

WEST EUSTON PARTNERSHIP

Disciplinary Procedures

1 Introduction

Set out below are the employer's current disciplinary procedures these do not form part of the contract but represent the employer's current practice, which it may vary from time to time.

This procedure should be used the employer to settle all issues of misconduct and unsatisfactory performance by an employee.

The procedures are in accordance with the statutory dismissal and disciplinary procedures set out in the Employment Act 2002.

2 Purpose and scope

The purpose of the Organisation's Disciplinary Procedure is to help and encourage all employees and workers to achieve and maintain required standards of conduct, job performance and good discipline. This procedure applies to all staff except for those in their probation period.

It sets out to enable the individual whose performance and/or conduct has failed to reach the required standard, to make the necessary improvement through guided instruction.

The aim is to ensure that the Organisation's interests are safe-guarded, while staff are treated fairly and equitably, with an emphasis on correction rather than punishment.

The purpose of this procedure is to clarify the rights and responsibilities of management and workers in respect of disciplinary action. Its objective is to provide a fair and consistent means by which disciplinary rules are observed and standards of work performance and conduct are maintained.

It provides a method for dealing with alleged breaches of organisational policies, rules and procedures; cases of alleged misconduct; or persistent poor performance. It ensures that disciplinary action, if taken, is appropriate to the circumstances.

The procedure may be implemented at any stage where in the opinion of the senior management or trustees the circumstances justify such a course of action.

3 Principles

Line managers have a responsibility to ensure that the staff for whom they are responsible are aware of general and specific rules, standards and procedures laid down for the regulation of work and conduct. Workers are required to familiarise themselves with these standards and procedures and to co-operate with their managers to ensure that they are adhered to.

In cases of minor misconduct or unacceptable performance or behaviour, managers should exhaust all other means of achieving the required standards before formal disciplinary action is taken. This will include setting clearly defined objectives and standards, monitoring them over a reasonable time period and providing additional coaching or training. In some cases this may also include reference to other appropriate sources of counselling and assistance.

No disciplinary action will be taken until a case has been thoroughly investigated. When commencing an investigation into an allegation of misconduct there shall be no assumption that disciplinary action will automatically follow.

At every stage of the procedure, workers will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.

The line manager investigating a case must decide if further action should follow and assess the level at which the disciplinary hearing should be held.

They must ensure that it is conducted by a management representative (whether line manager, director, chair, Board of Trustees panel) authorised to take appropriate disciplinary action if the allegation is substantiated.

Disciplinary action will only take place where it is decided, following a disciplinary hearing, that misconduct had occurred and disciplinary action is appropriate.

Workers will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty will be dismissal without notice and with or without payment in lieu of notice.

The procedure may be implemented at any stage if the alleged misconduct warrants such action.

At all stages of the disciplinary procedure both manager and the individual concerned must ensure the confidentiality of events and discussions. This will not preclude sharing such confidence when seeking advice. Any discussions with witnesses should be confined to the specific areas on which the witnesses may have information. Any unreasonable breach of confidence may itself be treated as a disciplinary case of misconduct.

All formal letters sent to a worker under the terms of this procedure shall either be handed to her/him personally or sent by Recorded Delivery. Copies of all correspondence shall be sent to his/her representative unless indicated otherwise by the worker.

Recorded and written warnings will cease to be 'live' following the specified period of satisfactory conduct or performance and will be disregarded for future disciplinary purposes.

4 Record keeping

In the interests of the employer and employee records will be kept during the disciplinary procedure that include:

- the complaint against the employee
- the employee's defence
- findings made and actions taken
- the reasons for action taken
- whether an appeal was lodged
- the outcome of the appeal
- any grievances raised during the disciplinary procedure; and
- subsequent developments

All records will be treated as confidential and kept in accordance with the Data Protection Act 1998.

5 The right to be accompanied

All employees have the right to be accompanied at a disciplinary hearing. The employee must make a reasonable request to the employer if they want to be accompanied.

The companion can be either a fellow colleague or a union official.

For the purposes of this disciplinary procedure a hearing is a meeting as identified below in the procedures at which the employer deals with the misconduct or unacceptable performance of an employee.

6 Disciplinary rules

Beaches of disciplinary rule include:

- dishonesty;
- breach of confidentiality;
- negligent use, misuse or unauthorised use of the Organisation's property, including equipment, materials and information;
- threatened physical assault;
- abusive behaviour, offensive or obscene language or gestures directed at employees; members of the Board of Trustees; members of the public;
- deliberate or reckless damage to organisations property;
- failure to observe established health, fire and safety rules and to report accidents or injuries whilst on duty;
- serious neglect of duty which undermines the organisation;
- failure over a period of time to perform work to satisfactory standards;
- failure to carry out duties effectively while under the influence of alcohol or drugs, other than medically prescribed;
- refusal to carry out a reasonable order of a manager;
- misuse of the individual's employed position towards a fellow employee or a member of the public, including oppressive or abusive conduct; bullying, harassment or victimisation;
- persistent lateness;
- absence from duty without permission of supervisor, line manager (director or Chair);
- excessive sickness absences with no appropriate certificates or authorisation;
- failure to comply with policies, procedures and regulations as laid down by the Organisation from time to time;
- undertaking additional employment which would counter the interests of the Organisation or would conflict with the employee's own position;
- making a false statement of any kind within the realms of the Organisation's employment, knowing it to be false or having reckless regard as to either the validity or falseness of the statement.

The list above provides examples and should not be considered exhaustive.

7 The Procedure

7.1 Informal Action

Where ever possible a case of minor misconduct or unsatisfactory performance will be dealt with informally.

If informal action has been tried, but is not working formal action will be implemented.

If the case is considered to be too serious to be classified as minor, formal action will be implemented.

7.2 Formal action

At every stage you will have the opportunity to state your case and be accompanied, if you wish, at the hearing by a trade union representative or by a fellow employee at any disciplinary interview.

Prior to a disciplinary hearing you will be told the nature of the alleged offence, the nature of the evidence of the offence, the range of possible outcomes and reminded of your right to be accompanied.

A warning will usually contain a date after which it will be disregarded in any further disciplinary hearing. This will generally be 12 months but in appropriate cases, the right is reserved to extend this period.

Stage 1: Oral warning

If conduct or performance is unsatisfactory, you will be given a formal oral warning, which will be recorded on your personnel file. You will be advised of the reason for the warning and that the warning is the first stage of the disciplinary procedure.

Stage 2: Written warning

If the offence is serious or if there is no improvement in standards of conduct or work performance, or if a further offence occurs, a **WRITTEN WARNING** will be given which will include the reason for the warning and a note that, if there is no improvement or a repeat of the offence a **FINAL WRITTEN WARNING** will be given.

Stage 3: Final written warning

If the offence is very serious or if conduct or performance is still unsatisfactory, **A FINAL WRITTEN WARNING** will be given making it clear that any recurrence of the offence or **other serious misconduct will result in dismissal.**

The warning will also include details of the complaint and the length of any period over which the employee's performance or conduct will be reviewed.

Stage 4: Dismissal

If there is no satisfactory improvement, or if further misconduct occurs, the employee will be dismissed.

The next stage will be implemented through the Standard statutory dismissal and disciplinary procedure identified below.

7.3 Standard statutory dismissal and disciplinary procedure

This procedure applies to disciplinary action short of dismissal (excluding oral and written warnings and suspensions on full pay) based either on conduct or capability. It also applies to dismissal (except for constructive dismissals) including dismissals on the basis of conduct, capability, expiry of a fixed term

contract, redundancy and retirement.

Step 1: Statement of grounds for action and invitation to a meeting

The employer must set in writing the employee's alleged conduct or characteristics, or other circumstances, which lead them to contemplate dismissing or taking disciplinary action against the employee.

The employer must send the statement or a copy of it to the employee and invite the employee to attend a meeting to discuss the matter.

Step 2: Meeting

The meeting must take place before action is taken, except in the case where the disciplinary action consist of suspension.

The meeting must not take place unless:

- i) the employer has informed the employee what the basis was for including in the statement under Step 1 the grounds or grounds given in it; and
- ii) the employee has a reasonable opportunity to consider their response to that information

The employee must take all reasonable steps to attend the meeting.

After the meeting, the employer must inform the employee of their decision and notify them of the right to appeal against the decision if they are not satisfied with it.

Employees have the right to be accompanied at the meeting (see section 5)

Step 3: Appeal

If the employee wishes to appeal, they must inform the employer.

If the employee informs the employer of their wish to appeal, the employer must invite them to attend a further meeting.

The employee must take all reasonable steps to attend the meeting.

The appeal meeting need not take place before the dismissal or disciplinary action takes effect.

Where reasonable practical, the appeal should be dealt with by a more senior manager than attended the first meeting (unless the most senior manager attended the meeting).

After the appeal meeting, the employer must inform the employee of their final decision.

Employees have the right to be accompanied at the appeal meeting (see section 5)

8 Gross misconduct

In the case of Gross Misconduct the Statutory Modified Grievance procedure can be followed instead.

If, after investigation, it is confirmed that you have committed gross misconduct, the normal consequence will be dismissal without notice or pay in lieu of notice

8.1 Definition of Gross misconduct

Acts, which constitute gross misconduct, are those resulting in a serious breach of contractual terms.

Examples of gross misconduct include:

- Theft or fraud
- physical violence and bullying
- deliberate and serious damage to company property
- conduct endangering any person or causing serious damage to the business or reputation of the company
- gross negligence
- breach of professional ethics or good conduct
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- bring the organisations into serious disrepute
- incapacity for work due to being under the influence of alcohol or illegal drug
- unlawful discrimination or harassment
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules; and
- a serious breach of confidence

9 Suspension

While the alleged misconduct is being investigated you may be suspended, during which time you will be paid your normal salary. Such suspension, which does not imply guilt or blame, will be for as short a period as possible. In cases of alleged gross misconduct the suspension may be without pay or at reduced pay.

Date adopted:

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