



Warwickshire Pride

Registered Charity Number: 1162449

# Disciplinary Procedure

## Introduction

The Disciplinary Procedure exists in order to provide transparent, consistent and auditable guidance as to how Warwickshire Pride will handle matters relating to performance and behaviour.

Primarily, this will be associated with concerns about employee's work, conduct or absence. Applying this policy to volunteers is optional as volunteers do not have the same workplace rights as employees. Therefore, this policy may provide a framework to support investigation into behavioural matters for those who are not formally employed by Warwickshire Pride but work with the charity (for example, volunteers).

Warwickshire Pride may raise matters informally (details of informal approaches have also been referenced in this document). However, in some scenarios the charity may go straight to formal disciplinary or dismissal procedures.

It is important that all employees, volunteers and trustees are aware of the Disciplinary Procedure.

## Scope

Warwickshire Pride's Disciplinary Procedure will be used only when necessary and as a last resort. Where possible, informal and/or formal counselling or other good management practices will be used to resolve matters prior to any disciplinary action being taken. The procedure is intended to be positive rather than punitive, but takes cognisance of the fact that sanctions may have to be applied in some circumstances.

An employee can discuss any part of this policy with their Union Representative, should they have one, or their line manager. They can help clarify employee's rights as well as give guidance and support where it may be needed. Every employee has the right to representation at any point during the disciplinary process.

Representation may include observers, whose role it is to observe only.

## Warnings

### **Examples of Minor Misconduct**

Below are listed examples of misconduct which may warrant either a verbal warning or a first written warning. It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issue of a warning.

- Persistent lateness and poor time-keeping.

- Absence from work, including going absent during work, without valid reason, notification or authorisation.
- Smoking within unauthorised areas.
- Failure to work in accordance with prescribed procedures.
- Incompetence.
- Unreasonable standards of dress or personal hygiene.
- Failure to observe charity regulations and procedures.

### **Verbal Warning**

A verbal warning is appropriate when it is necessary for the manager in charge to take action against an employee for any minor failing or minor misconduct.

### **First Written Warning**

A first written warning is appropriate when:

- A verbal warning has not been heeded and the misconduct is either repeated or performance has not improved as previously agreed.
- An offence is of a more serious nature for which a written warning is more appropriate.
- The recurrence or accumulation of an offence/offences, if left, will lead to more severe disciplinary action.

### **Examples of Gross Misconduct**

Listed below are examples of misconduct, which may be considered to be gross misconduct and may warrant a final warning, demotion or dismissal. It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issuing of a final warning, demotion or dismissal.

- Theft, including unauthorised possession of Warwickshire Pride property.
- Breaches of confidentiality, prejudicial to the interest of Warwickshire Pride.
- Being unfit for duty because of the misuse/consumption of drugs or alcohol.
- Refusal to carry out a management instruction which is within the individual's capabilities and which would be seen to be in the interests

of Warwickshire Pride.

- Breach of confidentiality or security procedures.
- Physical assault, breach of the peace or verbal abuse.
- False declaration of qualifications or professional registration.
- Failure to observe Warwickshire Pride's rules, regulations or procedures.
- Wilful damage of property at work.
- Incompetence or failure to apply sound professional judgement.
- Bribing or attempting to bribe another individual, or personally taking or knowingly allowing another person to take a bribe.
- Making vexatious or malicious complaints, or untrue allegations about another person or people.

### **Final Written Warning**

A final written warning is appropriate when:

- An employee's offence is of a serious nature falling just short of justifying dismissal.
- An employee persists in the misconduct which previously warranted a lesser warning.

### **Downgrading or Transfer to Another Post**

This action is appropriate when:

- Previous attempts, via the disciplinary procedure, to rectify a problem have failed and this is a final attempt to solve a problem without having to dismiss an employee.
- An employee is considered by the trustees to be incompetent or otherwise unfit to fulfil the duties for which they are employed but where dismissal is not thought to be appropriate.

### **Dismissal**

Dismissal is appropriate when:

- An employee's behaviour is considered to be Gross Misconduct.
- An employee's misconduct has persisted, exhausting all other lines of

disciplinary procedure.

### **Time Scales for the Expiry of Warnings**

Warnings issued to employees shall be deemed to have expired after the following periods of time:

- Verbal Warnings: 6 months.
- First Written Warnings: 12 months.
- Final Written Warnings: 18 months (or as agreed and recorded at the hearing).

These time scales remain provided that during that period, no further warnings have been issued in respect of the employee's conduct.

### **Suspension**

Suspension is not disciplinary action. The purpose of suspension is manifold and can be used when it is necessary to remove an employee from the workplace pending an investigation, for example, to allow time for a cooling down period for both parties, for their own or other's protection, to prevent them influencing or being influenced by others, or to prevent possible interference with evidence. Only the manager in charge of that individual at that time, or their superior, has the authority to suspend an individual.

An employee suspended from duty will receive written confirmation within three working days of:

- The reason for the suspension.
- The date and time from which the suspension will operate.
- The timescale of the ongoing investigation.
- The right of appeal to Warwickshire Pride's board of trustees, should the suspension last more than 7 days.

### **Counselling**

Counselling is an attempt to correct a situation and prevent it from getting worse without having to use the disciplinary procedure. Where improvement is required, the employee must be given clear guidelines as to:

- What is expected in terms of improving shortcomings in conduct or

performance.

- The time scales for improvement.
- When this will be reviewed.
- The employee must also be told, where appropriate, that failure to improve may result in formal disciplinary action.

A record of the counselling should be given to the employee and a copy retained in their personnel file. It is imperative that any counselling should be followed up and improvements recognised and recorded. Once the counselling objectives have been met, any record of the counselling will be removed from the employee's file.

If during counselling it becomes clear that the matter is more serious, then the discussion should be adjourned, and pursued under the formal disciplinary procedure.

Employees are not eligible to have representation present at counselling sessions. This includes observers whose role would be to observe only.

### **Procedure for Formal Investigation**

1. Formal investigations should be carried out by the most appropriate trustee who is not directly involved with the incident being investigated. This trustee may involve other trustees to assist with the investigation process. All the relevant facts should be gathered promptly as soon as is practicable after the incident. Statements should be taken from witnesses at the earliest opportunity. Any physical evidence should be preserved and/or photographed if reasonable to do so.
2. A report should be prepared which outlines the facts of the case. This should be submitted to the board of trustees. Where appropriate, this report may be made available to the individual and their representative.
3. In most circumstances where misconduct or gross misconduct is suspected, it will be appropriate to set up an investigatory hearing. This would be chaired by the appropriate trustee, who would be accompanied by at least one other trustee. The investigating trustee would be asked to present their findings in the presence of the employee who has been investigated. Witnesses should be called at this stage, if appropriate, and the employee (or their representative) allowed to question these witnesses. The employee has a right of representation at this hearing, including an observer whose role is to observe only.

4. Following the full presentation of the facts, and the opportunity afforded to the employee to state their side of the case, the hearing should be adjourned, and everyone would leave the room (or be placed in the waiting room if taking place on Zoom), except the trustees hearing the case. They would discuss the case and decide which of the following option was appropriate:
  - Take no further action against the employee.
  - Recommend counselling for the employee.
  - Proceed to a disciplinary hearing.
5. All parties should be brought back in, and informed as to which option has been chosen. Should the decision be taken to proceed to a disciplinary hearing, then this may follow on immediately from the investigatory hearing if the following criteria have been met:
  - The employee has been informed in writing that the investigation may turn into a disciplinary hearing, and that they have the right of representation, including the presence of an observer whose role is to observe only.
  - They have been told in advance what the nature of the complaint is, and had time to consult with a representative.
  - All the facts have been produced at the investigatory hearing, and the trustee is in a position to decide on disciplinary action.
  - The trustee should inform the employee and their representative that the hearing would now become a formal disciplinary hearing and invite them to say anything further in relation to the case.
6. It may be appropriate at this point to adjourn proceedings, whilst necessary arrangements are made for a representative to attend the hearing at the request of the employee. The investigating trustee can use their discretion.
7. Should anyone who is subject to disciplinary action resign during the course of it, the action will cease unless there are extenuating circumstances which require its continuance. The subject of the disciplinary action may also request that the disciplinary action continue.
8. Investigation hearings and disciplinary hearings will be recorded and stored by Warwickshire Pride.
9. Investigation hearings and disciplinary hearings will take place during the employee's normal working hours wherever possible.

10. Employees may have a representative present during an investigation hearing and a disciplinary hearing. The representative can be a Trade Union representative, should the employee have one. The representative may also be a fellow employee (a trustee, employee or volunteer), providing it is appropriate for that individual to be a representative. The representative may also be an observer. Their role would be to observe only.

## Letter of Warning

All warnings must contain the following information:

- The letter must be issued within 7 days of the date of the disciplinary hearing.
- The nature of the offence and where appropriate, that if further misconduct occurs, more severe disciplinary action will be taken.
- The period of time given to the employee for improvement.
- The employee's right to appeal to the board of trustees.
- A copy of the warning and any supporting documentation must be attached to the individual's personnel file.
- The employee must also receive a copy of the warning which in the case of any written warning will be sent to their home address by recorded delivery if not handed to them in person.
- In the case of a final written warning, reference must be made to the fact that any further misconduct will lead to dismissal, and that the employee has the right of appeal, and to who they can make that appeal.

The letter confirming dismissal will contain the following information:

- The reason for dismissal and any administrative matter arising from the termination of their employment.
- The employee's right of appeal and to whom they should make that appeal.

## Appeals

Every employee has the right to appeal against the outcome of a disciplinary hearing. The basis of an appeal should normally relate to one of the following areas:

- That Warwickshire Pride's procedure had not been followed correctly.
- That the resulting disciplinary action was inappropriate.
- That the need for disciplinary action was not warranted.
- That new information regarding disciplinary action has arisen.

An appeal should be put in writing to Warwickshire Pride's board of trustees by emailing **info@warwickshirepride.co.uk**. The letter of appeal may be constructed by the employee or their representative. The letter should contain the grounds for appeal and should be lodged within ten working days of receipt of the warning/dismissal letter.

An appeal will be arranged within twenty working days of receipt of the appeal letter.

An appeal can only be made once. Further appeals may not be made following the outcome of the initial appeal. The outcome of the appeal is final.

### **Appeals Against Verbal and First Warnings**

In the case of verbal and first warnings, the appeal will be heard by Warwickshire Pride's board of trustees.

### **Appeals Against Downgrading, Final Warnings and Dismissal**

The hearing and determining of appeals against final warnings and dismissal will be heard by the appropriate Warwickshire Pride trustee. They may also involve another trustee not previously involved with the case, but this is not essential.

When dealing with an appeal against a final warning or dismissal, written statements of case may be submitted no later than two days prior to the date of appeal hearing. No additional written evidence will be admitted by the appeal committee on the date of the hearing.

Witnesses may be required by either party at an appeal hearing, dependent upon the circumstances and nature of the case. However, there is no specific obligation on either party to produce a witness. Either party must give five days prior notice that they intend to call specific persons involved or associated with the case under consideration.

It is the responsibility of the investigating trustee and for the appellant to each arrange for the availability and attendance of any witness they wish to call.

Appeal hearings will be conducted either in person or online via a platform such as Zoom. Appeal hearings will take place during an employee's normal working hours wherever possible. Appeal hearings will be recorded and stored by Warwickshire Pride.

Employees may have a representative present during an appeal hearing and a disciplinary hearing. The representative can be a Trade Union representative, should the employee have one. The representative may also be a fellow employee (a trustee, employee or volunteer), providing it is appropriate for that individual to be a representative. The representative may also be an observer. Their role would be to observe only.

If the appeal is dismissed, the outcome must be communicated to the employee in writing, stating the reasons why the appeal has been dismissed.

If the appeal is upheld, the outcome must be communicated to the employee in writing, stating the next steps (such as return to employment).

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