This policy is a template and should be adapted to suit your organisational values, needs and requirements. You should also check this policy is compliant with the law and your organisation’s governing document. No liability rests with SCVO.

**Note**

**This policy refers to ‘employees’ i.e. PAYE employees. You should have a different process for managing your freelancers and include a ‘dispute resolution’ clause in your freelance contract for services. A fair and transparent disciplinary process can contribute to positive employee relations. Employees are more likely to feel secure and supported in their roles when they know that workplace issues are addressed in a consistent and fair manner. You might never need to use this procedure, but it is important to have something in place so that you can resolve issues like bullying and harassment in a fair way if they do come up.**

A well-implemented disciplinary procedure reflects an organisation's commitment to maintaining a respectful and safe workplace and:

- sends a message that negative and harmful behaviours or actions are not tolerated.

- helps to ensure that all employees are treated fairly and equitably, providing a framework for employers to address issues objectively, taking into account relevant facts and circumstances.

- sets clear expectations for employees regarding acceptable behaviour. This helps ensure that employees are aware of the consequences of breaching these expectations.

- promotes consistency in how similar situations are handled across the organisation. This consistency is crucial for maintaining fairness and avoiding perceptions of favouritism or discrimination.

- helps employers comply with employment laws. It demonstrates that the employer is acting reasonably and in accordance with established procedures, reducing the risk of legal challenges.

- helps mitigate the risk of escalated conflicts or grievances. It provides a structured approach to resolving issues before they escalate, reducing the likelihood of legal disputes.

- are not solely punitive; they also provide an opportunity for improvement. By addressing conduct issues, employers can work with employees to identify areas for improvement and offer support or training as needed.

Disciplinary procedures should include an informal stage. The informal stage is the first step towards resolving the workplace concern without following a formal and structured procedure and promotes early resolution, open communication, and a collaborative approach to addressing workplace issues. This can contribute to a positive work environment, foster trust, and prevent the escalation of conflicts.

While the informal stage is generally a good starting point for addressing workplace misconduct, it's essential to recognise that not all issues can be resolved informally. In cases where informal attempts are unsuccessful, a more formal disciplinary procedure may be necessary.

The Ouch and Oops approach is a valuable tool for supporting a culture of open communication, mutual respect, and conflict resolution. It encourages individuals to express their feelings and take responsibility for fostering positive interactions. This approach should not replace a disciplinary process, but it may help to avoid situations escalating into a formal concern. See SCVO’s Ouch and Oops guidance for more information about this approach.

**Disciplinary procedure**

**1 Introduction**

This procedure aims to support fair and responsible treatment of all staff and ensure that good standards of conduct at work are the norm. The procedure is designed to ensure there is a fair process for managing misconduct and unwanted behaviour that conflict with our standards and values.

This procedure will be applied where it is not possible to address the conduct issue through one-to-one meetings or the appraisal process, either because this hasn’t worked or because the matter is serious enough to move straight to a formal process.

We will follow the procedure outlined below and the ACAS code of practice.

**2 Informal procedure**

Minor matters will be addressed informally by your line manager with the aim of improving workplace conduct through support, additional training and regular meetings.

**3 Formal disciplinary procedure**

When the informal approach has not worked or if the matter is sufficiently serious, there will be a formal disciplinary investigation and hearing. We will follow the ACAS code of practice for disciplinary procedures and the ACAS guide to workplace investigations.

**3.1 The investigating officer**

The investigation will be carried out by an ‘investigation officer’. The investigation officer will be appointed by a [a senior manager].

**3.2 Invite to the investigation meeting**

The investigating officer will write to you setting out the arrangements and purpose of the investigation meeting. You can be accompanied by a trade union representative or current colleague. You will receive no less than five working days’ notice of the meeting to allow you to prepare.

**3.3 Investigation meeting**

This meeting is the start of the formal investigation. A note will be taken of the meeting. Please do not record the meeting using your phone or other device.

The investigating officer will ask you about the matter that has instigated the investigation. It’s important that you are as open and honest as possible. The person accompanying you can offer support but can’t speak on your behalf.

The investigation officer will decide if there are other people who need to be interviewed, and if there is additional information they need to gather. This is to make sure they get the fullest picture possible to enable proper consideration of the facts.

When the investigation officer has fully investigated the matter, they will report to the [senior manager] who will decide whether it is appropriate to call a disciplinary hearing, or if no further action is required. You will be informed of the outcome of the investigation.

If no further action is required, the matter will be closed.

**3.4 Disciplinary hearing (decision-making stage)**

Based on the findings of the investigation the [senior manager] will decide if a disciplinary hearing is necessary and appropriate. The [senior manager] will arrange a date for the disciplinary hearing and chair the hearing.

You will receive written notice of the meeting, setting out the allegations, the names of any witnesses and details of any other material which will be considered, as well as the arrangements for the meeting. You will receive at least five working days’ notice of the hearing. You have the right to be represented in the hearing by a trade union representative or current colleague.

You should inform the person convening the hearing if you intend to call any witnesses or submit any other material for consideration in support of your case. You must do this at least two working days before the hearing.

**3.5 Outcome of the disciplinary hearing**

You will be informed of the decision in writing within five working days of the hearing. The outcome letter will set out what, if any action is being taken and the reasons, as well as the implications for your continuing employment. It will also set out how you can appeal against the decision.

**3.6 Right of appeal**

You have the right to appeal against the outcome of the hearing. You should submit your appeal to [enter here] within five working days of receiving the outcome letter, setting out the grounds of your appeal. An appeal hearing will be convened within five working days where possible. The appeal will be heard by a more senior manager, [e.g. a member of your Board of Trustees or our Chief Executive]. We will advise you of the appeal outcome withing five working days. The decision of the appeal is final.

**3.7 Exceptions**

We reserve the right to follow a shorter procedure for staff within their probationary period.

**4 Formal disciplinary action**

The action taken will reflect the nature and seriousness of the case, and whether there is any history of previous disciplinary action.

**4.1 Warnings**

The outcome letter will set out the details of the warning issued, including the reasons, what you need to do to and any support we will provide to enable you to address the situation.

The level of warning relates to the seriousness and nature of the misconduct:

|  |  |  |
| --- | --- | --- |
| **Action** | **Authority to issue** | **Duration of warning on HR file** |
| First level warning | e.g. line manager and above | 6 months |
| Second level warning | More senior manager and above | 9 months |
| Final warning | Director or Chief Executive | 12 months |
| Dismissal | Director or Chief Executive |  |

**4.2 Failure to comply with a first or second level warning**

Failure to improve in response to a first or second level warning will normally result in a final warning. The final warning will be recorded for a period of 12 months. We reserve the right to consider expired warnings in future disciplinary decisions if relevant.

If you have been issued with a final warning, failure to comply with the requirements or further misconduct will normally result in dismissal.

**4.3 Dismissal**

Failure to meet the requirements set out in the final warning or further misconduct will normally lead to dismissal. [job titles] have the authority to dismiss an employee and a decision of this kind will only be made after the fullest possible investigation and hearing.

Where gross misconduct has been found following an investigation and hearing, dismissal without notice may result. Examples of gross misconduct are set out in section 8 below.

**Please contact the SCVO HR Service for advice if you are considering dismissing an employee. If you are not a member of HR for Creatives or an HR service subscriber, we may still be able to help. Email** [**hrservice@scvo.scot**](mailto:hrservice@scvo.scot) **and we’ll get back to you within 48 hours.**

**5 Appeals**

Appeals against disciplinary decisions must be made in writing to [enter here] within five working days of receipt of the outcome letter. The appeal hearing will take place withing five days of receipt of your written appeal. The appeal will be held by a more senior manager than the manager who convened the disciplinary hearing and issued the outcome letter. If the original decision was made by the Chief Executive, the appeal will be held by an appeals sub-committee consisting of two Board members. In some circumstances, the appeal may be heard by someone external.

**6 Suspension from work**

When an allegation of misconduct is made, you can be suspended from work on full pay to allow the investigation to take place. In the case of an allegation of gross misconduct, you will be suspended on full pay to allow the investigation to take place. You will be given clear reasons in writing for why you are being suspended and for how long.

**7 Disciplinary timescales at a glance**

|  |  |
| --- | --- |
| **Stage** | **Timescales (ordinarily and where practicable)** |
| Investigation | Invitation in writing, to investigation meeting with 5 working days’ notice |
| Hearing | Invitation in writing, with 5 working days’ notice. This can be shortened by mutual consent. If meeting is postponed, a new date will be set within 5 working days or as mutually agreed. |
| Decision | Decision to be given, in writing, within 5 working days where possible. |
| Appeal | Employee to submit appeal within 5 working days of receiving the outcome letter. |
| Appeal hearing | To be convened within 5 working days of receipt of the appeal. |
| Appeal decision | Within 5 working days of the appeal hearing. |

**7.1 Extending timescales under the procedure**

The timescales outlined in this procedure will be followed whenever this is reasonably practicable. There may be extenuating circumstances that are outside of either parties’ control, that result in the timescales being extended.

We will advise you as soon as possible if it is not reasonably practicable to follow the stated timescales, and revised timelines will be agreed.

**8 Examples of gross misconduct**

The following are examples of gross misconduct (this list of examples is not exhaustive):

* Intentional discriminatory behaviour, sexual harassment, harassment in relation to any other of the protected characteristics as set out in the Equality Act 2010.
* Bullying or violent, dangerous or intimidatory conduct.
* Serious breach of rules, policies or procedures, especially those designed to ensure safe operation.
* Divulging or misusing confidential information.
* Theft of fraud.
* Consumption of alcohol or drugs, intoxication by reason of alcohol or drugs during the working day.
* Inappropriate use of e-mail, internet, social media, chat, call or video tools and/or computer systems.
* Falsification of any organisation records including reports, accounts, expenses claims or self-certification forms.
* Unauthorised use of our assets and equipment.
* Deterring someone from using the Whistleblowing Procedure or breaching their right to confidentiality under it.
* Victimising or bullying of anyone who uses the Whistleblowing Policy.
* Maliciously raising false concerns.
* Concealing or destroying information.
* Refusal to carry out duties or obey reasonable instructions, except where individual safety may reasonably be in jeopardy.

**9 Other misconduct**

There are other breaches of discipline in the course of employment which are not as serious as those described above, but which can result in disciplinary action.

* Regular lateness for work.
* Absence from work without leave or prior authorisation.
* Failure to follow employment procedures – e.g. failure to follow absence reporting procedure.
* Neglect of duty not amounting to gross misconduct.
* Breach of confidence not amounting to gross misconduct.