



NEWSTART EDUCATION CENTRE

Disciplinary Policy and Procedure

Annual Leave entitlement:

The purpose of this policy is to ensure that unsatisfactory conduct and performance are addressed in a fair and consistent manner across the Organisation. As with all Newstart policies, this procedure is in keeping with our Equal Opportunities Policy and hence aims to be non-discriminatory.

The success and reputation of Newstart depends heavily upon the commitment and conduct of its employees. The Organisation therefore believes it is right to expect high standards of behaviour and performance from its employees / volunteers in their work and in their relationships with their manager, colleagues and the young people who attend Newstart.

The procedure outlined below is designed to help and encourage employees / volunteers to achieve and maintain the expected standards of conduct, attendance and performance. The aim of this best practice procedure is the protection of employee's / volunteer's rights and those of the Organisation. This policy applies to all employees after they have completed their probationary period with the Project.

This policy is not intended as an exhaustive procedure and may be amended at any time, as deemed appropriate and in light of current employment legislation or further best practice guidelines.

Principles

- At every stage in the procedure the employee will be advised of the nature of the issue/complaint against them and will be given the opportunity to state their views/case before any decision is made.
- No formal disciplinary action will be taken against the employee until a full fact finding of the issues/complaints has been completed and a formal disciplinary meeting held. The employee may be suspended from work, normally on full pay, until the fact finding and/or the disciplinary meeting is completed.
- The employee has the right to be accompanied to disciplinary meetings by a fellow colleague or a trade union representative. The role of the employee's companion is to offer support and guidance, not to answer questions on the employee's behalf, although they can confer at any time and request an adjournment if necessary

- No employee will be dismissed for a first breach of discipline, except in a proven or reasonable belief case of gross misconduct, when the penalty will be summary dismissal (without notice or payment in lieu of notice and with payment of outstanding statutory holidays only).
- Following a disciplinary meeting, the disciplinary sanction issued can be at any of the four stages outlined in the procedure. The level of warning issued will be dependent on the seriousness of the issue/complaint and a finding of reasonable belief, or proof, that an act of misconduct or poor performance has occurred.
- Where there is a 'live' warning in place and the performance/conduct of the employee fails to improve sufficiently, or a further proven incident of misconduct/poor performance occurs, it will often be appropriate to build the warnings by progressing to the next stage of disciplinary action.
- The employee will have the right to appeal against any disciplinary warning issued to them.
- The organization aims to keep all records, witness statements and proceedings confidential, and such documents are subject to protection guidelines.

Fact Finding

Once an issue/complaint that needs addressing has been identified a fact finding meeting(s) will be held with the employee by the direct line manager where possible. The subsequent gathering of all the relevant facts (and witness statements if appropriate) should follow promptly before recollections fade. This initial stage is important to establish whether:

- there is an issue that needs addressing through a disciplinary meeting OR
- to follow another method in order to achieve improvement OR
- to drop the matter.

Disciplinary Meeting

Following the fact finding, the decision may be to conduct a disciplinary meeting. The employee will be given reasonable notice to attend of 3 to 5 days, and be advised in writing of all details such as:

- Time, date and place of meeting.
- Who will be attending and conducting the meeting.
- The purpose of the meeting, stating the issue(s) of concern/complaint, and how the Organisation views this.
- The right to be accompanied by a companion

Employees will be provided with all relevant documents/paperwork, if appropriate

A Management Committee member should chair the disciplinary meeting (wherever reasonably practical), and the employee's line manager should be in attendance. The case will be presented, stating the issue/complaint and the supporting facts already established during the fact finding. The employee will be given the opportunity to state their views and any evidence/facts that they wish to be included. When all parties are satisfied that the necessary questions have been answered and points clarified, an adjournment will be called to allow proper consideration.

Wherever possible, the employee will be advised verbally of the decision on the same day. However, if new facts emerge, there is a need for further investigation or there is another good reason not to communicate the decision, the employee will be advised of the likely decision date.

The decision will be confirmed in writing stating:

- The reason for the decision
- The disciplinary action (if appropriate)
- The improvements required, along with objectives/standards and review periods where appropriate
- How long the action is held on the employee's record
- Consequences if the employee fails to improve within the period stated
- The right of appeal

The employee will also be entitled to a copy of the meeting notes, as signed and agreed at the meeting. These may be typed at a later date where practicable.

Disciplinary Actions

The decision arising from the disciplinary meeting does not have to be disciplinary in nature. An informal solution agreed with the employee, such as training, re-training, closer management support or simply re-structuring an organizational requirement or performance standard may be the right way to bring about the required improvement. In certain circumstances it may be appropriate to close the matter without the need for action.

However, if the matter is serious and the facts proven, or a reasonable belief established, formal action in the form of a disciplinary warning will, in most instances, be the correct way to proceed.

Formal action is where a disciplinary warning is issued for a specific time period as follows:

Stage one – Formal Verbal Warning

This can be issued where:

- an employee has **failed to respond to informal management action** to improve their conduct or performance OR

- the issue is regarded as **minor misconduct**, with all the circumstances taken into account

The warning will be confirmed in writing and regarded as a 'live' warning for a **period of three months**, subject to satisfactory conduct and performance. Failure to improve or further incidents of misconduct/poor performance during this period will, if proven, result in progression to the next stage of the disciplinary procedure.

Stage two – Written Warning

This can be issued where:

- an employee has failed to improve their conduct/performance or a further proven incident of misconduct/poor performance has occurred and the employee has a 'live' formal verbal warning OR
- the issue is regarded as **serious misconduct**, with all the circumstances taken into account.

The warning will be confirmed in writing and regarded as a 'live' warning for a **period of six months**, subject to satisfactory conduct and performance. Failure to improve or further incidents of misconduct/poor performance during this period will, if proven, result in progression to the next stage of the disciplinary procedure.

Stage three – Final Written Warning

This can be issued where:

- an employee has failed to improve their conduct/performance or a further proven incident of misconduct/poor performance has occurred and the employee has a 'live' written warning OR
- the issue is regarded as **such serious misconduct** that the employee is given only one final opportunity for improvement, with all the circumstances taken into account.

The warning will be confirmed in writing and regarded as a 'live' warning for a **period of twelve months**, subject to satisfactory conduct and performance. Failure to improve or further incidences of misconduct/poor performance during this period will, if proven, result in progression to the next stage of the disciplinary procedure.

Stage four – Dismissal

This can be issued where:

- an employee has failed to improve their conduct/performance or a further proven incident of misconduct/poor performance has occurred and the employee has a 'live' written warning OR

- the issue is regarded as **gross misconduct** (examples can be found below and in the Contract of Employment, but the list should not be regarded as exhaustive) and with all the circumstances taken into account, there is no alternative other than summary dismissal.

The Charity views allegations of gross misconduct so seriously that where reasonable supporting evidence exists, an employee will be suspended throughout the process. If the allegations are proven, the employee will be dismissed without notice or payment in lieu of notice and receive outstanding statutory holiday entitlement only.

The Organisation would wish to avoid wrongful suspension of any employee. However, circumstances might arise where an employee is suspended but after full fact finding, dismissal is not found to be warranted. In these circumstances the employee would be reinstated and required to work.

Gross Misconduct

In the interests of a proper understanding the Organisation informs employees of its policy in respect of conduct which would lead to the summary dismissal of the employee.

- While it is readily understood that genuine mistakes of a serious nature may occasionally occur, such mistakes would lead to dismissal where: there is a deliberate failure to report a mistake (that is, immediately after a mistake is known to have occurred) OR in the opinion of the Organisation the employee is not competent to carry out the work for which he/she has been engaged.
- Misappropriation of cash or cheques paid or entrusted to the Organisation for any purpose.
- Breach of procedures for the handling of petty cash and any other cash or cheques, paid or entrusted to be held by the Organisation for any purpose.
- Use of the Organisation's mini-bus or privately owned vehicle for business not covered by the Organisation's regulations for the use of cars.
- Failure to report to the Organisation and as otherwise required by law, an accident involving the Organisation's mini-bus or an accident incurred during the business use of a privately owned vehicle for the business use of which the Organisation pays an allowance.
- Refusal to carry out reasonable instructions in relation to the work for which the employee has been appointed.
- Failure to work the hours for which the employee has been appointed due to faulty time keeping, unauthorized absence, or absence for any reason other than that occasioned by holidays at times agreed with the Organisation, or by sickness that is covered by an appropriate certificate. Inability to work the minimum hours due to persistent absence because of sickness not supported by an appropriate certificate could lead to the termination of employment.
- Misappropriation of the Organisation's goods or equipment or misuse of the same.
- An act or acts by the employee that in the opinion of the Organisation affect the reputation and good name of the Organisation.

- Fraudulent notification of sickness. Under the Statutory Sick Pay regulations, this is regarded as a criminal offence.
- Fraudulent self-certification.
- Breach of the terms of the Contract of Employment.
- Theft.
- Violent or threatening behaviour.
- Breach of Health and Safety Regulations.
- Fraud.
- Disclosing confidential business information.
- Accessing pornography via the internet.

This list is not regarded as exhaustive.

Disciplinary suspension

Suspension should not be regarded as a form of disciplinary action or an indication of guilt. However, it can be implemented at any of the stages within the disciplinary process. An employee is normally suspended from work if:

- Gross misconduct is alleged and substantial reason exists justifying suspension and corroborating the allegations.
- The employee's behaviour is deemed to be disruptive or detrimental to the workplace / or the fact finding / or the disciplinary meeting AND/OR
- The employee's suspension is believed to be in the best interests of the Organisation, the employee and/or the employee's colleagues or those reporting directly to him/her.

It is important that due consideration is given before implementing a suspension and that sufficient evidence exists to support the allegations. The period of suspension should be as short as possible, ideally for no more than five working days, unless circumstances are unavoidable, such as a requirement for further fact finding or the inability to convene a disciplinary meeting.

The suspension should be reviewed on an ongoing basis to ensure it is not unreasonably protracted, although it should be acknowledged that a full and fair fact finding process might on occasion exceed these timescales. The Organisation will endeavor to ensure a fair process is adopted and not compromised by adhering to the recommended deadlines contained in this policy, by balancing the need for timely and effective action with a thorough and fair process.

Appeals

In all cases where a formal disciplinary warning has been issued, details will be confirmed in writing including the name of the person to whom any appeal should be addressed.

It is likely that with any disciplinary warning from stage one to stage three; the appeal will be considered by the manager, or management committee and another impartial observer.

The employee has the right to be accompanied by a companion, who will have a similar role to that in a disciplinary meeting.

The employee has seven days from receipt of a disciplinary letter to submit their grounds of appeal in full and in writing. The matter may then be considered either at a meeting with the employee or between those considering the appeal, depending on the detail provided and further information required. The Organisation will endeavor to resolve appeals within a reasonable timescale, giving due regard to the commitments of the Organisations management and the employee. The outcome of the appeal will be confirmed in writing to the employee.

In considering the appeal, all issues raised by the employee will be examined. The employee should not introduce new evidence at this stage unless it has subsequently become available, as all relevant information should have been made available during the fact finding and disciplinary stages. The person hearing the appeal will consider whether to overturn, review or uphold the disciplinary decision as appropriate. This decision is however, final.

All employees have been issued with this policy and procedure to ensure they have complete knowledge of the Organisation's position in these matters.

This policy has been approved by the Management Committee of Newstart.

Signature: _____
On behalf of Newstart Management Committee