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Disciplinary Procedure

This is the disciplinary procedure for Brighton & Hove Social Welfare and Educational Trust Ltd. This procedure was updated in November 2021.

Signed:

Date:

Director of B&H SWET Ltd (the employer)

1. Introduction

- 1.1. This procedure is designed to clarify the rights and responsibilities of B&H SWET Ltd, staff and trade unions in the event of disciplinary action.
- 1.2. The purpose of the disciplinary process is to encourage improvements in individual behaviour and work performance rather than to be used primarily as a means of imposing sanctions.
- 1.3. As a collective workplace, the Resource Centre is committed to maintaining a climate in which the work performance of all staff members is discussed regularly in an atmosphere of mutual trust. It is expected therefore that most problems with the work performance of an employee, other than alleged gross misconduct, will be resolved within the Workers' Group informally without recourse to this procedure.
- 1.4. A meeting of the whole Workers' Group may not always be the most appropriate means of resolving problems. The Group will therefore be flexible in its approach and consider other informal means such as one-to-one discussion or outside mediation. Any approach must have the agreement of the whole Group, including the employee whose work or behaviour is under consideration.
- 1.5. It is important to ensure that no informal action turns into formal disciplinary action. If during informal discussion it becomes clear that the matter is more serious, the meeting should be adjourned and the staff member informed that this procedure will be invoked.
- 1.6. If the employee whose work or behaviour is under consideration is dissatisfied with attempts to resolve the matter within the Workers' Group, the employee has the right to invoke the Grievance procedure.
- 1.7. Where unsatisfactory working is due to lack of skills, aptitude or poor health, the Workers' Group may invoke the Capability procedure.
- 1.8. If the Workers' Group is unable to resolve the matter, or if gross misconduct is involved, the Group will invoke the Disciplinary procedure. It has three levels of disciplinary action with provision for instant dismissal in the case of gross misconduct and the right of appeal at each level.
- 1.9. Detailed written records must be kept of any interviews and investigations relating to a disciplinary process.

2. Roles and responsibilities

- 2.1. **Manager:** the Workers' Group will designate a member of staff as Manager for the purpose of a disciplinary action. The person designated as Manager must not be the staff member who is the subject of the disciplinary action. The manager will carry out a full investigation and present the case for disciplinary action to the hearing.
- 2.2. **Personnel adviser:** a competent person from outside the Resource Centre will act as adviser on personnel and procedural matters.
- 2.3. **Disciplinary panel:** the panel for disciplinary hearings will be made up of two members of the Management Committee, one of whom will chair the Panel. The Personnel adviser will also be present.
- 2.4. **Appeal panel:** the panel for the appeal hearings will be made up of the chair of the Management Committee (or a substitute) and one other member; neither member must have taken part in the original Disciplinary panel. The Personnel adviser will also be present.
- 2.5. **Representation:** the employee has the right to be represented by a trade union representative, fellow employee or by a friend at any hearing under this procedure.

3. Stage 1

- 3.1. The employee must be given at least five working days' notice in writing of the date, time and location of the Disciplinary panel.
- 3.2. The notice will also state
 - 3.2.1. the precise nature of the complaint
 - 3.2.2. the name of the Centre manager
 - 3.2.3. the identity of the panel members and personnel adviser
 - 3.2.4. the names of any witnesses being brought by management
 - 3.2.5. copies of any witness statements or written evidence
 - 3.2.6. the right to representation
 - 3.2.7. the right of the employee to bring witnesses
- 3.3. The Disciplinary panel will inform the employee of the decision at the end of the hearing. See section 9 for the format for hearings.
- 3.4. If the employee's performance is judged to be unsatisfactory, the panel will issue an Improvement Note setting out the performance problem; the improvement required; the timescale; and any help to be given by the Resource Centre.
- 3.5. If the employee's conduct is judged to be unacceptable, the panel will issue a First Warning for Misconduct.
- 3.6. A letter confirming the decision will be delivered to the employee within two working days of the hearing. It will advise the employee that it constitutes Stage 1 of the Disciplinary procedure and that a final written warning may be considered if there is no sustained improvement or change of conduct.
- 3.7. A copy of the warning or improvement note will be placed on the employee's personal file. This warning will lapse after six months provided that there is no further disciplinary action during that period.

4. Stage 2: Final written warning

- 4.1. Where there is serious misconduct but not so serious as to warrant dismissal, a final written warning may be issued at the first disciplinary hearing.
- 4.2. Where there is a further problem with the work or behaviour of the employee before the first written warning has lapsed, a final written warning may be issued.
- 4.3. The procedure for the Disciplinary panel hearing and the final written warning will be the same as in paragraphs 3.1 to 3.7 above. This warning will lapse after six months provided that there is no further disciplinary action during that period.

5. Stage 3: Dismissal

- 5.1. Further misconduct or the failure to improve performance satisfactorily before the final written warning has lapsed will usually result in dismissal with notice or pay in lieu of notice.
- 5.2. A breach of discipline serious enough to be considered gross misconduct (clause 8.1) will usually result in instant dismissal.
- 5.3. The procedure for the Disciplinary panel hearing and the final written warning will be the same as in paragraphs 3.1 to 3.3 above.

- 5.4. A letter confirming the decision to dismiss will be delivered to the employee within two working days of the hearing and a copy placed in the employee's personal file.

6. Appeals

6.1. Appeals against Stages 1 and 2 written warnings

- 6.1.1. An employee may appeal to the named Centre manager against any written warning within five working days of the Disciplinary panel hearing. The appeal must be in writing and state the grounds for the appeal.
- 6.1.2. The Appeal panel hearing must be held within five working days of the receipt of the appeal letter.
- 6.1.3. The employee must be given at least two working days' notice in writing of the date, time and location of the Appeal panel.
- 6.1.4. The notice will also state
- i. the names of the Centre manager, the panel members and the personnel adviser
 - ii. the names of any witnesses being brought by management
 - iii. the right of the employee to representation and to bring witnesses
- 6.1.5. The Appeal panel may uphold the appeal, reject the appeal or reduce the level of the warning. It will inform the employee of the decision at the end of the hearing.
- 6.1.6. A letter confirming the decision of the Appeal panel will be delivered to the employee within two working days of the hearing and a copy will be placed on the employee's personal file.

6.2. Appeal against Dismissal

- 6.2.1. An employee may appeal to the named Centre manager against dismissal within five working days of the Disciplinary panel hearing. The appeal must be in writing and state the grounds for the appeal.
- 6.2.2. The employee will be suspended from work on full pay pending the Appeal hearing. See section 7 for details of suspension.
- 6.2.3. The procedure for the hearing will be the same as in paragraphs 6.1.2. to 6.1.4 above.
- 6.2.4. The Appeal panel may uphold or reject the appeal or reduce the action to a written warning. It will inform the employee of the decision at the end of the hearing.
- 6.2.5. A letter confirming the decision of the Appeal panel will be sent to the employee within two working days of the hearing and a copy will be placed on the employee's personal file.
- 6.2.6. The Dismissal Appeal panel is the final level of the disciplinary procedure.

7. Suspension

- 7.1. An employee may be suspended from work pending a disciplinary hearing at any of the stages or an appeal hearing. This may be appropriate where the employee's presence could interfere with a proper investigation or lead to further difficulties or disruption in the workplace.
- 7.2. Suspension is a neutral act and in no way prejudices the outcome of the hearing.
- 7.3. Suspension will be on full pay and the employee will be informed immediately in writing of the decision to suspend.

7.4. The employee will be allowed to collect personal belongings and must hand in keys and any other Resource Centre property.

8. Gross Misconduct

8.1. Gross misconduct is workplace behaviour of such a serious nature that the Resource Centre is justified in no longer tolerating the employee's presence in the Centre. It may include

8.1.1. sexual or racial harassment or violent behaviour,

8.1.2. fraud or theft from the Resource Centre or a fellow worker or user,

8.1.3. a serious breach of health & safety rules.

8.2. In the event of gross misconduct, the employee may be instantly dismissed, without notice or pay in lieu of notice.

8.3. In the event of instant dismissal, the employee will be allowed to collect personal belongings and must hand in keys and other Resource Centre property. The employee will be given immediate written confirmation of the decision and the reason for instant dismissal.

8.4. The manager will inform the chair of the Management Committee in writing.

8.5. An employee subject to instant dismissal has the right to appeal under section 6.2.

9. Format for hearings

9.1. The chair of the panel will introduce those present, detail the purpose of the hearing and explain the format of the hearing.

9.2. The manager will state the case and may call witnesses as appropriate. The employee or the representative (or both) may question the manager and witnesses for clarification. The chair may also ask questions to clarify the management case.

9.3. The employee or the representative will present the employee's case and may call witnesses as appropriate. The manager may question the employee, the representative and witnesses for clarification. The chair may also ask questions to clarify the employee's case.

9.4. The manager will summarise management's case and the employee or the representative will summarise the employee's response.

9.5. The hearing will adjourn while the panel, advised by the personnel adviser, discuss the case in private and decide what level of action, if any, is needed. They may temporarily reconvene the hearing if they need further clarification of any matter.

9.6. If new information has come to light during the hearing which needs further investigation, a decision will be deferred and a date set for the hearing to be reconvened.

9.7. At the end of the hearing or reconvened hearing, the chair of the panel will inform the employee of the decision and (where appropriate) of the right to appeal.

9.8. Accurate minutes must be kept of hearings. It may be advisable to ask an outside person to act as minute secretary at hearings.