



## DISCIPLINARY POLICY

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### SCOPE

Restitute's Disciplinary Procedure will be used only when necessary and as a last resort. Where possible, informal and / or formal counselling, or other good management practice, will be used to resolve matters prior to any disciplinary action being taken. The procedure is intended to be positive rather than punitive but indicates that sanctions may have to be applied in some circumstances.

An employee can discuss any part of this policy with their Union Representative or their Line Manager. They can help clarify an employee's rights as well as give guidance and support where it may be needed. Every individual has the right to representation at any point during the disciplinary process.

### SUSPENSION

Suspension is not disciplinary action. There are various occasions when suspension can be used; for example, when it is necessary to remove a member of staff from the workplace pending an investigation, to allow time for a 'cooling down period' for both parties, for their own or others' protection, to prevent them influencing or being influenced by others or to prevent possible interference with evidence. Only the Chief Executive or the Chair of Directors has the authority to suspend an individual. Usually suspension will be on full pay.

An employee suspended from duty will receive written confirmation within three days of:

- the reason for the suspension
- the date and time from which the suspension will operate
- the timescale of the on-going investigation
- the right of appeal to the immediate manager of the suspending manager should the suspension last more than 7 days.

### MENTORING

Mentoring is an attempt to correct a situation and prevent it from getting worse without having to use the disciplinary procedure. Where improvement is required, the employee must be given clear guidelines as to:

- what is expected in terms of improving shortcomings in conduct or performance
- the time scales for improvement
- when this will be reviewed.



The employee must also be told, where appropriate, that failure to improve may result in formal disciplinary action.

A record of the mentoring will be given to the employee and a copy retained in their personnel file. It is imperative that any mentoring is followed up and improvements recognised and recorded. Once the mentoring objectives have been met, any record of the mentoring will be removed from the employee's file.

If during the mentoring it becomes clear that the matter is more serious, then the discussion will be adjourned, and pursued under the formal disciplinary procedure.

## **PROCEDURE FOR FORMAL INVESTIGATION**

1. Formal investigations will be carried out by the most appropriate manager who is not directly involved with the incident being investigated. This manager may involve others to assist with the investigation process. All the relevant facts will be gathered promptly as soon as is practicable after the incident. Statements will be taken from witnesses at the earliest opportunity. Any physical evidence will be preserved and / or photographed if reasonable to do so.
2. A report will be prepared which outlines the facts of the case. This will be submitted to the appropriate senior manager / Director who will decide whether further action is required. Where appropriate, this report may be made available to the individual and their representative.
3. In most circumstances where misconduct or serious misconduct is suspected, it will be appropriate to set up an investigatory hearing. This will be chaired by the appropriate senior manager / Director, who will be accompanied by another manager / Director. The investigating manager will be asked to present their findings in the presence of the employee who has been investigated. Witnesses will be called at this stage, and the employee (or their representative) allowed to question these witnesses. The employee has a right of representation at this hearing.
4. Following the full presentation of the facts, and the opportunity afforded to the employee to state their side of the case, the hearing will be adjourned, and everyone will leave the room except the senior manager / Director hearing the case, and the other manager / Director. They will discuss the case and decide which of the following options is appropriate:
  - take no further action against the employee
  - recommend mentoring for the employee
  - proceed to a disciplinary hearing.
5. All parties will be brought back, and informed as to which option has been chosen. Should the decision be taken to proceed to a disciplinary hearing, then this may



follow on immediately from the investigatory hearing if the following criteria have been met:

- the employee has been informed by letter that the investigation may turn into a disciplinary hearing, and that they have the right of representation
- they have been told in advance what the nature of the complaint is, and had time to consult with a representative
- all the facts have been produced at the investigatory hearing, and the manager / Director is in a position to decide on disciplinary action.

The manager should inform the employee and their representative that the hearing would now become a formal disciplinary hearing, and invite them to say anything further in relation to the case.

6. It may be appropriate at this point to adjourn proceedings, whilst necessary arrangements are made for a representative to attend the hearing at the request of the employee.
7. Should anyone who is subject to disciplinary action resign during the course of it, the action will cease unless there are extenuating circumstances which require its continuance. The subject of the discipline may also request that the disciplinary action continue.

## **WARNINGS**

### Examples of Minor Misconduct

Below are listed examples of misconduct which may warrant either a Verbal Warning or a First Written Warning. It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issue of a warning.

- Persistent lateness and poor time-keeping
- Absence from work, including going absent during work, without valid reason, notification or authorisation
- Smoking within unauthorised areas
- Failure to work in accordance with prescribed procedures
- Incompetence
- Unreasonable standards of dress or personal hygiene
- Failure to observe The Organisation's regulations and procedures.

### Verbal Warning

A Verbal Warning is appropriate when it is necessary for the manager in charge to take action against an employee for any minor failing or minor misconduct. A note of the verbal warning will be placed in the employee's personnel file.



### First Written Warning

A First Written Warning is appropriate when:

- a verbal warning has not been heeded and the misconduct is either repeated or performance has not improved as previously agreed
- an offence is of a more serious nature for which a written warning is more appropriate
- the recurrence or accumulation of an offence / offences, if left, will lead to more severe disciplinary action.

### Examples of Gross – Misconduct

Listed below are examples of misconduct which may be considered to be Gross Misconduct and may warrant a Final Warning, Demotion or Dismissal. It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issuing of a Final Warning, Demotion or Dismissal.

- Theft, including unauthorised possession of The Organisation's property
- Breaches of confidentiality and / or security
- Being unfit for duty because of the misuse / consumption of drugs and / or alcohol
- Refusal to carry out a management instruction which is within the individual's capabilities and which would be seen to be in The Organisation's interests
- Physical assault, breach of the peace or verbal abuse
- False declaration of qualifications or professional registration
- Failure to observe The Organisation's rules, regulations or procedures
- Wilful damage of property at work
- Gross or dangerous incompetence or failure to apply sound professional judgement
- Bribing or attempting to bribe another individual, or personally taking or knowingly allowing another person to take a bribe.

### Final Written Warning

A Final Written Warning is appropriate when:

- an employee's offence is of a serious nature falling just short of one justifying dismissal
- an employee persists in the misconduct which previously warranted a lesser warning.



### Downgrading or Transfer to another Post

This action is appropriate when:

- previous attempts, via the disciplinary procedure, to rectify a problem have failed and this is a final attempt to solve a problem without having to dismiss an employee
- an employee is considered by the Manager of the department to be incompetent or otherwise unfit to fulfil the duties for which he is employed, but where dismissal is not thought to be appropriate.

### Dismissal

Dismissal is appropriate when:

- an employee's behaviour is considered to be Gross Misconduct
- an employee's misconduct has persisted, exhausting all other lines of the disciplinary procedure.

### Time Scales for the expiry of Warnings

Warnings issued to employees shall be deemed to have expired after the following periods of time.

- Verbal Warnings: 6 months
- First Written Warnings: 12 months
- Final Written Warnings: 18 months (or as agreed and recorded at the hearing).

These time scales remain, provided that, during that period, no further warnings have been issued in respect of the employee's conduct.

## **LETTERS OF WARNING**

All warning letters, which must be issued within 7 days of the date of the disciplinary hearing, must contain the following information:

- The nature of the offence and where appropriate, that if further misconduct occurs, more severe disciplinary action will be taken
- The period of time given to the employee for improvement
- The employee's right to appeal to the manager directly above that of the one issuing the warning.

A copy of the warning and any supporting documentation must be attached to the individual's personnel file.

The employee must also receive a copy of the warning which, in the case of any written warning, will be sent to their home address by recorded delivery if not handed to them in person.

In the case of a final written warning, reference must be made to the fact that any further misconduct will lead to dismissal, and that the employee has the right of appeal,



and to whom they can make that appeal.

A letter confirming dismissal will contain the following information:

- The reason for dismissal and any administrative matters arising from the termination of their employment
- The employee's right of appeal and to whom they should make that appeal.

## **APPEALS**

Every employee has the right to appeal against the outcome of a disciplinary hearing. The basis of an appeal should normally relate to one of the following areas:

- that the Organisation's Disciplinary Procedure had not been followed correctly
- that the resulting disciplinary action was inappropriate
- that the need for disciplinary action was not warranted
- that new information regarding the disciplinary action has arisen.

An appeal should be put in writing to the Chair of The Organisation's Directors. The letter of appeal may be constructed by the employee or their representative. The letter should contain the grounds for appeal and should be lodged within 10 days of receipt of the warning / dismissal letter.

An appeal hearing will be arranged within 20 working days of receipt of the appeal letter.

### Appeals against Verbal and First Warnings

In the case of verbal and first warnings, the appeal will be heard by the Chief Executive unless the warning was issued by the Chief Executive in which case it will be heard by a Director who was not involved in the original hearing.

### Appeals against Downgrading, Final Warnings and Dismissal

The hearing and determining of appeals against final warnings and dismissal will be heard by the Chief Executive, unless the Chief Executive was involved in the original hearing, in which case it will be heard by a Director who was not involved in the original hearing.

When dealing with an appeal against a Final Warning or Dismissal, written statements of the case may be submitted no later than 2 days prior to the date of Appeal Hearing. No additional written evidence will be admitted by the Appeal Committee on the date of the Hearing.

Witnesses may be required by either party at an appeal hearing, dependent upon the circumstances and nature of the case. However, there is no specific obligation on either party to produce a witness. Either party must give 5 days prior notice that they intend to call specific persons involved or associated with the case under consideration.



It is the responsibility of the management representative and for the employee to each arrange for the availability and attendance of any witness they wish to call.