

Disciplinary Procedure

Ben's Centre for Vulnerable People (Sheffield)
Charity Number: 1087606.

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Introduction

We will ensure any issues concerning an employee's conduct are handled promptly and fairly. We will usually attempt to talk about conduct concerns on an informal basis first, as an early conversation may be enough to identify the issue and take steps to resolve it. Most minor conduct-related issues can be resolved informally.

However, where an informal approach is unsuccessful, or the allegations are so serious that an informal approach is inappropriate, we will follow a formal disciplinary procedure.

This policy outlines the disciplinary procedure, the roles of those involved and the support that is available to those involved.

The Procedure has been written in accordance and after consideration of current ACAS guidance. It does not form part of an employee's employment contract and we reserve the right to change or remove it at any time.

Scope

This policy applies to employees. It does not apply to contractors, consultants or any self-employed individuals working for the organisation.

If you have a grievance that relates to ongoing disciplinary proceedings against you, you should raise this during the disciplinary procedure (for example during the disciplinary meeting or appeal stage).

If you raise a grievance during disciplinary proceedings that is unrelated to those proceedings, the disciplinary proceedings and grievance procedure will normally run independently in parallel.

Mediation

Depending on the nature of the alleged conduct, we may suggest mediation as a means of trying to resolve it.

This involves the appointment of a third-party mediator, who will discuss your grievance with all of those involved and seek to facilitate a resolution.

We will use mediation only where you and any other individuals involved in the disciplinary issue, agree to do so.

Fairness and Respect

We recognise that a disciplinary procedure can be stressful and upsetting. Everyone involved in the process is entitled to be treated calmly and with respect.

We will not tolerate abusive or insulting behaviour from anyone taking part in a disciplinary procedure and will treat any such behaviour as further potential misconduct.

Remote Proceedings

Where it is not possible to hold a face-to-face meeting under this procedure, we will conduct the process remotely. We will ensure that all those participating have access to the necessary technology.

Your rights will not be affected, and we will ensure that the procedure remains fair and reasonable.

Adjustments to Proceedings

If you have a disability that may have an impact on your ability to participate fully in this procedure, or if you need assistance because English is not your first language, you should make your line manager aware, who will make appropriate arrangements for you.

Recording of Meetings

A written record of all meetings conducted under this procedure will be made, either by the person holding the meeting or by an additional person arranged by us to take notes.

You, or any person acting with you or on your behalf, are not normally permitted to record electronically any meeting that we hold under the disciplinary procedure. This is to encourage openness and full participation. Any breach of this provision may lead to disciplinary action, which could include dismissal.

In certain limited circumstances, we may permit a meeting to be recorded electronically, for example where it is a reasonable adjustment for an employee with a disability. Where we permit a meeting to be recorded electronically, we will take responsibility for making the recording.

Where we intend to record meetings held remotely, we will comply with our data protection obligations and obtain prior consent from all attendees.

Change of Circumstances

Sometimes circumstances prevent parts of this procedure from being followed in full. For example, employees may be too ill to participate in a disciplinary meeting or a specified manager may be unavailable to chair the meeting.

When this happens, we will do our best to ensure that you fully understand the allegations, are given a proper opportunity to respond to them and that your response is fairly and carefully considered.

Postponement of Meetings

We will make every effort to ensure that any meeting we hold under this procedure is scheduled for a time and place that is reasonable and within your normal working hours. You are therefore required to attend the meeting if it is possible for you to do so. If you are too ill to attend, or have some other reasonable excuse, we will consider re-arranging the meeting to a time when your attendance is possible.

However, it is important to ensure that disciplinary procedures are completed within a reasonable timescale. We reserve the right to proceed with a meeting in your absence when it has not been possible to arrange a meeting that you are able to attend. In that case, we will make every effort to ensure that you are able to make representations in writing or through a representative.

If your companion is not available to attend the meeting, we will agree to postpone. However, any such postponement must be short, and we reserve the right to proceed with the original meeting if no new date can be found that is within five working days of the scheduled date.

Conduct and Behaviour – Gross Misconduct

Gross misconduct is conduct that is so serious that it justifies dismissal without notice or payment in lieu of notice, although we will always consider the circumstances of any case before deciding on the appropriate penalty.

Examples of gross misconduct include but are not limited to: theft and dishonesty; physical violence; serious instances of bullying or harassment (whether in person or online); acts of discrimination against fellow staff members, clients or customers; deliberate damage to company property; any conduct that negatively affects our brand or reputation; unauthorised disclosure of confidential information; serious breach of our rules, including, but not restricted to, health and safety rules and rules on computer use; consuming alcohol or unlawful

drugs during working hours or in the workplace; smoking (including the use of e-cigarettes) in any unauthorised area; unauthorised use of computer equipment; misuse of company passwords or log-in details; deliberate breach of procedures on the handling of personal data; deliberate refusal to follow reasonable instructions; accessing obscene or pornographic material while at work or on equipment that we provide; falsifying time sheets or work logs; breach of requirements relating to safeguarding of children or vulnerable adults; deliberate breach of professional standards relevant to your employment; and offering or accepting a bribe within the meaning of the Bribery Act 2010.

Conduct and Behaviour – Misconduct

Examples of misconduct for which disciplinary action is appropriate include but are not limited to:

- persistent poor timekeeping;
- breach of our absence reporting procedures;
- general disobedience;
- careless work;
- time-wasting;
- disruptive behaviour; and
- insulting or offensive behaviour towards others, not amounting to serious harassment or bullying.

Conduct and Behaviour – Actions Outside Work

We may consider your actions outside work including your use of social media to be gross misconduct, or misconduct, if they affect your ability to carry out your job or have a negative effect on our reputation.

Allegations of Misconduct

Where an allegation of misconduct is made against you that cannot be resolved informally, or it is not appropriate to do so, the allegation will be explained to you by your Line Manager or, where appropriate, a different manager. The details of the allegation will also be confirmed to you in writing, together with a copy of this disciplinary procedure.

Suspension

In some cases, it may be appropriate to suspend you from work for a temporary period while the disciplinary matter is dealt with. This is in no way intended to indicate guilt on your part. It is an administrative measure designed to protect the business or ensure the smooth running of the disciplinary procedure. Any period of suspension will be regularly reviewed, kept as short as possible and will be fully paid.

Stages of the Process

Stage 1 – Investigation

We will investigate the allegations to decide whether there is sufficient evidence to justify taking the matter further. The person appointed to conduct the investigation will usually talk to you at an early stage to hear your response to the allegations and will talk to anyone else who may have relevant information.

Where appropriate, the investigation may also include the examination of documents, including emails and other forms of electronic communication. It is important that you cooperate fully with the investigation process as this is the best way to ensure a fair outcome.

Once the investigation is complete, we will decide whether to proceed to a formal disciplinary meeting or whether the matter can, in fact, be resolved informally or without any further action.

Stage 2 – Hearing your disciplinary case

Invitation to a disciplinary meeting

If we consider that it is necessary to hold a disciplinary meeting, we will confirm this to you in writing. You will usually be given at least five days' notice of any meeting, depending on the complexity of the case, to allow you to prepare and to arrange for a companion to accompany you.

You will be entitled to be accompanied by a fellow employee or a trade union official. The responsibility for finding a companion rests with you. If your chosen companion is not a fellow employee, we reserve the right to check their credentials as an accredited trade union representative.

We will give you a copy of any evidence collated during the investigation in advance of the disciplinary meeting, and you will be invited to submit any further evidence that you consider to be relevant.

The disciplinary meeting

The disciplinary meeting will be conducted by an appropriate representative of management plus other panel members as may be appointed. As far as possible, we will ensure that the disciplinary meeting is conducted by managers who have not previously been involved in the matter.

The evidence gathered during the investigation will be presented and you and your companion will be given an opportunity to confer and to respond. You may also call on witnesses to give evidence on your behalf, if they are willing, and their evidence is relevant to the issues being considered in the meeting.

The chair of the meeting may choose to adjourn the meeting so that further evidence can be obtained. If this happens, the meeting will be reconvened once this is done, and you will be given an opportunity to respond to any new evidence. Before the meeting closes, you, or your companion, will be given opportunity to make any comments or representations that you think are relevant and which may explain the situation.

The outcome

The chair of the meeting will usually adjourn for a period to consider the outcome. The outcome will usually be communicated when the meeting is reconvened but will, in any case, be confirmed to you in writing as soon as possible and usually within five working days after the meeting.

Disciplinary penalties

If the allegations are upheld to any extent, formal disciplinary action may be taken. This will usually take the form of a first written warning for a first offence. However, we reserve the right to implement this procedure at any stage depending on the circumstances and misconduct.

- A first written warning is appropriate for instances of misconduct that are sufficiently serious to warrant disciplinary action, but where there is no current warning in place. The warning will set out the nature of the misconduct and explain that any further misconduct, similar or otherwise, will be likely to result in further disciplinary action.
- A final written warning is given in cases of serious misconduct or where there is a live first written warning in place and the circumstances justify it. It will set out the nature of the misconduct and make it clear that any further misconduct, similar or otherwise, will be likely to result in dismissal.
- If you are found to have committed misconduct while subject to a live final written warning, the outcome may be that you are dismissed with notice.
- If you are found to have committed gross misconduct, the outcome may result in you being dismissed without notice. In these circumstances, your contract of employment will end immediately, although this will not affect your right of appeal.

In exceptional circumstances, for instances where you are likely to continue to commit misconduct even if subject to warning, you may be dismissed even if no warning of dismissal has been given. Depending on the terms of your contract, this may involve being given a payment in lieu of notice (PILON). If you are dismissed with notice, we reserve the right to instruct you not to work for the duration of your notice period.

Where we find that the misconduct is sufficiently serious to justify dismissal, we may consider alternative disciplinary action where your terms and conditions of employment allow for this.

Making an Appeal

Stage 3 - Appeal

Appealing against the outcome

If you believe that a disciplinary penalty is unfair, you are entitled to appeal. You should appeal in writing to the manager who chaired the disciplinary meeting within five working days of receipt of the disciplinary outcome letter. In this communication you should set out the grounds on which you believe the outcome of the original meeting to have been unfair.

Appeal meeting

We will then arrange an appeal meeting within five working days to consider the matter. However, if this is not possible, you will be informed of the reason for any delay. You are entitled to be accompanied by a fellow employee or a trade union official.

The appeal meeting will be conducted by a more senior manager than the manager who conducted the original disciplinary meeting, who will consider the grounds that you have put forward and review the conclusion reached in the original disciplinary meeting. At the meeting you will be given the opportunity to explain why you feel the initial meeting reached the wrong conclusion.

Depending on the circumstances, the meeting may either solely consider the points that you have raised, or it may reconsider the whole case and reach its own conclusion on the correct outcome. Where it is considered appropriate, our external human resources partner may be in attendance.

Outcome of appeal

Following the appeal meeting, the relevant manager will inform you in writing, usually within five working days, of the outcome. If the result of the appeal is that a decision to dismiss you is overturned, you will be reinstated immediately. You will be reimbursed in full for wages lost since your dismissal. The outcome of the appeal is final.

Duration of Warnings

When you are given a warning, we will tell you how long it will remain live. This will depend on the specific circumstances. However, in general:

- a first written warning remains live for up to six (6) months; and
- a final written warning remains live for twelve (12) months.

Warnings may be live for a longer period depending on the seriousness of the misconduct and the wider circumstances of the case. Once a warning has expired, it will no longer be considered when determining the level of any further disciplinary action.

Trade Union Representatives

If you are an accredited representative of a recognised trade union, we will endeavour to take no action under this procedure, except for suspending you in a case of alleged gross misconduct, until we have had an opportunity, with your agreement, to discuss the matter with a full-time official of the union.

Review

This policy may be reviewed at any time at the request of any member of staff, but it will be automatically reviewed 2-years after initial approval and thereafter on a triennial basis unless organisational changes, legislations, guidance, or non-compliance prompt an earlier review.

Definitions

Ben's Centre ("we", "us", "our")

The Employee ("you")