

VOLUNTEER CORNWALL DISCIPLINARY PROCEDURE 2022

POLICY AND PRINCIPLES

1. POLICY STATEMENT

- 1.1 The aim of the disciplinary procedure is to provide a framework within which everyone can work to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts. Employees (including those in their probationary period) should not be dismissed or subjected to disciplinary action without being provided with the following:
 - (a) a written statement of the allegations;
 - (b) a fair hearing before any decision is reached; and
 - (c) the right to an appeal hearing.

2. GENERAL PRINCIPLES

- 2.1 This procedure applies to all employees and workers regardless of status or length of service. It does not apply to agency workers or self-employed contractors. It is for guidance only and does not form part of your contract of employment.
- 2.2 This procedure does not apply to cases involving:
 - (a) genuine sickness absence;
 - (b) proposed redundancies; or
 - (c) capability.

In those cases reference should be made to the appropriate procedure.

- 2.3 Minor conduct issues can normally be resolved informally between you and your manager. These discussions should be held in private and without undue delay whenever there is cause for concern. In some cases an informal verbal warning may be given. Full details of all discussions will be kept on file. 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).
- 2.4 Except in cases of gross misconduct or during your probationary period, you will not normally be dismissed for a first act of misconduct. We will normally give you a warning and a chance to improve.
- 2.5 Where disciplinary allegations are made against a probationary employee we may omit some of the steps set down in this procedure and/or vary some or all of the time limits. We will as a minimum however carry out the three steps outlined in 1.2 above prior to dismissing a probationary employee.
- 2.6 Any steps under this procedure should be taken promptly unless there is a good reason for delay. We may vary any time limits if it is reasonable to do so.
- 2.7 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your senior manager as soon as possible.
- 2.8 If you believe that disciplinary action has been or is being taken against you for a reason which does not relate to your conduct, or for a reason which is discriminatory on grounds related to sex, sexual orientation, race, religion, age or disability, you should submit a

grievance in writing under our grievance procedure to the Chief Executive as soon as possible and before any appeal hearing takes place under this procedure.

3. CONFIDENTIALITY

- 3.1 Our aim during an investigation or disciplinary procedure is to deal with matters sensitively and with due respect for the privacy of any individuals involved.
- 3.2 All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 3.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless, in our discretion, we believe that a witness's identity should remain confidential.
- 3.4 Witnesses must treat as confidential any information given to them in the course of an investigation, including the identity of any employees under investigation.

4. INVESTIGATIONS

- 4.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts before deciding whether to proceed with a disciplinary hearing. This may involve reviewing any relevant documents, accessing IT equipment and phones, interviewing you and any witnesses, and taking witness statements.
- 4.2 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 4.3 You do not normally have the right to bring anyone to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome a difficulty caused by a disability, or any difficulty in understanding English.
- 4.4 You must cooperate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending any investigative interviews.
- 4.5 The amount of investigation required will depend on the nature of the allegations and will vary from case to case.

5. SUSPENSION

- 5.1 In cases of alleged gross misconduct where the employee's continued presence in the office would hinder an investigation we may need to suspend them from work while an investigation or disciplinary procedure is ongoing. The suspension will be for no longer than necessary and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or employees, unless you have been authorised to do so by the Chief Executive.
- 5.2 Suspension of this kind is not a disciplinary sanction and does not imply that any decision has already been made about your case. Pay and benefits during suspension will be calculated as set out in your contract.

FORMAL DISCIPLINARY PROCEDURE

6. WRITTEN INFORMATION

Following any investigation, if we consider there are grounds for disciplinary action, we will inform you in writing of the allegations against you and the basis for those allegations. This will normally include:

- (a) a summary of relevant information gathered during the investigation;
- (b) documents which will be used at the disciplinary hearing; and
- (c) witness statements which will be used at the hearing, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

You will have a reasonable opportunity to consider this information before the hearing.

7. DISCIPLINARY HEARING

- 7.1 We will give you written notice of the date, time and place of the disciplinary hearing, which will normally be held between two to seven days after you receive the written notice.
- 7.2 The hearing will be chaired by the Chief Executive. You may bring a companion with you to the disciplinary hearing (see paragraph 9). Other attendees will depend upon the nature of the hearing.
- 7.3 You must take all reasonable steps to attend the hearing. Failure to attend a hearing without good reason may be treated as misconduct in itself. If you or your companion cannot attend at the time specified you should inform us immediately and we will seek to agree an alternative time.
- 7.4 The purpose of the disciplinary hearing is to review the evidence and to enable you to respond to any allegations that have been made against you. If you have a companion, he or she may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.
- 7.5 It will not normally be necessary for witnesses to be questioned or cross-examined at the disciplinary hearing but, in exceptional cases, the Chief Executive may decide that a fair hearing could not be held otherwise.
- 7.6 The disciplinary hearing may be adjourned if we need to carry out any further investigations. For example, we may decide to re-interview witnesses in the light of any points that have been raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 7.7 Within seven days of the disciplinary hearing we will inform you in writing of our decision (including details of any misconduct that we consider you have committed, and the disciplinary sanction to be applied) together with the reasons for our decision. We will also inform you of your right of appeal. Where possible we will also explain this information to you in person.

8. APPEALS

- 8.1 If you wish to appeal you should do so in writing, stating your full grounds of appeal, to the Chief Executive within seven days of the date on which you were informed of the decision.
- 8.2 We will give you written notice of the date, time and place of the appeal hearing. This will normally be between two and seven days after you receive the written notice. In cases of dismissal the appeal will be held as soon as possible.
- 8.3 The appeal hearing will be chaired by a Director. You may bring a companion with you to the appeal meeting.
- 8.4 If you raise any new matters in your appeal we may need to carry out further investigation prior to the appeal hearing. If any new information comes to light we will provide you with the details as set out under paragraph 6. You will have a reasonable opportunity to consider this information before the hearing.
- 8.5 The appeal hearing may be a complete rehearing of the matter or it may be a review of the original decision taking account of any new information. This will be at the discretion of the

appeal meeting chair, depending on your grounds of appeal and the circumstances of your case.

- 8.6 Following the appeal hearing we may:
- (a) confirm the original decision; or
 - (b) revoke the original decision; or
 - (c) substitute a different disciplinary sanction.
- 8.7 We will inform you in writing of our final decision within seven days of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.
- 8.8 The date on which any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, you will be reinstated with no loss of continuity or pay.

9. RIGHT TO BE ACCOMPANIED

- 9.1 You may bring a companion to any disciplinary or appeal hearings under this procedure. The companion may be either a trade union official or a colleague. You must tell the Chief Executive who your chosen companion is, in good time before the hearing.
- 9.2 Acting as a companion is voluntary and employees are under no obligation to do so. Employees will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 9.3 If your choice of companion is unreasonable we may ask you to choose someone else. For example:
- (a) if in our opinion your companion may have a conflict of interest or may prejudice the hearing; or
 - (b) if your companion works at another site and someone reasonably suitable is available at the site at which you work; or
 - (c) if your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.
- 9.4 We may, at our discretion, allow you to bring a companion who is not an employee or union official (for example, a member of your family) where this will help overcome a particular difficulty caused by a disability, or where you have difficulty understanding English.

DISMISSALS AND DISCIPLINARY ACTION

10. DISCIPLINARY SANCTIONS

- 10.1 We aim to treat all employees fairly and consistently. Disciplinary action previously taken against other employees 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.
- 10.2 Depending on the seriousness of the matter any of the following stages may be omitted.

11. STAGE 1: VERBAL WARNING

- 11.1 You may be given a verbal warning for a minor act of misconduct where you have no other active warnings on your disciplinary record.
- 11.2 The warning will be confirmed in a letter to you which will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct.
- 11.3 A record of the warning will be placed permanently on your personnel file and will remain active for six months from the date it is given, after which time it will be disregarded in deciding the outcome of future disciplinary proceedings. Your conduct may be reviewed at

the end of this period and if it has not improved sufficiently we may decide to extend the active period.

11.4 Verbal warnings may be given by your senior manager.

12. STAGE 2: FIRST WRITTEN WARNING

12.1 A first written warning will usually be given for:

(a) first acts of misconduct where there are no other active warnings on your disciplinary record; or

(b) minor misconduct where there is an active verbal warning on your record.

12.2 The warning will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct.

12.3 The warning will be placed permanently on your personnel file and will remain active for six months from the date it is given, after which time it will be disregarded in deciding the outcome of future disciplinary proceedings. Your conduct may be reviewed at the end of this period and if it has not improved sufficiently we may decide to extend the active period.

12.4 First written warnings may be given by the Chief Executive.

13. STAGE 3: FINAL WRITTEN WARNING

13.1 A final written warning will usually be given for:

(a) misconduct where there is already an active written warning on your record; or

(b) cases where there is no active written warning on file but we consider that the misconduct is sufficiently serious to warrant a final written warning.

13.2 The warning will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct.

13.3 The warning will be placed permanently on your personnel file and will normally remain active for 12 months or, if we decide that the matter is more serious, for a longer period. Your conduct may be reviewed at the end of this period and if it has not improved sufficiently we may decide to extend the active period. After the active period it will be disregarded in deciding the result of future disciplinary proceedings. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely.

13.4 Final written warnings may be given by the Chief Executive.

14. STAGE 4: DISMISSAL

14.1 We may decide to dismiss you in the following circumstances:

(a) misconduct during your probationary period; or

(b) misconduct where there is an active final written warning on your record; or

(c) gross misconduct regardless of whether you have received any previous warnings.

14.2 Gross misconduct will usually result in summary dismissal, that is, dismissal without notice or payment in lieu of notice. In cases not involving gross misconduct you will be given your full contractual notice period, or payment in lieu of notice.

14.3 Dismissal may be authorised by the Chief Executive.

15. ALTERNATIVE SANCTIONS SHORT OF DISMISSAL

15.1 In appropriate cases we may consider some other sanction short of dismissal, such as:

(a) demotion;

(b) transfer to another department or job;

(c) 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, if applicable.

15.2 These sanctions may be used in conjunction with a written warning.

15.3 These sanctions may be authorised by the Chief Executive.

Signed:

Date: 7th April, 2022

Ian Jones
Chief Executive
On behalf of Volunteer Cornwall

Review Date: 04/25