



Policy & Procedure Document:

Disciplinary & Appeals.

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Policy statement

The following policy and procedures aim to ensure that all employees receive fair and consistent treatment. Minor disagreements among the Centre's staff, or between staff and committee, can usually be resolved at the regular staff or committee meetings or informally by discussion. Discussions must be in private, out of the hearing of other employees. It should be a two-way discussion, aimed at pointing out any minor shortcomings in conduct or performance and encouraging improvement. Criticism should be constructive, and the emphasis should be on finding ways in which the employee can remedy any shortcomings. The employee should be told that if there is no improvement, the next stage might be the Formal Disciplinary Procedure. A more serious situation arises when a dispute cannot be resolved, or when the Committee is dissatisfied with the conduct or activities of an employee. In these situations, the following Disciplinary will come into force. This policy exists to encourage employees to conform to their contracts of employment and the rules and regulations in relation to attendance, safety and conduct generally and to promote attitudes of self-discipline amongst employees at the Meadows. Where breaches of the rules do occur staff should be aware that they have the right to receive adequate verbal and written warnings and to appeal against any disciplinary action taken.

The Policy

This procedure applies to all the Meadows employees. It covers all aspects of discipline and disciplinary dismissals.

This procedure shall entirely supersede all disciplinary procedures employed prior to its introduction, and shall continue in operation until further notice.

The procedure is designed to ensure issues relating to an employee's conduct are resolved at the lowest possible level. The Centre's disciplinary policy is based on the principle that it provides:

- Fair and consistent treatment for all employees;
- A full and fair hearing in a reasonable time-scales;
- At every stage the employee will be given reasonable notice (at least 48 hours) that a disciplinary hearing is due to take place to give him/her the opportunity to prepare his/her case;
- No employee will be subject to discrimination on the grounds of sex, race, disability, age, sexual orientation, religion or belief at any time;
- That the full appropriate procedure is adhered to in all cases, and dismissal should not follow the first misconduct offence (except in cases of gross misconduct);
- The employee will be offered the opportunity to be accompanied at all stages of the procedure by a colleague or union representative if they so wish

The procedure wherever possible should be an aid to improvement rather than a means of punishment.

Disciplinary Procedure

The disciplinary panel will consist of the Centre committee chairperson, one nominated committee member and Centre manager, who should ensure that confidentiality is maintained within the panel.

The employee will be notified of his/her right to have copies of all witness statements before the meeting, to state their case before decisions are reached and to challenge evidence against them. All

information regarding investigation and disciplinary hearings will be kept confidential and only made available to those directly involved. A clearly defined Appeal process is in place for all disciplinary matters. The Centre ensures that all employees are aware of the setting's disciplinary procedure.

The committee chair person will generate all Centre letters arising from the disciplinary. Procedure and all copies of documents and minutes of the meetings must be made available to the employee upon request. Action therefore, is primarily corrective, with a punitive element aimed at inducing the employee to improve his/her conduct. The action taken on disciplinary cases will be determined by the available facts relevant to each particular case.

This procedure will be revised regularly by the setting in the light of current good management practices and ACAS Codes of Practice.

The procedure encompasses the following principles:

- No disciplinary action will be taken against an employee until the case has been fully investigated;
- At every stage in the procedure the employee will be advised of the specific details of the complaint against him/her and will be given the opportunity to state his or her case before any decision is made;
- At all stages in the procedure the employee will have the right to be accompanied by nominated colleague. Both management and employee will endeavour to ensure that arrangements for representation do not unduly delay the proceedings;
- An employee will have the right of appeal against any disciplinary penalty imposed;
- Any of the sanctions set out in the procedure may be imposed if misconduct is proved, depending upon the severity of the offence.

Informal counselling

The employee's line manager giving informal counselling or advice will normally deal with minor misconduct or breaches of rules in the first instance. This does not constitute part of the formal disciplinary procedure and will not be recorded on the employee's personal file, but the line manager will keep a note of the date, circumstances and advice given and time scale for improvement. The line manager will explain the risk of formal disciplinary proceedings should the employee fail to meet any requirements indicated for future behaviour.

Authority to undertake disciplinary action

Only appropriate authorised officers may conduct investigatory interviews or disciplinary hearings. Authority to undertake disciplinary action will not normally be delegated to employees holding posts lower than room head level. Officers hearing appeals will not normally be below middle manager level, and in no circumstances will they have been involved if the decision is appealed against. The officers authorised by the setting to carry out investigatory interviews and disciplinary hearings, together with the limits of their authority, are shown below.

DESIGNATION	AUTHORITY	APPEAL
Line Manager	Investigatory interviews Disciplinary hearings	No Authority
Centre Manager Disciplinary hearings	Investigatory interviews Disciplinary hearings	Yes
Committee Members (panel of three for appeals)	Investigatory interviews Disciplinary hearings	Yes

In the event of the authorised officer being unavailable the Centre manager will arrange a substitute at an appropriate setting level. The Centre manager will attend all investigatory interviews and disciplinary hearings to provide advice and to ensure fairness and consistency in the application of the procedure, except when the committee panel are involved, when an independent observer will be consulted. This is in recognition of the senior status of the staff members involved and the need to ensure confidentiality.

Where the Centre manager is the investigator, another senior staff member should attend to provide advice and ensure fairness and consistency in the application of the procedure.

The appeal will be heard by the next level of management from the one holding the hearing (or a committee member, in cases of dismissal) who has not been directly involved with the case except in exceptional circumstances.

Investigation and hearings

Investigation

Prior to disciplinary action, the matter will be carefully and fully investigated by the employee's line manager or other appropriate officer. Where the employee's line manager may be involved as a witness another staff member may be appointed to carry out the investigation. Managers should contact an independent observer manager or committee member for clarification or assistance in carrying out an investigation. The investigations will be conducted as rapidly as circumstances permit, normally within five working days. However, where the investigation cannot be completed within five days the employee concerned will be advised of the appropriate investigatory period. Where an employee is suspended during an investigation full pay will be maintained. This does not signify guilt on the part of the employee who is suspended.

The Centre manager will keep the Management Committee Members informed of the situation as appropriate and without compromising their possible role within the appeals process.

Arranging a disciplinary hearing

If the investigating officer feels that there is a case to answer following investigation, then a disciplinary hearing will be arranged.

The disciplinary hearing will not take place until the employee has been informed, in writing, of the specific complaint or allegations and of his/her rights under the procedure and has been offered sufficient time to prepare a case. The employee will receive 5 working days' notice of a disciplinary hearing.

Conduct of disciplinary hearings

Disciplinary hearings will be chaired by the employee's line manager (provided not the person investigating). The investigatory officer will present the case at the hearing. The Centre manager will be present at any hearing. If the investigatory officer is a senior manager, the hearing will be chaired by a member of the committee.

The employee will be given the opportunity to state his/her case to the disciplinary hearing, to be represented, if desired, by a fellow employee, and where the case facts are in dispute to call, where appropriate, fellow employees as witnesses. Where full information is not available or further consideration is required, the chair will adjourn the meeting.

At the conclusion of the hearing the chair will adjourn the hearing to consider whether a case has been established. During the adjournment should the chair wish to ask additional questions of either side then both parties will be recalled.

Determination of appropriate sanction/action

Where the manager or committee member chairing the disciplinary hearing considers that a case has been shown in part or in full, s/he shall determine an appropriate sanction.

In deciding upon the appropriate disciplinary sanction/action the manager/committee member concerned shall take into account the employee's service and disciplinary record, his or her position and responsibilities, and any factors put forward in mitigation, as well as the nature of the offence, relevant rules and previous practice in enforcing them. The Centre manager may advise on appropriate sanctions if called upon to do so but the decision is that of the hearing manager.

In determining the appropriate disciplinary sanction/action the manager/committee member involved will consider previous disciplinary offences where they are appropriate in nature and/or timescale to the case.

Time limits for formal warnings

Disciplinary action will be disregarded for disciplinary purposes as follows: written warnings will cease to be "live" following 12 months of satisfactory conduct and will be disregarded for future disciplinary purposes; verbal warnings will be disregarded for disciplinary purposes after 6 months' satisfactory conduct.

Occasionally, there may be circumstances where the misconduct is so serious - verging on gross misconduct - which it cannot realistically be disregarded for future disciplinary purposes. In such circumstances it will be made clear that the final written warning can never be removed and that any recurrence could lead to dismissal.

Records of investigatory interviews and disciplinary hearings

In addition to the copies of letters, which will be kept on the employee's personal file, the Centre manager/committee member will take notes of the disciplinary hearing. Investigating officers must take notes of their interviews with staff and findings of any research for use, if required, at any subsequent disciplinary hearing.

Where interviews have been held with individuals, the investigating officer will ensure that the record of the interview is agreed and signed by the individual and will produce an investigation report comprising appropriate witness interviews and documentation together with his/her conclusions. This report will be made available to the employee and his/her representative with the letter advising the employee of the specific complaint(s) or allegation(s) to be the subject of a disciplinary hearing should the decision have been taken to hold one. Where it is considered there is no disciplinary case to answer the employee will be advised in writing of this decision.

Formal disciplinary sanctions/actions

The formal disciplinary procedure will be invoked in cases of more serious misconduct or breaches of rules, or persistent minor breaches, which have not been remedied by informal counselling.

The manager chairing the disciplinary hearing will determine the appropriate disciplinary sanction according to the nature of the offence, taking into account the employee's service, disciplinary record, his or her position and responsibilities and any factors put forward in mitigation. The Meadows reserves the right of summary dismissal in cases of gross misconduct.

Verbal warning

The first sanction for minor misconduct is a verbal warning. The fact that a warning has been given, by whom and for what reason will be recorded on the employee's personal file. The manager/committee member will inform the employee of the standards of conduct required and of the consequences of failure to meet those standards.

Formal written warning

The second level of sanction is a formal written warning. A copy of the warning will be placed on the employee's personal file. Where there is a re-occurrence of the same misconduct or an additional episode of misconduct during the verbal warning period, or a first breach of discipline of a more serious nature, the employee may receive a formal written warning. As previously, the employee will be offered the opportunity to state his/her case. The disciplinary panel (Centre management) will conduct the disciplinary hearing. After careful consideration and if the warning is considered appropriate, the employee will be told in writing (within 5 working days). The warning will specify the matters of complaint against an employee, relevant previous disciplinary action, the improvements required to be achieved and maintained, the consequences of a failure to respond as required and the duration of the warning.

They will be informed that the first written warning will be valid for 6 months. A record of the warning will be kept on the individuals file until the relevant expiry date at which point it will be removed and will cease to be considered in any future incidents.

Final written warning

The third level of sanction is a final written warning. Where there is a re-occurrence of the same misconduct or an additional episode of misconduct during the written period, or a first breach of discipline of a more serious nature, the employee may receive a final written warning. As previously, the employee will be offered the opportunity to state his/her case.

The disciplinary panel (Centre management) will conduct the disciplinary hearing. After careful consideration and if the warning is considered appropriate, the employee will be told in writing (within 5 working days):

- The result of the hearing, including a clear statement of the breach of discipline;
- What action should be taken to correct the conduct;
- That he/she will be given reasonable time to rectify matters;
- What training needs have been identified, with time scales for implementation;
- What mitigating circumstances have been taken into account in reaching the decisions;
- Warning that failure to improve will result in further disciplinary action, which could result in a final written warning and, if unheeded, ultimately lead to dismissal;
- They will be informed that the final written warning will be valid for 12 months;
- That a record of the warning will be kept on the individuals file until the relevant expiry date at which point it will be removed and will cease to be considered in any future incidents;
- That he/she may appeal against the decision within a limited period (5 days);

- The details of the warning will be the same as the first formal written warning, with the addition that the warning will make it clear that further misconduct, breaches of rules or failure to comply with the warning could lead to dismissal.

Dismissal

The fourth level of sanction is dismissal. Dismissal will be reserved for cases where the disciplinary procedure has failed to elicit acceptable standards of conduct from the employee, or cases of gross misconduct or serious breaches of rules.

Dismissal will take effect immediately (without prejudice to the employee's rights of appeal) in the case of summary dismissal. In all other cases the dismissal will follow the relevant period of contractual notice or payment in lieu of notice.

If an employee is dismissed summarily for gross misconduct the following procedure will be adopted.

Stage 1. The employee will be informed in writing the nature of their gross misconduct, which led to the dismissal, specifying what the basis was for thinking at the time of the dismissal that they were guilty of the alleged conduct.

Stage 2. If the employee wishes to appeal s/he must inform The Centre accordingly where upon s/he will be invited to a meeting to which s/he must take all reasonable steps to attend.

Appeals procedures

The appeal hearing is not normally intended to cover ground, which was previously discussed during the disciplinary process. Its' purpose is to provide a forum for review of the process and consideration of specific factors including:

- The appropriateness of the penalty;
- Extenuating circumstances;
- Biases of the disciplining person;
- Fairness or otherwise of the hearing; and
- Correctness of procedure

Appeal against disciplinary decisions

An employee may appeal against any disciplinary decision made against him/her. The time limit for registering an appeal (unless otherwise stated) is 7 days from the date of postmark of the disciplinary letter. The person to whom notification of appeal should be made will be specified in the letter confirming the disciplinary decision.

Representation at appeal hearing

An employee who appeals against a disciplinary decision may be accompanied/represented by a colleague. Management will endeavour to ensure that this process does not unreasonably delay proceedings. It is the responsibility of the employee to inform his/her representative of the arrangements for the hearing and to arrange for the representative to be present.

Conduct of appeal hearing

Appeal hearings will be heard by an appropriate manager as detailed within this procedure, but, who in all cases will be senior to the manager who made the original decision.

Appeals against dismissal

Appeal decision

The decision reached at an appeal will be given at the end of the hearing and will be confirmed in writing to the employee within 5 working days.

In cases of employees who are summarily dismissed without notice for gross misconduct, but who are subsequently reinstated on appeal, their basic earnings for the period between dismissal and reinstatement will be paid. Employees dismissed with notice will normally have their appeals heard within their notice period. However, in circumstances when an employee's appeal cannot be heard during the notice period, then, upon reinstatement after appeal, the employee's basic earnings for the period between dismissal and reinstatement will be paid.

External appeals

Employees may have a statutory right, in the case of alleged unfair dismissal/wrongful dismissal to pursue a case to the employment tribunal. Applications must be submitted within 3 months of the effective date of dismissal i.e., the last date of employment.

Review provisions

This procedure is subject to review at regular intervals or as determined by the changes in relevant employment law.

Examples of conduct justifying disciplinary action

Examples of gross misconduct, which may justify summary dismissal, include:

- Causing wilful irregularities, which have the effect of depriving the setting of revenue to which it is due.
- False accounting or reporting.
- Stealing.
- Assault or threatening behaviour.
- Failure to comply with safety rules Causing, (i) by gross negligence of duty or (ii) recklessness in relation to the health and safety of others, damage to people, property, vehicles, plant or equipment etc.
- Fraud, deception or dishonesty.
- Accepting or seeking financial or other inducements from individuals or organisations who are, or who wish to be, suppliers of goods or services to the organisation.
- Acts of misconduct, which brings the organisation's good name into disrepute.
- Serious or wilful abuse of the provisions of the setting's procedures and policies.
- Bullying and/or harassment whether verbally or physically.
- Acts of sexual or racial or disability harassment of other employee(s) or client(s).
- Acts of discrimination, on the grounds of gender, sexual orientation, marital status, age, race, colour, nationality, ethnic origin, religion or disability or failure to follow The Centre's policy on Diversity and Equality.
- Misrepresentation of personal employee details for instance making untrue statements or falsifying qualifications on job applications or false claims in relation to sickness, overtime or holiday entitlements.
- Failure to follow documented procedures and regulations or refusal to comply with the setting's policies.
- Persistent refusal to comply with a lawful request, instruction or order.
- Unreasonable refusal to answer a question during the course of a properly constituted investigation.

- Serious or wilful misuse of the organization's equipment or facilities including gaining unauthorised access to or altering any data stored on computer, tape or disk.
- Being under the influence of or in possession of drugs during duty hours.
- Being under the influence of alcohol during duty hours
- Misappropriating cash and/or property belonging to the organization, its employees, or members of the public.
- Contravening Statutory Regulations which are related to an employee's duties.
- Falsifying attendance records.
- Divulging information known to be confidential and gained during the course of duty.
- Failure to comply with financial regulations.
- Failure to follow procedures with regard to IT security and policy. Accessing, amending, copying or replicating computer information to which you have no right or authority.
- Any attempt to commit any of the above.

Examples of other misconduct, which may lead to disciplinary action

- Absence without permission or good cause.
- Failing to report for duty at the appointed time and place.
- Performing other employment concurrently with employment with the organization which is detrimental to the organizations interests.
- Smoking in designated no smoking areas.
- Refusal to comply with a lawful request, instruction or order.
- Repeating minor offences for which the employee has previously been disciplined.

Limitations and Interpretations

The above list should be considered for general guidance only and is not exhaustive. All cases will take into account the facts and circumstances. If an offence does not appear in the list, there is no assumption that the offender is immune from disciplinary action.

Procedure Document: **Disciplinary & Appeals.**



1. Purpose and scope

The aim of the Meadows is to encourage improvement in individual conduct or performance. This procedure sets out the action which will be taken when disciplinary rules are breached or where standards of performance are not reached.

2. Principles

- a) This procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated.
- b) At every stage employees will have the opportunity to state their case and be represented or accompanied, if they wish, at the hearings by a work colleague.
- c) An employee has the right to appeal against any disciplinary penalty.

3. The Procedure

Stage 1- first warning/performance improvement note.

If conduct or performance is unsatisfactory, the employee will be given a written warning or 'performance improvement note'. Such warnings will be recorded, but disregarded after 6 months of satisfactory service. The employee will also be informed that a final written warning may be considered if there is no sustained satisfactory improvement or change. (Where the first offence is sufficiently serious, for example because it is having, or is likely to have, a serious harmful effect on the Meadows, it may be justifiable to move directly to a final written warning.)

Stage 2 - final written warning

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given which will include the reason for the warning and a note that if no improvement results within 12 months, action at Stage 3 will be taken.

Stage 3 - dismissal or action short of dismissal

If the conduct or performance has failed to improve, the employee may suffer demotion, disciplinary transfer, loss of pay or seniority (as allowed in the contract) or dismissal.

Statutory discipline and dismissal procedure.

If an employee faces dismissal - or action short of dismissal such as loss of pay or demotion - the minimum statutory procedure will be followed. This involves:

- Step one: a written note to the employee setting out the allegation and the basis for it.
- Step two: a meeting to consider and discuss the allegation.
- Step three: a right of appeal including an appeal meeting.

The employee will be reminded of their right to be accompanied.

Gross misconduct

If, after investigation, it is confirmed that an employee has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or payment in lieu of notice:

- theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying and gross insubordination.

While the alleged gross misconduct is being investigated, the employee may be suspended, during which time he or she will be paid their normal pay rate. Any decision to dismiss will be taken by the employer only after full investigation.

Appeals

An employee who wishes to appeal against any disciplinary decision must do so to the Centre manager/Chair of Committee within five working days. The employer will hear the appeal and decide the case as impartially as possible.

This procedure follows ACAS guidelines.