

Disciplinary procedures

Updated review date: September 2009

Date to be reviewed: September - December 2010



Scope and Purpose

This policy shall apply to all VAW employees. The procedure is intended to provide a fair and consistent means by which disciplinary rules are observed and standards of work performance and conduct maintained.

VAW expects a high level of conduct and work performance, and that employees adhere to other VAW policies. It is the role of managers to ensure that staff achieve and maintain the required standards of conduct, job performance and discipline.

This procedure provides a method of dealing with alleged breaches of organisational policies, rules and procedures; cases of alleged misconduct; or persistent poor performance. It ensures that disciplinary action, if taken, is appropriate to circumstances. The emphasis is on correction rather than punishment.

Supervision and cooperation should resolve most cases of minor misconduct or unacceptable behaviour, but where these informal routes have been exhausted, the following procedure will apply:

General Principles

- The procedure is designed to establish the relevant facts quickly and deal consistently with disciplinary issues. No disciplinary action will be taken until a matter has been fully investigated.
- The procedure may be implemented at any stage if the alleged misconduct or concerns over work performance warrants such action
- No line manager should attend a disciplinary action on his/her own, and must have a note taker. Summary notes of all disciplinary meetings will be taken and a copy kept on the employee's personal file.
- No disciplinary action will take place without a member of staff having the opportunity to state his or her case.
- If a number of related grievances, disciplinary issues and/or counter-allegations arise at the same time; these may be considered simultaneously by one panel.

- At every stage of the procedure, the employee will be advised of the nature of the complaint in writing, and be invited to a meeting.
- The employee will be given enough time to prepare for his/her case and the disciplinary hearing will normally be held not earlier than the fifth and not later than the tenth working day following notification.
- At the meeting VAW will explain the complaint against the employee and go through the evidence gathered. The employee will be allowed to set out his/her case and answer any allegations that have been made. The employee will be allowed to ask questions and present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses.
- Disciplinary action will only be taken where it is decided that, following a disciplinary hearing that a misconduct had occurred and disciplinary action is appropriate
- At all stages, the employee has the right to be accompanied by an independent person / trade union officer.
- An employee is not entitled to be accompanied at an investigation meeting as it does not form part of the formal disciplinary process.
- The employee has the right to appeal against any disciplinary action imposed.
- Employees 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 and with or without payment in lieu of notice.
- At all stages of the disciplinary procedure both manager and the individual concerned must ensure confidentiality of events and discussions. This will not preclude sharing such confidence when seeking advice. Any discussions with witnesses should be confined to the specific areas on which the witnesses may have information. Any unreasonable breach of confidence may itself be treated as a disciplinary case of misconduct.

Procedure

This procedure can be implemented to deal with disciplinary matters including misconduct or concerns over work performance. Examples include:

- Poor time keeping or attendance
- Inadequate performance, failure to meet required standards, targets or deadlines
- Breaches of the VAW policies and procedures.

This is not an exhaustive list.

If there are concerns about your performance, your line manager will raise this with you in supervision and discuss the reasons behind the concern and agree a time scale for review. Once this approach has been exhausted, the following procedure will be followed.

1. First written warning

1.1 Misconduct

Your line manager will set up a meeting with you where a first written warning will be issued. The reasons for the warning will be given, that it is the first stage of the disciplinary procedure and of employee's right of appeal. The written warning will detail the complaint; change in behaviour required and the agreed time scale for review. This should be no more than 3 months and no less than three weeks. A written record will be made and placed on your file, but will be disregarded after six months of satisfactory service. If after the agreed period of review, the matter is still unresolved, the matter will progress to the next stage.

Or

1.2 Unsatisfactory Performance - Improvement Note

If performance does not meet the acceptable standards the staff will normally be given an improvement note by his/her supervisor/line manager. S/he will be advised of the reason for the note and of his/her right of appeal. The note will detail:

- the performance problem;
- the improvement required;
- a set timescale for improvement;
- the support that VAW will provide; and
- the dates for review.

This represents a first stage of a formal procedure and a failure to improve could lead to a final written warning and, ultimately, dismissal.

A copy of the note will be kept in the staff's personal file but will be considered spent after 6 months – subject to achieving and sustaining satisfactory conduct or performance.

2. Final written warning

If performance is still unsatisfactory or if further misconduct occurs, or if the misconduct is sufficiently serious to warrant one written warning but

insufficiently serious to warrant justifying dismissal, the employee will be given a final written warning.

Your line manager will issue a written warning, which will be kept on the employee's personal file. This will be in consultation with the Chief Executive or their appointed deputy. The warning will state clearly the reasons for disciplinary procedures, the improvements required to resolve the situation and the period for which it will remain active. This is normally twelve months but can be varied depending on the circumstances of the case. A period of review will be agreed with you, and will be not less than three weeks and no more than three months. The employee will be notified that if after the agreed period of review it is still unresolved, the matter will progress to the Dismissal stage.

3. Dismissal

If the conduct or performance is still unsatisfactory and the employee fails to reach the prescribed standards, or if the offence constitutes gross misconduct, dismissal will normally result. The employee will be provided as soon as reasonably practicable with the written reasons for dismissal, the date on which his/her employment will terminate and be advised of the right of appeal.

Where an employee fails to attend a meeting held as part of the disciplinary procedure without good reason, the statutory procedure comes to an end. If the employee has a good reason for non-attendance, VAW will re-arrange the meeting, but if the employee does not attend this rearranged meeting, VAW will proceed and decide the case on the basis of evidence gathered without the employee.

4. Gross Misconduct procedure (modified two-step dismissal procedure)

Gross misconduct is defined as misconduct of a very serious nature. An allegation of gross misconduct may lead to your immediate suspension from work pending an investigation. This suspension will be on full pay and will ideally last no longer than 7 working days and will only take effect if further information is required to verify the allegations.

Such a suspension may be made orally, including by telephone, and will be confirmed by the Chief Executive or their appointed deputy in writing, not more than 48 hours from the date of suspension.

Subsequently, a special meeting of a panel of 3 at least one of whom is a trustee will be called so that a decision can be made as to the consequences of the suspension. The member of staff who has been suspended will have the right to attend the meeting to present his / her own case. If the employee is found to have committed gross misconduct, the following procedure will then apply:

- Step one: VAW will set down in writing the nature of the alleged misconduct that has led to the dismissal, the evidence for the decision, and the right to appeal against the decision, and send a copy of this to the employee
- Step two: If the employee wishes to appeal, s/he must inform VAW, and the employee will be invited to attend a further meeting to discuss the appeal. The final decision must be communicated to the employee.

If after investigation, allegations are substantiated, the normal consequence will be dismissal without notice.

- Offences that are considered to be gross misconduct include:
- Dishonesty – e.g., theft or fraud
- Deliberate falsification of attendance records, expenses claims etc
- Deliberate and serious damage to property
- Physical and or verbal abuse, bullying of other staff, management committee members, volunteers, or service users
- Sexual harassment
- Racist activity
- Action or conduct, which could bring VAW into disrepute.
- Being under the influence of alcohol or illegal drugs whilst at work
- A serious breach of health and safety rules
- Serious insubordination
- A serious breach of confidence
- Serious breaches of VAW policies and procedures
- False declaration of any kind in connection with employment.

This is not an exhaustive list.

7. Absence from work

VAW will seek to establish the reasons why the employee has not been at work. If there is no acceptable reason, the matter will be treated as a conduct issue and dealt with as a disciplinary matter.

If the absence is due to genuine (including medically certified) illness, the issue becomes capability issue, and VAW will consider:

- How soon the employee's health and attendance will improve;
- Whether alternative work is available;

- The effect of the absence on the organisation

8. Appeals

You have the right to appeal after any of the formal stages of this procedure. Appeals must be lodged in writing to the management committee within **five working days** of the decision, unless there is a good reason for it to be extended. The grounds for appeal must be clearly stated.

An Appeal Panel will be convened within statutory time limits, consisting of 3 people, at least one of whom will be a trustee, not previously involved in the disciplinary matter. If the appeal is a final appeal against dismissal, the panel will be composed of three trustees. You will be invited by the panel to present your appeal, which will be considered and the decision of which will be conveyed to you. The appeal panel's decision will be final.

If you have been dismissed without notice and the Appeal panel overturns a dismissal decision (thereby reinstating you), you will be reinstated to your previous employment, and any outstanding salary payments will be made to you via the normal payroll.

Keeping Records

The records kept will include:

- the complaint against the employee;
- the employee's defence;
- the findings made and action taken;
- the reasons for actions taken;
- whether an appeal was lodged;
- the outcome of the appeal;
- any grievances raised during the procedure; and
- subsequent developments.

Records of all warnings issued will remain active on personal files for six months in the case of first warning, and 1 year for Final written warning. After this time they will not be considered for disciplinary matters.