



Disciplinary Policy and Procedure

Oxfordshire Motor Project (TRAX)

2022/2023

Review Management

Initiated	Who	Action
05/10/2022	Trustees, CEO, COO and DSL Leads	Signed off and load onto ARBOR
08/10/2022 ongoing, planned completion 21/11/2022	COO and DSL Leads	Load onto ARBOR
The first week in November 2022	COO and DSL Leads	Staff refresh training first week of November
Throughout November planned completion	Lead Trustee CEO, COO and DSL	Review and validate- test for information and access
Early December OCC Visit		Invite OC to test and review Sign off as lead charity compliance process (Replace activity section)
April 2023	Trustees, CEO, COO and DSL Leads	Review and update policy

Introduction

It is necessary for the proper operation of the business and the health and safety of the organisation's employees that the organisation operates a disciplinary procedure. The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary by the organisation's management save to the extent that a minor reprimand is given for any minor act of misconduct committed by an employee.

Without prejudice to the above, the procedure does not apply to:

- Termination during or at the end of a probationary period of service (including any extended probationary period of employment)
- Termination by mutual consent.

The organization reserves the right to implement the procedure at any stage as set out in this document considering the alleged misconduct of an employee. Employees will not usually be dismissed for a first disciplinary offense.

Where time limits are referred to in the course of this procedure they may be varied by consent between the employee and the organization.

The organization allows employees to be accompanied at any disciplinary hearing by a fellow worker or trade union official of their choice.

Matters that the organization views as amounting to disciplinary offenses include (but are not limited to):

- Persistent bad timekeeping;
- Unauthorised absence;
- Minor damage to organization property
- Failure to observe organization procedures
- Abusive behaviour;
- Unreasonable refusal to follow an instruction issued by a manager or Trustee
- Poor attendance
- Smoking on the organization's premises outside of the designated smoking area or in vehicles.

Investigation

An employee's manager will promptly and thoroughly investigate any matter that is reasonably suspected or believed to contravene any of the Employer's policies or rules or may otherwise be a disciplinary matter. The employee will be informed as soon as possible as to the fact of an investigation and when it has been concluded.

Where it is believed that the matter to be investigated involves serious misconduct, the employee may be immediately suspended from work on full pay and contractual benefits. If serious misconduct is not initially suspected or believed to have occurred, but during the course of the investigation, the person conducting it reasonably forms the opinion that a serious breach of discipline may have occurred, the employee who is the subject of the investigation may then be suspended. Any decision to suspend will be confirmed in writing within three working days and such written confirmation will state that the nature of the suspension is precautionary, not disciplinary, pending the outcome of the disciplinary proceedings.

Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. If such an interview is held prior to a disciplinary hearing, the employee will be informed at the outset that the interview is an investigatory interview. The organisation reserves the right to dispense with an investigatory interview and to proceed directly to a formal disciplinary hearing.

Procedure

Where, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct; the employee will be invited to attend a disciplinary hearing before the employee's manager/Trustee. In the event of poor performance by an employee, disciplinary hearings will usually be undertaken only where counselling of the employee, further training (where appropriate), and oral warnings have failed to produce satisfactory improvements to performance.

In the event of a disciplinary hearing taking place, the organization will:

- a) Give the employee a minimum of two days advance notice of the hearing.
- b) Tell the employee the purpose of the hearing and that it will be held under the Employer's disciplinary procedure.
- c) Give the employee written details of the nature of his/her alleged misconduct, and
- d) Provide to the employee all relevant information (which should include statements taken from any fellow employees or other persons that the organisation intends to rely upon against the employee) not less than two days in advance of the hearing.

Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day. The organisation will comply with a) the above in respect of giving notice of the rearranged hearing. Unless there are special circumstances, if the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in the employee's absence. The employee's fellow worker or trade union official may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

The Disciplinary Hearing

A disciplinary hearing will normally be conducted by the employee's manager or a Trustee together with the organisation's HR representative (the panel). Any member of the organisation responsible for the investigation of the disciplinary offense (s) shall not be a member of the panel, save to the extent that such a person may present any supporting facts and material to the disciplinary hearing. The employee will be entitled to be given a full explanation of the case against him/her and be informed of the content of any statements provided by witnesses. The employee will also be entitled to state his/her case in response to the organisation's case and put forward an explanation of his/her conduct and/or mitigating factors. The employee is also entitled to invite a representative of their choosing into the meeting, including a Trade Union official.

The organisation may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The employee will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with his/her fellow worker or trade union official, to consider the new information prior to the reconvening of the disciplinary proceedings. As soon as possible after the conclusion of the disciplinary proceedings, the panel will convey their decision to the employee and will also inform the employee what disciplinary action, if any, is to be taken. The decision will be confirmed in writing. The employee will be notified of his/her right of appeal under this procedure.

Disciplinary Action

Where, following a disciplinary hearing, the organisation establishes that the employee has committed a disciplinary offence; the following disciplinary action may be taken:

- a) Where a minor offence or offences have been committed, a recorded oral warning may be given.

The warning will ordinarily state that any further misconduct will render the employee liable to

further, more severe disciplinary action. The employee should be informed of the period that the warning will remain 'live'. During this period, the organisation may rely on such a warning in the event of further misconduct on the part of the employee.

- b) Where either a more serious disciplinary offence has been committed or further minor offences have been committed by the employee following a recorded oral warning that remains 'live', the employee will receive a first written warning. The warning will:
- i. Set out the nature of the offence committed.
 - ii. Inform the employee that further misconduct is liable to result in further disciplinary action under this procedure.
 - iii. Specify the period for which the warning will remain 'live', after such period the organisation will review the warning; and
 - iv. State that the employee may appeal against the warning.
- c) Where a serious disciplinary offence amounting to gross misconduct has been committed, thereby justifying summary dismissal, but the organisation decides, after taking into account all appropriate circumstances, that a lesser penalty is appropriate, or, where an employee commits further disciplinary offences after a first written warning has been issued and remains 'live', a final (or combined first and final) written warning may be given. Such a warning will:
- i. Set out the nature of the offence committed.
 - ii. Inform the employee that further misconduct is likely to result in his/her dismissal; and
 - iii. State that the employee may appeal against the warning.
- d) Where the employee has committed further acts of misconduct (these being acts of misconduct rather than gross misconduct) following a final written warning given under (c) above, the employee may be dismissed with notice or with pay in lieu of notice.
- e) Where the organisation establishes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed.
- f) Where a final written warning is given to an employee under (c) above, the organisation may also impose on the employee:

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- i. Disciplinary suspension;
- ii. Demotion;
- iii. Stoppage of pay for such period as the organisation thinks fit in the circumstances subject to a maximum of 4 weeks; or
- iv. Transfer to a job of a lower status.

h) The foregoing sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

Appeal

An employee may appeal against any disciplinary sanction imposed against him/her, with the exception of an informal or oral warning. The appeal will be heard by a Trustee who has not been involved in the decision to impose the disciplinary sanction on the employee. The Trustee is obliged to consider any representations made by the employee, the employee's fellow employee or trade union official, and those of the manager/Trustee who conducted the investigation and the manager/Trustee who conducted the disciplinary hearing and imposed the disciplinary sanction. The Trustee hearing the appeal must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light, whether to uphold the disciplinary sanction. In the event that the Trustee finds for the employee, the Trustee shall allow the appeal and shall remove all records of the disciplinary sanction from the employee's record. In the event that the Trustee does not accept the representations made by or on behalf of the employee, the Trustee must uphold the disciplinary sanction.

When lodging an appeal, the employee should state:

- the grounds for the appeal; and
- Whether he/she is appealing against the findings that he/she has committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

The employee must provide written notice of the appeal within five working days of being informed of the disciplinary sanction being imposed against him/her. Appeal hearings will take place within 14 days of receipt of the employee's written notice of appeal.

Upon completion of the appeal, the Trustee conducting the hearing will convey his/her decision to the employee. The organisation's decision at the appeal is final. The decision will be confirmed in writing within one week.

Where an appeal lies against dismissal by a panel, the panel's decision to dismiss will have had an immediate effect and, therefore, if the dismissal is by notice, the period of notice will already have commenced on the date that the decision was given by the panel. If the panel's decision was to dismiss the employee summarily without notice, the organisation will be under no obligation to pay the employee for any period between the date of the original dismissal and the appeal decision and the original date of termination will stand.

Gross Misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the organisation. In the event that an employee commits an act of gross misconduct, the organisation will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the organisation views as amounting to gross misconduct include (but are not limited to):

- stealing from the organisation, members of staff, clients/customers, or the public.
- other offences of dishonesty;
- falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain for the employee.
- falsification of records, reports, accounts, expense claims, or self-certification forms whether or not for personal gain.
- sexual misconduct at work;
- fighting with or physical assault on members of staff or the public.
- deliberate damage to or misuse of the Organisation's property.
- serious damage to the Organisation's property.
- drunkenness or being under the influence of illegal drugs whilst at work.
- possession, custody, or control of illegal drugs on the Organisation's premises.
- serious breach of the Organisation's rules, including, but not restricted to, health and safety rules and rules on computer use.
- gross negligence.

- conviction of a criminal offense that is relevant to the employee's employment.
- conduct that brings the Organisation's name into disrepute; and
- Discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, race, disability, age, religion, or belief.

Other acts of misconduct may come within the general definition of gross misconduct.

Criminal Conduct Outside Work

Criminal charges or convictions for offenses of dishonesty or violence committed outside working hours may result in disciplinary proceedings being taken against the employee up to and including dismissal.

A charge or conviction for any type of offense may result in disciplinary proceedings being taken against the employee where, in the opinion of the organisation, the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in which he/she is employed, or the business or reputation of the organisation, or where the existence of the charge or conviction, in the opinion of the organisation, otherwise seriously undermine the trust and confidence that the organisation has in the employee.