



DISCIPLINARY AND PERFORMANCE IMPROVEMENT PROCEDURE

1. Policy Statement

- 1.1. This document is designed to set out the procedure the Company will follow if a concern arises over an employee's conduct or performance.
- 1.2. This procedure is designed to ensure that any concerns about conduct or performance is dealt with fairly and consistently.
- 1.3. The procedure applies to all employees who should familiarise themselves with it. It does not apply to agency workers or self-employed contractors.
- 1.4. This procedure does not form part of any employee's contract of employment and it may be amended at any time.
- 1.5. When using this procedure our approach may vary. For example, training and review periods are more likely to be appropriate where the concerns are performance-based as opposed to conduct-based.

2. Informal resolution

- 2.1. Minor concerns about conduct or performance issues can often be resolved informally between you and your team. Where appropriate, a note of any such informal discussion may be placed on your personnel file. Formal steps **may** be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate.

3. Confidentiality

- 3.1. Our aim is to deal with disciplinary matters sensitively. All employees who are the subject of this procedure or contacted as part of any investigation under this procedure must treat any information communicated to them as confidential.

4. Suspension

- 4.1. If there are concerns about your conduct or performance we may need to suspend you from work whilst we carry out an investigation or a hearing under this procedure. Whilst suspended, the Company may need to contact you therefore you need to be available. During this time you should not visit the Company premises or contact any of the Company's clients, customers, suppliers or contractors. You should also not discuss any aspect of work or the disciplinary with any colleagues unless you are specifically authorised to do so by a member of personnel or a Director.
- 4.2. Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary and benefits during the period of suspension.

5. Investigations

- 5.1. The purpose of an investigation is for us to look into concerns about your conduct or performance carefully. What is involved will depend very much on the circumstances. If there are concerns about your conduct, in some cases it will be clear straightaway that holding a hearing under this procedure is appropriate. In other cases preliminary investigation may be necessary before deciding whether to hold a hearing. A preliminary investigation may include interviewing staff and others and reviewing documents. You may be interviewed during such an investigation (but not necessarily).
- 5.2. If there are any concerns about your performance, it is less likely that an investigation will be appropriate in advance of a hearing under this procedure.
- 5.3. Investigatory 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.
- 5.4. In performance matters, the same manager may perform the role of investigator and decision-maker. In cases of misconduct we would normally aim to keep these two roles separate.
- 5.5. You do not normally have the right to bring a companion to an investigative interview.
- 5.6. You must co-operate fully and promptly in any investigation. This will include informing us of any relevant witnesses, giving us any relevant documents and attending investigative interviews if required.

6. Notification of Hearing

- 6.1. If we consider that there are grounds for holding a hearing under this procedure we will write to you to set out our concerns. We will also include where appropriate a summary of relevant information gathered during the investigation, a copy of any relevant documents to be used at the disciplinary hearing and a copy of any relevant witness statements.
- 6.2. We will give you written notice of the date, time, and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, at least 2 days, to consider your response to the concerns. There are circumstances in which we might hold a hearing with less than two days notice.

7. Right to be accompanied

- 7.1. You may choose to be accompanied at any hearing under this procedure by either an appropriately qualified trade union official or a colleague. If your choice of companion is unavailable at the time a hearing is scheduled, we may ask you to suggest an alternative. If this is not possible, you must suggest a reasonable alternative time within five working days following the original date of the hearing.
- 7.2. If your choice of companion is inappropriate we may require you to choose someone else, for instance, if in our opinion your companion may have a conflict of interest or may prejudice the hearing.

8. Hearings

- 8.1. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct itself. If, for any reason, you are not able to attend on the date or time fixed, you should tell us immediately and explain why. If you fail to attend without good reason or are persistently unable to do so, we may have to make a decision based on the available evidence.
- 8.2. At the disciplinary hearing we will go through the concerns and any statements or documents which have been produced as a result of any investigation. You will be able to respond and present any information you would like us to take into account. Your companion may make representations to us and ask questions, but may not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.
- 8.3. We may adjourn the disciplinary hearing if we need to carry out any further investigations. You will be given a reasonable opportunity to consider any new significant information obtained and make representations in writing or at a reconvened hearing.
- 8.4. You will be informed in writing of our decision and reasons for it following the disciplinary hearing.
- 8.5. You will not be permitted to use audio recording equipment to record any meetings regarding this procedure. During these meetings, the Company will take notes that they will keep for their records; these will not be shared with you. You or your representative/companion may take notes for you which you do not have to share with the Company.

9. Disciplinary action under this procedure

9.1. Review periods

- 9.1.1. In addition to taking any disciplinary action, the manager will consider whether or not to have a review period. A review period is likely to be appropriate in cases of poor performance or repetitive misconduct such as lateness. During a review period, targets for improvement may be set. Failure to improve adequately during or by the end of a review period may result in further disciplinary action.

9.2. Training, support, alternative work and demotion

9.2.1. Alongside disciplinary action, there may be circumstances where training, other support or a change in duties or role is appropriate. These are most likely to be relevant in cases of poor performance.

9.2.2. There may also be circumstances where it is appropriate to transfer or take responsibility away from you as an alternative disciplinary penalty to dismissal.

9.3. How long does a warning last?

9.3.1. Once a warning is given, we hope there will be an improvement. Unless the warning sets a shorter or longer period, it will normally be disregarded for disciplinary purposes as follows:

(a) First written warning: 12 months

(b) Final written warning: 18 months

9.3.2. Although this is the normal rule, a warning may be taken into account after the period set for, if it is reasonable in all the circumstances to do so.

10. Gross Misconduct

10.1. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

10.2. The following are non-exhaustive examples of matters that are normally regarded as gross misconduct:

10.2.1. Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure including personal information obtained by the employee in the course of employment;

10.2.2. Theft, or unauthorised removal of our property or the property of a colleague, contractor, customer or member of the public;

10.2.3. Fraud, forgery or other dishonesty, including falsification of records or fabrication of expense claims and time sheets;

10.2.4. Actual or threatened violence, or behaviour which provokes violence or bullying;

10.2.5. Deliberate damage to our building, fittings, property or equipment, or the property of a colleague, contractor, customer or member of the public;

10.2.6. Serious misuse of our property or name;

10.2.7. Deliberate access of internet sites containing pornographic, offensive or obscene material;

10.2.8. Repeated or unreasonable failure to obey instructions, or any other serious act of insubordination;

10.2.9. Unlawful discrimination, harassment or victimisation of staff or others;

10.2.10. Bringing the Company into serious disrepute;

- 10.2.11. Serious incapability at work brought on by alcohol or non-prescribed drugs;
- 10.2.12. Serious negligence which causes or might cause unacceptable loss, damage or injury;
- 10.2.13. Serious or repeated breach of health and safety rules;
- 10.2.14. Conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our staff, customers or the public, or otherwise affects your suitability to continue to work for us;
- 10.2.15. Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- 10.2.16. Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet);
- 10.2.17. Offering, promising, giving, requesting, agreeing to receive or accepting a bribe or inappropriate inducement;
- 10.2.18. Giving misleading or untrue information during the recruitment process;
- 10.2.19. Disorderly or indecent conduct;
- 10.2.20. Serious breach of our policies on use of computers and software or on use of e-mail and the internet;
- 10.2.21. Engaging in unauthorised employment during hours when contracted to work for the Company or during sick leave; and
- 10.2.22. Serious failure to follow policies or procedures.

11. Misconduct generally

- 11.1. The following are examples of conduct which may lead to disciplinary action short of immediate dismissal:
 - 11.1.1. poor time-keeping;
 - 11.1.2. unauthorised absence;
 - 11.1.3. abusive/offensive language;
 - 11.1.4. failure to conduct yourself in the best interests of the Company.
 - 11.1.5. breach of any policy or term in your contract of employment.
- 11.2. Serious or repeated cases of conduct such as the above may, however, result in immediate dismissal.

12. [Alternatives to Dismissal]

12.1. In some cases we may consider alternatives to dismissal and these will usually be accompanied by a final written warning. Examples include:

- [Reduction in pay;]
- [A period of suspension without pay;]
- [Loss of future pay increment or bonus;]

13. Appeals

13.1. If you are dissatisfied with any disciplinary decision you may appeal in writing within 7 days after you were told of the decision. Appeals must be made to a Personnel Manager setting out your full grounds of appeal. It would be helpful if you would set out;

13.1.1. whether you are appealing against the decision that your conduct or performance is below the level required or against the disciplinary penalty (or both); and

13.1.2. what your grounds are for an appeal.

13.2. We will give you written notice of the date, time and place of the appeal hearing.

13.3. Where possible the appeal hearing will be conducted by a person senior or of equivalent seniority to the manager who took disciplinary action. You have the right to be accompanied as at the original disciplinary hearing.

13.4. The procedure to be followed at the appeal hearing will be determined by the person hearing the appeal. It may vary according to the nature of the appeal.

13.5. Appeal hearings will not normally repeat the factual investigation of any preliminary investigation and disciplinary hearing.

13.6. At the end of the hearing, the person hearing the appeal will normally adjourn to consider the decision. He/she may:

13.6.1. overrule the original decision that the concerns (or some of them) were justified; and/or

13.6.2. decide that no action should be taken; or

13.6.3. reduce the level of action taken.

13.7. You will be told of the decision in writing. There will be no further right of appeal.

14. Grievances and other matters

14.1. There may be circumstances where there is an overlap or connection between matters raised under this procedure and matters raised under the grievance procedure. How we handle this will depend on the circumstances. We may decide to deal with the disciplinary matter first, with the grievance first or with both matters at the same time. In the interests of fairness, we may need to modify this procedure or the grievance procedure.

15. Pay Rises and Bonus

15.1. Whilst going through any stage of this procedure, pay rises and bonus will be put on hold and reviewed once the process is complete

GRIEVANCE PROCEDURE

Preliminary - Informal discussions

Most routine complaints and grievances are best resolved informally. It is important that employees feel free to raise any concerns or grievances and that the process is viewed as making a healthy contribution to good employee relations.

If an employee has a grievance about their employment, they should in the first instance discuss it with the HR Mandate Holder or a member of the organisations Management Group. It is the hope of Northern Arts Factory that most problems will be resolved at this stage.

The following information should be made available to the person dealing with the grievance:

- Nature of the grievance
- Date and time of any relevant incident or event
- Names of any witnesses
- Any action already taken
- Resolution sought

Meeting notes will be taken and any agreed outcomes clearly documented with dates for completion where appropriate.

Formal Procedure

Stage 1 – Put it in writing

If the matter cannot be resolved through informal discussion, the employee should send a written explanation of their grievance to the Directors, stating the basis for their complaint and clearly marking the letter as an OFFICIAL GRIEVANCE. If the written explanation of grievance is sent via email the subject must state: 'OFFICIAL GRIEVANCE' in capitals. Email is not considered an acceptable form or written explanation.

The employee will receive a letter of acknowledgement outlining next steps within SIX days of receipt of the grievance.

Upon receipt of an official grievance the Directors, will establish an 'Investigation Team'.

The purpose of the Investigation Team is to meet with the employee listen to what he / she has to say, gather further evidence where appropriate and then make a decision.

Stage 2 – Meet and discuss

Investigation

The employee will be invited to a meeting to discuss their grievance. It is strongly recommended that the employee brings with them a colleague as support. (spouse, friends, family or solicitor should not attend).

Where appropriate the investigation team will gather witness statements, records of maintenance and training, photo evidence and refer to the organisations Policies and Procedures.

At all meetings written notes will be made including the main points and changes required. The employee will sign these minutes to confirm agreement. An official note taker will be assigned to ensure a complete and accurate record is kept.

At any meeting it is an opportunity for 2 way conversation so that the employer can hear first hand the view point of the employee. No immediate decision will be made; time to reflect and consider what has been said will be needed.

Decision

After considering all the evidence the investigation team will make a decision. The respective management bodies will be informed of this decision prior to the employee.

Where possible the decision will be made within 21 days of meeting with the employee. This time may be required to gather additional information and meet with the respective management bodies.

Outcomes will vary according to the nature and circumstances of each grievance, they might include:

- Accepting that the employee has a legitimate grievance and undertaking to resolve the situation.
- The employee gaining a better understanding of the circumstances surrounding their grievance and no longer feeling aggrieved.
- The employee receiving a verbal or written apology and no longer feeling aggrieved.
- One or both parties agreeing to participate in counselling, mediation or training.
- Disciplinary action against the employee or employee's subject of the grievance where there is evidence of a breach of the disciplinary code.
- Disciplinary action against the employee raising the grievance if it is found to be malicious.

Stage 3 – Appeal

If an employee wishes to appeal against the findings this must be done in writing within 3 working days of the employee receiving the decision. The letter or email subject title must state in capitals: 'APPEAL AGAINST GRIEVANCE'

Upon receipt of an official Appeal, the Organisations Management Group will establish an Appeal Panel.

The Appeal Panel will consist of people not previously involved in the investigation. The Appeal Panel will:

Invite the employee to a meeting within 10 working days of receiving the appeal or without necessary delay where for good reason it is not possible to hold the meeting within 10 days.

Notes of this meeting will be taken.

The right to be accompanied applies once again and the meeting may be adjourned if the companion is unavailable.

Review all the evidence gathered by the investigation team. If deemed necessary the Appeal Panel may re-interview.

Meet with the investigation team to understand their reasoning behind the decision they came to.

The Appeal Panel will make a decision within 21 days of receiving the appeal or if this is not possible without undue delay.

The decision of the Appeal Panel will be communicated to the Organisations Management Group prior to the employee being informed.

Their decision is final.