

# The **ASPIRE** Trust

## **ASPIRE Trust Disciplinary Policy**

### **Policy**

Disciplinary rules and procedures are necessary for promoting fairness and for ensuring all employees are aware of the standards expected from them. A procedure is designed to help and encourage all employees to achieve and maintain those standards of conduct, attendance and job performance.

It will only be necessary to invoke this formal procedure if it has not been possible to resolve a matter by using the performance management process.

If, however the issue is a sufficiently serious conduct issue, the formal procedure may be instigated immediately.

### **Scope**

Each employee is entitled to be treated in a fair and consistent manner and as such this procedure applies to all employees.

## **Responsibilities**

### **Manager**

- To adhere strictly to the policy to ensure consistency of approach
- To ensure that all meetings, interviews and fact finding activities are fully and accurately documented dated and are signed by anybody else who has been involved.
- To inform the Trust committee of the outcome of any disciplinary hearing which they are not directly involved in
- At the time of suspension retrieve the employee's keys, if applicable and at dismissal ensure other Trust property in their possession is collected.

### **Employee**

- To co-operate fully with any investigation regardless of who or what the investigation relates to.
- If wishing to appeal against the findings of any disciplinary hearing to do so in line with this policy.
- If asked by a fellow employee to act as a representative then, should this invitation be accepted, (there is no obligation on the employee to do so), then it is the responsibility of that employee to observe proceedings and verify the resulting notes as an accurate record of what was discussed and agreed.
- During suspension, the employee must be available to attend at short notice any meetings. They must not contact Trust employees, except either their line manager or the Trust Committee.
- During suspension employees must not attend any Trust location unless expressly invited.

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## Guiding Principles

### Suspension

The Trust may suspend any employee at any time on normal pay pending the outcome of an investigation and/or disciplinary proceedings. (If an employee has booked annual leave or is absent from work due to sickness, any period of suspension will not include that period).

### Investigation

Investigation is the first phase in the disciplinary process. The investigation is used to fully establish the facts and to decide whether a disciplinary hearing is necessary.

During the investigation the employee will be given the opportunity to discuss and explain the issues raised.

No disciplinary action will be taken until the case has been investigated. Full records should be kept of all meetings, interviews and fact finding activities.

An investigation may be carried out by a more senior employee.

Please note if the disciplinary process has been invoked as an extension of an issue which has not been satisfactorily resolved through performance management, further investigation may not be required as the documentation used in the performance management process may be sufficient to establish the facts.

### Disciplinary Hearing

The purpose of the hearing is for the manager to present the facts, as they understand them, to the individual concerned and to give them the opportunity to provide an explanation as to why, in their opinion, the issue has arisen or to explain any mitigating circumstances.

The employee has the right to be accompanied to the hearing either by a work colleague of their choice or by a trade union representative. The Trust does not officially recognise a trade union but an employee will have the right to be accompanied by a trade union representative who will be allowed to address the hearing.

All hearings will be conducted as formal meetings. The employee will be given reasonable notice verbally of the meeting, and confirmed in writing prior to the hearing allowing the employee time to prepare and arrange a witness if necessary.

The disciplining manager should be at a more senior level than the employee and the hearing will be in the presence of a Trust witness.

### Outcome

The outcome of the disciplinary hearing will be one of the following;

- No disciplinary action will be taken.

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- First Written warning: A written warning will be on the employee's file for 12 months, but may be extended if the expected levels of improvement have not been fully demonstrated.
- Final Written Warning: A final written warning will remain on the employee's file for 12 months.
- Dismissal with notice: This will generally follow no improvement after a final written warning has been issued. The Trust reserves the right to pay salary in lieu of all or part of the notice.
- Summary Dismissal (without notice): This will generally be issued if a serious breach of standards or procedures, considered as gross misconduct, has occurred.

An employee, should not, ordinarily, be dismissed for a first incident of misconduct or breach of standards or procedures unless this is believed to be gross misconduct.

The Trust reserves the right to demote an individual, where appropriate, as part of a disciplinary outcome.

There may be occasions where a first or final written warning is justified immediately. The Trust also reserves the right to take into consideration any unexpired warnings at any disciplinary hearings. Warnings which have expired will only ever be taken into account if the nature of the incident is the same and a pattern of behaviour appears to be emerging or if the Trust is asked specific questions by a third party seeking a reference.

A letter confirming the outcome of the disciplinary hearing and the reasons why will be sent to the employee within 7 working days.

## **Right of Appeal**

Every employee has the right to appeal against any disciplinary action which they feel is unfair and will be given the opportunity to state their case in person at an appeal hearing. A letter detailing the full grounds of the appeal must be sent to the nominated individual within 5 working days of receiving the letter stating the outcome of the disciplinary meeting. The letter confirming the outcome of the meeting will detail to who and at what address the appeal letter should be sent.

Appeals will be dealt with as quickly as practicable. The employee will be given reasonable notice of the hearing allowing them time to prepare and arrange for a witness if necessary. An employee will have the right to be accompanied by either a trade union representative or a work colleague from the Trust.

At the appeal hearing, the onus is on the appellant to show that the disciplinary action against which they are appealing was incorrect.

The appeals manager will be accompanied by a Trust witness.

Further witnesses may be called and/or further investigations may be conducted where the appeals officer considers necessary.

After the appeal hearing you will be informed of the outcome of the appeal and the reasons for the decision will be confirmed in writing within seven days.

The outcome of the appeal will be one of the following;

- The appeal is upheld and the disciplinary action previously taken is completely overturned.

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- The appeal is upheld and the level of disciplinary action previously taken is reduced.
- The disciplinary action previously taken is upheld.
- The disciplinary action previously taken is upheld and the level of action is increased.

Any decision made at this stage will be final.

## **Criminal Proceedings**

Where criminal proceedings arise from any breach of discipline, the Trust will follow its internal disciplinary procedure and any decisions taken will be based on information available at the time and will not be delayed pending the outcome of any police prosecution.

## **Examples of Breaches of Standards and Procedures and Gross Misconduct**

The Trust takes a serious approach to gross misconduct. Gross misconduct is acts of misconduct that generally would make continued employment with the Trust impossible. The following list provides examples of offences, which may be regarded as gross misconduct.

- Flagrant failure to follow Trust documentary procedures and regulations
- Insubordination
- A serious breach of health and safety rules
- Theft or fraud
- Deliberate damage and misuse of the Trust's property or name, or customers property or name
- Inappropriate use of the internet or computer misuse
- Breach of duty regarding non disclosure of confidential information
- Physical violence, bullying or offensive behaviour
- Act of incitement or actual acts of discrimination on the grounds of sex, race, age, religion, colour, disability, sexual orientation or ethnic origin
- Harassment of any type
- Bringing the Trust into disrepute
- Alcohol or drug use affecting work
- Causing loss, damage or injury through serious carelessness or negligence
- A serious breach of trust and / or confidence
- Exploiting one's position as an employee to solicit favours from customers or suppliers
- Loss of driving license following a conviction for alcohol, drugs etc, where this would affect duties
- Conviction of a serious motor offence, or a significant accumulation of minor offences leading to a loss of driving licence, where this would affect duties
- Negligent conduct in carrying out their role
- Failure to protect employees from harassment, victimisation or discrimination by other employees or third parties
- Failure to protect children from harassment, victimisation or discrimination by other children or third parties
- Purposeful / wilful breach of contract

This list is not exhaustive and is intended as a guide only and should not be seen as being conclusive on any issue.