

MS-CAS DISCIPLINARY PROCEDURE

Principles of Procedure

- 1.1. This procedure has been written to reflect the following principles:
- a) that the proper handling of disciplinary matters is in the interests of both the Organisation and employees.
 - b) that Disciplinary Action should only be taken if the Organisation has a genuine belief that the Employee has committed an act of misconduct. The belief must be on reasonable grounds following a reasonable investigation.
 - c) that the purpose of Disciplinary Action is corrective.
 - d) that any Disciplinary Action should be dealt with speedily, equitably and reasonably.

Scope of the Procedure

- 1.2. The procedure is designed to deal with either misconduct or poor performance\incapability.

The Procedure

1.3. Establishing Facts

When a disciplinary matter arises, the relevant facts should be firmly established by a thorough and reasonable investigation and the whole proceedings should be concluded with the minimum of delay.

1.4. Investigatory Meeting

As part of the investigation process an employee may be invited to an Investigatory Meeting. The Investigatory Meeting does not constitute Disciplinary Action. An employee is not entitled to be represented at this meeting. The purpose of the meeting is for the Organisation to discuss the issues of misconduct or poor performance with the employee and to decide if any further action should be taken. The result of the meeting may be as follows:-

- a) No further action to be taken
- b) Informal Action

An employee may be given an informal warning. This would be appropriate in cases of minor breaches of discipline for example poor time keeping etc or poor performance. Any Informal Action will be confirmed in writing and recorded on the personnel file, normally for a period of 6 months, unless otherwise stated. An employee will be advised of any improvements that are expected. If there is no improvement Disciplinary Action would most likely follow. There is no right of appeal when Informal Action has been taken.

- c) Invite to Disciplinary Hearing

If the Organisation decides that further action is appropriate, and the matter should not be dealt with by way of Informal Action, an employee may be invited to a Disciplinary Hearing

- d) Suspension

If the Company decides to invite an employee to a Disciplinary Hearing, the Organisation will consider whether it is appropriate to suspend the employee

pending the Disciplinary Hearing. An employee may be suspended, with pay, if the Organisation considers that it would be inappropriate for the employee to continue in his or her role or to remain at work until the alleged misconduct has been dealt with at the Disciplinary Hearing.

1.5. Suspension without pay

Any employee may be suspended from work, without pay, if they are found to be incapable of carrying out their duties because they are under the influence of alcohol, drugs, solvents, or some other similar reason.

Disciplinary Hearings

1.6. General Principles

Before any formal Disciplinary Action is taken, the employee should be invited to attend a Disciplinary Hearing. The employee should be told the reason for the Hearing, given full details of the allegations or concerns and adequate time to prepare.

1.7. Hearing Objectives

- a) to establish the facts relating to the alleged breach of discipline
- b) to give the employee the opportunity to put forward their case and to explain any relevant mitigating circumstances.

1.8. Representation

Any employee asked to appear at a Disciplinary Hearing has the right to be represented by a work colleague or a Trade Union representative of their choice. The representative has the right to address the Hearing but cannot answer questions on behalf of the employee.

1.9. Adjournment of Hearing

The Hearing will be adjourned to consider the decision. If possible a decision will be given to the employee following the adjournment. If further investigation of facts is necessary or there is a dispute over anything relevant to the case, the hearing may be adjourned to another day while further enquiries are made with the minimum of delay.

1.10. Factors Considered

In considering what action is appropriate, the following should be taken into account:

- a) mitigating factors
- b) the gravity of the breach of discipline
- c) the employee's work record
- d) any other relevant factors.

Formal Disciplinary Warnings

1.11. The type of Formal Disciplinary Warning is as follows:-

- | | | |
|----|---------|------------------------------------|
| a) | Stage 1 | First Formal Action |
| b) | Stage 2 | Final Written Warning |
| c) | Stage 3 | Dismissal with notice |
| d) | Stage 4 | Summary dismissal (without notice) |

1.12. The Disciplinary Procedure will usually commence at Stage 1. However, the Organisation reserves the right in more serious cases of misconduct or poor

performance\incapability to commence at up to Stage 2. An Employee will not be dismissed for a first disciplinary offence unless the offence amounts to Gross Misconduct.

a) Stage 1 First Formal Action

This would be appropriate if previous unsatisfactory conduct or performance failed to improve, or a more serious act of misconduct is committed. First Formal Action will be recorded on the employee's personnel file and will normally lapse after a period of 12 months or as otherwise stated.

b) Stage 2 Final Written Warning

This would cover a failure to improve or change behaviour, or where a single infringement is sufficiently serious. A Final Written Warning will be recorded on the employee's personnel file and will normally lapse after a period of 12 months or as otherwise stated.

c) Stage 3 Dismissal with notice

This could result from either continued poor performance or repeated misconduct. An employee will not be dismissed for a first disciplinary offence unless it amounts to Gross Misconduct. The employee will be advised in writing of the reason for dismissal, the date on which the employment will terminate, and the right of appeal available.

Notice may be paid in lieu in accordance with the terms and conditions of the employee's Contract of Employment. The Organisation also reserves the right to place the employee on garden leave during the notice period or require the employee to take any outstanding holidays as part of the said notice period.

d) Stage 4 Summary Dismissal (without notice)

This will be the usual penalty in cases of gross misconduct or gross negligence. The employee is dismissed without notice. Employees should be familiar with the types of misconduct that amount to gross misconduct as defined in the section below.

Gross Misconduct

The following breaches of discipline will normally be regarded as gross misconduct and will normally result in summary dismissal:

- 1.13. theft, fraud and deliberate falsification of records
- 1.14. gross negligence\underperformance
- 1.15. discrimination on the grounds of sex, race, disability, sexual orientation or religion
- 1.16. physical violence or threatening behaviour
- 1.17. bullying or harassment
- 1.18. deliberate damage to property
- 1.19. serious insubordination
- 1.20. unauthorised absence
- 1.21. selling contraband or other illegal activity
- 1.22. misuse of Organisation property or name
- 1.23. bringing the Organisation into disrepute
- 1.24. serious incapability whilst on duty brought on by alcohol or illegal drugs

- 1.25. serious negligence which causes or might cause unacceptable loss, damage or injury
 - 1.26. serious infringement of health and safety rules
 - 1.27. serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)
- This list is not exhaustive.

Content of Warning

- 1.28. All Formal Disciplinary Warnings will include:
 - a) a specific description of the conduct which caused the Formal Disciplinary Warning to be issued.
 - b) the consequences of the employee committing any further acts of misconduct.
 - c) the period during which the Formal Disciplinary Warning will be enforced. First Formal Action or a Final Written Warning will normally remain live on an employee's personnel file for one year from the date that the warning is issued.
 - d) the right to make an appeal.
- 1.29. For those cases relating to work performance\capability, the above information and in addition:
 - a) details of the improvement required.
 - b) details of any training required.
 - c) how the employee is expected to achieve the improvements.
 - d) what further assistance can be expected from the Organisation.
 - e) the period over which the improvement is expected to take place
 - f) the time when a review will take place and the consequences of a failure to improve.
- 1.30. Time Limits for Warnings
 - a) The time a record of a Formal Disciplinary Warning is held on a personnel file will be dependant on the seriousness and the circumstances of the breach of discipline which brought about the need for the warning.
 - b) An employee issued with a Formal Disciplinary Warning has the right to be informed at the time the warning is given, when that warning will cease to be "live" and therefore disregarded for future disciplinary purposes.

Right of Appeal

- 1.31. In all cases which result in a Formal Disciplinary Warning, including dismissal, the employee has the right of appeal.
- 1.32. At the time of notification of a Formal Disciplinary Warning, the employee will be advised of the name of the person to whom any appeal may be made
- 1.33. Should the employee wish to appeal, they must set out the grounds of appeal in writing and send them to the person hearing the appeal.
- 1.34. If the employee is in any doubt at this stage they should contact the Chair of the Trustee Board to seek clarification.
- 1.35. Any appeal must be made and received by the Organisation within 5 working days of notification of the Formal Disciplinary Warning.

- 1.36. On receipt of the appeal, the employee will be notified of the hearing date of the appeal.
- 1.37. The appeal will be in the form of a full rehearing of the original Disciplinary Hearing.
- 1.38. Any additional evidence and any additional arguments which the employee puts forward in support of the appeal will be conscientiously considered. All relevant facts will be fully reviewed before a final decision is made.
- 1.39. The result of the appeal will be notified to the employee in writing normally within 10 working days. This period may be longer depending on the amount of investigation that needs to take place.
- 1.40. Following the Appeal Decision there is no further right of appeal

Alternative Sanctions

- 1.41. In addition to the Formal Disciplinary Warnings already outlined, the following further disciplinary sanctions may be applied:
 - a) suspension from work without pay
 - b) demotion
 - c) loss of pay increases in circumstances where previous formal disciplinary warnings have proved ineffective in producing improved performance.

POLICY DATED: [16/11/2022]

REVIEW DATE : *2 years after date of policy*

MS-CAS GRIEVANCE PROCEDURE

Procedural Stages

1.42. Stage One (informal)

- a) If you have a grievance you should first raise it verbally with the Chief Officer and the matter will be discussed with you informally. If your grievance relates to the Chief Officer, and you do not feel you can approach them directly you should approach the Finance and HR manager
- b) Most grievances should be resolved at this level.
- c) If the grievance is not resolved within 10 working days or if you consider that you have not been fairly treated, you may raise a formal grievance as set out at Stage 2 below.
- d) Any grievance you wish to raise should be done so without delay and normally within 3 working days of the grievance arising. The longer an employee leaves a grievance the more difficult it is for the Organisation to investigate and deal with it.

1.43. Stage Two (formal)

- a) If the grievance is not satisfactorily resolved, you may refer the matter to the Chief Officer or the Finance and HR Manager in writing.
- b) The grounds of the grievance must be set out in writing.
- c) When the grounds have been established an investigation will take place.
- d) You will then be invited to attend a Grievance Hearing where the matter will be considered in detail.
- e) The outcome of that Hearing will be communicated to you in writing normally within a period of 10 working days depending on the complexity of the matter.

1.44. Stage Three (appeal)

- a) If you remain dissatisfied, you may appeal the decision of the Grievance Hearing.
- b) Any appeal must be in writing and made to the Chair of the Trustee Board within 5 working days of the decision of the Grievance Hearing.
- c) The reasons for the appeal must be set out in writing at the time the appeal is lodged.
- d) A further Grievance Hearing may or may not be necessary.
- e) The outcome of the Appeal will be communicated to you in writing normally within a period of 10 working days depending on the complexity of the matter.
- f) There is no further right of appeal.

Right to be represented

At each Stage you have the right to be accompanied by a work colleague or a Trade Union Representative of your choice