



## STaSS Disciplinary Procedure

MAY 2015

### 1. Purpose and scope

The STaSS Disciplinary Procedure will be used only when necessary and as a last resort. It is designed to help and encourage all employees to achieve and maintain high standards of conduct, attendance and job performance. The aim is to ensure consistent and fair treatment for all in the organisation.

Other good management practice will be used where possible to resolve matters prior to any disciplinary action being taken, or informal and/or formal counselling. The procedure is intended to be positive rather than punitive but recognises the fact that sanctions may have to be applied in some circumstances.

An employee can discuss any part of this policy with their union representative if they are a union member, or their line manager. They can help to clarify an employee's rights as well as give guidance.

### 2. Principles

- Where formal action is being taken, the employee will be advised of the nature of the complaint made against him or her and will be able to state his or her case at a disciplinary meeting before any decision is made.
- Employees will be provided with written copies of evidence where appropriate and relevant witness statements in advance of a disciplinary meeting. The employee has a right at all stages of the procedure to be accompanied by a trade union representative or work colleague.
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice. An employee will have the right to appeal against any disciplinary action.
- Informal action will be considered where appropriate to resolve problems.
- No disciplinary action will be taken against an employee until a case has been fully investigated.

### 3. Procedures

#### 3a. Informal intervention

Informal Intervention is an attempt to correct a situation and prevent it from deteriorating without having to use the disciplinary procedure. Where improvement is required, the employee must be given clear written information/guidelines as to:

- The performance problem

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- What is expected in terms of improving shortcomings in conduct or performance, and any help that may be given
- The timescales for improvement and the right to appeal
- 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 intervention meeting[s] should be given to the employee and a copy retained in their personnel file. It is imperative that any intervention should be followed up and improvements recognised and recorded. Once the intervention objectives have been met and sustained, any record of the intervention will be removed from the employee's file.

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

### 3b. Formal procedure

Formal investigations should be carried out by the most appropriate manager/the Director or member[s] of the Board of Trustees who should not be directly involved with the incident being investigated. This manager/the director etc. may involve others to assist with the investigation process. All the relevant facts should be gathered promptly, as soon as possible after the incident. Statements of fact should be taken from any witnesses at the earliest opportunity. Any physical evidence should be preserved and/or photographed if it is reasonable to do so.

The investigating manager should prepare a report which outlines the facts of the case. This should be given to the director and or chairman who will decide whether further action is required. Where appropriate, this report may be made available to the individual and their representative.

In most circumstances where misconduct or serious misconduct is suspected, it will be appropriate to set up an investigatory hearing. This would be chaired by the director or a trustee who would be accompanied by another trustee or manager. The investigating manager will be asked to present his/her findings in the presence of the employee who has been investigated. Witnesses should be called at this stage, and the employee or their representative allowed to question the witnesses. The employee has a right of representation at this hearing.

The hearing should be adjourned after the employee has had the opportunity to present her/his side of the case and there has been a full presentation of the facts. Everyone should leave the room apart from the director/trustee hearing the case and the accompanying trustee or manager. They must discuss the case and decide which of the following options is most appropriate:

- No further action to be taken against the employee





- Informal intervention
- Proceed to a disciplinary hearing.

Once a decision has been reached all parties should be brought back and informed as to which option has been chosen. If the decision is to proceed to a disciplinary hearing, then this may proceed 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 he/she has the right of representation
- He/she has 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 position to decide on disciplinary action

The manager should ask the employee and their representative if there is anything further they would like to say about the matter.

4. It may be appropriate to adjourn proceedings at this point, whilst arrangements are made for a representative to attend the hearing at the request of the employee.

5. Disciplinary action will cease if the person against whom the action is being taken resigns during the course of the proceedings, unless there are circumstances, which require its continuance.

## 6. Warnings

### Examples of Minor Misconduct

Examples of conduct, which may warrant either a Verbal Warning or a First Written Warning, are listed below. This list is not exhaustive and on all occasions, a full and proper investigation must take place prior to the issue of a written warning:

- Persistent lateness and poor time-keeping
- Absence from work, including on-going absent during work without a valid reason, notification or authorisation
- Smoking within unauthorised areas
- Failure to work in accordance with prescribed procedures

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- Incompetence
- Unreasonable standards of dress or personal hygiene
- Failure to observe STaSS processes and procedures

#### **6a. Verbal Warnings**

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 and shall be deemed to have expired after 6 months.

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## 6b. 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 and a written warning is more appropriate
- An offence[s] has recurred or expanded/accumulated or if left will lead to more severe disciplinary action.

The First Written Warning will set out the nature of the misconduct, the change in the conduct required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the improvement required will be kept for 12 months but will then be considered spent - subject to the employee achieving and sustaining a satisfactory performance.

## 6c. 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. This list is not exhaustive and 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 STaSS property
- Breaches of confidentiality
- Being unfit for duty because of the misuse of alcohol or drugs
- Refusal to carry out a management instruction which is within the individual's capabilities and which would be seen to be in the interests of STaSS
- Breach of confidentiality/security procedures
- Physical assault, breach of the peace or verbal abuse
- False declaration of qualifications or professional registration
- Failure to observe STaSS rules, regulations or procedures
- Wilful damage to STaSS property
- 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

## 6d. Final Written Warning

A Final Written Warning is appropriate when:

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- 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

The Final Written Warning will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal [or some other action short of dismissal] and will refer to the right of appeal. A copy of this written warning will be kept by the supervisor but will be disregarded for disciplinary purposes after eighteen months or as agreed and recorded at the hearing.

## 7. 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
- An employee is considered by the director or their manager to be incompetent or otherwise unfit to fulfil the duties for which he is employed but where dismissal is not thought to be appropriate.
- Downgrading or transfer to another post can only take place when there is a suitable vacancy available.

## 8. 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 disciplinary procedure

The timescales specified for the expiry of Warnings remain provided that during that period no further warnings have been issued in respect of the employee's conduct.

## 9. Letter of Warning

All Warnings must contain the following information:

- The nature of the offence and where appropriate, notification 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 final appeal can be made to the Board of Trustees.

A copy of the warning and any supporting documentation must be attached to the individual's personnel file. The letter must be issued within 7 days of the date of the disciplinary hearing. The employee must receive a copy of the warning, which in the case

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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. The letter confirming dismissal will contain the following information:

- The reason for dismissal and any administrative matters arising from the termination of employment
- Details of the employee's right of appeal and to whom the appeal should be made.

## 10. 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 Charity's procedure has not been followed correctly
- That the resulting disciplinary action was inappropriate
- That the need for disciplinary action was unwarranted
- That new information regarding the disciplinary action has arisen

An appeal should be put in writing to the director or Board of Trustees. The letter of appeal may be written by the employee or their representative. The letter should contain the grounds for appeal and should be lodged within 10 working days of receipt of the warning dismissal letter.

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

## 12. Appeals against Verbal and First Written Warnings

In the case of verbal and first written warnings, the appeal will be heard by the manager next in line to the one who issued the warning.

## 13. Appeals against Downgrading, Final Warnings and Dismissal

The hearing and determining of appeals against final written warnings and dismissal will be heard by the Board of Trustees or a sub-committee of the Board of Trustees. When dealing with an appeal against a Final Warning or Dismissal, written statements of case may be submitted no less than 2 working days prior to the date of the Appeal Hearing. No additional written evidence will be admitted by the Appeal Committee on the date of the Hearing.

Witnesses may be requested to attend 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 working days notice in writing 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 appellant to each arrange for the availability and attendance of any witnesses they wish to call.

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## Disciplinary Procedure

This policy was explained to me and I have also read and understood its content. I promise to abide by it now and after my engagement with STaSS.

Signed \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_

## Policy Review

The Director and Board of Trustees are responsible for reviewing this policy annually and ensuring that it is compliant with current legislation and good practice.

**REVIEWED MAY 2015, NEXT SCHEDULED REVIEW MAY 2016**

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