



Disciplinary Policy & Procedure

engage. 

Engage Liverpool CIC Ltd

Disciplinary Policy & Procedure

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1 The aims of the Disciplinary Policy:

1.1 The Disciplinary Policy aims to provide the framework and procedural steps to enable Engage to deal fairly with Employees, Volunteers and Directors who fail to achieve or maintain organisational standards of conduct and performance. The standards of behaviour and conduct expected in the workplace are outlined in the statement of terms and conditions and/or other types of employment contracts provided e.g. contracts with self-employed staff. Engage's aim is to help and encourage improvement in individual conduct or standard of work and to ensure safe and effective work performances.

1.2 This policy relates to all Employees and other contractual staff e.g. self-employed contracted staff. The key principles of this policy also relate to Engage Volunteers including Directors. However the disciplinary procedures stated in this policy are specific to paid and other contractual staff. Procedures for Directors and other Volunteers, although similar, will differ in detail depending on the Volunteer's role and the project they work for (see section 5 for Directors procedures).

2 Principles underpinning the policy:

- The overall aim is to establish the facts quickly and to deal consistently and fairly with disciplinary issues.
- No disciplinary action will be taken until the matter has been fully investigated and the Employee has had an opportunity to state their case, unless the allegation involves gross misconduct (see section 3.3.2).
- The Employee will be advised in writing of the nature of the complaint against them and the arrangements for: investigating, stating their case and, if required, attending disciplinary meetings.
- At all stages the Employee has the right to be accompanied by a colleague, friend, lay or trade union official or advocate of their choice.
- The procedure may be implemented at any stage if the alleged misconduct warrants such action.
- Employees will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will normally be dismissal without notice and without pay in lieu of notice.
- Employees will have the right to appeal to a higher level within the organisation against any disciplinary penalty imposed.
- Supervisors and managers involved will take into account any mitigating circumstances in reaching decisions on appropriate disciplinary actions or outcomes.
- In cases of poor performance this policy will only apply if the reasons are within the Employees control e.g. consistent lateness or breaches of health and safety rules. However, if poor performance is due to factors outside the Employee's control e.g. health, training or the changing nature of the job then issues should be addressed outside this policy.
- These principles also apply to Engage Volunteers and Directors.

3 Disciplinary procedure:

3.1 Purpose of the procedure.

To provide clear step-by-step guidance for Employees, supervisors, managers and Volunteers of Engage in addressing disciplinary issues underpinned by the principles listed above. [The general framework for addressing actual or potential disciplinary issues will also apply to Volunteers and Directors.](#) In the case of disciplinary procedures for Directors the procedural details are stated in section 5. of this document.

3.2 Informal discussions:

It is inevitable that from time to time there will be issues in the workplace to do with Employees or Volunteer behaviour and/or performance that occur for a variety of reasons. Most matters are relatively minor or temporary due to circumstances and can be addressed satisfactorily through informal processes e.g. supervision.

Before taking formal disciplinary action, the supervisor/team leader will make every effort to resolve the matter by informal discussions with the Employee. Any informal discussions should always be recorded and notes should be agreed between the supervisor and the Employee/Volunteer, then held in the Employee's/Volunteer's personnel file. Only where informal discussions fail to bring about the desired improvement or the issue is more serious, should the formal disciplinary procedure be implemented. Any informal discussions should always be recorded and notes stored in the Employees/Volunteer's or Director's personnel file.

3.3 Formal disciplinary stages:

At every stage the Employee or Volunteer will:

- Be advised in writing of the nature of the complaint, the improvement required (where appropriate) and the timescale
- Be given the opportunity to state their case, and be represented or accompanied by a colleague, friend, advocate or trade union official of their choice
- Have a right to appeal against any disciplinary action taken against them

3.3.1 Investigation Stage

The decision to take disciplinary action must be based on an initial investigation. When an alleged incident or issue has occurred that is in breach of organisational standards or rules and that falls outside the informal stage, then an initial investigation should be conducted to establish the facts and any mitigating circumstances that were involved. The Employee should be informed of the alleged incident or issue and must have the opportunity to state their case at the earliest opportunity as part of the initial investigation. Information gathered must be recorded and made available to the Employee and may entail carrying out interviews with the Employee concerned and third parties e.g. colleagues, witnesses, as well as analysing written records and information. In exceptional circumstances the identity of witnesses will be kept confidential.

The Employee's supervisor/team leader will conduct the investigation, unless there is a specific reason why they should not e.g. they are implicated in the incident or their objectivity is somehow compromised or there is a grievance against them by the Employee. In these cases the Chair will conduct the investigation or delegate to another authorised person. [All investigations conducted will be reported to the Chair.](#) The findings of the investigation will determine how the matter will be addressed i.e. through informal means or a formal disciplinary stage depending on the seriousness of the issue/incident and/or mitigating circumstances. Decisions based on the investigation will be first discussed and agreed by the supervisor/team leader conducting the investigation and the Chair. Where the first offence is sufficiently serious, for example because it is having, or is likely to have, a serious harmful effect on the work of the organisation, it may be justifiable to move directly to a subsequent disciplinary stage.

3.3.2 Gross misconduct

If, after investigation, it is confirmed that the Employee has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or payment in lieu of notice i.e. theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying or gross insubordination. Disciplinary action in the case of gross misconduct may also involve police investigation and prosecution.

While the alleged gross misconduct is being investigated, the Employee may be suspended, during which time they will be paid their normal pay rate. Any decision to dismiss will be taken by the employer only after full investigation and such decisions should be made and implemented by the Chair in conjunction with the Board of Directors (see 2.2.5).

3.3.3 Stage One – First warning.

Following the initial investigation if the Employee's conduct or performance is deemed to be unsatisfactory, they will be given a formal first warning. This will be communicated verbally and in writing and will include the reason for the warning, any specific action that is required to improve performance, timescales, monitoring arrangements and the warning's expiry date, which is six months after issue. Employees will also be informed that a final written warning may be considered if there is no sustained satisfactory improvement or change within the agreed timescale. This first warning must be recorded and kept in the Employee's central personnel file with a copy available to the Employee and their supervisor.

3.3.4 Stage Two – Final warning.

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final warning will be given. This will include the reason for the warning, any specific action that is required to improve performance, timescale, monitoring arrangements. A Final Warning will be in place for three months to allow time for the Employee to improve performance and for the organisation to monitor their standard of work and conduct. Employees should be clearly informed that if there are no improvements within

three months or further incidents or similar issues occur, then, depending on any new mitigating circumstances, action at Stage Three may be taken. This final warning must be recorded and kept in the Employee's central personnel file with a copy available to the Employee and their supervisor.

3.3.5 Stage Three - Dismissal or action short of dismissal.

If the Employee's conduct or performance has failed to improve the Employee may suffer either: demotion, disciplinary transfer, loss of seniority (as allowed in the contract) or dismissal. This decision will be made by the Chair in conjunction with the supervisor/team leader and will take into account outcome of any work to improve performance, any mitigating circumstances and the impact on the organisation, the work it does and its internal and external relationships. This stage three warning must be recorded and kept in the Employee's central personnel file with a copy available to the Employee and their supervisor. The Board of Directors must be informed of any such decision as a confidential item.

4 Appeals

Employees can appeal against any disciplinary decision at any stage. Appeals must be made in writing to the Chair within five working days of the disciplinary decision being communicated to the Employee or Volunteer. An Appeal Panel will be convened (see section 3.1) and should aim to hear the appeal within 10 working days of the request. The key reasons for the appeal should be made in writing by the Employee and submitted to the Appeals Panel at least 48 hours before the Appeals Hearing.

The Grievance Procedure should not be used for appeals against disciplinary decisions; this is the purpose of the disciplinary appeals process. However if an Employee has a grievance about the conduct of a colleague during the disciplinary process then they may raise it as a grievance using the Grievance Policy and Procedure. If necessary the disciplinary process may be suspended for a short while until the grievance can be considered. It may be useful in such circumstances if the grievance is directed at a senior member of staff involved it to have another senior member of staff take over instead.

4.1 Disciplinary Appeals Panel

The Chair is responsible for approaching staff and Directors to form an Appeals Panel and for organising the appeal hearing. The appeal will be heard by an Appeal Panel, comprising of 3 – 4 Directors who were not involved in the original decision, note that the Chair cannot be on the Appeals Panel because of their ongoing involvement in all disciplinary processes in the organisation. The Appeal Panel has the authority to quash or reduce a disciplinary penalty or to increase the penalty in accordance with this policy.

4.2 Disciplinary Appeal Hearing

At the appeal hearing the Employee will be given full opportunity to state the ground(s) on which the appeal is made. The supervisor/ team leader and the Chair involved in the original decision will then have the opportunity to explain their decision to impose the given penalty. Discretion should be used as to whether both parties should be present when giving evidence or not. When all the evidence has been heard the hearing will be adjourned and the panel will then discuss the matter privately and reach their conclusion as to whether to uphold the original decision. Their decision will be communicated verbally within 24 hours of the decision being made and confirmed in writing to all parties within 7 working days.

The Employee should note that the appeal process is not intended to repeat the detailed investigation but to focus on the specific factors that the Employee feels have received insufficient consideration e.g. an inconsistent or harsh penalty; extenuating circumstances, bias of the disciplining supervisor/team leader or manager; unfairness of the original hearing; new evidence subsequently coming to light.

5 Director disciplinary procedure:

The principles underpinning this policy also apply to Directors when disciplinary matters arise, including the right to have a person of their choice with them at any stage. However, there are some procedural differences relating to those responsible for conducting investigations, undertaking the disciplinary procedure and conducting appeals.

5.1 Investigation:

In situations where a Director, other than the Chair, is involved with a potential disciplinary action then the initial investigation will be conducted by The Chair and another nominated Director. The nominated Director should be where possible an established Director who has some distance from the matter under investigation and can maintain an objective position. If there is a CEO then they will support the investigation by being available to provide organisational information, contact arrangements with those involved in the issue and co-ordinating venues etc. for meetings. Any matter involving a Director where an investigation is necessary should always be reported by the Chair to the Staffing and Employment Sub Committee (if there is one) as a confidential item.

In situations where the Chair is involved in a potential disciplinary action then the investigation will be conducted by a nominated Director selected by the Board of Trustees and an Engage advisor/ friend in conjunction with the CEO (if there is one). Any matter involving investigation of the Chair should always be reported to the full Board as a confidential item.

5.1.1 Gross misconduct:

If, after investigation, it is confirmed that the Director has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice i.e. theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying or gross insubordination. Disciplinary action in the case of gross misconduct may also involve police and prosecution and should always be reported to the appropriate authorities and funders.

While the alleged gross misconduct is being investigated, the Director will be suspended. Any decision to dismiss them will be taken by the full Board and Engage advisors and will be implemented by the Chair or allocated to a named Board officer i.e. the Treasurer, if the Chair is under investigation. The CEO will be kept fully informed of developments by the Chair or nominated Director.

5.1.2 Informal discussions:

Before taking formal disciplinary action, every effort should be made to resolve the matter by informal discussions with the Director. Any informal discussions should always be recorded and notes should be agreed between the Director and the nominated Directors listed above in section 4.1 on Investigations, then held in the Director's personnel file. The outcome of the informal discussions will be passed on by the Chair, to the Staffing and Employment Sub Committee and the CEO or by the Engage advisor to the full Board and the CEO in cases that involve the Chair. Whilst respecting the need for confidentiality as for staff or other Volunteers, there may be some instances when it is useful to inform other parties of the detail of these informal discussions e.g. other members of the staff group or external individuals/agencies, as appropriate to the matter under informal discussion. In these instances, agreement of the detail of what is to be shared should be negotiated between the Director involved and the Directors conducting the informal discussions. Only where informal discussions fail to bring about the desired improvement or the issue is more serious, should the formal disciplinary procedure be implemented.

5.1.3 Stages One, Two and Three:

The procedure for each of these disciplinary stages is as stated above and will be conducted by the Trustees stated in the section on Investigation.

5.2 Appeals

In cases where a Director has been formally disciplined then their appeal will be heard by the Chair and an Engage advisor who has not been involved in the disciplinary procedure. (See section 3.0)

In cases where the Chair is appealing about a disciplinary outcome, the appeal panel should comprise the nominated Engage advisor involved in the disciplinary procedure, another Engage advisor and an outside party connected to Engage e.g. a representative from Lease or the FPRA or ARMA.

Source of guidance for this policy:

CIPD Policies and Procedures for People Managers Published by:

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