

DISCIPLINE POLICY FOR STAFF

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1. PURPOSE AND SCOPE

- 1.1 This policy and its associated Disciplinary Rules [appended in Appendix 1] are intended to help and encourage all employees to achieve and maintain high standards of conduct and job performance. These standards, which are expected of all staff, are set out below and employees must familiarise themselves with them.
- 1.2 This procedure is based on the ACAS Code of Practice and Advisory Handbook on Discipline at Work.
- 1.3 This policy does not apply where there are matters of:
 - grievance which is dealt with under a separate policy;
 - competency or capability for which there is a separate policy, unless it is clear that the employee is capable of reaching the required standard and has not done so;
 - ill health for which there is a separate procedure adopted by the Federation, unless there is good reason to believe that the absence or ill health is not genuine.
- 1.4 A distinction can be, and is, made between 'gross misconduct' and 'misconduct'. However, it is not possible to define every act in advance as being one or the other because the judgement as to which it is will vary according to circumstances.
- 1.5 In addition to offences committed at work, it may sometimes be necessary to apply this procedure and take disciplinary action (to include dismissal) against a member of staff for an offence committed outside work which makes the member of staff unsuitable for his or her type of work, or unacceptable to colleagues. If conviction for a criminal act results in a prison or similar custodial sentence, the member of staff may be dismissed on the grounds that he or she is unable to continue in his or her job.

2. DEFINITIONS

- 2.1.1 The term 'employee' refers to any member of staff, whether teaching or not (with the exception of the Executive Principal or acting Executive Principal), employed to work at the Federation.
- 2.1.2 The term 'Senior Manager' refers to any member of the Senior Leadership Team (SLT), delegated by the Executive Principal to deal with a disciplinary matter under these procedures. A Senior Manager may only make a decision to issue a warning up to and including a final written warning.
- 2.1.3 If the Executive Principal considers that there is no Senior Manager to whom s/he can reasonably delegate a specific disciplinary matter, then the Executive Principal will take the role of the Senior Manager for that specific case and the role of the 'Executive Principal' under this procedure will be performed by a staff discipline committee of the Governing Body consisting of not less than two Directors, none of whom will have had previous involvement in the case.

3. PRINCIPLES

- 3.1 Informal action will be considered to resolve problems where appropriate.
- 3.2 No disciplinary action will be taken against an employee until the case has been fully investigated.
- 3.3 Following any investigation, if it is considered there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a hearing. Written notice of the date, time and place of the disciplinary hearing will be given and employees will be given a reasonable amount of time (usually two to seven days), to prepare their case based on the information provided.
- 3.4 In advance of the hearing, employees will be provided, where appropriate, with a summary of relevant information gathered during the investigation, a copy of any relevant documents which will be used at the disciplinary hearing, and a copy of any relevant witness statements, except where a witness's identity is to be kept confidential.
- 3.5 All proceedings will take place without unreasonable delay. Federation holidays will not constitute an unreasonable delay.
- 3.6 At all stages of the procedure the employee will have the right to be accompanied by a trade union representative or work colleague.
- 3.7 No employee will be dismissed for a first breach of the Disciplinary Policy, except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
- 3.8 An employee will have the right to appeal against any disciplinary action.
- 3.9 The procedure may be implemented at any stage if the employee's alleged misconduct warrants it.

4. DISCIPLINARY PENALTIES

- 4.1 Stage 1 Management advice (Informal)
 - 4.1.1 Management can choose to deal with minor instances of misconduct informally, by way of issuing management advice. It is hoped that in the vast majority of cases management advice will resolve any issues and remove the need for further, more formal, disciplinary action.
 - 4.1.2 The Federation is not obliged to give notice of management advice discussions.
 - 4.1.3 Repeated need to issue management advice to staff would normally lead to more serious disciplinary action in accordance with the procedure.

- 4.1.4 There is no appeal against management advice.
- 4.1.5 Although informal, it will be recorded on the employee's personal record and should be confirmed in a written memorandum. The employee may make written comment on the memorandum if s/he has any objection to the issuing of management advice.
- 4.1.6 Management advice discussions do not have an expiry period, however, they will be viewed in the context of time.
- 4.2 Stage 2 First written warning (Formal)
- 4.2.1 There will be a first written warning for misconduct if conduct does not meet acceptable standards. This will be in writing and set out the nature of the misconduct and the change in behaviour 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 warning will be kept, but it will be disregarded for disciplinary purposes after 12 months.
- 4.3 Stage 3 Final written warning (formal)
- If the offence is sufficiently serious, or if there is further misconduct, a final written warning may be given to the employee. This will give details of the complaint. 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 but will be disregarded for disciplinary purposes after 12 months, subject to achieving and sustaining satisfactory conduct.
- 4.4 Stage 4 Dismissal or other sanction (formal)
- 4.4.1 If there is still further misconduct, the final step in the procedure may be dismissal. Dismissal decisions can only be made by the Executive Principal (or the Staff Discipline Committee where the Executive Principal is concerned), and the employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.
- 4.4.2 In some cases, at the Federation's discretion, alternatives to dismissal may be considered. These may be authorised by the Executive Principal (or the Staff Discipline Committee where the Executive Principal is concerned) and will usually be accompanied by a final written warning. Examples include:
- (a) Demotion.
 - (b) Transfer to another department or job.
 - (c) A period of suspension without pay.
 - (d) Loss of seniority.
 - (e) Reduction in pay.
 - (f) Loss of future pay increment or bonus.
 - (g) Loss of overtime.

- 4.4.3 If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that it could result in dismissal if there is no satisfactory improvement, and will be advised of the right of appeal. A copy of the sanction applied will be kept but will be disregarded for disciplinary purposes after 12 months, subject to achievement and sustainment of satisfactory conduct or performance.

5. SUSPENSION

- 5.1 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and the arrangements will be confirmed in writing. While suspended, the employee should not visit the Federation's premises or contact any of the Federation's clients, customers, suppliers, contractors or staff, unless they have been authorised to do so by the Executive Principal or, in case of the Executive Principal, the Chair of Directors. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations.

6. RIGHT OF APPEAL

- 6.1 The employee has a right of appeal against disciplinary action. The appeal will be heard by the Executive Principal for appeals against written warnings issued by Senior Managers or by appeal panel of Directors for appeals against sanctions imposed by the Executive Principal. The number of Directors on the panel will not be less than two, none of whom shall have any previous involvement in the case. The panel shall be advised by a person engaged for the purpose by the Governing Body. The outcome of the appeal may be to:
- (a) confirm the original decision;
 - (b) revoke the original decision; or
 - (c) substitute a different penalty.
- 6.2 The Executive Principal or the panel can refer the case back for further action if it is satisfied that the procedures (in particular the investigation) have not been followed adequately.
- 6.3 Appeals against disciplinary action should be made in writing to the Clerk to the Directors within 5 working days of the receipt of the written decision.
- 6.4 All appeal hearings will be held as soon as possible after receipt of the appeal, normally within 10 working days.
- 6.5 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Federation's discretion depending on the circumstances of each case. In any event, the appeal will be dealt with as impartially as possible.

6.6 The employee is entitled to copies of the record of hearings, as a detailed summary of the proceeding.

6.7 The employee should sign the minutes as a true record of the meeting or register their disagreement through handwritten comments on the minutes.

7. TRADE UNION OFFICIALS

7.1 Although normal disciplinary standards must apply to the conduct of a trade union official as an employee, the Federation will endeavour to discuss the circumstances of the case with the relevant full time trade union officer before taking disciplinary action.

8. CONFIDENTIALITY

8.1 The proceedings of this disciplinary procedure shall remain confidential to the parties concerned. The Federation's aim is to deal with disciplinary matters sensitively and with respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Employees and anyone accompanying them (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure.

DISCIPLINARY RULES

9. GROSS MISCONDUCT

9.1 Gross misconduct is the committing of an act which renders it inadvisable for the member of staff to be allowed to remain at work. Some acts termed gross misconduct are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a gross first offence. Any employee suspected of committing an act of gross misconduct, as indicated in the list below, may be suspended with full pay pending investigation; the suspension will not be considered a disciplinary action.

9.2 If, after investigation and full disciplinary procedure, it is decided that the employee has committed an act of gross misconduct or if the act is admitted by the employee, he or she may be dismissed without further warning or payment in lieu of notice, unless there are mitigating circumstances. The disciplinary procedure will be followed in all cases. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

9.3 Dishonesty associated with place of work or job being undertaken.

9.3.1 Theft of property belonging to the Federation, an employee or student.

9.3.2 Deliberate falsification of timesheets or expenses claims for pecuniary advantage.

9.3.3 Demanding or accepting monies or other considerations as a bribe for the use of Federation property or the provision of Federation services or the showing of favour on behalf of the Federation.

- 9.3.4 Falsification of any information given on an application form for a post to gain advantage whether pecuniary or otherwise.
 - 9.3.5 Failure to disclose criminal convictions not exempt under the terms of the Rehabilitation of Offenders Act, 1975.
 - 9.3.6 Falsification of registration of students for pecuniary gain.
- 9.4 Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.
 - 9.5 Gross negligence in failing to attend to or carry out the agreed duties of the post.
 - 9.6 Wilfully ignoring responsibilities or instructions, thus placing other employees or students in danger, e.g. ignoring handling instructions or safety regulations in respect of radioactive materials.
 - 9.7 Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.
 - 9.8 Wilful unauthorised disclosure of information (classified as confidential), by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to the Federation, other employees or students.
 - 9.9 Acts of violence or vandalism in the course of employment:
 - 9.9.1 Malicious damage to the Federation, a contractor, other employees' or students' property.
 - 9.9.2 Actual physical violence towards members of the Federation staff, Directors, parents, students or other members of the public.
 - 9.10 Sexual misconduct at work:
 - 9.10.1 sexual misconduct whether criminal or not;
 - 9.10.2 sexual relations with students;
 - 9.10.3 inappropriate relations with students;
 - 9.10.4 abuse of trust.
 - 9.11 Deliberately accessing internet sites containing pornographic, offensive or obscene material using Federation equipment.
 - 9.12 Unlawful discrimination or harassment.
 - 9.13 Bringing the Federation into serious disrepute.
 - 9.14 Discrimination, whether unlawful or not, in the course of duty against other employees, students or members of the public on the grounds of sex, marital status, ethnic origin, disability or sexual orientation.

9.15 Off-duty misconduct:

- 9.15.1 an act of criminal sexual misconduct by an employee who, in the course of duty, has contact with students and others for whom the Federation has a duty of care;
- 9.15.2 drug offences committed by employees whose job brings them into contact with young people;
- 9.15.3 sexual misconduct whether criminal or not;
- 9.15.4 sexual relations with students.

9.16 Serious insubordination.

9.17 A serious breach of confidence.

9.18 A serious breach of the Federation's Safeguarding Policy or legislation.

10. MISCONDUCT

10.1 Misconduct is of a degree less serious than that which would warrant immediate suspension from duty for a first offence but which could nevertheless lead to dismissal if it recurred. The Disciplinary Policy must be followed when dealing with misconduct. Some more serious acts of misconduct might justify omitting the first stage of disciplinary procedures by issuing a final warning in the first instance, if there is no satisfactory explanation. Only when it can be shown that the warnings have not been heeded will misconduct lead to action being taken which will lead to the dismissal of a member of staff. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

10.2 Absenteeism and lateness, for example:

- 10.2.1 failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
- 10.2.2 frequent failure to attend work punctually;
- 10.2.3 failure to notify the Federation immediately or as soon as is reasonably practicable when absence is due to sickness;
- 10.2.4 failure to provide medical certificates in accordance with the conditions of service and the Directors' policy.

10.3 Dishonesty - petty wrongs, for example:

- 10.3.1 making unauthorised private telephone calls and/or sending personal mail at the establishment's expense;
- 10.3.2 failure to report any loss or damage to any property issued to or by the employee in connection with his or her employment.

- 10.4 Neglect of duty, for example:
- 10.4.1 failure to adopt safe working practices or to use protective equipment where required by law or management;
 - 10.4.2 negligent use of Federation property in such a way as is likely to cause serious damage or loss;
 - 10.4.3 failure to discharge without sufficient cause the obligations which statute or the contract of employment places on the member of staff;
 - 10.4.4 insubordination;
 - 10.4.5 failure to exercise proper control or supervision of students.
- 10.5 Abusive behaviour or offensive language which arises directly out of or in connection with work and which is directed at colleagues, Directors, students or members of the public.
- 10.6 Victimisation of other employees in the course of duty.
- 10.7 Unlawful discrimination against other employees, students or members of the public in the course of duty.
- 10.8 Discrimination, whether unlawful or not, in the course of duty against other employees, students or members of the public on the grounds of sex, marital status, ethnic origin, disability or sexual orientation.
- 10.9 Undertaking additional employment outside normal working hours which would be detrimental to the work to be performed as a full-time employee of the Federation.
- 10.10 A breach of Federation safeguarding policy or legislation.