PEATRIGG
Charitable Foundation

Disciplinary Policy

1.0 DISCIPLINARY POLICY

The purpose of this policy is to ensure fair and consistent treatment of all employees when disciplinary action becomes necessary due to misconduct. Cases of misconduct may include issues like theft, fraud, physical/mental abuse, harassment and bullying etc. (this is not an exclusive list). The maintenance of discipline and good working practices does not necessarily require the use of formal procedures. Informal warnings, aimed at helping an employee to improve, are preferable, unless an offence is repeated or serious. When an informal warning has not accomplished the desired effect or the offence warrants more serious action, then, following an investigation, the formal procedure may be invoked.

2.0 INFORMAL PROCESS

Cases of minor misconduct may be dealt with on an informal basis. Where improvements are required, the employer will make sure the employee understands what needs to be done, how their misconduct will be reviewed and over what period. Where informal action is agreed, the conversation will be recorded, agreed and signed by the employee and employer and retained on the individual's file. In some cases, additional training, coaching or advice may be what is needed. There could also be situations where matters are more serious or where an informal approach has been tried but is not working.

If an informal approach does not bring about an improvement or the misconduct is considered too serious to be classed as minor, the matter will be progressed to the formal disciplinary process.

If during the informal process, it becomes apparent that the matter may be more serious, the meeting should be adjourned. The employee will be advised that the matter will be continued under the formal disciplinary process.

3.0 FORMAL PROCESS

3.1 Investigation

Prior to a disciplinary hearing an investigation will normally take place to establish the facts of the misconduct / complaint / allegation. Investigations should be conducted without unreasonable delay. On occasions, it may not be necessary to conduct an investigation; the facts may be collated and

progressed straight to a disciplinary hearing. Wherever possible the employee will be notified in writing that they are required to attend an investigatory meeting. The letter will also briefly state the reason the investigation meeting has been called.

The employer will conduct the investigatory meeting. Minutes of the meeting will be taken, and the employer and the employee will be asked to sign the minutes as a true record of the meeting.

The employer will then complete a Summary of the Investigation form which confirms whether the case should proceed to a disciplinary process or not.

3.2 Suspension

During an investigatory process, it may be necessary to suspend an employee from their normal duties, until the investigation has been concluded. Suspension from duties is not an assumption of guilt and is not considered a disciplinary sanction. The employer will normally suspend an employee from their duties in cases of gross misconduct, or where there has been a break down in relationships, or where there are risks to other employees, or the employer's property, or where the employer has responsibility to other parties.

Suspension with pay will only be imposed after careful consideration and the period of suspension will be reviewed to ensure it is not unnecessarily protracted.

Wherever possible, suspension from duties will be with full pay, up to a maximum of 10 working days. The employee will be advised in writing of the terms of the suspension. During a period of suspension, the employee must make themselves available at the employer's request.

3.3 Disciplinary Hearings

If it is decided that the matter should proceed to disciplinary action, the employer will give the employee 3 working days' notice in writing of the date, time and venue of any Disciplinary Hearing, its nature, their right to be accompanied by a work colleague, or other suitably qualified individual, and the reasons in broad terms for the hearing. The disciplinary hearing will be held without unreasonable delay. All relevant minutes, documentation and information collated as part of the investigation will be issued to the employee, along with the invitation to the disciplinary hearing. In certain circumstances (for example to protect a witness) the employer might withhold some information.

During the disciplinary hearing the employee will be given reasonable opportunities to ask any questions, present evidence and call relevant witnesses. They will also be given the opportunity to raise points about any information provided by witnesses. Where an employer or employee intends to call relevant witnesses, they should give advance notice that they intend to do this.

3.4 Recording of Meetings / Hearing

It is strictly prohibited for the employee or their companion to record any disciplinary meetings or hearings via any electronic device. The employee or the companion is able to take written notes during the meeting / hearing. A factual record of the meetings / hearings (minutes of meeting) will be taken, and a copy given to the employee. The minutes are not meant to be verbatim, but great care goes into ensuring they are as complete and accurate as possible.

3.5 Right to Be Accompanied

Employees have a statutory right to be accompanied where they are required or invited by the employer to attend disciplinary or grievance hearings.

3.5.1 The statutory right is to be accompanied by a fellow worker, or a suitably qualified or experienced individual. Employers must agree to an employee's request to be accompanied by any companion from one of these categories.

3.5.2 Employees may also alter their choice of companion if they wish. As a matter of good practice, in making their choice employees should bear in mind the practicalities of the arrangements. For instance, an employee may choose to be accompanied by a companion who is suitable, willing and available on site rather than someone from a geographically remote location.

3.5.3 To exercise the statutory right to be accompanied, employees must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. A request to be accompanied does not have to be in writing or within a certain time frame. However, an employee should provide enough time for the employer to facilitate the companion's attendance at the meeting. Employees should also consider how they make their request so that it is clearly understood, for instance by letting the employer know in advance the name of the companion where possible and whether they are a fellow worker or trade union official or representative.

3.5.4 If an employee's chosen companion will not be available at the time proposed for the hearing by the employer, the employer must postpone the hearing to a time proposed by the worker provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

3.5.5 The companion should be allowed to address the hearing to put and sum up the employees' case, respond on behalf of the worker to any views expressed at the meeting, ask any witnesses questions and confer with the worker during the hearing. The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it or prevent the employer from explaining their case.

3.5.6 The employer will not allow any other individual to attend the meeting for example a member of the legal profession or a family member. The Disciplinary Procedure is an internal process.

3.5.7 An employee who has agreed to accompany a colleague will be entitled to take a reasonable amount of paid time off from their duties to fulfil this responsibility. Time away from their duties will include time for the companion to familiarise themselves with the details of the case and confer with the employee before and after the hearing.

3.6 Non-Attendance at Disciplinary Hearing

If an employee does not attend a scheduled disciplinary hearing, the hearing will be re-scheduled. The employer will give the employee a further 3 working days' notice in writing of the date and time of any Disciplinary Hearing, its nature, their right to accompaniment and the reasons in broad terms for the Hearing.

If the employee fails to attend the second scheduled Hearing, the Hearing will take place in the absence of the employee. The employee wherever possible, will be advised where this is to be the case. A decision will be made based on the information available, and the employee will be notified of the outcome of the Hearing in writing.

3.7 Disciplinary Sanctions

When deciding whether a disciplinary sanction is appropriate and what form it should take, consideration will be given to:

- Whether standards of other employees are acceptable, and this employee is not being unfairly singled out
- The penalty imposed in similar cases in the past
- The employee's current disciplinary record
- Whether the proposed sanction is reasonable in view of all the circumstances
- Whether any training, additional support or adjustments to the work are necessary

The employer will look at each individual case on its own merits and any relevant circumstances will be taken into account. This does not mean that similar offences will always call for the same disciplinary sanction. Relevant circumstances may include health or domestic problems, provocation or inconsistent treatment in the past.

The appropriate disciplinary action and sanction will be determined on the circumstances of each individual case. Therefore, it may not be appropriate for this policy to be followed in the specified order. There may be circumstances where it is reasonable to commence disciplinary action at any stage as outlined in the Policy. With employees in their first 6 months of employment, or with a more senior employee, it may be reasonable for the employer to adopt an accelerated or abbreviated approach.

The following list outlines the categories of sanctions and the stages of the disciplinary process:

i. Verbal warning

ii. Initial Written Warning

iii. Final Written Warning

iv. Dismissal

On occasions, it may be more appropriate to issue a Letter of Concern to the individual rather than issue a formal disciplinary sanction. A Letter of Concern will highlight to the individual that the employer has some concerns regarding their conduct which do not warrant a formal disciplinary sanction being imposed, however further instances of misconduct of a similar nature within a six-month period may result in disciplinary action. It may on occasions be necessary to issue a Letter of Concern as an outcome of the informal process.

In some circumstances, for example where an employee is on a Final Written Warning and where Dismissal would otherwise apply, it may be preferable to apply a sanction other than the ultimate one. Sanctions which may accompany or replace any of the sanctions above are:

v. salary sanction
vi. with-holding of incremental review
vii. extending the period of the final written warning

Other than dismissal, sanctions imposed will remain in force for six months, unless otherwise stated.

4.0 DISCIPLINARY PROCESS

4.1 1st Stage – Verbal Warning

On the first occasion of an offence, other than gross misconduct, the employer will give a verbal warning to the employee. A letter will be issued to the employee confirming the detail and the outcome of the disciplinary hearing and a copy placed on their file. This letter will remain on their file for a period of six months. The employee has the right to lodge an appeal (Refer to Appeals Procedure).

In the case of more serious offences, a repeat of the misconduct for which the Initial Warning was given, an accumulation of minor offences or failure to respond to the previous warning, the individual may be given an Initial Written Warning (second stage). Unless the employee appeals against a disciplinary decision within five working days, it will be deemed that the employee has accepted the decision.

4.2 2nd Stage - Initial Written Warning

If there has been no improvement since the issue of a verbal warning, or if another offence has been committed, or if the initial offence itself is serious enough to warrant it, an initial written warning will be issued by the employer. A letter will be issued to the employee confirming the detail and the outcome of the disciplinary hearing and a copy placed on their file. This letter will remain on their file for a period of twelve months. The employee has the right to lodge an appeal (Refer to Appeals Procedure).

In the case of a very serious offence or offences, or if the required improvement has not been made following stage two, a Final Written Warning (third stage) may be warranted. Unless the employee appeals against a disciplinary decision within five working days, it will be deemed that the employee has accepted the decision.

4.3 3rd Stage – Final Written Warning

The employer will issue a Final Written Warning if there is no improvement following the issue of an Initial Written Warning, or if another offence has been committed or if the initial offence itself is serious enough to warrant it. A letter will be issued to the employee confirming the detail and the outcome of the disciplinary hearing and a copy placed on their file. This letter will remain on their file for a period of twelve months. The employee has the right to lodge an appeal (Refer to Appeals Procedure). Unless the employee appeals against a disciplinary decision within five working days, it will be deemed that the employee has accepted the decision.

4.4 Dismissal

Where an employee has still failed to meet the required standards within the specified time period or has committed further misconduct or in any case of gross misconduct, dismissal may be considered necessary. The decision to dismiss will only take place after all contributing factors have been thoroughly considered.

In certain circumstances, due to the severity of the offence the employer reserves the right to accelerate the disciplinary process. A letter will be issued to the employee confirming the detail and the outcome of the disciplinary hearing and a copy placed on their file. The employee has the right to lodge an appeal (Refer to Appeals Procedure Section 5.0). Unless the employee appeals against a disciplinary decision within five working days, it will be deemed that the employee has accepted the decision. Where an employee is being dismissed, they will be asked to leave the company on the day that the

decision to dismiss has taken place. Unless the employee is being dismissed for reasons of gross misconduct the employee should receive the appropriate period of notice or payment in lieu of notice.

5.0 DISCIPLINARY APPEALS PROCEDURE

Where an employee feels that disciplinary action taken against them is unfair or unjust they may appeal against the decision made at the disciplinary hearing. Appeals may be raised by employees on any number of grounds, for instance new evidence, undue severity or inconsistency of the penalty.

Should an employee wish to appeal, they should do so in writing clearly stating their grounds for their appeal to the employer. The wish to appeal must be lodged within five working days of receipt of their disciplinary letter. Any appeal hearing will be held as soon as is reasonably possible after the wish to appeal has been lodged.

5.1 Levels of Management to hear a Disciplinary Appeal

The appeal meeting will involve the employee and the employer. The employee may choose to be accompanied (please see section 3.5 Right to be Accompanied). The appeal hearing is not a re-run of the original hearing and only the points raised in the appeal letter will be addressed during the appeal meeting. The appeal hearing provides the opportunity for the employee to elaborate on the reasons and any new evidence put forward in their appeal letter for disagreeing with the original disciplinary decision or process. A disciplinary appeal is not part of the grievance procedure. A letter will be issued to the employee confirming the detail and the outcome of the appeal hearing within 5 working days of the appeal hearing and a copy placed on their file. The decision made will be final.

If this arrangement is unlikely to result in an amicable agreement, the employer may appoint a different manager or even an external professional to hear the appeal.