

HOBY UK **Disciplinary Policy and Procedure**

1. Introduction

The Organisation requires good standards of discipline from its employees and volunteers, together with satisfactory standards of work. The purpose of the disciplinary procedure is to ensure that any concerns over employee or volunteer conduct or performance are handled in a fair, consistent and timely manner, with the intention of bringing about an improvement, and to protect the proper operation of the Organisation's business and the health and safety of its employees and volunteers.

It is important to note that where indicated, certain sections of this policy apply only to paid employees.

This procedure may be reviewed and updated from time to time. Any amendments will be notified to employees in writing, following consultation and/or notice where appropriate.

Where time limits are specified in this Policy and Procedure, they may be varied by agreement between the Organisation and the employee.

During an employee's probationary period, the full disciplinary and grievance procedure will not apply.

The Disciplinary Policy and Procedure do not form part of the contract of employment.

2. Rules and Application

2.1 The following are examples of conduct/performance that will normally be addressed through implementation of the Organisation's disciplinary procedure:

2.1.1 Unsatisfactory work performance;

2.1.2 Breaches of Organisation policies and procedures;

2.1.3 Inappropriate behaviour (e.g. fighting, drunkenness, etc.);

2.1.4 Bullying, harassment or victimisation;

2.1.5 Discrimination on any of the grounds listed in the Organisation's Equal Opportunities Policy: e.g. race, sex, sexual

orientation, religion, disability, age, gender reassignment, marital status or ethnic origin.

- 2.1.6 Persistent lateness or poor timekeeping;
- 2.1.7 Unacceptable levels of absence, especially when unauthorised;
- 2.1.8 Serious or repeated failure to follow reasonable requests or instructions;
- 2.1.9 Abuse, misuse or neglect of Organisation property or facilities;
- 2.1.10 Bribery offences under the Bribery Act 2010; and
- 2.1.11 Use of Organisation facilities and equipment for personal reasons during work time e.g. Organisation email, telephones and internet access.

2.2 Confidentiality:

- 2.2.1 Disciplinary matters will be handled with as high a degree of confidentiality as is practicable, particularly when the issue is of a sensitive nature.
- 2.2.2 Confidential records of disciplinary matters will be kept in the employee or volunteer personnel file in accordance with Data Protection legislation. Copies of meeting notes will be provided to the employee or volunteer, although the Organisation reserves the right to withhold certain information (e.g. to protect a witness).

2.3 Investigation:

- 2.3.1 The employee or volunteer manager will promptly and thoroughly investigate any matter that is reasonably believed to be a disciplinary matter. The employee or volunteer concerned will be informed of the investigation as soon as possible and when it has been concluded.
- 2.3.2 The employee or volunteer may be asked to attend an investigatory interview. If such an interview is held prior to a disciplinary meeting, the employee or volunteer will be advised from the start that the interview is an investigatory interview.
- 2.3.3 The Organisation reserves the right to omit the investigatory interview stage and move straight to a formal disciplinary meeting.

2.4 Suspension:

- 2.4.1 The Organisation reserves the right to suspend an employee or volunteer from work, normally for no more than 5 working days, while a disciplinary offence is being investigated.
- 2.4.2 Employees and volunteers will be advised if the suspension is likely to last longer than 5 working days.

- 2.4.3 Suspension is not regarded by the Organisation as disciplinary action. The Organisation shall inform the employee or volunteer of the reason for the suspension.
- 2.4.4 Employees may be suspended without pay or on reduced pay but only if this is allowed by their employment contract and the Organisation is acting reasonably.
- 2.5 The Organisation reserves the right to:
 - 2.5.1 monitor employees' activities including telephone calls, email messages and internet use at any time, whether as part of a disciplinary investigation or otherwise. Employees should therefore not consider such activities and methods of communication to be confidential when conducted at work.
 - 2.5.2 search an employee's desk, bags, pockets, vehicle or other Organisation property or personal possessions where such action is considered necessary in the opinion of the Organisation. A search will only be carried out by an appropriate person in the presence of a witness and employees may request the presence of a work colleague.

3. Disciplinary Procedure

3.1 Informal Discussion

- 3.1.1 The Organisation will initially try to resolve disciplinary issues informally by way of an informal discussion with the employee or volunteer concerned.
- 3.1.2 This is a two-way discussion where the Organisation will be able to inform the employee or volunteer of their shortcomings in conduct or performance and at the same time provide the employee or volunteer with the opportunity to provide an explanation.
- 3.1.3 The main purpose of the informal talk is to find a solution to the problem that is beneficial for both the Organisation and the employee or volunteer.
- 3.1.4 Generally, cases of minor misconduct and/or unsatisfactory performance are dealt with informally. In the event of poor performance, disciplinary meetings will usually only be undertaken where counselling the employee or volunteer and further training (if required) has failed to produce a satisfactory improvement to performance. However, if the informal action does not provide a solution to the problem or if the disciplinary issue is too serious to be dealt with informally, then the formal disciplinary procedure will be followed.

3.2 Written Notice of Intended Disciplinary Meeting

- 3.2.1 If it is decided that there is a disciplinary case to answer, the Organisation will write to the employee or volunteer, giving them a minimum of 2 days' notice of the meeting and advising the employee or volunteer of their right to be accompanied to the meeting. At the same time, the Organisation will provide the employee or volunteer with written notice informing them that this constitutes the start of the formal disciplinary procedure and as such outline:
- the alleged misconduct or poor performance and any possible consequences of these;
 - the improvement that is required, any timescale for achieving this improvement and any support available (if appropriate);
 - details as to the time and venue of the disciplinary meeting; and
 - notice of the employee's statutory right to be accompanied if the meeting could result in a formal warning, the confirmation of a warning or the taking of some other disciplinary action. (This statutory right can be exercised once the employee has made a reasonable request to be accompanied).
- 3.2.2 The employee or volunteer's chosen companion will be able to address the meeting to put or sum up the employee or volunteer's case as well as confer with the employee or volunteer during the meeting. They may not, however, answer questions on the employee or volunteer's behalf, address the meeting if the employee or volunteer does not wish them to do so or prevent the Organisation from explaining their case. The companion can be a fellow employee or volunteer, trade union representative or official employed by a trade union.
- 3.2.3 The meeting will be scheduled in order to give the employee or volunteer reasonable time to prepare for the meeting.
- 3.2.4 The Organisation will establish the facts before the meeting by collecting documents, identifying any relevant people to interview and taking statements before memories start to fade. Any requests for anonymity and confidentiality should be taken seriously. At least 2 days before the meeting, the employee or volunteer should be provided with all relevant information, including statements, upon which the Organisation intends to rely.
- 3.2.5 Where the Organisation or an employee or volunteer intends to call relevant witnesses, they should give advance notice to the other party that they intend to do this. It may also be

appropriate to provide copies of written evidence including any witness statements.

- 3.2.6 If the employee or volunteer is unable to attend the disciplinary meeting at the agreed time, the Organisation shall offer an alternative reasonable time and date. The Organisation shall give at least 2 days' notice of any rearranged meeting. If the employee or volunteer fails to attend the rearranged meeting the Organisation, taking into consideration any reasons and concluding that such failure is without good cause, is free to decide upon the matter using the evidence available. In these circumstances, the employee will be allowed to make written submissions.

3.3 **Disciplinary meeting**

- 3.3.1 A disciplinary meeting will normally be conducted by the employee's line manager, the Director of Volunteers or a trustee.
- 3.3.2 The Organisation will explain the complaint against the employee or volunteer and go through any relevant evidence.
- 3.3.3 The employee or volunteer will then be given the opportunity to present their own evidence, answer any allegations, ask questions and call relevant witnesses.
- 3.3.4 If the Organisation is unable to attend the meeting, such a delay should be conveyed to the employee or volunteer at the earliest opportunity and a reasonable alternative should be provided to the employee.
- 3.3.5 Where possible, a senior member of staff who did not carry out the investigation will attend the meeting.

3.4 **Outcome of meeting**

- 3.4.1 As soon as possible after the conclusion of the disciplinary meeting, the Line Manager, Director of Volunteers or Trustee will inform the employee or volunteer what disciplinary action, if any, will be taken. If the Organisation finds there has been no misconduct/ poor performance, the employee or volunteer will be informed of this in writing.
- 3.4.2 Where a minor offence has been committed, a recorded oral warning may be given. The warning will state that any further misconduct will render the employee or volunteer liable to further, more severe, disciplinary action. The employee or volunteer shall be informed of the period in which the warning will remain 'live', usually 6 months.
- 3.4.3 *First Written Warning* - If more serious misconduct/poor performance or further minor offences are confirmed, the Organisation will issue a written warning setting out the

complaint and stating that further misconduct or a failure to improve performance may result in further disciplinary action. This letter will include details as to the improvement required, time-scales for such improvement and details of any help that will be made available e.g. training. The employee or volunteer shall be informed of the period in which the warning will remain 'live' usually 6 months, and advised of their right to appeal against the warning.

3.4.4 *Final Written Warning* - If the misconduct/ poor performance is sufficiently serious or there has been further misconduct or a failure to improve since a previous written warning, the Organisation may issue a final written warning. This will give details of the complaint and nature of the misconduct/poor performance, the improvement required, the time-scale for such improvement and details of any help available. It will also warn that failure to improve may lead to dismissal or some other contractual penalty e.g. demotion. The employee or volunteer shall be informed of the period in which the warning will remain 'live', usually 3 months, and advised of their right to appeal against the warning.

3.4.5 *Dismissal / Other Penalty* - If there has been further misconduct or failure to improve performance since a final written warning the Organisation may dismiss the employee or take some other action short of dismissal such as demotion or disciplinary suspension. The employee or volunteer will be provided with a written statement of the reasons for dismissal/or other action, the date on which the employment will terminate (if dismissed), and their right to appeal, as soon as reasonably practicable. The dismissal decision should only be taken by a manager who has the authority to do so.

3.4.6 *Dismissal without Notice* - If the Organisation establishes that there has been gross misconduct the employee or volunteer may be summarily dismissed i.e. dismissed without notice. The Organisation will follow a fair disciplinary procedure before taking any decision to dismiss without notice and this will be confirmed in writing (see Gross Misconduct section below).

3.5 **Appeal**

3.5.1 Employees or volunteers have the right to appeal against any formal disciplinary action. A formal appeal cannot be made against an informal oral warning. The appeal should be made in writing within 5 working days of the disciplinary decision.

3.5.2 The employee or volunteer must inform the Organisation as to the grounds for appeal in writing, and may be accompanied to the appeal meeting. In making an appeal, the employee or volunteer should state if they are appealing against the finding

that they committed the alleged acts of misconduct and/or against the level of sanction imposed.

- 3.5.3 The Organisation will hear the appeal without unreasonable delay and where possible the appeal will be dealt with by the Chair of the Board of Directors, the CEO, or the Chair of the Board of Trustees. However, where this is not practicable, the same manager may handle both the disciplinary and the appeal meetings and he/she will act as impartially as possible.
- 3.5.4 The outcome of the appeal will be confirmed in writing within 5 working days of the meeting. Decisions made at this stage will be final and there is no further right of internal appeal.

4. Special Cases

- 4.1 Where disciplinary action is being considered against an employee who is an accredited trade union representative of a trade union recognised by the Organisation for collective bargaining purposes, the above procedure will not be followed until the Organisation has had a chance to discuss the matter (with the prior agreement of the employee) with a senior trade union representative or permanent union official of that trade union. The Organisation shall, however, be able to suspend the employee in the case of a suspected or known incident of gross misconduct.
- 4.2 An employee or volunteer being charged or convicted with a criminal offence is not in itself a reason for disciplinary action. The Organisation will consider whether the offence or alleged offence is one that makes the employee or volunteer unsuitable for their type of work. Therefore, the Organisation will establish the facts of the case and consider whether the facts warrant starting the disciplinary procedure. Similarly, an employee or volunteer cannot be dismissed solely because they were absent from work as a result of being remanded in custody.

5. Gross Misconduct

- 5.1 In the event that an employee or volunteer commits an act of gross misconduct, the Organisation is entitled to summarily terminate the employee or volunteer's contract of employment without notice or pay in lieu of notice.
- 5.2 The following non-exhaustive list gives examples of offences that the Organisation will normally regard as gross misconduct:
 - 5.2.1 Theft, fraud, dishonesty or deliberate falsification of records;
 - 5.2.2 Fighting, assault or other violent behaviour;
 - 5.2.3 Deliberate damage to, or misuse of, Organisation property;

- 5.2.4 Deliberate use of internet and/or email to access or distribute material of a pornographic, offensive, obscene or inappropriate nature;
 - 5.2.5 Incapability at work due to the effect of alcohol or drugs;
 - 5.2.6 Possession, custody or control of illegal drugs on Organisation premises;
 - 5.2.7 Serious breach of the Organisation's rules, policies and procedures;
 - 5.2.8 Serious negligence which causes loss, damage or injury;
 - 5.2.9 Conviction of a criminal offence that is relevant to the employee or volunteer's employment with the Organisation and renders them unsuitable for their work;
 - 5.2.10 Conduct likely to bring the Organisation's name into disrepute;
 - 5.2.11 Bullying, harassment, victimisation or discrimination;
 - 5.2.12 Accepting bribes;
 - 5.2.13 Serious breaches of the Organisation's anti-bribery policy;
 - 5.2.14 Gross negligence;
 - 5.2.15 Drunkenness or being under the influence of illegal drugs at work;
 - 5.2.16 Possession or control of illegal drugs on the Organisation's premises;
 - 5.2.17 Serious acts of insubordination.
- 5.3 If the Organisation decides to summarily terminate the employee or volunteer's contract of employment without notice or pay in lieu of notice the Organisation must be acting *fairly and reasonably* to take this action rather than following the Disciplinary Procedure set out in Clause 3 above.

6. Data Protection

The Organisation shall process personal data collected during the investigation process and any subsequent disciplinary action in accordance with its Data Protection Policy. Data collected during the investigation process and subsequent disciplinary action will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure.

This policy has been approved & authorised by:

Name:	Stuart Jamieson
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Position:	Chair of Trustees
Date:	September 2024
Date for review:	September 2025
Signature:	<i>Stuart J. Lamson</i>