

# **Newton Abbot CIC: Disciplinary Policy**

## **Policy statement**

It is the policy of Newton Abbot CIC to maintain effective working relationships with and between our employees. We require our employees to conform to acceptable standards of behaviour at work and are committed to supporting and encouraging our employees, at all times, to achieve these standards.

Nevertheless, from time to time, an employee's behaviour may fall below what is considered acceptable which will necessitate recourse to this Managing Discipline Procedure.

This procedure provides a framework to ensure rules and standards of behaviour are applied in a fair, consistent and systematic manner whilst recognising that each case must be treated on its merits taking account of individual circumstances.

It is recognised that in the interest of good employee relations that issues of discipline should be dealt with as speedily as practicably possible to allow a return for all to normal working.

## **Scope**

This procedure applies to all employees of Newton Abbot CIC. The procedure is concerned with employee conduct only.

## **Core principles**

- disciplinary rules and procedures are necessary for promoting orderly employment relations as well as fairness and consistency in the treatment of individuals. Rules set standards of conduct at work whilst the disciplinary procedure helps ensure that the standards are adhered to, and also provide a fair method of dealing with alleged failures to observe them.
- the purpose of disciplinary action should be to encourage the employee to overcome the problem or deficiency identified. However, in cases of gross misconduct leading to dismissal the action taken is by its very nature punitive.
- behavioural matters should be dealt with promptly, at the lowest level possible and should not automatically be subject to the Disciplinary Procedure
- cases of minor misconduct should be dealt with promptly through the use of informal advice, guidance and counselling, except where earlier informal action has failed to bring about an improvement.

## **The Disciplinary Process**

Newton Abbot CIC's procedure comprises three critical steps based on the statutory procedure:

- Step 1: The investigation
- Step 2: The disciplinary hearing
- Step 3: Appeal

## **Step 1: The investigation**

- When a potential disciplinary matter arises it will be investigated by an investigating officer, who may be a Director or a member of staff.
- The investigating officer will be the Chair of the CIC or a person nominated to act on his/her behalf.
- The investigating officer will carry out the investigation promptly consistent with the principles of fairness and natural justice.
- The employee involved may be suspended with full pay on precautionary grounds in particular cases while the disciplinary process takes place. Any period of suspension will be as short as possible and reviewed at regular intervals.
- The employee involved will normally be interviewed prior to which they must be given adequate notice in writing of what is being alleged, the nature and purpose of the investigation and the procedure to be followed.
- The investigating officer will then produce a summary report of his/her findings and recommendations.
- The investigating officer will decide whether the matter should be dropped, dealt with informally or arrange for it to be dealt with formally by referring it to a disciplinary hearing (Step 2).
- The employee will be informed in writing of the outcome of the investigation

## **Step 2: The disciplinary hearing**

### **The hearing**

- A disciplinary hearing will be arranged when the investigating officer determines that there is a case to answer.
- The hearing will be held as quickly as possible.
- Prior to the hearing, the employee involved will be:
  - informed in writing about
    - the details of the allegations
    - the date for the hearing
    - the procedures to be followed at the hearing
    - their rights under the disciplinary procedure, and within a reasonable timescale before the hearing
  - provided with a copy of the evidence that will be used during the disciplinary hearing, including a copy of the investigating officer's report: the names of any witnesses that will be called; and copy of any witness statements that will be referred to. The employee should also provide the chair of the hearing with similar evidence that will be presented in his/her defence.
- The person chairing the hearing will be responsible for making the necessary arrangements for the hearing
- employees will be offered the right to be accompanied by a trade union representative or work colleague of their choice at the hearing. The employee will not be permitted to be accompanied by a legal practitioner, partner or spouse.
- The chair of the disciplinary hearing will be a Director of the CIC or a person appointed to act on their behalf. It will not be the same person who conducted the investigation or issued the disciplinary sanction and will be someone with no prior involvement in the case.

- Where appropriate a second representative of the CIC may be appointed to sit on the panel.
- An employee will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
- Employees will receive a written explanation for any disciplinary action taken, of what improvement is expected, the consequences of failing to improve and of their right of appeal.
- In cases of dismissal, the individual will be advised in writing of the reasons for the termination of their contract of employment and of their right of appeal.
- All matters will be dealt with promptly and in confidence.

## **The decision**

No decision will be made until the employee has had the opportunity to state their case.

The chair of the hearing will consider all evidence presented at the hearing before coming to a decision whether or not to take disciplinary action. The decision, and the reasons for it, will normally be verbally communicated to the employee then confirmed in writing.

## **Disciplinary sanctions**

There are three levels of disciplinary action that may be taken:

- Level 1: First warning (formal oral or written)
- Level 2: Final warning
- Level 3: Dismissal or other punitive action

The chair of the hearing may impose disciplinary action at any level dependent on the nature/severity of the alleged misconduct (see disciplinary rules for the level of misconduct)

### **Level 1 – first warning**

- A first level warning is appropriate in cases where the employee's conduct fails to meet acceptable standards. At this stage in the procedure either a formal oral warning or a written warning can be issued.
- a formal oral warning will be issued in the case of minor offences. This warning will be disregarded for disciplinary purposes after 6 months. The employee must be informed that any further breach during the currency of the warning may render him/her open to further disciplinary action.
- a written warning will be issued if the offence is more serious. This warning will be disregarded for disciplinary purposes after 9 months. The employee must be informed that any further breach during the currency of the warning may render him/her open to further disciplinary action.

### **Level 2 – final warning**

A final warning is appropriate where the employee has received a previous warning and further misconduct arises during the life of that warning. It will also be appropriate where the "first offence" misconduct is sufficiently serious but would not justify dismissal. This warning will be disregarded for disciplinary purposes after 12 months. The employee must be informed that any further breach during the currency of the warning may render him/her open to further disciplinary action which could result in dismissal

### **Level 3 – dismissal or other punitive action**

- Dismissal will be appropriate if there is still a failure to improve or further misconduct arises during the life of a final warning or in cases of gross misconduct. Punitive action short of dismissal is available, which includes demotion or transfer in conjunction with a final written warning. Where the employee does not agree to the punitive action Newton Abbot CIC will dismiss the employee. Punitive action is NOT an available sanction where gross misconduct is found to have taken place.
- All disciplinary sanctions will be confirmed in writing and a copy will remain in the employee's personal file during the life of the warning.
- When being informed of the disciplinary sanction being applied, the employee will be advised of the reasons for the decision, what improvement is expected and the timescale, the consequences of failing to improve and of their right of appeal (except in the cases of dismissal where only reasons for the decision and the right of appeal will be appropriate).
- Warnings will normally cease to be “live” following the specified period of satisfactory conduct. However, a disciplinary sanction that has been imposed in relation to a breach of the Centre's child protection policies may remain on the employee's file for a longer period of time.

### **Step 3: Appeal**

- An employee has the right to appeal against disciplinary action taken
- All appeals are at a CIC Board level. No member of the Management Committee involved in the case will participate in the appeal hearing.

### **Disciplinary Rules**

#### **Employees` obligations**

Employees have a duty to:

- familiarise themselves with the rules governing their employment as specified within their contract of employment, for example, Codes of Conduct, Health & Safety Policy and any other relevant documentation
- direct their full commitment, interest and attention at work to the achievement of work tasks and activities as agreed with their line manager
- conduct themselves in a manner that is consistent with the maintenance of good working relationships and the Centre's reputation
- abide by all statutory requirements, for example, all Health & Safety regulations
- observe all rules affecting their service area, regulations and operating procedures
- disclose to their employer the misconduct of fellow employees

#### Examples of misconduct

Misconduct is inappropriate behaviour which will normally result in disciplinary action short of dismissal being taken in the first instance.

The action taken will depend on the degree of seriousness of the misconduct, the employee's current disciplinary record and any other relevant factors. The following list is

neither exhaustive nor exclusive but gives an indication of the types of misconduct which will normally result in disciplinary action short of dismissal:

- unauthorised use of CIC's property whilst engaged on CIC business
- improper use of organisational facilities such as the CIC's telephone and email system and the internet
- acts of discrimination, bullying and harassment
- carelessness or negligence in carrying out the duties and responsibilities of the job
- breaches of health and safety requirements
- refusal to obey reasonable instructions, comply with procedures or otherwise fulfil contractual obligations
- persistent poor timekeeping

### Examples of gross misconduct

Gross misconduct is an act, or act(s), which has the effect of destroying the employment relationship between the employee and the CIC, making trust and a continued working relationship impossible.

The following list is neither exhaustive nor exclusive but gives an indication of the types of misconduct which will normally result in dismissal:

- theft, fraud and deliberate falsification of records
- fighting, assault on another person
- deliberate damage to CIC property
- serious bullying and harassment
- serious incapability through alcohol or being under the influence of illegal drugs
- serious negligence which causes unacceptable loss, damage or injury
- serious insubordination
- serious infringement of health and safety rules

Employees who are accused of an act of gross misconduct will normally be suspended from work on full pay, on a precautionary basis, while the alleged offence is investigated.