



Minds United Football Club CIC

Unit 12 Latimer Road,
London,
W10 6RQ

07400 100 207
admin@mindsunitedfc.com
www.mindsunitedfc.com

DISCIPLINARY POLICY AND PROCEDURE

Policy

1.0 Introduction

The purpose of the disciplinary policy and procedure is to set and maintain standards of conduct within the club, and in doing so, ensure that all members are treated fairly and consistently. It is designed to help and encourage all members to achieve and maintain satisfactory standards of conduct. For newly appointed members who are in their probationary period, the club retains the discretion to vary the procedure accordingly in respect of formal warnings, up to and including termination for a first breach of conduct rules. The disciplinary procedure is normally only used where other interventions have failed to produce the required improvement or when the conduct matter is sufficiently serious to require immediate formal action.

2.0 References

The following policies are referred to in this document:

- Anti Bullying Policy
- Capability policy and procedure
- Equality and Diversity Policy

3.0 Scope

This policy and procedure apply to all members of the club.

4.0 Principles

4.1 Where appropriate, informal action will be considered before recourse to the formal procedure.

4.2 The procedure may be implemented at any stage if the member's alleged misconduct warrants it.

4.3 All members will be treated in line with the club's equality and diversity policy.

4.4 For formal action, the member will be told of the nature of the complaint and an investigation will normally be undertaken before any decision to hold a disciplinary hearing.

4.5 Members may choose to be accompanied by a trade union representative or a workplace colleague throughout the formal stages of the procedure.

4.6 This procedure sets timescales to ensure that any disciplinary matter is dealt with quickly and efficiently. However, they may be extended in consultation with human resources to ensure a fair process.

4.7 Before a disciplinary hearing, members will be provided, if available, with written copies of evidence and relevant witness statements.

4.8 A member may appeal against any formal disciplinary action.

4.9 Audio/visual recordings of the proceedings are not acceptable at any stage of the disciplinary procedure and are not admissible within this process, unless agreed as a reasonable adjustment for a member with a disability.

4.10 All information will be retained on a confidential basis.

4.11 This policy and procedure is not appropriate for issues of capability or poor performance: where this occurs, the capability policy and procedure will be used.

5.0 Gross misconduct

5.1 An allegation of gross misconduct is extremely serious and is not made lightly. Gross misconduct is regarded as a fundamental breach of contract that makes it impossible for the club to continue employing the member. Where a member is dismissed for gross misconduct, the dismissal is normally summary, i.e., without notice.

Examples of acts which may constitute gross misconduct include:

(i) serious negligence which causes unacceptable loss, damage, or injury.

(ii) serious violation of health and safety policy.

(iii) serious bullying or harassment as defined in the anti-bullying policy.

(iv) physical violence or intimidation.

(v) deliberate and serious damage to property.

(vi) theft, fraud, corruption, and deliberate falsification of records.

(vii) breach of the Bribery Act 2010.

(viii) serious incapability whilst on duty brought on by consumption of alcohol or illegal drugs.

(ix) failure to disclose a sexual, familial, or other significant relationship with a student of the club in circumstances where there is a professional responsibility for the student and the potential for corruption and/or discrimination exists.

(x) failure to disclose a sexual, familial, or other significant relationship with a member of the club in circumstances where there is the potential for corruption and/or control over promotion or reward for that member. The above examples are neither exhaustive nor exclusive.

6.0 Representatives of recognised trade unions

6.1 Any investigation or disciplinary hearing involving a representative from a recognised trade union is normally notified to a full-time official of the union.

6.2 A trade union representative may be suspended on full pay under the same conditions as any other member. A full-time official will be informed of the suspension prior to it taking place where practicable, or if this is not practicable, as soon as possible after it has taken place.

7.0 Criminal convictions and police involvement

7.1 The operation of the procedure is not necessarily delayed because an offence is under investigation by the police or because of any legal proceedings. The question in such cases is whether the member's conduct warrants action because of its employment implications.

7.2 If a member is charged with, or convicted of a criminal offence, this will not necessarily in itself be reason for disciplinary action. However, consideration will be given as to what effect the charge or conviction has on the member's suitability to do their job, their relationship with the club, work colleagues, students and other parties, and whether there is damage to the club's reputation.

Disciplinary Procedure

8.0 – Informal action

8.1 Informal action is appropriate in cases of minor misconduct.

8.2 The line manager will let the member know that their conduct is unsatisfactory and make them aware of the standards expected without recourse to the formal procedure.

8.3 The line manager will hold a confidential discussion with the member and ensure that they understand exactly what is expected of them. This discussion will enable the manager to provide constructive feedback and the member to express their views on the issue. Where a need for improvement is identified, the manager will explain to the member what needs to be done, within an agreed timescale and how the conduct will be reviewed within the agreed period. If the required achievements are not achieved or maintained, the matter will be dealt with formally. The manager should keep brief, confidential notes of any informal action.

9.0 Investigation

9.1 Before disciplinary action is taken, a full and thorough investigation into the allegation(s) will normally take place which considers any statements from witnesses or opinion(s) as appropriate.

9.2 The purpose of the investigation is to determine whether there is a case to answer at a formal disciplinary hearing.

9.3 The investigator is normally the member's line manager, unless the human resources manager feels this is inappropriate in the case. The investigating manager is normally accompanied by a human resources manager.

9.4 If the member's line manager does not carry out the investigation, it is normally carried out by another appropriate manager from any school or department, who, wherever practical, has no prior knowledge of the complaint.

9.5 Where the chosen course of action is a disciplinary hearing, a human resources manager will appoint an appropriate senior manager to chair the disciplinary hearing. The chair is normally at

least the level equivalent to the investigating manager from any school or department, who has had no prior knowledge of the complaint, wherever practical.

9.6 Proceedings are treated in confidence and records are kept as confidential as is practically possible and as is consistent with achieving a fair and thorough investigation.

9.7 Following the investigation, consideration will be given as to whether:

- the matter is closed; or if further action is required:
 - o attempts should be made to resolve the matter informally without recourse to a formal hearing; or, if a disciplinary hearing needs to be arranged.

The member will be informed of the decision within five working days unless there is justifiable reason for delay. The member will be notified of any delay.

Formal action – Disciplinary hearing

10.0 Arranging the hearing.

10.1 The chair of the hearing will arrange a formal hearing, ensuring the following: -

- i) the member is told in writing, no fewer than five working days in advance of the disciplinary hearing (unless an earlier date has been mutually agreed).
- ii) Written notification will include:
 - a) the specific nature of the issue.
 - b) the date, time, and place of the formal hearing.
 - c) that the member may be accompanied by a trade union representative or workplace colleague at the hearing.
 - d) the names of any witnesses and those in attendance at the hearing.
 - e) a link to the disciplinary policy and procedure and any written statements, reports and other evidence to be considered.
 - f) that the member may provide evidence and/or call witnesses to the hearing, and the need to ensure that any witnesses are aware of the need for confidentiality.
- iii) all documentation relating to the disciplinary hearing must be reasonable and submitted at least 36 hours prior to the hearing to the chair. The number of witnesses and any supporting documentation must be in proportion to the level of misconduct itself and must be of a reasonable quantity. The chair reserves the right to refuse an unreasonable quantity of documentation or number of witnesses.
- iv) if a new matter that the member is unaware of is raised at the disciplinary hearing, the member will have 48 hours after the hearing to submit any additional documentation to the chair for consideration as part of the decision-making process.
- v) a human resources manager and a note taker will normally attend.;
- vi) appropriate arrangements will be made to meet any special needs (e.g. interpreting in the case of language difficulties of the member).

10.2 The member, and any representative, should make every effort to attend the hearing. However, if it is not reasonable for the meeting to be held at the proposed date and time, the hearing may be deferred by up to five working days from the date originally proposed.

10.3 If the member fails to attend the hearing without good cause, a decision may be taken in his/her absence based on the information available.

11.0 The disciplinary hearing

11.1 In addition to the chair, those in attendance at the disciplinary hearing will normally include the person who conducted the investigation, a human resources manager, and a note taker, with witnesses, as appropriate.

11.2 The chair will explain the issue and go through the evidence gathered during the investigation, including any evidence given by witnesses appearing in person. The member will be allowed to set out their case and answer any allegations that have been made. The member will also have a reasonable opportunity to ask questions, present evidence, call relevant witnesses and be able to raise points about any information provided by witnesses.

11.3 The outcome of the hearing is normally communicated to the member within five working days, unless agreed otherwise.

12.0 Levels of disciplinary action following hearing.

12.1 After consideration of all factors, including any mitigating circumstances, the possible outcomes are as follows:

12.1.1 Written warning

A written warning is given if the seriousness of the misconduct is such that the matter cannot be suitably dealt with through informal means. This is in writing and details the complaint and the improvement required, with timescales. The warning will inform the member that a final written warning will be considered if there is no sustained satisfactory improvement or change.

A copy of the written warning is kept on file but is disregarded for disciplinary purposes after six months of satisfactory conduct.

12.1.2 Final written warning

A final written warning is given if the offence is sufficiently serious or if there is an unspent warning already on file. It gives details of the complaint and the improvement required, with timescales. The warning also states that if there is any further misconduct, or if following review, there is continued unsatisfactory conduct the member is likely to be dismissed.

A copy of the final written warning is kept on file but is disregarded for disciplinary purposes after twelve months of achieving and sustaining satisfactory conduct. In circumstances where an member's conduct is satisfactory throughout the period a warning is in force, but lapses very soon thereafter, or there is evidence of a pattern of both satisfactory and unsatisfactory conduct pending on whether a warning is in force, this will be taken into consideration in deciding how long any future warning should last.

13.0 Dismissal

13.1 The chair of the disciplinary hearing will present to the Vice-Chancellor, or in his/her unavailability, an authorised nominee, a report of all relevant facts leading to a recommendation for dismissal.

13.2 Dismissal may be recommended if: -

- i) the member is found to have committed an act of gross misconduct.
- ii) following review there is continued unsatisfactory conduct.

13.3 Dismissal is either without notice i.e., summary dismissal for gross misconduct or with contractual notice for all other dismissals.

13.4 Where a recommendation for dismissal is made, the Vice-Chancellor or nominee will normally offer to meet with the member concerned before deciding if the member so chooses. The member may choose to be accompanied by a workplace colleague or trade union representative at this meeting. The Vice-Chancellor or nominee, after due consideration, may implement the dismissal.

14.0 Dismissal of senior post holders

14.1 The process for dismissal of any senior post holder³ is managed in accordance with the club's articles of government.

15.0 Appeals

15.1 Action short of dismissal

15.2 To appeal against disciplinary action short of dismissal, the member must write to the chair of the hearing within ten working days of receipt of the letter informing them of the outcome of their hearing, clearly stating the specific grounds of appeal.

15.3 The appeal will be arranged as soon as practicable. The chair of the appeal is normally more senior than the manager who made the disciplinary decision.

15.4 The member receives notice, in writing, five working days in advance of the hearing. The letter will state the date, time, and place where the hearing is held and the name of person chairing the hearing. The member will be informed that they may choose to be accompanied by a trade union representative or a workplace colleague. All documentation related to the appeal must be submitted to the chair at least 36 hours prior to the hearing, failure to do so, may mean that relevant documentation is not considered at the appeal.

15.5 The chair may reach the following decisions:

- a) uphold the disciplinary action or.
- b) remove the disciplinary action entirely or.
- c) impose a disciplinary action of their own, short of dismissal, which they consider appropriate.

3 Members of the Vice Chancellor's executive

4 Articles of government sections 10.5 to 10.10

15.6 The decision of the chair will be confirmed in writing within five working days of the appeal hearing.

15.7 The decision of the chair is final.

16.0 Appeals against dismissal.

16.1 Where a decision to dismiss is taken, the member may appeal within ten working days to the board of directors.

16.2 Appeals against dismissal are heard by three directors, excluding staff and student representatives. In the case of appeals against dismissal, the decision to dismiss shall not take effect until the appeal panel has determined the outcome of any appeal, unless the recommendation is for gross misconduct and the vice chancellor or his/her delegate have upheld a recommendation of summary dismissal.

16.3 The appeal process is a review of the decision to dismiss based on one or more of the following grounds:

- i. that new evidence is available which was not presented at the original hearing.
- ii. the dismissal hearing was materially flawed on procedural grounds.
- iii. the decision to dismiss was not reasonable in the circumstances.

16.4 A member wishing to appeal against a decision to dismiss must, within five working days of receipt of written notice of dismissal, send written notice of intention to appeal to the clerk to the board of directors.

16.5 The member must within a further five working days send to the clerk to the board of directors an outline statement setting out, by reference to iii above, the basis of the appeal, together with the names and addresses of any witnesses to be called by the member and new evidence (if any) for the appeal hearing.

16.6 The club's representative shall provide to the clerk to the board of directors a summary factual statement of the events leading to dismissal, and the written reason for dismissal. The clerk to the board of directors will, as soon as possible, arrange an appeal hearing by the appeal committee and will give the member not less than five working days' notice of the time and place of the appeal hearing. All parties involved in the appeal hearing will receive a copy of the notice of the appeal hearing, together with a copy of the member's notice of appeal and related documents (if any); a summary factual statement of the events leading to dismissal; and the written reasons for dismissal.

16.7 The member may choose to have a trade union representative or workplace colleague in attendance throughout the hearing. Members of the appeal committee shall at each stage of the appeal hearing ask questions of the member, the club's representative and any witnesses who may be called by either party.

16.8 The director of human resources or his or her nominee will be present throughout to provide advice to the appeal committee on matters of procedure.

16.9 The member may apply for a postponement of the hearing if he/she is unable to attend for reasons beyond his/her control, provided such application is made at the earliest possible opportunity and supported by documentary evidence including where relevant, a medical certificate. A decision may be taken in the absence of the member if he/she fails to attend the hearing without good reason and does not notify the board of directors of his/her intended non-attendance.

17.0 Suspension

17.1 Suspension is not automatic nor disciplinary action.

17.2 A member may be suspended, while an issue of misconduct is being investigated, in the following circumstances:

- a) where they are accused of an act of gross misconduct.
- b) when it is deemed necessary to remove them from the workplace to aid the investigation.
- c) where it is part of the club's duty of care to the member(s) involved.

17.3 Where a suspension is considered necessary, authorisation to suspend will be sought from the vice chancellor or his/her nominee, or the director of human resources.

17.4 An investigation is carried out by an appointed officer, normally the individual's line manager, unless this is felt to be inappropriate. The investigating officer is normally accompanied by a human resources manager.

17.5 Suspension will be confirmed in writing, setting out the grounds on which the decision to suspend has been taken. All suspensions shall be with full pay and suspended members will be kept informed of the progress of their case by the officer who was appointed to investigate the suspension.

17.6 During a period of suspension, members must remain contactable and attend meetings as required. They must not attempt to contact or influence anyone connected with the investigation or to discuss the matter with any member or player of the club. The member's staff card, along with their IT access, is normally suspended.

17.7 If a suspended member wishes to contact another member who could assist with their case or if they believe that there is information on their IT account that may help them, they should contact their human resources manager who will make the necessary arrangements.

18.0 Appeals against suspension.

18.1 Any member suspended from their employment for three weeks or more may appeal against their suspension.

18.2 Appeals should be addressed to the clerk to the board of directors who will arrange for the appeal to be considered by a panel of directors.

18.3 The suspension will remain in place until the outcome of the appeal is determined.

18.4 The appeal outcome will be confirmed in writing within five working days of the panel of directors' consideration of the appeal.