



Mactaggart Youth and Communities  
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## Mactaggart Youth and Communities Outreach Service

Providing Information and Accessible Youth-Friendly

### DISCIPLINARY AND DISMISSAL PROCEDURE

#### Purpose and Scope

- a) We require good standards of conduct and performance from all of our employees. This disciplinary and dismissal procedure will apply to any act of misconduct or failure to meet satisfactory standards of behaviour or attendance. Although this procedure is primarily aimed at misconduct; it will also be applied to cases of poor performance (capability).
- b) **Employees do not have a contractual right to the benefit of this disciplinary procedure and we reserve the right to change this procedure from time to time without prior notice.**
- c) This procedure complies with the statutory dismissal and disciplinary procedure, as required under the Employment Act 2002.

#### Principles

- a) No disciplinary action will be taken against an employee until the matter has been fully investigated.
- b) In advance of any disciplinary hearing, the employee(s) will be advised in writing of the nature of the conduct, capability or other circumstances that may result in disciplinary action or dismissal. The employee will be given the opportunity to discuss the issue and state their case at a meeting before any decision is made.
- c) All employees will be given the opportunity to prepare before attending a disciplinary hearing.
- d) At all stages, the employee will have the right to be accompanied by a work colleague of their choice or their trade union representative during the disciplinary hearing.
- e) The disciplinary action taken will depend on the circumstances (including the nature of the complaint) and be dealt with as soon as is reasonably practicable.
- f) Only the appropriate manager can take the decision to dismiss.
- g) Any suspension necessary before a disciplinary measure is determined will be on basic pay. Should an employee become unwell during any period of suspension (and thereby unable to attend work) then the appropriate sick pay will always be paid.
- h) Employees being disciplined will have the right of appeal, whenever practicable, to level of management not previously involved.

#### The Right to be Accompanied

At any disciplinary hearing an employee may request to be accompanied by a fellow employee of their choice or by a trade union official. Where a Trade Union is recognised in the workplace it is good practice for workers to ask an official from that union to accompany them. If an employee chooses a lay trade union official they should be certified by their union as having experience of having received training in acting as an employee's companion at disciplinary hearings. The Company may wish to see evidence that the trade union official who accompanies them is so certified.

When employees are choosing a companion, they should bear in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest. Nor would it be reasonable for an employee to be accompanied by a colleague from a geographically remote location when someone suitably qualified was available on site.

Before the hearing takes place, the employee should tell the Company whom they have chosen as a companion. If the companion can't attend on a proposed date, the employee can suggest an alternative time and date, so long as it is reasonable and it is not more than five working days after the original date.

The companion will be allowed to address the hearing in order to put the employee's case and sum up where appropriate. The companion can also confer with the employee during the hearing. The companion has no right to answer questions on the employee's behalf, or to address the hearing if the employee does not wish it, or to prevent the company from explaining their case.

### **The Procedure**

Minor cases will be dealt with informally. Counselling may often be a more satisfactory method of resolving problems than using the Disciplinary procedure. However, where informal action does not bring an improvement or the matter is more serious, the following formal procedure will be used. Before any formal procedure is taken by the Company, the employee will receive in writing sufficient information for him or her to be able to fully understand both what it is he or she is alleged to have done wrong and the reason why this is not acceptable. This written explanation will also invite the employee to a disciplinary hearing at which the problem can be discussed, and will inform the employee of their right to be accompanied at the hearing.

#### **Stage 1 – Verbal Warning**

For minor breaches of discipline, or failure to achieve satisfactory standards of behaviour or performance, the employee will normally be given a formal VERBAL WARNING.

A note of this warning will be recorded and will advise the right of appeal, but it will be considered invalid for disciplinary purposes after six months, subject to satisfactory conduct and performance.

#### **Stage 2 – Written Warning**

If the offence is a serious one, or if a further offence occurs, a WRITTEN WARNING will be given to the employee. It will detail the complaint, the improvement required and the timescale. It will warn that action under stage three will be considered if there is no satisfactory improvement, and will advise the right of appeal.

Written warnings will be considered invalid for disciplinary purposes after twelve months, subject to satisfactory conduct and performance.

#### **Stage 3 – Final Written Warning**

If there is still a failure to improve, and conduct or performance is still unsatisfactory, OR if the misconduct is sufficiently serious to warrant only one written warning (but insufficiently serious to justify dismissal), a FINAL WRITTEN WARNING will normally be given to the employee. It will detail the complaint, the improvements required, the timescale and will warn that dismissal will result if there is no satisfactory improvement and will advise on the right of appeal.

Final Written Warnings will be considered invalid for disciplinary purposes after twelve months, unless specified otherwise.

#### **Stage 4 – Dismissal**

If conduct or performance is still unsatisfactory and the employee still fails to reach the prescribed standards, or misconduct is sufficiently serious to warrant it, then DISMISSAL will result. Only the Board of Directors can decide to dismiss. The employee will be provided, as soon as it is reasonably practicable, with written reasons for dismissal, together with the date on which employment will terminate and the right of appeal.

#### **Gross Misconduct**

Employees will be summarily dismissed if it is established, after investigation and on hearing the employee's case, that there has been an act of gross misconduct or poor performance of sufficient gravity to warrant summary dismissal. Such dismissals will occur without the need to issue prior disciplinary warnings. As a precautionary measure, employees may be suspended from work on full pay to enable the Company to investigate the alleged offence.

Gross misconduct giving rise to dismissal without warning(s) will include, but not be limited to, the following:

- Fighting, physical assault, violent conduct or dangerous horseplay.
- Failure to carry out a reasonable and lawful direct instruction given by a superior during working hours.
- Gross insubordination
- The use of aggressive behaviour or excessive bad language.
- Theft, wilful damage or negligence which leads to damage of property belonging to the Company or other employees.
- Falsification of Company records (including timesheets, clock cards, commission claims, etc.).
- Wilful acts of damage when representing the Company or engaged in Company business.
- Performing, arranging or carrying out work or activity which could be considered to compete with or adversely in any way affects the Company's interest.
- Fraud or any other offence committed against the Company which would be a breach of the law of the land.
- Attending work while intoxicated by alcohol or non-medically prescribed drugs.
- Acts of gross negligence or misconduct involving carelessness or reckless driving.
- Loss of driving licence on conviction when driving is all or an essential part of the job requirements.
- Serious breach of legal limits while driving Company vehicles.
- Breach of safety rules and/ or any action which seriously endangers the health and safety of an employee or any other person while at work.
- Deliberately making a false entry in the written records of the Company.
- Knowingly giving false information or deliberately omitting relevant information on the job application form or self-declaration form.
- Smoking in designated non-smoking areas
- Partaking in discrimination or harassment.
- The viewing or downloading of pornographic or other derogatory, defamatory, obscene or inappropriate material from internet/e-mail systems.
- Unauthorised access to, or disclosure of, any confidential information.
- Abuse of internet/e-mail systems/ telephone for personal usage.
- Serious professional malpractice liable to bring the Company to disrepute.
- Conviction for a criminal offence which, in the opinion of your Employer, has implications for your work with the organisation.
- Putting children at risk.

### **Other Punitive Action**

An employee may have other punitive action imposed as a disciplinary measure as an alternative to dismissal, including (but without limitation): demotion or transfer; loss of seniority or salary increment; suspension without pay. An employee will have the right to appeal against any such alternative disciplinary sanction, as set out below.

### **Appeals**

At any stage after a disciplinary decision has been taken by the Company, including Dismissal, an employee has the right to appeal to the next level of management.

To start an appeal, the employee must confirm their intention to appeal in writing within five working days of receiving the written notification, following the disciplinary action. The written confirmation should set out the grounds for the appeal. The warning or dismissal will stand unless and until it is altered on appeal.

The company will undertake any Appeal Hearing as soon as is reasonably practical after receiving written confirmation of the employee's wish to appeal.

At any appeal hearing, an employee may request to be accompanied by a fellow employee of their choice or by a trade union official.

The Company will endeavour to ensure that the person hearing the appeal was not a party to the original disciplinary decision.

The decision taken at the appeal is deemed to be final.

