**DISCIPLINARY**

**PROCEDURE**

**& POLICY**

**PURPOSE**

It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action. This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

**AIM**

The procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance.

NOTE: If staff have a grievance then they should follow the Raising a Concern process.

The following is taken from ACAS website:

**What counts as misconduct**

Misconduct is when an employee's inappropriate behaviour or action breaks the organisation's rules.

**Some misconduct examples include:**

 bullying

 harassment

 'insubordination' (refusing to do work)

 being absent without permission (some people call it absent without leave or 'awol')

But your organisation might have its own examples.

**If misconduct happens outside work**

An employee could face disciplinary action for misconduct outside work.

For example, where an employee's behaviour in front of external clients at the work Christmas party reflects badly on the company.

It depends on how serious the employer sees the misconduct and whether it could have a bad effect on the business.

It's important the employer carries out a thorough investigation and can show the effect on the business.

**When there is gross misconduct**

Some acts count as 'gross misconduct' because they are very serious or have very serious effects.

If an employer finds there has been gross misconduct, they should still carry out an investigation and the full disciplinary procedure. They might then decide on dismissal without notice or payment in lieu of notice.

Examples of gross misconduct at work could include:

* fraud
* physical violence
* 'gross negligence' (serious lack of care to their duties or other people)
* serious insubordination, for example refusing to take lawful and reasonable orders from a supervisor

What is seen as gross misconduct can depend on the organisation. Your organisation might have its own policy or rules with examples.

SWRCCS would see misconduct as breaking the Code of Conduct which is in place.

**EFFECT ON STAFF**

1. Minor misconduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
2. You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.
3. If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with the Chair or your line manager as soon as possible.
4. A disciplinary matter will normally be the subject of an investigation. The purpose of an investigation is for the trustees to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. You must co-operate fully and promptly in any investigation. This will include informing the trustees of the names of any relevant witnesses, disclosing any relevant documents to the trustees and attending investigative interviews if required.
5. Where your conduct is the subject of a criminal investigation, charge or conviction the trustees will investigate the facts before deciding whether to take formal disciplinary action. The trustees will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the trustees may have to take a decision based on the available evidence. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the trustees consider that it is relevant to your employment.
6. In some circumstances the trustees may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and any arrangements will be confirmed to you in writing. While suspended you should not visit our premises unless you have been authorised to do so by the Chair or your line manager. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations.
7. Following any investigation, if the trustees consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. You will be informed in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if the trustees decide after the hearing that the allegations are true.
8. You will be given written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time to prepare your case based on the information we have given you. You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion should be either a colleague or trade union official. You must tell the Chair or your line manager who your chosen companion is, in good time before the hearing. The trustees may, at our discretion, allow you to bring a companion who is not a colleague or union representative.
9. You will be informed in writing of the decision and the reasons for it, usually within one week of the disciplinary hearing. Where possible it will also be explained to you in person.
10. The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The trustees aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

**Stage 1 - First written warning.** A first written warning will usually be appropriate for first act of misconduct where there are no other active written warnings on your disciplinary record.

**Stage 2 - Final written warning.** A final written warning will usually be appropriate for:

* 1. misconduct where there is already an active written warning on your record; or
	2. misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

**Stage 3 - Dismissal.** dismissal will usually only be appropriate for:

* 1. any misconduct during your probationary period;
	2. further misconduct where there is an active final written warning on your record; or
	3. any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

**Alternatives to dismissal**. In some cases the trustees may at our discretion consider alternatives to dismissal. These may be authorised by the trustees and will usually be accompanied by a final written warning. Examples include:

* 1. A period of suspension without pay.
	2. Reduction in pay.
	3. Loss of future pay increment or bonus.
1. Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period. A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.
2. If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Chair or your line manager within one week of the date on which you were informed of the decision. The trustees may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened. Following the appeal hearing the trustees may:
	1. confirm the original decision;
	2. revoke the original decision; or
	3. substitute a different penalty.
3. You will be informed in writing of the final decision as soon as possible, usually within one week of the appeal hearing. Where possible it will also be explained to you in person. There will be no further right of appeal.

**EFFECT ON TRUSTEES**

To abide by the process and procedures detailed above when dealing with disciplinary procedures and staff.

**OTHER DOCUMENTS REFERENCED**

Code of Conduct

Raising a Concern

Available at <https://www.swrc-carscheme.co.uk/privacy>

Document version control

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Version number** | **Change or update** | **Author or owner** | **Date** | **Date Approved by Board** |
| 1.0 | First version | RA | 14/11/2019 |  |
| 2.0 | Fitting in with template | PF | 18/10/2024 | 18/02/2025 |
|  |  |  |  |  |