



# Disciplinary Policy & Procedure

## 1. Purpose and scope

- 1.1. The purpose of this disciplinary policy is to help and encourage all employees to achieve and maintain required standards of performance and conduct. The disciplinary procedure provides a fair and consistent framework through which any issues with performance or conduct can be addressed. In order to protect both the employer and the employee it is essential that proper procedures are followed in relation to disciplinary action. The principles of natural justice underpin this. All those involved in disciplinary action must act in good faith and with common sense.
- 1.2. This policy applies to all paid staff. Any issues with the performance and / or conduct of volunteers should be addressed using the bureau's managing volunteer performance policy.
- 1.3. Where an employee is still within the probationary period any issues of performance or conduct will be dealt with under the probationary period procedure detailed in Section 6 of this policy.
- 1.4. This policy is non contractual.

## 2. Principles

- 2.1. This policy is designed to establish the facts quickly and to deal consistently with performance and / or conduct issues. Management will ensure that all employees are fully aware of this Disciplinary Policy & Procedure and of the conduct expected of employees.
- 2.2. No formal disciplinary action will be taken against an employee until the case has been fully investigated either through interviews or otherwise to fully establish the facts. In most cases this will involve some initial fact finding, which may include preliminary interviews to establish whether there is a case to answer and whether the issue is misconduct or gross misconduct. During this initial fact finding it is not necessary for the employee to be accompanied by a trade union official or workplace colleague.
- 2.3. At every stage of the formal disciplinary procedure the employee will be advised of the nature of the complaint against them, and will be given the opportunity to have their views fully and fairly considered at a disciplinary hearing before any sanction is imposed.
- 2.4. The employee will have the right to be accompanied by a work colleague or trade union official at all meetings under the formal disciplinary procedure. At the meeting the employee's companion has the right, if the employee wishes, to confer with the employee, to put forward the employee's case, to sum up the case and to respond on the employee's behalf.
- 2.5. The employee will have the right to appeal against any disciplinary action taken.

- 2.6. Disciplinary action may be implemented at any stage of the procedure if the alleged misconduct or under performance warrant such action.
- 2.7. No employee will be dismissed for a first breach of discipline, except in the case of gross misconduct. Dismissal in such circumstances will be without notice or payment in lieu of notice.
- 2.8. All proceedings, witness statements and records will be kept confidential and will be retained in line with the Data Protection Act 1998. Copies of any formal proceedings and sanctions will be kept on the employee's personnel file but will normally be disregarded for disciplinary purposes after 12 months.
- 2.9. In order to ensure a fair hearing in misconduct cases the stages of the procedure will, where practicable, be carried out by separate personnel. Therefore the person who carries out the investigation (referred to as the Investigating Officer" in this document) should normally be different from the person who convenes the disciplinary hearing (The "Hearing Officer") unless the issue relates to a minor matter where there is no requirement for a detailed investigation stage. The appeal, in both misconduct and performance cases, will normally be heard by two members of the Trustee Board Staffing Panel who have not been involved in the process at an earlier stage.
- 2.10. In the event that the employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. However, if the grievance and disciplinary cases are related it will usually be appropriate to deal with both issues concurrently.
- 2.11. In the event that disciplinary action is being considered against the Chief Executive, the Citizens Advice Relationship Manager should be consulted for advice at the earliest opportunity. The Trustee Board must remove as many of themselves from the process as possible to ensure that there are enough members who are independent of the process to conduct the various roles required:
  - Investigating Officer
  - Hearing Officer
  - Appeals Panel
- 2.12. In the event that disciplinary action is being considered against a trade union representative, the TU regional official shall be informed at the earliest opportunity.

### **3. Informal action**

- 3.1. In cases of minor misconduct or under performance line managers should deal with matters informally by discussing the issues with the employee and encouraging them to achieve the required standards. This will involve setting clearly defined objectives and / or standards, monitoring them over a reasonable time period and providing training, advice, encouragement and any other appropriate forms of support. Such actions are not part of the formal disciplinary process.
- 3.2. Where informal action of this kind is decided upon, the line manager will send a follow-up letter to the employee specifying the standards required, how they will be monitored, and

the review period during which improvements should be achieved and sustained. The letter will explain that the informal action is not formal disciplinary action but that if the employee fails to improve the formal disciplinary procedure may be instigated.

- 3.3. If the required standards of behaviour or performance are met and consistently maintained no further action will be needed. Records of the informal action will be kept on the employee's personnel file for reference.
- 3.4. If the employee fails to meet and / or maintain the standards required, despite being given appropriate support to do so, the line manager may extend the review period or proceed to initiate formal disciplinary action.
- 3.5. In certain circumstances it may, with mutual agreement, be helpful to consider using an independent third party to help resolve the problem. In some cases an external mediator might be appropriate.

## **Formal disciplinary procedure**

### **4. Investigation**

- 4.1. If formal disciplinary action is being considered the matter will be investigated. The Investigating Officer will usually be the line manager. In misconduct cases the Investigating Officer shall obtain a statement from any witnesses they consider to be relevant. The amount of investigation necessary will depend on the facts of the case, the evidence available and the complexity. In some cases it may be appropriate to move straight from the initial fact-finding described above to a formal disciplinary hearing; in others it will be appropriate to hold a formal investigatory interview. Where a formal investigatory interview is deemed necessary, the employee shall have the right to be accompanied.
- 4.2. In cases of poor performance the investigatory stage will be the collation of evidence by the manager for use at the disciplinary hearing.
- 4.3. At the end of the investigation the Investigating Officer will decide whether it is necessary to proceed with disciplinary action in which case the employee will be invited to a disciplinary hearing.

### **5. Suspension**

- 5.1. In potentially serious cases it may be appropriate to suspend the employee on full pay until the investigation has been completed and a disciplinary hearing held or as a result of the investigation it has been determined that there is no case to answer. Suspension is not a disciplinary sanction in itself. During this time, the employee should remain away from the bureau but will be paid in the usual way. They should be reminded that they remain under the strict duty of fidelity as an employee and must not contact clients or colleagues without prior permission during this suspension period.
- 5.2. The decision to suspend must be taken by the Chief Executive or in their absence the senior manager acting on their behalf. The decision will be based on the seriousness of the allegation against the employee, without making a determination as to the truth of that allegation. The employee will be informed of the allegation against them. Any period of suspension will be as brief as possible. The Trade Union representative will be informed of any suspension as soon as practicable.

## **6. Disciplinary hearing**

- 6.1. The procedure to be followed in a hearing is set out in Appendix A.
- 6.2. The Investigating Officer will write to the employee specifying the allegations or under performance concerns and inviting them to attend a disciplinary hearing. The employee will be provided with any relevant supporting evidence (including the names of witnesses to be called) and a copy of the disciplinary policy. The letter will also advise the employee of their right to be accompanied at the hearing by a workplace colleague or trade union official.
- 6.3. Where practicable, the employee will be given at least five working days' notice of any disciplinary hearing. They must take all reasonable steps to attend any meeting commenced under this procedure. If the employee (or their companion) fails to attend the meeting or gives notice that they cannot attend through circumstances beyond their control, a new date should be set. If the employee fails to attend on a second occasion the hearing may proceed in their absence, or it may be postponed again.
- 6.4. The employee will have the opportunity to state their case at the disciplinary hearing. The Hearing Officer may adjourn the disciplinary proceedings if it appears necessary to do so (for example if they need to gather further information or undertake further investigation). The employee will be informed of the period of any adjournment.
- 6.5. Following the hearing the Hearing Officer will decide whether to impose a disciplinary sanction and the employee will be advised in writing of the outcome. Where practicable the letter will be sent to the employee within five working days of the hearing. The employee will have a right of appeal.

## **7. Appeal**

- 7.1. If the employee wishes to appeal against any disciplinary sanction they must do so in writing within ten working days of the decision being taken, in writing to [the Chair of the Trustee Board](#). The employee should set out the full grounds for appeal.
- 7.2. The appeal will be heard by three members of the Trustee Board Staffing Panel. It may be necessary to use members of a Trustee Board from a neighbouring bureau if it is not possible to follow the procedure internally. Any person appointed under this procedure shall be deemed to have delegated authority from the Trustee Board.
- 7.3. Where practicable the appeal meeting will be convened within 15 working days. The employee has the right to be accompanied at the appeal meeting by a workplace colleague or trade union official.
- 7.4. The decision will be final and, where practicable, the employee will be informed of the decision in writing within five working days of the appeal hearing.
- 7.5. Note that where sanctions involve dismissal, the notice will run from the date of the disciplinary hearing unless changed by the appeal hearing. In the case of dismissal without notice (gross misconduct) the dismissal will be effective from the date the employee is notified of the outcome of the disciplinary hearing, unless otherwise determined at appeal.

## **8. Formal disciplinary sanctions**

- 8.1. It should be noted that for cases of minor misconduct or poor performance, the bureau will normally go through each stage in turn. In cases of more serious misconduct or poor performance the bureau may enter the disciplinary procedure at Stage 2 or Stage 3 if appropriate.
- 8.2. Notices issues under Stages 1 and 2 will be kept on file but will be spent after a specified period, subject to satisfactory conduct. Note: The specified period will normally be 6-12 months depending on the circumstances of the case and will be included as part of the warning.
- 8.3. It may be appropriate in certain circumstances to repeat a stage (e.g. where there has been improvement but not enough).

## **9. Stage 1 - First written warning for misconduct**

- 9.1. Where informal action has not brought about the desired improvement in conduct, or if the employee's conduct is considered sufficiently serious, a written warning will be given following the disciplinary hearing. This will include details of the misconduct and a statement that, if there is insufficient improvement after a reasonable period of time, a final written warning may be given. The warning will detail the employee's right of appeal.

**or**

## **10. Stage 1 - Improvement note for unsatisfactory performance**

- 10.1. Where informal action has not brought about the desired improvement in performance, an improvement note will be given following the disciplinary hearing. This will include details of the performance problem, the improvement required, the timescale for improvement and review dates. It will also include a statement that, if there is insufficient improvement after a reasonable period of time, a final written warning may be given. The improvement note will detail the employee's right of appeal.

## **11. Stage 2 - Final written warning**

- 11.1. If the employee's conduct or performance is still unsatisfactory after the period notified in Stage 1, or if the misconduct / performance issue in question is considered sufficiently serious, a final written warning will be given following the disciplinary hearing. The warning will state that, if there is insufficient improvement within a further period of time, the employee may be dismissed. The warning will detail the employee's right of appeal.

## **12. Stage 3 - Dismissal (with notice)**

- 12.1. If there is insufficient improvement after the period notified in Stage 2 the employee will be dismissed with the appropriate notice following the disciplinary hearing. A letter will be sent to the employee detailing the reasons for the dismissal, the date on which their employment will terminate and the arrangements for the notice period. The letter will detail the employee's right of appeal.

## **13. Gross misconduct (dismissal without notice)**

- 13.1. If, following an investigation and a disciplinary hearing, it is confirmed that the employee has committed an offence of gross misconduct during the course of their employment, the

normal consequence will be dismissal without notice. The following list provides examples of offences which are normally regarded as gross misconduct, however this list is not exhaustive:

- (a) Theft
- (b) Damage to CAB Gwynedd property
- (c) Fraud, or any other act of dishonesty including soliciting or accepting bribes
- (d) Serious breach of the equalities policy
- (e) Incapacity for work due to being under the influence of alcohol or illegal drugs
- (f) Physical or verbal assault towards another employee or client,
- (g) Gross insubordination or refusal to obey the reasonable orders of your immediate supervisor
- (h) Breach of confidentiality
- (i) Wilful disregard of health and safety rules
- (j) Any deliberate acts of harassment or bullying or discrimination
- (k) Serious misuse of the bureau's IT system
- (l) Any action (including outside the workplace) that could bring CAB Gwynedd into disrepute.

#### **14. Alternative sanctions**

14.1. As an alternative (or in addition) to one of the above disciplinary sanctions, the employee may be demoted with a corresponding reduction in pay or transferred to a different job, which may or may not be in a different workplace.

#### **15. Probationary period**

15.1. During the probationary period the disciplinary procedure above does not apply. In the event that the bureau is concerned about the employee's performance or conduct during the probationary period the employee's line manager will explore the issues with the employee, clearly setting out the areas for improvement. If, following this informal action, there is no improvement the following procedure will apply:

- (a) Where the bureau is unhappy about the employee's performance or conduct or is concerned that they do not meet the requirements of their role the bureau will write to them notifying them of the concerns and inviting them to a meeting to discuss the matter.
- (b) A meeting will then be convened to discuss the matter at which the employee has the right to be accompanied by a colleague or trade union official and following which they will be notified of the bureau's decision. The employee should note that they are obliged to make all reasonable efforts to attend the meeting convened.
- (c) The employee has the right to appeal against the decision taken and at the appeal meeting they will again have the right to be accompanied and following the meeting they will be informed of the final decision in the matter.

**This version approved by the CAB Gwynedd Trustee Board 24 January 2017**

## **Appendix A: Procedure for Disciplinary Hearings**

1. The case will be presented by the Investigating Officer (usually the line manager - IO)
2. A more senior manager (Hearing Officer - HO) will chair the disciplinary hearing and they may choose to have an adviser or advisers, depending on the exact nature of the disciplinary hearing. The hearing will include the IO, their adviser where appropriate, the employee and his or her representative.
3. Witnesses will only be present while they are being questioned.
4. The documentation to be used in the case should have been exchanged in good time before the hearing. Witnesses will be notified in advance to allow time off to be arranged.
5. Introductions will be given and the HO will explain the process and outline the documentation to be used.
6. The case against the employee will be presented first, including calling any witnesses.
7. The employee, or their representative, will have the opportunity to ask questions of the manager and any witnesses that may have been called.
8. The HO and advisers may ask questions of the manager and any witnesses that may have been called.
9. Following questions the IO has the opportunity to re-examine the witness.
10. Then the employee and/or their representative will present their defence, including calling any witnesses.
11. The IO, and their adviser, will have the opportunity to ask questions of the employee, or their representative and any witnesses that may have been called.
12. The HO and advisers, may ask questions of the employee, and/or their rep, and any witnesses that may have been called.
13. Following questions the employee or rep has the opportunity to re-examine their witness.
14. Once the case and defence have been presented both sides will have an opportunity to give the hearing a summary of their cases. The case against the employee will be summarised first. No new evidence can be introduced in closing statements.
15. During the employee's closing statement any mitigation as to why a particular sanction should not be imposed will also be given.
16. The IO and adviser presenting the case and the employee and their representative will leave the hearing to allow the HO, with any adviser or advisers, to deliberate in private. The parties can be recalled to clarify any points of uncertainty.
17. Having deliberated, the HO will generally recall both parties to the room in order to give a decision on the case. It may sometimes be necessary for the HO to give a decision on the case at a later date if the deliberations are likely to last a long time.
18. If a sanction is imposed, the right to appeal will be advised and the decision will be confirmed in writing.