



Swansea Asylum Seekers Support

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Disciplinary Policy

Purpose

This policy applies to all paid employees and its aim is to ensure consistent and fair treatment when dealing with issues of behaviour or conduct. Every effort will be made to ensure that any action taken under this procedure is fair, with employees being given the opportunity to state their case and appeal against any decision that they consider to be unjust.

Where there are issues of behaviour or conduct, SASS aims to encourage improvement. Expected standards of performance and behaviour are set out in Appendix 1.

Principles

- All employees will be advised of the disciplinary policy.
- No disciplinary action will be taken against any employee until circumstances have been investigated.
- The employee will be advised of the nature of the complaint(s) against him/her and will be given the opportunity to state his/her case before any decision is made.
- At every stage of the procedure, the employee has the right to be accompanied, whether by a work colleague or trade union representative of their choice.
- No employee will be dismissed for a first breach of discipline **except** in the case of gross misconduct, when the penalty will be dismissal without notice or pay in lieu of notice.
- The procedure may be implemented at any stage if the alleged misconduct warrants such action – it is not always the case that a first “offence” always warrants a first warning.
- All employees have the right of appeal against any disciplinary penalty.
- Disciplinary matters will be dealt with as promptly as possible, every effort will be made to adhere to the time limits set out in this policy. The time limits will be extended only with agreements of all parties.

Suspension

- In some cases, a period of suspension with pay may be considered necessary. Suspension is not part of disciplinary action. The employee must be told face to face and then the suspension will be confirmed in writing within 5 working days by the Chair of the Committee, or another committee member, if the Chair is away.
- Suspension from duty should be considered where continued presence in work may:
 - endanger the safety or well-being of any employee, volunteer or member *or*
 - compound the alleged offence *or*
 - frustrate or interfere with an investigation.

Investigations

- SASS will carry out an investigation of potential disciplinary matters to establish the facts of the case.
- The nominated investigating officer will produce a report detailing allegations, findings, relevant facts, conclusions and recommendations.
- Where practicable, different people will carry out the investigation and disciplinary hearing.
- An investigatory meeting will not by itself result in any disciplinary action.

Informal discussion

- SASS is responsible for addressing conduct and behaviour issues as early as possible and for taking appropriate action. Where appropriate, steps will be taken to resolve issues on an informal basis without recourse to the formal procedure.
- Informal discussions, usually conducted by the staff member's line manager, should have the objective of encouraging and helping the employee to improve. Feedback should be constructive and the emphasis should be on finding ways in which the employee can remedy any shortcomings.
- Where an improvement is required, it is important to ensure that the employee understands what needs to be done, how this will be reviewed and over what period.
- Informal discussions must not be used as a substitute for investigation.

Disciplinary Hearing

- If it is decided that there is a disciplinary case to answer, the employee should be notified of this in writing. The notification will give details of the time and venue for the disciplinary meeting and advise the employee of their right to be accompanied at the meeting.
- Notice of a disciplinary hearing, to include the report of the investigating officer and supporting materials, will be sent ten working days prior to the hearing.
- The employee will be provided with a copy of any written evidence with the notification to enable the employee to prepare to answer their response.
- At the meeting SASS will explain the complaint against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer any allegations that have been made. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.

- After the meeting SASS will decide whether or not disciplinary or any other action is justified, and inform the employee in writing. Where misconduct is confirmed or the employee is found to be performing unsatisfactorily they will usually be given a written warning. Disciplinary action will be confirmed in writing within ten working days of the hearing. The employee will be informed of the consequences of further misconduct, or failure to improve performance, within the set period.
- A further act of misconduct or failure to improve performance within a set period will normally result in a final written warning.
- If the employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation or its service users.
- A decision to dismiss should only be taken by a manager or trustee who has the authority to do so. The employee should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.
- Some acts are deemed to be gross misconduct and are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence

Appeals

- Where an employee feels that disciplinary action taken against them is wrong or unjust they can appeal against the decision. Appeals will be heard without unreasonable delay and at an agreed time and place. Employees should let SASS know the grounds for their appeal in writing. Any appeal should be sent to the Disciplining Officer within ten working days of the employee receiving the written decision. The appeal must state the grounds for appeal.
- The appeal will be dealt with by a panel of trustees who have not previously been involved in the case. Employees have a statutory right to be accompanied at appeal hearings.
- The decision may be given verbally at the appeal hearing and will in any event be conveyed or confirmed in writing within ten working days of the hearing.
- The decision following the appeal shall be final and there will be no further internal right of appeal.

Warnings

Spent warnings will be removed from personal files and destroyed in accordance with the timescales specified within this policy.

First warning

If conduct or performance does not meet acceptable standards, the employee will normally be given a warning, which will be removed from the personal file and destroyed after three months. The employee will be informed, in writing, that this has been done.

Second warning

If conduct or performance does not improve after a warning, or if there is already a first warning on file, or if the misconduct is considered serious, a written warning will be given which will be removed from the personal file and destroyed after six months. The employee will be informed, in writing, that this has been done.

Final warning

If the conduct or performance does not improve after a second warning, or if there is a second warning on file, or if the misconduct is considered more serious, a final written warning will be given which remains on the personal file for one year. A final written warning will be reviewed after six months. If there has been sufficient, sustained improvement, the warning will be removed from the personal file and destroyed. The employee will be informed, in writing, of the outcome of this review and whether the warning has been removed from their personal file.

Warnings can only be issued as the result of a disciplinary hearing.

Dismissal

If the conduct or performance does not improve after a final written warning, or if a final warning is already on file, or where there is gross misconduct, dismissal will occur.

- Dismissal after the issue of a final written warning will be with notice, or pay in lieu of notice.
- Dismissal for gross misconduct will be considered summary dismissal, ie without notice or pay in lieu of notice.

There may be occasions when, depending on the seriousness of the misconduct, it will be appropriate to enter the procedure at the stage of final written warning or to consider dismissal. It is not always the case that a first 'offence' always warrants a first warning.

All disciplinary action will be confirmed in writing, the written confirmation will include the following:

- the nature of the misconduct;
- the nature of the action;
- the consequence of any subsequent act of misconduct during the currency of the warning;
- the period during which the warning will remain on the file and may be taken into account;
- the employees right to appeal.

Appendix 1: Disciplinary rules

SASS has set out the following disciplinary rules, which establish standards of conduct at work. These rules apply to all employees. These rules are not exhaustive, but they help to set the general tone of acceptable and unacceptable conduct.

Attendance

No employee should be absent from work without reporting in the prescribed manner.

Obeying instructions

Employees should always carry out lawful and reasonable instructions their line manager, acting on behalf of SASS trustees.

Care of SASS property

All employees have a duty to take good care of SASS' property, and to report any loss or damage immediately.

Health and safety

All employees have obligations under the Health and safety at work act, and associated legislation, to ensure safe working practices. Further specific information is contained within SASS' Health and Safety Policy.

Smoking and alcohol

Smoking is not permitted. Employees should ensure that they never attend work in an unfit state due to alcohol or non-prescription drug consumption.

Discrimination

Employees must not discriminate on the grounds of gender, marital status, sexual orientation, colour, race, ethnic origin, nationality, age, disability, religious or political belief. Further information is contained in SASS' Equality and Diversity Policy.

Harassment and bullying

Employees must not harass or bully other employees. Further information is contained in SASS' Equality and Diversity Policy.

Contact with SASS members and members of the public

All employees are expected to be courteous, considerate and professional to SASS members and the public, and to respect confidentiality.

Financial propriety

Employees are expected to behave appropriately when dealing with all financial matters. Gifts must be recorded in the probity book kept by the Treasurer.

Unsatisfactory conduct and Misconduct

Examples of unsatisfactory conduct and gross misconduct are listed below for information. This list is not intended to be exhaustive:

- unacceptable, unsubstantiated, excessive or unauthorised absence from work
- lateness or failure to comply with working times
- improper use of SASS' equipment or facilities
- breaking health and safety regulations, including the failure to report an accident
- discrimination against others on the grounds of race, colour, gender, marital status, sexual orientation, disability, age, religious or political beliefs etc
- unsatisfactory condition or appearance relating to personal hygiene
- repeated breaches of SASS' policies and procedures

Serious Misconduct

Where one of the unsatisfactory conduct or misconduct rules has been broken and if, upon investigation, it is shown to be due to extreme carelessness or has a serious or substantial effect upon our operation or reputation; you may be issued with a final written warning in the first instance.

You may receive a final written warning as the first course of action, if, in an alleged gross misconduct disciplinary matter, upon investigation, there is shown to be some level of mitigation resulting in it being treated as an offence just short of dismissal.

Gross misconduct

Occurrences of gross misconduct are very rare because the penalty is dismissal without notice and without any previous warning being issued. It is not possible to provide an exhaustive list of examples of gross misconduct. However, any behaviour or negligence resulting in a fundamental breach of contractual terms that irrevocably destroys the trust and confidence necessary to continue the employment relationship will constitute gross misconduct. Examples of offences that will normally be deemed as gross misconduct include serious instances of:-

- extreme verbal abuse or insolence
- serious acts of insubordination, wilful refusal or failure to carry out a reasonable instruction
- fighting, assault, physical provocation (actual or threatened)
- deliberate damage to property
- serious negligence, causing unacceptable loss, damage or injury
- serious breaches of safety regulations, endangering oneself or others, including damage to, neglect of or misappropriation of safety equipment
- serious harassment or bullying
- serious breaches of confidentiality
- bribery or corruption
- theft, fraud or falsification of records
- falsification of remuneration claims (eg time sheets, expense claims etc);
- unauthorised or improper use of vehicles, equipment or computers.
- a single major error, or repeated errors where the consequences (actual or potential) are extremely serious

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