

Hainworth Wood Community Centre

Disciplinary Policy

Introduction

The rules of Hainworth Wood Community Centre's disciplinary procedures are contained in your written statement of employment particulars and in other policy documents. In particular, employees should be aware of the rules covering any acts of discrimination or harassment contained in the Equality and Diversity policy.

The disciplinary procedure and associated sanctions shall apply where:

- there are concerns about an employee's performance during the probationary period in a post
- the work (capability) or conduct of an employee appears to be unsatisfactory
- employees breach the rules contained in their terms and conditions of employment
- employees are accused of discrimination, harassment or victimisation, either of staff or of service users, falling short of gross misconduct

Misconduct can include:

- misuse of the organisation's facilities including computer facilities (e.g. email and the Internet)
- poor timekeeping
- unauthorised absences
- breaches of health and safety rules

Gross misconduct

Acts which will be deemed to be gross misconduct and may lead to summary dismissal (dismissal without notice) for the first offence include:

- theft, fraud and deliberate falsification of records
- physical violence or assault
- deliberate damage to property
- serious abuse of email or internet policy
- fraudulent misuse of the organisation's property or name
- incapacity for work due to being under the influence of alcohol or illegal drugs
- serious negligence which causes unacceptable loss, damage or injury
- serious acts of insubordination
- serious infringement of health and safety rules
- serious breach of confidentiality
- serious breach of Hainworth Wood Community Centre's Equality and Diversity policy
- any other acts which are deemed to be of sufficient seriousness as to constitute gross misconduct

Disciplinary procedures

Hainworth Wood Community Centre's aim is to encourage all employees to maintain high standards in individual conduct and work. This procedure sets out the action which will be taken in response to cases of alleged misconduct and poor work performance. The procedure is designed to establish the facts quickly and to deal consistently and fairly with any disciplinary issues.

All meetings (investigatory, disciplinary or appeals) will be held in private and the need for confidentiality must be respected at all stages.

Whenever disciplinary action is being considered the employee will be informed in advance. No disciplinary action will be taken until the matter has been fully investigated. No disciplinary sanction will be taken against an employee until the individual has been given an opportunity to state their case at a disciplinary hearing.

Hainworth Wood Community Centre's Board of Trustees reserves the right to involve individuals from outside the organisation to assist with an investigation. Any such third parties will agree to be bound to respect confidentiality.

Where an employee has a recognised disability, appropriate reasonable adjustments will be made to the procedure. This might involve, for instance, allowing a reader or sign language interpreter to attend, or giving assistance with written submissions.

This policy applies to all employees of Hainworth Wood Community Centre. Trustees or volunteers who are the subject of complaints will be entitled to an investigation and to state their case at an appropriate hearing but this will not necessarily follow the procedures in this policy. In the event of complaints being upheld, sanctions will be applied as appropriate.

Responsibility at each stage

This procedure has been designed to ensure that those responsible for initiating disciplinary action through the various stages are clearly identified and that employees can appeal to an appropriate group of people at each stage of the process.

Failure of probationary period – simplified procedure

Where an employee's performance is not considered to be satisfactory in spite of support and clear targets for improvement at any time during the probationary period, but particularly at either the 3 month or the 6 month review stages or at the end of an extended probationary period, the contract may be terminated.

Where termination is a possibility, the employee will be informed in writing that a meeting is to be held to discuss concerns about performance and that this could result in dismissal. Appropriate evidence will be supplied. The meeting will be conducted by the employee's line manager and/or the Chief Officer, unless this is the same person in which case a Trustee will also be present. The employee will be entitled to bring a companion of their choice to this meeting.

The employee will be informed of the outcome of the meeting in writing and given a chance to appeal. The employee may bring a mutually agreed companion of their choice to the appeal hearing. The appeal will be heard by two trustees, including the Chair or Deputy Chair of the Board of Trustees and their decision will be final.

Employee capability

If a line manager has concerns about the capability of an employee to perform the duties of the post for which they are employed to a satisfactory standard, they will ensure that these issues are first addressed through the organisation's performance management and appraisal procedures or sickness procedures. This will include identifying sources of training for staff and/or considering other ways of performing the necessary work. It will also include identification of work areas where improvement is needed and detailing the improvement required, along with the timescale in which this improvement is to take place and the ways in which this will be measured.

Where a line manager has addressed issues of concern in line with the supervision and appraisal procedures or sickness procedures and there is no significant improvement in work standard, the line manager may invoke the disciplinary procedure.

Procedure:

Summary

Hainworth Wood Community Centre will use the disciplinary procedure to:

- establish the facts
- inform the employee of the problem
- hold a meeting
- allow the employee to be accompanied
- decide on appropriate action
- give right of appeal
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Minor faults will be dealt with informally and in confidence by the immediate supervisor in the first instance, but where the matter is more serious or the minor fault is repeated the following disciplinary procedure may be used.

Preliminary investigations

On receipt of an allegation of misconduct or poor performance, the matter will be thoroughly investigated. This may include an interview with the employee and /or with witnesses or those with other relevant involvement.

Investigation

Where an employee is subject to allegations that may make it necessary to invoke the disciplinary process, or where an employee is suspected of having committed gross misconduct, a full investigation will be carried out prior to any disciplinary hearing. The employee may be suspended with pay during this period. All employees are required to contribute to any investigation where requested, whether suspended or not.

An investigating officer appointed by the Chair Person will carry out the investigation. Depending on the circumstances, the Investigating Officer may or may not be: one of the decision makers on the disciplinary panel; sharing responsibility for the decision to apply a disciplinary sanction and/or involved in the appeal procedure. In exceptional circumstances, the investigating officer may be an external party brought in for the purposes of conducting the investigation, in which case they will be present at a hearing to present their evidence and answer questions but will have no part in the decision making.

Suspension

In cases where there is reasonable ground for suspecting that an employee is subject to an allegation of gross misconduct, or where it is considered necessary to enable an investigation to be undertaken the employee will be suspended on full pay while the case is investigated. The decision to suspend will be made by the employee's line manager in consultation with the Chair. The terms of suspension will be conveyed to the employee in writing. During any time of suspension, the employee is required to surrender their keys to any of the employer's premises, and to comply with any conditions of suspension.

These conditions must allow for the suspended employee to contact a colleague or other appropriate person to arrange accompaniment and/or representation at the disciplinary hearing. They must also

take account of the employee's right to have appropriate access to relevant people or resources in order to prepare and establish their case.

A decision to suspend an employee is not a disciplinary sanction and will not be counted as such nor held on file as such. Employees will not be warned in advance of a decision to suspend.

On completion of the investigation, a disciplinary hearing will be held as soon as is practicable, unless the finding is that there is no case to answer.

The employee will remain suspended during the period of the disciplinary hearing, which may include additional periods of investigation subject to the decisions of the disciplinary panel.

Disciplinary hearing – notification, format, role of companion

If the situation or the investigation indicates that the misconduct or poor performance warrants disciplinary action, then a disciplinary hearing will be arranged.

Notification

The employee will be informed of the date of the disciplinary hearing in writing and no less than one week's notice will be given. This written statement will include the nature of the complaint against him or her with supporting evidence, the names of the panel and any witnesses that may be called. The statement will give an indication of the seriousness of the probable seriousness of the allegation and the likely sanction if the allegation is upheld; in particular, in cases where dismissal is a possible worst outcome the employee will be informed of this and told that a possible sanction is dismissal.

At the same time, the employee will be advised in writing of their right to consult with a person of their own choosing (e.g. staff representative, Trade Union representative or mutually agreed companion) prior to the hearing and to be accompanied/or represented by that person at the disciplinary hearing itself. The employee must inform Hainworth Wood Community Centre whom they have chosen as their companion in advance of the meeting and must give advance notice of any witnesses to be called.

Format

The format for the hearing will be as follows:

- The panel will appoint a minute taker to take an appropriate record of the hearing. A copy will be distributed to all attendees.
- The person responsible for initiating the disciplinary action or the Investigating Officer will present their reasons for calling the disciplinary meeting and will go through their previously gathered and disclosed evidence to the panel as appropriate. They may call witnesses as previously notified.
- The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be allowed to ask questions, present evidence, call witnesses as previously notified and raise points about any information provided by witnesses.
- Witnesses. Thought must be given as to the most appropriate way to present witness evidence on either side. In some cases a written witness statement (anonymised or not as appropriate) will be sufficient but depending on the nature of the allegation and the seriousness of the case, it may be appropriate for witnesses to be called in person. Personal attendance of witnesses ensures that their evidence can be questioned by the other party but it will also be important to consider the implications for ongoing staff relationships and morale.

In cases of harassment or personal abuse / assault, the disciplinary panel must make appropriate arrangements to protect the personal safety of any witnesses. In exceptional cases statements may be given anonymously but this must not compromise a fair hearing taking place. The disciplinary panel may adjourn to consider evidence or undertake further investigation as appropriate.

Once all evidence has been presented from both sides the disciplinary panel will consider the evidence and determine whether disciplinary sanctions will be imposed and the level of sanction as identified below. Before making any decision account should be taken of the employee's disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and whether the intended disciplinary action is reasonable in the circumstances.

The employee will be informed of the results of the disciplinary hearing and the reasons for the decision as soon as possible. This will be confirmed in writing.

Role of the companion

The person accompanying an employee ('the companion') to a disciplinary hearing may act as an advocate and/or supporter, i.e. address the panel, respond to views and sum up the employee's case. However, all questions posed to the worker must be answered directly by him or her although s/he may confer with their companion first.

If either the employee or their companion is not available to attend the meeting on the proposed date, the meeting may be postponed to a mutually convenient time. This should be as soon as is practicable after the day originally proposed by Hainworth Wood Community Centre. In circumstances where the employee has been suspended on full pay, Hainworth Wood Community Centre may reduce or withhold pay for periods of unreasonable delay caused by failure of the employee (or their companion) to agree to a new date.

There is no duty on a fellow worker to accept a request to accompany a work colleague and no pressure should be brought to bear on a person if they do not wish to act as a companion.

A worker who has been requested to accompany a colleague and has agreed to do so will be permitted to take a reasonable amount of paid time off to fulfil this responsibility. Hainworth Wood Community Centre will also allow a reasonable amount of time off for the accompanying person to confer with the worker before and after the hearing.

Rearrangement

The aim must be to conduct and conclude disciplinary proceedings within a reasonable timescale in order to reduce uncertainty and stress for all parties. If either side for good reason fails to attend an agreed meeting, the meeting may be rearranged once. Any subsequent agreed meeting may, at the discretion of the disciplinary panel, proceed without the person who is unable to attend. In exceptional circumstances, for instance where **either** the person initiating the disciplinary action **or** the employee against whom the allegations are made cannot attend because of sickness, a written submission may be acceptable; however in the interests of a fair hearing, this should be a last resort. If an employee consistently refuses to attend a disciplinary interview (or to submit a written response) without good cause, Hainworth Wood Community Centre will make a decision on the information available, taking into account the reason for the non attendance, nature of any illness, severity of misdemeanour, how such cases have been dealt with before and the employee's previous disciplinary record. After writing to the employee to warn them of this, Hainworth Wood Community Centre may decide to hold the hearing without the employee, with their representative on his/her own or accept a written submission from the employee.

Disciplinary sanctions

There will be four possible sanctions that may be imposed as a result of a disciplinary hearing, each designed to cover varying degrees of seriousness of the case and also to give a proper sequence for persistent cases. The disciplinary panel may impose any level of sanction, as it deems necessary, depending on the severity of the case. The panel may also decide to reduce or to increase the length of time for which a warning will remain on record, again depending on the severity of the misconduct. Where there is repeated and/or additional misconduct, the panel may choose to extend the period during which a particular sanction remains on record, or they may choose to impose the next level of sanction. No sanction, or extension of a sanction, will be imposed until after a disciplinary hearing has been held at which the employee has been given a chance to defend or dispute their alleged actions.

First (or verbal) warning

Once the investigation and disciplinary hearing has been concluded, where the case is of sufficient seriousness (or, in the case of capability concerns, where the employee is not showing the required improvement in work performance) a first warning will be given. Notes of the warning will be placed on the employee's record and a copy given to the employee. Depending on the findings of the disciplinary panel and their judgment as to the severity of the case, the record will normally be removed after 3 months satisfactory conduct (unless a subsequent disciplinary hearing finds that there has been a further instance of misconduct of whatever nature within the 3 month period).

The employee will be advised that the warning constitutes the first formal sanction of the disciplinary process. The nature of the offence and the likely consequences of further offences or a failure to improve within the specified timescale will be explained to the employee. The employee will be informed of their right of appeal. See below for appeal procedure.

Written warning

Once the investigation and disciplinary hearing has been concluded, where the case has already involved the first warning stage and insufficient improvement has been made, or a further offence (whether or not connected with the first offence) has occurred within the timescale of the first warning, or where the instance of misconduct is of sufficient seriousness, a formal written warning will be given.

The written warning will include:

- a) the cause or nature of the offence(s)
- b) the decision to issue the warning or other sanction and the reason for imposing this level of sanction
- c) action required of the employee, including details of work performance improvements required in the case of action relating to capability
- d) time scale in which improvement is expected
- e) any assistance which the employer may make available
- f) the right of appeal
- g) the length of time the warning will remain on file
- h) the likely consequences of further offences or a failure to improve within the specified timescale

Depending on the findings of the disciplinary panel and their judgment as to the severity of the case, the record will normally be removed after 6 months satisfactory conduct (unless a subsequent disciplinary hearing finds that there has been a further instance of misconduct of whatever nature within the 6 month period). The employee will be informed of their right of appeal. See below for appeal procedure.

Final written warning

Once the investigation and disciplinary hearing has been concluded, where the case has already involved the written warning stage and insufficient improvement has been made, or where the case is of sufficient seriousness, a final warning will be given. The final warning will cover the same information as contained in the written warning, together with a statement that the consequences of further misconduct or insufficient improvement may be dismissal. Depending on the findings of the disciplinary panel and their judgment as to the severity of the case, the record will normally be removed after 12 months satisfactory conduct (unless a subsequent disciplinary hearing finds that there has been a further instance of misconduct of whatever nature within the 12 month period). The employee will be informed of their right of appeal. See below for appeal procedure.

Although warnings will normally only remain on file for the relevant time period as stated above, exceptionally, there may be circumstances where misconduct is so serious that it cannot realistically be disregarded for future disciplinary purposes.

Dismissal

If the conduct or performance continues to be unsatisfactory, the procedure above has been followed and an appeal offered at each stage, or where the case is of sufficient seriousness to constitute gross misconduct (see below), a final investigation and/or disciplinary hearing will be held, the outcome of which may be dismissal. Any employee at this stage of the disciplinary procedure will be duly warned of this possibility.

Following a decision by a disciplinary panel to dismiss, the employee will be informed of their right of appeal. See below for appeal procedure.

No decision to dismiss will be made without holding a formal disciplinary meeting at which the employee has the opportunity to present their case. Any decision to dismiss is subject to a right of appeal.

All disciplinary hearings are to be conducted according to the procedures set out above, which involve holding proper investigations, giving due notice of the dates of hearings and the allegations to be answered and allowing the employee to be accompanied by an appropriate companion.

Gross misconduct

Actions which will be deemed to be gross misconduct and may lead to summary dismissal (dismissal without notice) for the first offence are listed on page 1.

The employee may be suspended with pay while the alleged misconduct is being investigated. In the event of dismissal for gross misconduct the employee will not be entitled to notice as set out in the Principal Statement of Employment Particulars. In exceptional circumstances, Hainworth Wood Community Centre reserves the right to ask staff facing dismissal if they would prefer demotion as a direct alternative.

Termination of contract for other reasons

Dismissal procedures will not be followed where the termination is solely on grounds of the expiry of a fixed term contract or redundancy. Termination on grounds of ill health will follow the Absence Management policy. Termination because of a statutory ban will not necessarily follow this procedure.

Appeal

An employee has the right of appeal to the management committee against any disciplinary action. Such an appeal must be made within 10 working days of the employee receiving notice of the

disciplinary sanction. The right to appeal shall apply to all outcomes of a disciplinary hearing and shall be exercised by the employee writing to the Chair of the Management Committee within 15 working days of notification of the decision, giving the grounds of the appeal. Any appeal will be held as soon as practicable following receipt of the appeal letter. The appeal hearing may take place before or after disciplinary action or dismissal has taken effect. Employees have the right to be accompanied by a person of their choice at all appeal hearings, but they must inform the person responsible for holding the appeal whom it is they have chosen in advance of the meeting. All requests will be considered and permission will not be unreasonably withheld. Appeals will be heard by the responsible party as outlined in the grid below.

The appeal panel will appoint a minute taker to take an appropriate record of the appeal. A copy will be distributed to all attendees.

Prior to the appeal the panel has to decide if a rehearing (this would happen if there was a procedural flaw in the original hearing) or an appeal (for presentation of new evidence or appeals against the severity of the sanction) is required. If the former applies, Hainworth Wood Community Centre will once again follow the procedure for the disciplinary hearing as above.

If the hearing is an appeal, ensure all relevant documents and minutes are circulated to the appeal panel members, the employee and their representatives prior to the hearing. The format for the appeal will be as follows:

- The employee or their representative presents their case including any new evidence to the appeal body.
- A member of the disciplinary panel or person responsible for imposing the disciplinary action or the Investigating Officer if appropriate will present their reasons for the decision at the disciplinary hearing to the appeal body.
- The employee may respond to this statement if they wish to.
- There should not normally be any need for either side to recall witnesses unless they have anything materially new to add. If witnesses are to be recalled or new witnesses called, their names must be supplied to the other side prior to the hearing.
- In cases of harassment or personal abuse / assault, the appeal body must make appropriate arrangements to protect the personal safety of any witnesses.

The appeal body can make the following decisions:

- To uphold the first decision against which the appeal is made.
- To uphold the appeal.
- To vary the sanction imposed by the disciplinary panel, e.g. to change a final warning to a written warning.
- In the case of dismissal, to uphold the appeal not to dismiss but to vary the sanction imposed.

The panel may not increase the sanction, e.g. from a final written warning to a dismissal. If there is new evidence or a further incident warranting a more severe sanction, there should be another disciplinary hearing to address the matter separate to the appeal.

The employee will be informed of the results of the appeal and the reasons for the decision as soon as possible and this will be confirmed in writing.

Decisions of appeal bodies are final and there is no further appeal.

Responsibility

No person directly involved in any allegation of gross misconduct, a significant witness or anyone who has been involved in previous decisions will take part as a member of any appeal body.

Where a disciplinary offence involves the director, the Chair of the management committee shall appoint a member of the management committee who shall assume the role of the director in the disciplinary procedure. Any appeal by the director should be made through the chair of the management committee and should be heard by 3 members of the Board not involved in the earlier disciplinary hearing.

Where there are a series of disciplinary hearings and appeals, the same members of the board may hear each stage of the disciplinary hearings. Two other members of the board may hear all the appeals until the dismissal stage, when the hearing and the appeal should if possible be heard by members of the management committee who are entirely new to the matter. The Chairperson should not be involved until the final appeal hearing.

Thus there will be a total of 3 members of the Board involved in the early stages of a disciplinary process (4 if the director is the subject of the disciplinary matter), with a further 3 including the Chairperson held back for the final appeal meeting. Where there are more members of the Board available, it may be advisable to further separate those who hear the various meetings.

Overlapping discipline and grievance procedures

A disciplinary process may be temporarily suspended to allow a grievance to be heard or, if the grievance and discipline are related, the issues may be dealt with concurrently.

Date Agreed September 2017

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