final written warning will be kept on the employee's personnel file, but it will be disregarded for disciplinary purposes after 1 year.

When issuing a written warning, the employee will be written to, detailing:

- the reason for the warning
- the period that the warning will remain in force
- what improvement is required, the timescale allowed for this, and how the improvement will be assessed
- what support is available (if appropriate)
- the consequence (i.e. the next stage of the disciplinary process) if there is no satisfactory sustained improvement or change, or if there is a recurrence or other misconduct
- details of the employee's right of appeal

2.6.3 Dismissal

An employee cannot be dismissed for a first breach of discipline (except in the case of gross misconduct). However, when previous warnings have been given, but there is continued failure to achieve the required standards, the employee may be dismissed.

The decision to dismiss must be approved by the Chief Executive/Deputy Chief Executive. The employee should be informed in writing of the reason for dismissal, the date on which the contract of employment will terminate, the period of notice (or pay in lieu of notice) and information about the right of appeal including how to make the appeal and to whom.

Where the disciplinary matter involves the Chief Executive, a nominated Board Member (usually the Chairman) will be required to hear the case at the disciplinary meeting. A Trustee of the Board will usually act as Investigating Manager. In the event of an Appeal, board members unconnected with the disciplinary meeting will sit to hear the appeal.

2.6.4 Summary Dismissal

Summary dismissal is where an employee is dismissed for a case of gross misconduct.

2.6.5 Gross Misconduct

Gross misconduct is generally seen as misconduct serious enough to destroy the contract between the Trust and the employee, making any further working relationship and trust impossible.

If, after investigation, it is deemed that an employee has committed an offence of gross misconduct, the normal consequence will be summary dismissal i.e. dismissal without notice or payment in lieu. Examples of offences deemed to be of gross misconduct can be found in **Appendix 1**.

2.6.6 Alternatives to Dismissal

In some cases, Groundwork may, at its discretion, consider alternatives to dismissal. Examples include demotion and a period of suspension without pay. These alternatives will usually be accompanied by a final written warning.

2.6.7 Safeguarding

In line with Groundwork's commitment to safeguarding there may be occasions when the organisation has a legal duty to refer a person to the Disclosure and Barring Service. Referrals will not be made following receipt of any allegation, but following the completion of the disciplinary procedures. HR will advise on the necessity to refer, complete the referral documentation. Any referral will be in line with the duty of legal compliance.

The DBS will ensure that an independent, impartial and structured approach is used in assessing future risk on people who may continue to be a safeguarding concern because of the actions or behaviour.

2.6.7 Right of Appeal

An employee has the opportunity to appeal against dismissal or notice of dismissal or notice of action short of dismissal. The grounds for appeal against dismissal are:

- Procedural error(s) which has/have fundamentally* undermined the application of the Disciplinary Procedure
- Disciplinary Sanction applied is inequitable against similar cases in the organisation
- New evidence relating to the allegation(s) has come to light, which would fundamentally* affect the outcome of the original disciplinary hearing.

*fundamentally – an action or evidence which could have a significant effect on the outcome of the original decision.

Appeals will be held without unreasonable delay at an agreed time and place.

Employees need to inform management of their grounds for appeal in writing. An employee needs to appeal to the Chief Executive in writing within 5 working days of the decision being communicated. The Chief Executive or Deputy Chief Executive will hear the appeal.

The decision of the appeal will be final and will be confirmed in writing to the employee within five working days.

An employee has the statutory right to be accompanied at an appeal hearing.

3. Special Cases

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and customers.

APPENDIX 1

EXAMPLES OF CONDUCT

Poor Conduct

- Unsatisfactory attendance record
- Persistent bad time-keeping
- Unauthorised absence from place of work

Unsatisfactory Conduct

- Minor violations of agreed policies and procedures
- Refusal to obey a reasonable management instruction
- Failure to report sickness absences
- Lack of due care in respect of Health and Safety regulations

Misconduct

- Serious neglect of work
- Incapacity at work due to intoxication (alcohol or drugs)
- Wilful neglect of laid down policies and procedures
- Objectionable, bullying and/or insulting behaviour

Gross Misconduct

- Malicious attack of fellow employees or other persons on the Trust premises
- Acceptance of bribes to the detriment of the Trust or its employees
- Theft fraud and deliberate falsification of records, including, but not limited to, calculation of wages, expenses and travel claims
- Unauthorised removal or possession of Trust or fellow employees property
- Indecent behaviour
- Wilful destruction of Trust property
- Extreme cases of insulting behaviour on the Trust premises
- Wilfully endangering the lives of any persons on the Trusts premises
- Misuse or unauthorised use of Trust facilities or name
- Breaching confidentiality

Date of Issue: February 2020

Review Date: February 2022

- False allegations and/or malicious complaints
- Serious breach of Trust policies and or procedures
- Serious insubordination, wilful or persistent refusal to obey reasonable instructions from a manager
- Action which brings the Trust into serious disrepute
- Falsification of qualifications which are a stated requirement of the post
- Serious infringement of health & safety rules
- Deliberate damage to, neglect of, or misappropriation of safety equipment
- Use of internet for 'hacking' or downloading illegal material
- Covert Recording of Meetings or Third Party Conversations
- Subsequent discovery of deliberate falsification on the application form that was submitted at recruitment
- Breakdown of Trust in relationship between Employer and Employee
- Gross Negligence
- Posting derogatory or offensive comments about the organisation or work colleagues on social media.

This list is neither exclusive nor exhaustive, and other offences of a similar gravity may constitute poor/unsatisfactory/misconduct/gross misconduct.

OFFENCE	1ST OCCASION	2ND OCCASION	3RD OCCASION	4TH OCCASION
Poor Conduct	Written Warning (Stage 1)	Written Warning (Stage 2)	Final Written Warning (Stage 3)	Dismissal (Stage 4)
Unsatisfactory Conduct	Written Warning (Stage 2)	Final Written Warning (Stage 3)	Dismissal (Stage 4)	
Misconduct	Final Written Warning (Stage 3)	Dismissal (Stage 4)		
Gross Misconduct	Dismissal (Stage 4)			

Authority to give disciplinary sanction

Programme Leads and the Executive Team have the authority to give disciplinary sanctions up to and including final written warnings.

In addition, the Executive Team have the authority to dismiss.