

# The Positive Herd Project

## Disciplinary Procedure

Last review: 15/8/19

Next review due: 15/8/21

### Introduction

The Positive Herd Project recognises the importance of maintaining a positive attitude towards its employees, volunteers and members. In the event that a problem with the conduct of an employee or volunteer arises then every attempt to improve performance or behaviour through Informal Discussions will be taken, where possible. This may result in the employee receiving additional supervisions, training or in assistance accessing external support.

If after Informal Discussions the conduct of the staff or volunteer does not improve, or if their behaviour equates to a major breach to The Positive Herd Project's policies and procedures, then the individual will be dealt with in accordance with the disciplinary procedure outlined below.

This procedure is designed to ensure that there is a fair, transparent and systematic approach, compliant with employment legislation, for dealing with such misconduct within the organisation. Matters will be dealt with respectfully, in a timely manner and confidentially.

### Principles

No disciplinary action will be taken against an employee until an allegation has been fully investigated. The investigation will be appropriate to the nature of the allegation and will be undertaken by senior staff.

No employee will be dismissed for a first breach of conduct except in the case of gross misconduct. The procedure may be implemented from any stage if the employee's alleged poor performance or misconduct warrants such action.

At every stage in the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made. At all stages the employee will have the right to be accompanied by a union representative or work colleague during a disciplinary

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interview if they so choose. An employee will have the right of appeal against any disciplinary penalty imposed.

### **Informal Discussions**

Before taking formal disciplinary action, senior staff will make every effort to resolve the matter by informal discussions with the employee. The objective of such discussions is to make the employee aware of any problems, and to identify the cause of such behaviour. This may result in additional support being put in place for the employee, such as supervisions, training or assistance in accessing external support. The employee will be given the opportunity and time to improve their current performance, which will be reviewed at a later date as specified by senior staff.

Should this fail to bring about the desired improvement, then the formal disciplinary procedure below may be implemented.

### **Procedural Steps**

#### **Investigation**

If senior staff believe that there are grounds for a disciplinary investigation, the facts surrounding the alleged misconduct will be gathered through meetings with the employee and any other relevant person.

No formal disciplinary action will be taken as a result of the investigation alone.

#### **Notification of meeting**

If it is decided that there is a disciplinary case to answer, the employee will be notified of this in writing. The notification will contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting.

The notification will also give details of the date, time and venue of the meeting plus a reminder of the right to be accompanied.

The notification will be provided at least 5 days before the scheduled meeting. Every effort should be made by all parties to schedule meetings at a reasonable time to ensure attendance.

Failure by the employee to attend meetings may result in a decision being made in his/her absence based on the information available at the time.

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### Meeting

The meeting is held in accordance with the arrangements set out in the notification.

Following the meeting, a decision will be made whether or not disciplinary action is justified, and the employee will be notified in writing. Outcomes will result in either a written warning, final written warning or dismissal.

### Written Warning

Where misconduct is confirmed or the employee is found to be performing unsatisfactorily, a written warning will be issued.

The warning will contain details of:

- The poor performance or misconduct and the improvement required.
- How long the warning will remain current, usually 6 months.
- The consequences of further misconduct or failure to improve performance within the timescale.
- The right of appeal and the person to whom this should be addressed.

### Final Written Warning

A final written warning will normally be given to the employee in circumstances where:-

- there is still failure to improve conduct after the timescale outlined in the first written warning,
- or where the initial offence is deemed sufficiently serious to warrant more than an informal verbal warning or a written warning.

The final warning will contain details of:

- The poor performance or misconduct and the improvement required.
- How long the final warning will remain current, usually 6 months.
- It will also advise that the consequences of further misconduct or failure to improve performance within the timescale, which will normally result in dismissal.
- The right of appeal and the person to whom this should be addressed will be included in the letter.

### Dismissal

If, despite previous warnings, conduct or performance remains unsatisfactory, and the employee still fails to reach the prescribed standards within the required timescale, dismissal will normally result.

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Following a further disciplinary meeting, the employee will be advised in writing of the reasons for dismissal and the date on which employment will terminate.

Dismissal on these grounds is with notice.

In the event of an employee being dismissed for gross misconduct, after a thorough investigation of the facts and holding a disciplinary meeting as above, dismissal will be without notice. The right of appeal against dismissal and the person to whom this should be addressed will be included in the letter.

### Appeals

Employees have the right of appeal at any stage of the formal disciplinary procedure. An appeal should be made in writing within 5 working days of the date when the employee was notified in writing of the outcome of the disciplinary process.

An appeal meeting will be convened without unreasonable delay thereafter, at which the employee will be given an opportunity to state their case and will be entitled to be accompanied by either a work colleague or trade union representative.

The decision of the appeal will be confirmed in writing and will be final and binding.

### Definitions

For the purposes of this document the terms “poor performance” and “misconduct” are defined as:

#### Poor Performance:

- consistent failure to perform work to a reasonable and acceptable standard.
- evidence of negligence or inadequate attention to the requirements of the job.

#### Misconduct:

- breaches, infringements or non-observance of any of the working rules, e.g. poor attendance, time-keeping, failure to comply with a legitimate or reasonable management instruction.
- misuse of equipment, including using equipment for personal gain.
- smoking in non-smoking areas.
- unreasonable or unacceptable conduct, not following policies and procedures.
- threatened violence on a colleague or any other person whilst at work.
- harassment likely to cause offence to staff, volunteers or visitors.

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For the purpose of this document “gross misconduct” is defined as:

- Physically or verbally abusive behaviour towards staff, volunteers, visitors or service users.
- theft.
- falsifying various records or documentation such as claim sheets or expenses, and other such fraudulent behaviour within the work context.
- malicious damage to or abuse of organisational property.
- failure to comply with duties and/or legal obligations in respect to Health & Safety.
- sexual or racial harassment; indecency at work.
- harassment, bullying or threatening behaviour towards another employee, worker or client.
- acts of incitement or actual acts of discrimination on the grounds of sex, race, colour, religion or belief, ethnic origin, sexual orientation, marital status or age.
- fighting, assault on another person.
- serious negligence which causes unacceptable loss, damage or injury.
- gross insubordination to or deliberate provocation towards others.
- incapability through alcohol or being under the influence of illegal drugs.
- serious failure to observe rules on confidentiality.
- unauthorised entry to computer records, accessing offensive material via the internet or sending offensive material via email.
- a criminal offence which renders the staff member unsuitable to carry out their duties; or where the penalty imposed by a court of law for any offence makes it impossible or impracticable to continue employment.
- personal acceptance of significant gifts or benefits from those outside the organisation, or hoping to further personal interests.

These lists of offences are not exclusive or exhaustive and offences of a similar nature will be dealt with under this procedure.

### **Suspension**

Where the alleged misconduct is considered to be inconsistent with the employee remaining at work, he/she will be suspended from duty on full basic pay during the period of an investigation, which will be for as short a period as possible.

The decision to suspend the employee will be confirmed in writing, along with a brief description of the alleged breach of discipline.