

August 2016

DISCIPLINARY POLICY

Discipline Procedure

The following rules and procedure are not contractual.

If the Scottish Charitable Incorporated Organisation (SCIO) considers that you have breached the SCIO's disciplinary rules or contravened the terms of your employment, the SCIO shall be entitled to take appropriate disciplinary action. The Chief Executive Officer will normally conduct all formal disciplinary action. A member(s) of the Board of Trustees will normally conduct appeals. Any suspension will be on a paid basis and does not mean that the issue has been prejudged.

Before any formal disciplinary action is taken, the relevant person will carry out a full investigation to establish the facts. The investigation will normally include a meeting with you. There are two main situations when we might not hold a meeting. They are:

- In cases of extreme gross misconduct, where we have no alternative but to dismiss you immediately; or,
- If we are not considering dismissal and we do not think that there is any real purpose in holding a formal meeting (for example, if you have admitted you were in the wrong, or the issue is relatively minor and it would be disproportionate to conduct an investigation and meeting).

In either of those two situations, you would still have a right of appeal and you would have the opportunity for a formal meeting during the appeal process.

Notice & Meetings

You will be notified in writing that the SCIO intends to make a disciplinary enquiry in relation to you. The notice shall set out a brief outline of the alleged disciplinary matter and specify a time and a place for a meeting with you to consider the matter.

Before any meeting, you will be

- Given a reasonable opportunity to consider your response to that information; and,

August 2016

- Offered the opportunity to be accompanied by a work colleague or a trade union representative (see “right to be accompanied”, below).

You must take all reasonable steps to attend the meeting. At the meeting, you will be given opportunity to comment on the allegations, to put forward any defence or arguments you want, and to comment on what disciplinary sanction (if any) is appropriate.

Right to be accompanied

You have the right to be accompanied at any investigation or disciplinary hearing by a single companion who is either: -

- a) A work colleague; or,
- b) A full-time official employed by a trade union; or a lay official, so long as they have been certified in writing by their union as having experience of, or as having received training in, acting as a worker’s companion at disciplinary or grievance hearings.

Your representative has the right to explain and sum up your case, and to respond to any views expressed at the hearing. They may not answer questions on your behalf. If your representative cannot attend on the date we have set for the interview, we can postpone the interview for up to five days and may (at our discretion) postpone it for longer.

Breach of Discipline & Possible Sanctions

If, following the enquiry and meeting, the SCIO concludes that you have breached the SCIO’s disciplinary rules you will be advised accordingly and the SCIO may undertake any or a combination of the following stages depending on the circumstances of your case. NB The SCIO reserves the right to move to whichever stage of the disciplinary process it feels appropriate omitting previous stages as applicable.

- Stage 1 Formal Verbal Warning
- Stage 2 Written Warning
- Stage 3 Final Written Warning
- Stage 4 Dismissal

August 2016

Stage 1: Formal Verbal Warning

After establishing the facts, we may consider that there is no need to resort to the formal procedure, and that it is sufficient to talk the matter over with you. The purpose of an “informal” warning is to provide an opportunity for improvement or for the matter to be corrected without the necessity for formal disciplinary procedures to be instituted.

If necessary, it may be that we will issue a formal verbal warning. You will be advised that it is a formal verbal warning. We will inform you of the steps which must be taken to improve your conduct and, where appropriate, a time limit for improvement. It will be made clear that any further misconduct will result in further disciplinary action being taken. You will also be informed of your right of appeal.

The written note of the formal verbal warning will be placed on your personnel file and be disregarded for disciplinary purposes after **6 months** at which point it will be removed and shredded.

Stage 2: Written Warning

Where the matter is of a more serious nature, or where you have failed to meet the required standards you may be given a written warning.

This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that further disciplinary action will follow if the required standards are not met or if there is further misconduct.

You will be informed of your right of appeal, and how and where this should be made. A record of the warning and related discussions will be placed on your personnel file and be disregarded for disciplinary purposes after **12 months** at which point it will be removed and shredded.

August 2016

Stage 3: Final Written Warning

For more serious matters, or where you have failed to meet the required standards after being warned, you may be given a Final Written Warning. This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that you will be dismissed if the standards are not met or if there is further misconduct.

Again, you have the right to appeal. A record of the warning and a note of all related discussions will be placed on your personnel file and be disregarded for disciplinary purposes after **12 months** at which point it will be removed and shredded.

Stage 4: Dismissal

Where there has been gross misconduct or where you have failed to meet the required standards after due warnings have been given, you may be dismissed. In extenuating circumstances we may apply another sanction such as disciplinary transfer or disciplinary suspension without pay or demotion.

This will be confirmed in writing and will include details of the appeals procedure.

In cases of gross misconduct, the dismissal will normally be without notice (or pay in lieu of notice).

Dismissal without Notice ('Summary Dismissal')

We regard certain issues as serious enough to warrant 'summary dismissal' without prior warning. Matters that may justify summary dismissal, include, but are not limited to:

- Assault or sexual or other harassment of the SCIO's trustees, members of staff, clients or any other person you have contact with in the course of your employment;
- Vandalism or malicious damage to the SCIO's property;
- Theft, fraud, or embezzlement in relation to the SCIO's property or falsification of any documents relating to the SCIO, including but not limited to, you or another employee's record of attendance, sickness absence record, or expense claim forms;
- Intoxication by reason of alcohol, non-prescribed drugs or any other intoxicant during working hours;

August 2016

- Any act or omission, which could threaten the Health & Safety of any employee, or any person on the Charity's premises.
- Unauthorised removal of the SCIO's or any other employee's property.
- Unreasonably refusing to perform any duty or carry out any task within the scope of your employment;
- Unauthorised disclosure of information deemed by the SCIO to be confidential in nature;
- Conviction of any criminal offence, which in the opinion of the SCIO demonstrates your unsuitability for continued employment with the SCIO.

Other Disciplinary Matters

Matters which may justify invoking the disciplinary procedure but do not amount to gross misconduct include, but are not limited to, the following:

- Consumption of alcohol, non-prescribed drugs or any other intoxicant substance during working hours;
- Smoking on the SCIO's premises;
- Habitual lateness or bad timekeeping;
- Persistent failure to perform work satisfactorily;
- Trading of any sort on the SCIO's premises;
- Refusing to wear any special clothing or to use equipment which is in the interest of Health & Safety;
- Persistent failure to comply with rules for sickness absence or poor attendance;
- Failure to comply with the SCIO's Health & Safety policies and procedures;
- Loading and/or use of unauthorised computer software or any other improper or unauthorised use of the SCIO's computer system;
- Unauthorised use of any of the SCIO's property;

August 2016

Right to Appeal

If you are not satisfied with a disciplinary decision, you are entitled to appeal. This should be done in writing to the Chair of the Board of Trustees within **5 working days** of your receipt of any written decision / actions following any disciplinary meeting.

Any appeal shall be considered by the Board, or at the discretion of the Board by a Committee of one or more Board members. You will be invited to an appeal hearing, normally within **7 working days** of receipt of any written appeal, and reminded of your right to be accompanied.

The appeal process will not result in a sanction larger than that already imposed. You will be notified in writing of the result of your appeal, normally within **7 working days** of the appeal meeting.

The appeal hearing will reconsider the original decision. You will have an opportunity to put forward, should you wish to do so:

- a) New evidence, which was not available during the first hearing; and/or,
- b) Complaints of a flaw in the original decision-making process, such as a failure to follow procedures or a failure to give you a fair hearing.

However, if there was no meeting before the disciplinary decision was first taken, then the appeal will be a full hearing of the matters in question.

The outcome of the appeal will be confirmed to you in writing and will take one of three forms:

- a) The original decision will be upheld, in which case any disciplinary sanction will be confirmed;
- b) The original decision will be overruled, in which case any disciplinary sanction will be rescinded;
- c) The original decision will be substantially confirmed but a less severe sanction will be substituted for that originally imposed (usually in cases of appeals based on extenuating circumstances).
- d) There is no further right of appeal.