



## DISCIPLINARY PROCEDURE

### 1. PURPOSE, SCOPE AND PRINCIPLES

- 1.1 Pillar Kincardine requires acceptable standards of conduct and performance from all its members of staff at all times. This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. It sets out the action which will be taken when an employee's conduct, attendance and/or performance appears to fall below the standards required and will be used in the first instance to help them achieve and maintain those standards. Counselling will be offered, where appropriate, to resolve any difficulties/issues.
- 1.2 Pillar Kincardine believes that any disciplinary procedure should be used fairly and consistently for all staff.
- 1.3 This procedure follows the guidelines set out in the ACAS statutory *Code of Practice on discipline and grievance*. It will by necessity be reviewed and amended as any new legislation or statutory codes of practice are introduced or amended.
- 1.4 No disciplinary action will be taken against an employee until the potential disciplinary matter has been fully investigated. The necessary investigations should be carried out without unreasonable delay to establish the facts of the case.
- 1.5 At every stage in the procedure the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made.
- 1.6 At all stages of the procedure the employee will have the right to be accompanied by a trade union representative, or work colleague.
- 1.7 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct (see Section 5), when the penalty will be dismissal without notice or payment in lieu of notice.
- 1.8 An employee will have the right to appeal against any disciplinary action imposed.
- 1.9 The procedure may be implemented at any stage if the employee's alleged misconduct or poor performance warrants such action.
- 1.10 The minimum three-step statutory procedures will be followed if an employee faces dismissal or certain kinds of action short of dismissal eg demotion or loss of seniority)

**Step one:** a written note to the employee setting out the allegation and the basis for it, and its possible consequences.

**Step two:** a meeting to consider and discuss the allegation.

**Step three:** a right of appeal including an appeal meeting.

## **PROCEDURE**

### **2. INFORMAL ACTION**

- 2.1 Cases of minor misconduct or unsatisfactory performance are usually best dealt with informally. A quiet word is often all that is required to improve an employee's conduct or performance. The informal approach may be particularly helpful where problems can be dealt with quickly and confidentially. There will, however, be situations where matters are more serious or where an informal approach has been tried but is not working.
- 2.2 If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, Pillar Kincardine provide employees with a clear signal of their dissatisfaction by taking formal action.

### **3. FORMAL ACTION**

- 3.1 The employee will be informed in writing what it is they are alleged to have done wrong. The letter will contain enough information for the individual to be able to understand both what it is they are alleged to have done wrong and the reasons why this is not acceptable.
- 3.2 The letter will also invite the individual to a meeting – within five working days of receipt of the letter – at which the problem can be discussed, and it will inform the individual of their right to be accompanied at the meeting. The employee will be informed who will chair the meeting and be given copies of any documents that will be produced at the meeting.
- 3.3 At the meeting the Chairperson 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 also be able to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses.
- 3.4 An employee who cannot attend a meeting should inform Pillar Kincardine in advance whenever possible. If the employee fails to attend through circumstances outside their control and unforeseeable at the time the meeting was arranged (e.g. illness) Pillar Kincardine will arrange another meeting.
- 3.5 A decision may be taken in the employee's absence if they fail to attend the re-arranged meeting without good reason.
- 3.6 If an employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by Pillar Kincardine.

### **4. DISCIPLINARY ACTION**

- 4.1 Following the meeting the Chairperson must decide whether disciplinary action is justified or not. Where it is decided that no action is justified the employee will be informed. Where it is decided that disciplinary action is justified the Chairperson will need to consider what form this should take.

- 4.2 Before making any decision the Chairperson will take account of the employee's disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and – most important of all – whether the intended disciplinary action is reasonable under the circumstances. Types of disciplinary action open to the Chairperson are as follows.

***Stage 1 - Improvement Note: Unsatisfactory Performance***

An improvement note will be issued where the identified issue is one of unacceptable performance. The note will set out the performance problem, the improvement that is required, the timescale for improvement and any help/support that may be given by Pillar Kincardine. The individual will be advised that it constitutes the first stage of the formal procedure. A record of the improvement note will be kept in the employee's personnel file for 6 months. Should the employee achieve and maintain the improvement set out in the note then this will be considered spent - subject to achievement and sustainment of satisfactory performance and not referred to again unless a similar problem occurs in the future. An employee may appeal this decision using the appeals process set out at '6' below.

***Stage 2 - First warning: Misconduct***

If the problem is to do with conduct that does not meet acceptable standards the employee will normally be given a written warning. This will set out the nature of the misconduct and the changes in behaviour that may be required. The letter will also warn the employee that further disciplinary action may be taken, a final written warning may be considered, should there be no sustained improvement of acceptable conduct or if there is a repeat of the unacceptable behaviour. A copy of this written warning will be kept in the employee's personnel records but will be disregarded for disciplinary purposes after 6 months - subject to satisfactory performance being both achieved and sustained. An employee may appeal this decision using the appeals process set out at '6' below.

***Stage 3 - Final Written Warning***

If the misconduct is sufficiently serious, or there is a failure to improve during the currency of a prior warning for the same type of misconduct, a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale within which the improvement is to be achieved. It will also warn that failure to improve may lead to further disciplinary action under stage 3 up to and including dismissal from the organisation. A copy of the warning will be kept in the employee's personnel records but will be disregarded for disciplinary purposes after 12 months - subject to satisfactory performance being both achieved and sustained. An employee may appeal this decision using the appeals process set out at '6' below.

***Stage 4 – Dismissal***

If there is still a failure to improve, the final step in the procedure will be dismissal. Any decision to dismiss an employee will only be taken by the disciplinary sub-committee of the Board and the employee will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which the employment will terminate. An employee may appeal this decision using the appeals process set out at '6' below.

**5. GROSS MISCONDUCT**

- 5.1 If an employee is suspected of gross misconduct a short period of suspension with full pay may be helpful or necessary to ensure that there is a proper investigation of the allegation. Suspension should only be imposed after careful consideration and should be kept under review. It should be made clear to the employee that the suspension is not a disciplinary action

and does not involve any prejudgment. Once the investigation has been carried out the employee may be asked to attend a disciplinary meeting as set out in section '3' above.

- 5.2 If there is a decision to hold a disciplinary meeting following an investigation into an allegation of gross misconduct, it will be made clear in the letter to the employee inviting them to the meeting that summary dismissal is a possible outcome of this meeting.
- 5.3 If the Chairperson at a disciplinary meeting considers an employee guilty of gross misconduct the disciplinary action will normally be summary dismissal without notice and without pay in lieu of notice. An employee may appeal this decision using the appeals process set out at '6' below.
- 5.4 Examples of gross misconduct might include but are not restricted to:
  - Theft, fraud or deliberate falsification of records;
  - Physical violence or bullying;
  - Deliberate and serious damage to property;
  - Serious misuse of Pillar Kincardine's property or name;
  - Using Pillar Kincardine computers to deliberately access internet sites containing pornographic, offensive or obscene material;
  - Serious insubordination;
  - Unlawful discrimination or harassment;
  - Bringing the organisation into serious disrepute;
  - Serious incapability at work brought on by alcohol or illegal drugs;
  - Causing loss, damage or injury through serious negligence;
  - A serious breach of health and safety rules; and
  - A serious breach of confidence.

## **6. APPEALS**

- 6.1 An employee has the right to appeal any disciplinary action imposed by Pillar Kincardine, but they must do so within 10 working days of the date of the letter sent out informing them of the disciplinary action. The address for such an appeal is:

Chair of the Board of Directors, Pillar Kincardine, 42-46 Barclay Street, Stonehaven, AB39 2AX.
- 6.2 The following are grounds for appeal:
  - There is new evidence not heard at the original meeting
  - There was not a proper investigation into the allegations
  - The disciplinary procedure was not followed
  - The disciplinary action taken was too severe in the circumstances.
- 6.3 The Chair will convene a Panel of Board members (the Appeal Panel) to hear the appeal at the earliest practicable opportunity, and will write to the employee giving the date and time of the Appeal panel meeting, and reminding them of their right to be accompanied.
- 6.4 The Appeal Panel will review the disciplinary penalty and may amend the original disciplinary action but may not impose any penalty at appeal more serious than that which was imposed as a result of the original process.

6.5 The decision of the Appeal Panel is final.