



## **Disciplinary Procedure**



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## **1. Purpose and Scope**

- 1.1 This procedure is designed to help and encourage all employees to achieve and maintain the standards of conduct expected by Fusion Health & Wellbeing and its partners and the people that we work with. Any breach in standards of conduct will be addressed in a fair, objective, and effective manner. It is not intended that this procedure will be used purely as a punitive measure.
- 1.2 It is the organisation's policy to promote regular structured supervisory sessions which will identify and address any minor breaches of conduct as and when they occur, and will possibly result in informal steps, such as training, counselling, and increased supervision to halt and correct inappropriate behaviour.
- 1.3 This formal disciplinary procedure will normally be initiated where such informal approaches have failed to secure an acceptable and sustained improvement or where the nature of the incident/alleged behaviour makes an informal approach inappropriate.
- 1.4 This procedure applies to all employees except probationary employees. Where employment is terminated during a probationary period that employee shall have the right of appeal to the Directors within 10 days of receiving notice of termination.
- 1.5 This procedure should not be used when poor performance has been identified. Poor performance should be dealt with in assessment sessions with line managers.

## **2. Principles**

This procedure is based upon the following core principles:

- 2.1 No disciplinary action will be taken against an employee until the case has been fully investigated unless there is no dispute between the parties as to the facts of the case.



- 2.2 The employee will be advised of the nature of the complaint against her/him and at every stage of the procedure will be given the opportunity to state her/his case before any decision is made.
- 2.3 The employee has a statutory right to be accompanied to disciplinary hearings, and appeals by a trade union representative, work colleague or other person for support and advice.
- 2.4 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty shall be summary dismissal (i.e. dismissal without contractual notice or payment in lieu of notice).
- 2.5 An employee has the right of appeal against any disciplinary penalty imposed.
- 2.6 The procedure may be commenced at any stage if the employee's alleged misconduct warrants such action.
- 2.7 Where the Directors determine that there has been a breach of conduct resulting in an oral or written warning advice will be given as to what action the employee must take to avoid further disciplinary action. Future action may involve counselling or mentoring to assist the employee.

### **3. The Procedure**

#### **3.1 Investigation**

- 3.1.1 Disciplinary action will not normally be taken until the case has been fully investigated.
- 3.1.2 A thorough investigation must be undertaken to determine whether there is a case to answer.
- 3.1.3 The investigation will normally be conducted by the employee's line manager however where no line manager is in post a Director of the Company will be appointed by the board. However, an investigating officer may be another person, where the working relationship between the line manager and the employee concerned may have a bearing on the matter under investigation, or where it is deemed appropriate for other reasons.
- 3.1.4 Where there is no dispute between parties about the facts, it may not necessarily be appropriate to carry out an investigation.



## **3.2 Suspension**

- 3.2.1 In some instances, it may be necessary to suspend the employee concerned whilst the investigation is conducted. Authority to suspend rests with the Directors. Suspension should not be regarded as a form of punishment or a finding of guilt. It is intended to enable a thorough investigation to take place, particularly where the allegation/incident is serious, and the continued presence of the employee is deemed to be inappropriate until the matter can be resolved.
- 3.2.2 Suspension will always be with contractual pay, and written confirmation of the reason for suspension and its likely duration will be provided to the employee as soon as is reasonably practicable. Such notification will be sent by the Directors and will indicate any additional restrictions on access to any premises, and/or contact with any specific employees, clients, partners, or volunteers for the period of the suspension. The restrictions must be justifiable in the circumstances of the case.
- 3.2.3 As an alternative to suspension, the Directors may choose to transfer temporarily the employee under investigation.

## **3.3 The Hearing**

- 3.3.1 The employee shall be advised of the nature of the complaint against her/him in writing prior to the hearing and will be given the opportunity to state her/his case before any decision is made.
- 3.3.2 If following an investigation, it has been decided that there is a case to answer, the employee will be notified in writing of:
- a) the date, time and venue of the hearing
  - b) details of the allegations being made
  - c) copies of any documents that will be used as evidence during the course of the hearing
  - d) the details of any witnesses/witness statements that will be used as evidence during the course of the hearing
  - e) their right to be accompanied



- 3.3.3 Notification will be sent by the Directors and will give the employee reasonable notice. Where necessary, an alternative date may be agreed by both parties.
- 3.3.4 The employee may make written submissions to the hearing and may request the appearance of witnesses, details of which must be received by the Directors in reasonable time to be made available to other parties prior to the hearing.
- 3.3.5 Where no disciplinary action is taken following a hearing, all papers shall be destroyed immediately.

#### **3.4 Failure to Attend a Hearing**

- 3.4.1 If an employee fails to attend a hearing without a legitimate reason, the Panel may meet and conduct the hearing in her/his absence and will advise the employee of the outcome in writing within 48 hours of the meeting or as soon as is reasonably practicable.

#### **3.5 The Panel**

- 3.5.1 The Panel will normally consist of two Directors, unless the hearing may result in dismissal (following a final written warning or in a case of possible gross misconduct) where the panel shall comprise three Directors where ever possible.

### **4. Stages of Disciplinary Action**

- 4.1 The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

#### **4.2 Stage 1 – Oral Warning**

If there is a breach in conduct, the employee will be given a formal oral warning. She/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure, a further breach in conduct may result in further disciplinary proceedings being initiated and of her/his right of appeal. A brief note of the warning will be placed on the personnel file and will remain active for a period of up to 6 months when it will be removed from the records.



#### **4.3 Stage 2 – First Written Warning**

If the offence is serious enough in itself, or is a repetition of a matter on which an oral warning has been given in the previous six months, a written warning will be given. This will give details of the complaint, the improvement required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement or if there is a further breach in conduct and will advise of the right of appeal. The warning will remain active for a period of 12 months after which time it will be removed from the records.

#### **4.4 Stage 3 – Final Written Warning**

If there is further misconduct or continuing failure to improve performance to an acceptable level within the 12 months since a first written warning was issued, or if the misconduct or performance is serious enough to warrant one written warning only a final written warning will be given. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement or a further breach in conduct and will advise of the right of appeal. The warning will remain active for a period of 12 months after which time it will be removed from the records.

#### **4.5 Stage 4 – Dismissal**

If the employee has failed to reach the prescribed standards during the 12 months since a final written warning was issued, dismissal will normally result. Only the Directors can take a decision to dismiss. The employee will be provided with written reasons for dismissal as soon as is reasonably practicable, the date on which employment will terminate and their right of appeal. As an alternative to dismissal, the Directors may decide that the employee be demoted or transferred to another post with any consequent loss of pay and benefits.

- 4.6 In all cases of written warnings, written confirmation of the decision and the findings of the panel will be confirmed in writing to the employee as soon as is reasonably practicable.

### **5. Miscellaneous**

#### **5.1 Trades Union Representatives**



- 5.1.1 Disciplinary proceedings will not be initiated against an employee who is also a recognised trade union representative until the matter has been discussed with a full time officer of the appropriate union.

## **5.2 Criminal Offences**

- 5.2.1 Where an employee has been charged with or convicted of a criminal offence that occurred outside of their employment, the disciplinary procedure will only be initiated if there are direct implications with regard to work conduct or performance.
- 5.2.2 If it is thought that disciplinary action may be warranted, then the normal procedure will be followed wherever this is practicable.
- 5.2.3 It is not necessary to await the outcome of any external investigation or prosecution before deciding on fair and reasonable action. The police will not be asked to conduct any investigation on behalf of the board nor will they be present at any disciplinary hearing or interview.
- 5.2.4 In the case of employment by Fusion and secondment to a project or an independent organisation. "The Manager" should be understood to refer to the person in the independent body responsible for the day-to-day supervision of the Community Economic Regeneration Team employee.

## **6. Levels of Authority**

- |   |   |              |
|---|---|--------------|
| ➤ Suspension                                    | - | Directors    |
| ➤ Oral Warning                                  | - | Line Manager |
| ➤ First Written Warning                         | - | Directors    |
| ➤ Final Written Warning                         | - | Directors    |
| ➤ Dismissal                                     | - | Directors    |
| ➤ Warnings / Dismissal involving Senior Manager | - | Directors    |

## **7. Appeals**

- 7.1 An employee has the right to appeal against any disciplinary penalty imposed.
- 7.2 Appeals against disciplinary warnings are not intended to simply be a rehearing of the case. The aim of an appeal is to review the original decision in light of:



- a) The emergence of new evidence that was not available at the time of the original hearing
  - b) A claim that the disciplinary procedure was not correctly followed
  - c) The employee's belief that the level of disciplinary sanction was unfair/unreasonable in the circumstances
- 7.3 Appeals must be made in writing to Directors within 10 working days of the employee receiving written confirmation of the outcome of the hearing.
- 7.4 The employee may make written submissions, including witness statements, to the hearing. All such documents/evidence to be submitted for consideration at the appeal shall be sent to the Directors no later than 5 working days before the hearing.
- 7.5 The Directors shall give preliminary consideration to the grounds for appeals against dismissal to determine whether they should reverse a previous decision. In considering whether an appeal should be allowed the Directors shall take into account the following:
- The extent to which the appeal is based on a reiteration of the detail of the hearing
  - The materiality of any new evidence that may be available
  - The materiality of any alleged defects in the implementation of the procedure
  - Whether the decision that had been made was fair and reasonable in the light of the evidence available
  - The extent to which due weight has been given to evidence

## **8. Standards of Conduct and Performance**





- 8.1 This section is not intended to provide an exhaustive list of rules, but is rather a source of guidance on the sort of breaches in conduct that may result in disciplinary action.
- persistent poor timekeeping/attendance
  - unauthorised absence
  - smoking in non-smoking areas
  - being under influence/misuse of alcohol/drugs/other substances whilst on duty
  - harassment/bullying
  - contravention of equality policy
  - use of organisation's time/resources/property for personal business activities
  - failure to follow a reasonable instruction/insubordination
  - failure to follow policies/procedures
- 8.2 The following examples will normally be classed as gross misconduct (i.e. acts which fundamentally breach the employment contract) and may therefore result in summary dismissal:
- theft/fraud/deliberate falsification of records or making false claims
  - wilful damage to organisation's property
  - physical assault on another person
  - incapacity for work due to being under the influence of alcohol, drugs or other substances
  - gross insubordination
  - serious negligence which results in unacceptable loss, damage or injury
  - serious breach of equality legislation or the policies and provisions of the organisation's equality policies.
- 8.3 No set of disciplinary rules can cover all circumstances that may arise: moreover the rules required will vary according to particular circumstances such as the type of work, working conditions and so on. Managers are encouraged to formulate a series of standards that will specify clearly and concisely those rules necessary for the efficient and safe performance of work. Such standards should be explained to new employees as part of the induction process. The breach of any such rules may result in disciplinary action.
- 8.4 All employees should be made aware of the likely consequences of breaking rules and in particular they should be given a clear indication of the type of conduct that may warrant summary dismissal.



## **9. Review**

- 9.1 This procedure will be reviewed annually to ensure that it continues to meet organisational objectives, reflects statutory requirements, best practice and our quality standards.