



POOR PERFORMANCE AND DISCIPLINARY POLICY

1 This policy applies to all employees who have completed their probationary period with CYI. It does not apply to agency workers.

Guiding principles

2 The guiding principles of this policy are the following:-

- that issues are dealt with promptly and consistently and action taken will be reasonable and justified depending on the individual circumstances of the particular case
- employees should, at every stage, be clear about the process, understand the nature of the complaint against them and be given a chance to state their case
- all employees have the right to be accompanied by a work colleague or trade union official or lay trade union official (not a legal representative) at any meeting at which a penalty might be given
- Employees have the right to appeal against any disciplinary penalty given
- Information relating to these matters should only be divulged to third parties on a 'need to know' basis. Otherwise, all statements, letters and other communications should be regarded as confidential to those directly involved in the process
- The procedure may be started at any stage depending on the nature of the offence. For example, a series of minor offences or incidents or a repetition of one offence might involve the entire procedure step by step, whilst a serious offence may lead to a final written warning or even summary dismissal as a first step
- "SMC" is the staff management committee appointed by the trustees
- "Chair" is the chair of trustees
- "Appeals Panel" is two or three trustees not before involved in the disciplinary issue in question appointed by the chair

Probationary Period

3 Members of staff who are in their 6 month probationary period will not have access to the full disciplinary procedure. There will be a midpoint review (at 3 months) for all members of staff where their performance will be discussed. If their work performance or conduct is not satisfactory, they will be informed and told what improvements are necessary and they will be given realistic and measurable targets or standards to reach, together with further support e.g. further training.

4 However, if work performance or conduct continues to be unsatisfactory, employees will receive written notification of this and be invited to a meeting to discuss it before a final decision about their continued employment is made.

Informal Action

Poor performance

5 Where employees are experiencing difficulties with performance, the problem should be immediately addressed, either through the normal daily or monthly supervision process, or in an informal, supportive way through dialogue between the line manager and the employee.

6 The employee should, wherever practicable, be assisted through training, mentoring and counselling and should be given reasonable time to achieve the required standard. The line manager should make clear the nature of their concern together with the performance standards expected and any suggestions as to how the member of staff might improve their work performance. A note will be made by the line manager of their discussion and a copy given to the staff member.

7 With support, and through drawing attention to the fact that there is a problem, performance may return to expected standards. However, if it becomes apparent that an informal approach to improving performance has failed, the employee should be advised that a formal process will be entered into and this should be confirmed in writing.

Minor Misconduct

8 Cases of minor misconduct can be dealt with informally. The manager will ensure that the employee understands what needs to be done, how conduct will be reviewed and over what time period. Positive support and advice will be offered to the employee to help them to understand the standards expected and how they can improve. Although informal, the line manager will make a note of the discussions. An agreed record of the actions that will take place following the meeting will be a sufficient record. A copy of the note of the discussions/actions agreed will be given to the member of staff.

Formal Action

9 Where an informal warning has failed to resolve the problem, or the issue is serious enough to warrant going straight to the formal disciplinary procedure, managers may invoke the formal disciplinary procedure.

Investigation process and meeting

10 Where disciplinary action is being considered, it is CYI's policy that the relevant facts and any evidence should be gathered in order that an informed discussion and decision can take place. The following paragraphs show how an investigation is to be conducted.

A Poor performance

An investigation into poor performance will require compiling examples of unsatisfactory work. The line manager will assemble as much factually based information and evidence as is practicable about the shortfall in the employee's performance and the effect this is having on their work. As part of the investigation, the line manager should check the standards of work against the requirements of the job description and review earlier discussions/notes of meetings with the employee.

If, following the investigation, it is decided that there is a disciplinary case to answer; the employee will be informed in writing.

B Misconduct

Where there is an allegation of misconduct, the line manager should initially speak to the member of staff to establish the immediate facts of the case from the employee's perspective. If following this initial meeting, it appears that there is a cause for further review; a full investigation will be conducted. The investigating officer may be the line manager, if he or she was not involved in the matter giving rise to the complaint and where practicable. Alternatively, the investigation can be conducted by any trustee appointed by the Chair

At an investigation meeting, an employee can be accompanied by a workplace colleague if they wish. The employee will be given reasonable notice of the meeting.

C Suspension

It may be considered necessary to suspend an employee from their normal duties whilst an investigation is carried out. Suspension will be

used only where essential and may be considered in the following circumstances:-

- Where gross misconduct is alleged
- Where there are risks to CYI's property or other parties; or
- Where relationships may be impaired during an investigation

Suspension is not a disciplinary sanction and **does not** represent disciplinary action. The decision to suspend will not be taken lightly and can only be made by the Chair.

The line manager will normally advise the member of staff in a meeting that they are to be suspended and it will be confirmed to them in writing, together with a copy of this policy.

The disciplinary meeting (held by two or more members of SMC)

Information to be provided

11 Following the investigation, if it is decided that there is a disciplinary case to answer, the member of staff will be told and will be given at least 5 working days' written notice of the date, time and venue of the disciplinary meeting. They must also be provided with the following in writing and 5 days in advance:-

- full details of the allegations or concerns to be raised at the meeting and the possible consequences
- any information that will be considered including, if applicable, copies of statements or other relevant information gathered during an investigation; and
- made aware that they can make a reasonable request to be accompanied by a workplace colleague or their Trade Union Representative

12 The colleague/Trade Union representative may be allowed to address the meeting to put and sum up the employee's case and confer with the employee during the meeting. They cannot answer questions on the employee's behalf.

13 The Chair of that meeting will outline the case against the member of staff and go through the evidence gathered, including witness statements.

14 The member of staff will be given the opportunity to comment on the issues under consideration and answer any allegations that have been made. They will be able to ask questions, present evidence and call witnesses and be able to provide an explanation for the alleged misconduct.

15 In each case, the meeting is an opportunity for all parties to hear and comment on the issues under consideration before a decision is made.

In both cases, accurate notes of the meeting will be made.

Failure to attend a disciplinary meeting

16 Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, CYI will make a decision based on the information available.

Deciding on appropriate action

17 After a decision has been reached, the member of staff will be informed as soon as possible whether a disciplinary penalty will be imposed or whether no further action will be taken. The penalties that can be imposed are found below.

A First Written Warning

18 Where the member of staff is found guilty of misconduct or to be performing poorly, they may be given a First Written Warning. The employee will be advised of the following:

- The reason for the warning
- The precise nature of improvement to performance or change in behaviour expected
- the time period within which improvements are expected
- that it is the first stage of the disciplinary procedure and the likely consequences if there is no significant and sustained improvement
- the length of time the warning will remain active, normally one year
- the assistance and support arrangements that are available to assist the employee
- The right of appeal against the Warning and the procedure for doing so

19 This information will be confirmed in writing to the employee and a copy of the Written Warning letter will be placed on the individual's personnel file. If there is no further reason for action on the offence in question, it will be disregarded after 12 months.

20 If an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a Final Written Warning.

Final Written Warning

21 If there is no improvement following a First Written Warning, and following a second disciplinary meeting, a Final Written Warning will be issued. However, a serious first offence can also result in a Final Written Warning.

22 The Final Written Warning will give details of the complaint, the improvement required and the timescale. It will warn that further disciplinary action, which may result in dismissal, will be taken if there is no satisfactory improvement. A copy of the Final Written Warning letter will be given to the employee and a copy kept on their personnel file. If there is no further reason for action on the offence(s), in question, this warning will be disregarded for disciplinary purposes after 18 months.

23 If the breach of discipline continues, the individual will become liable for dismissal or demotion. However, before such a decision is made, they will be invited to a disciplinary meeting where they will have an opportunity to put their case.

Gross misconduct

24 Examples of breaches of discipline, whilst not exhaustive, that constitute gross misconduct and which could lead to dismissal are outlined at the end of this policy. If there is an incident involving gross misconduct, dismissal will normally result.

25 A fair disciplinary process will always be followed, before deciding whether gross misconduct has occurred and there will be a right of appeal.

Termination of employment

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26 In taking the decision to dismiss, the Chair of the meeting must be sure of the following

- That the Disciplinary Policy has been properly followed
- That the employee has had a reasonable opportunity to improve
- That support and training have been offered where appropriate
- That options short of dismissal such as redeployment have been considered and have been rejected or are not feasible
- That there is no underlying medical condition/reason affecting performance

27 Where the decision to dismiss has been taken, it will be confirmed in writing after the disciplinary meeting. The letter will be from the Chair of the disciplinary panel. The letter will contain the reasons for the dismissal, the date employment will end and the right of appeal.

Appeals

28 In all cases of formal disciplinary or poor performance action, the staff member has the right of appeal against the decision to issue a formal written warning or to dismiss. The timescale for lodging an appeal is 7 working days from receipt of the written notification of disciplinary action.

29 Appeals should be in writing to the Chair and should set out the grounds for an appeal.

30 Appeals will be heard by an appeals panel appointed by the chair of three trustees not involved in the decision.

31 In all cases, the member of staff may be accompanied at the appeal hearing either by a workplace colleague or their trade union representative.

32 The appeal hearing will be conducted with the following terms of reference:

- To review whether the matter was adequately investigated and substantiated, and whether there is any new evidence which was not heard in the disciplinary meeting
- To review whether CYI's procedure was correctly and fairly implemented
- To consider whether the disciplinary or poor performance action was reasonable in the circumstances known to management at the time of the disciplinary meeting

33 In the event that CYI decides to reinstate a member of staff who has been dismissed, this will be done in a manner which maintains continuous service and without loss of pay.

34 The outcome of the appeal hearing will be confirmed as soon as practicable after the hearing, and normally within 10 working days. The decision will be confirmed in writing. The appeal decision is final and there will be no further internal right of appeal.

Reasons for Disciplinary Action

35 Examples of acts and behaviour, which may lead to disciplinary action, fall into two broad categories, namely misconduct and gross misconduct. Examples of misconduct and gross misconduct are given below, but it must be stressed that these examples are neither exclusive nor exhaustive and there will be other offences of similar gravity that are not listed. These may also be supplemented by examples specific to the nature of a particular job.

Alleged misconduct /poor performance

36 Most breaches of the disciplinary rules will not be sufficient to warrant dismissal without previous warnings. Examples of offences which will not normally result in dismissal without previous written warnings include:

- Refusal to carry out any reasonable management instruction within a reasonable timescale
- Non compliance with sickness or other CYI policies and procedures
- Failure to perform satisfactorily the duties of the post, as defined in the Job Description. Examples can include: continued missed deadlines, persistent mistakes/inaccuracies in work, persistent failure to follow instructions etc
- Unauthorised absence or absenteeism, or frequent periods of short unauthorised absence
- Infringement of safety rules
- Smoking on CYI premises
- Rudeness to colleagues, visitors, service users or members of the public
- Misuse of CYI property or facilities
- Misuse of the CYI's computer, telephone and other information systems
- Failure to follow the CYI's Code of Conduct

Alleged gross misconduct

37 Some acts, termed gross misconduct, are so serious that they may call for summary dismissal for a first offence, which means dismissal without notice or pay in lieu of notice. This does not remove the requirement for a full investigation or the right to a disciplinary meeting,

prior to any decision being made, in accordance with the CYI's disciplinary procedure.

38 Examples of gross misconduct are below.

- Violence or the threat of violence in the course of employment
- Assault or indecency or foul or abusive language
- Theft, fraud and deliberate falsification of records
- Corrupt practices such as the improper receipt or offer of money, gifts, goods or favours, or using CYI donations inappropriately
- Serious insubordination as demonstrated by wilful refusal to carry out reasonable requirements of the post or management requests
- Vexatious or malicious behaviour
- Intimidating or bullying another staff member
- Proven discriminatory behaviour on the grounds of race, ethnic origin, gender, religion or belief, sexual orientation, disability or age
- Serious misuse of CYI property or name
- Disclosure of confidential CYI information to a third party
- Knowingly or recklessly disclosing personal data in breach of the Data Protection Act
- Serious misuse of computer facilities including use of internet and email
- Negligence with serious consequence which causes or might cause unacceptable loss, damage or injury
- Serious disregard of safety precautions or regulations or incapability through alcohol or non prescribed drugs
- Possession of illegal substances
- Conviction of any criminal offence which the CYI views as making the individual unfit to hold their post

This list is not exhaustive.

Signed :..... **Date**:.....

Chair of Corbridge Youth Initiative on behalf of Trustees

