



**MIND IN CROYDON
DISCIPLINARY AND DISMISSAL PROCEDURE**

1. PURPOSE AND SCOPE

The purpose of this procedure is to ensure the maintenance of the safe and effective operation of Mind in Croydon and its various services, and the fair treatment of individual employees.

The procedure sets out the action which will be taken when conduct or job performance are unsatisfactory or when disciplinary rules are breached.

2. PRINCIPLES

2.1 The procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated, although it may be necessary to suspend the employee while the investigation takes place. (See Para.7)

2.2 At all formal stages of the procedure employees will have the opportunity to put their side of the case, and to be accompanied by a colleague or union representative if they wish.

2.3 An employee has the right to appeal against any disciplinary decision.

2.4 The procedure is intended to give the employee an opportunity to remedy their poor performance or unsatisfactory behaviour and no one will be dismissed for a first offence, except in the case of gross misconduct (see para.5.1).

3. WHO IS AUTHORISED TO TAKE DISCIPLINARY ACTION?

3.1 **Informal or verbal warnings:** the employee's line manager, or another manager if line manager is unavailable.

3.2 **Disciplinary interview:** arranged by the line manager

3.3 **Formal warnings:** (following a disciplinary interview) the line manager plus one of the following: the Chief Executive, Business Development and Service Delivery Manager, Human Resources Manager or other member of the Senior Management Team.

3.4 **Dismissal:** may be recommended as in 3.3.

4. THE PROCEDURE

4.1 This procedure applies to all employees on the permanent staff and to staff on fixed term contracts, once their probationary period is finished. The procedure for staff still in their probationary period is described in paragraph 10. The procedure for the Chief Executive is described in paragraph 6.

4.2 **Informal warnings**

- 4.2.1 If there is dissatisfaction with an employee's performance or conduct, or a specific complaint is received, the problem or complaint will be investigated as soon as possible by the employee's line manager, and if necessary an informal warning will be given. The line manager will inform the employee that this is an informal (verbal) warning under the disciplinary procedure and that a note of it will be kept in the employee's file. The warning will draw the employee's attention to the possible consequences of repetition of the poor performance or behaviour or failure to improve. It will be disregarded after six months' satisfactory service. Normally one informal warning will be given but up to three may be given at the discretion of the line manager.
- 4.2.2 It is expected that in most cases the investigation and informal warning(s) will quickly resolve any difficulties. Where there is a more serious case of misconduct or an employee fails to improve and maintain that improvement with regard to conduct or job performance, the following steps will be taken.

4.3 Disciplinary Interview and Formal warning

- 4.3.1 A disciplinary interview conducted by the employee's line manager in the presence of the Chief Executive, Business Development and Service Delivery Manager, Human Resources Manager or other member of the Senior Management Team will be held. Where the Chief Executive, Business Development and Service Delivery Manager, Human Resources Manager is the line manager another member of the Senior Management Team will also attend the interview. The employee will be informed beforehand in writing (i) what the alleged complaint is about (ii) the reasons why it is not acceptable (iii) will be invited to the meeting to discuss the problem (iv) will be offered the right to be accompanied at the meeting by a work colleague or trade union official and (v) copies of any documents which will be produced at the meeting will be enclosed.
- 4.3.2 If the employee fails to attend the meeting another meeting will be arranged. If the employee fails to attend the re-arranged meeting, a decision may be taken in the employee's absence. 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.
- 4.3.3 The employee may present their case. Written statements of the employer's and employee's case may be submitted. Witnesses may be called by the line manager or the employee. A written note of the interview will be made and circulated to those attending the interview.
- 4.3.4 If it is decided that disciplinary action should be taken, the employee will be told of the decision and will be given a letter in confirmation which will state: -
- i) details of the misconduct, poor performance etc. which has occasioned the warning.
 - ii) the improvement that is required
 - iii) the timescale for achieving this improvement
 - iv) a review date
 - v) any support the employer will provide to assist the employee
 - vi) how the employee may appeal (see Para.9) and

- vii) the employee will be informed that the letter represents the first stage of a formal procedure and that failure to improve could lead to a final written warning and ultimately, dismissal
- viii) that the warning will remain on the employee's file for 12 months

4.3.5 Where there is a failure to improve in the timescale set at the first formal stage, or where the offence is sufficiently serious the employee will normally be issued with a final written warning, but only after they have been given a chance to present their case at a meeting. The final written warning will give details of, and grounds for, the complaint. It will warn the employee that failure to improve may lead to dismissal or to some other penalty and the employee will be reminded of the right of appeal. The final written warning will remain on the employee's file for 18 months.

4.4 In summary, action following a disciplinary interview may include:

- (i) a first or second written warning (this stage may be omitted, depending on the number of informal warnings given and the seriousness of the misconduct or poor performance).
- (ii) a final written warning which, if unheeded, will result in dismissal
- (iii) in cases of serious and/or repeated misconduct or poor performance, dismissal with appropriate notice (except in case of Gross Misconduct when no notice will be given).

4.5 Dismissal

If the employee's conduct or performance still fails to improve the final stage in the disciplinary process may be dismissal. The final decision to dismiss can only be taken by the Chair (or in his absence another Hon. Officer) after he or she is satisfied with regard to the facts of the case and the appropriateness of any mitigating circumstances. The employee will be informed as soon as possible of the reasons for dismissal, the date on which the employment contract will terminate, the appropriate period of notice and their right to appeal.

5. GROSS MISCONDUCT

5.1 In rare circumstances the employee will be summarily dismissed if it is established, after investigation and hearing the employee's version of the matter, that there has been conduct that brings the organisation into disrepute or an act of gross misconduct or a major breach of duty. In particular this can include the following (although these are only examples, and not an exhaustive list):

- insubordination.
- breach of safety rules potentially involving loss of life or limb, or serious injury or serious damage to health.
- theft or fraud.
- being under the influence of drink or illegal substances during working hours.
- flagrant failure to follow the organisation's procedures and regulations.
- breach of duty regarding non-disclosure of confidential information.
- deliberate damage to the organisation's property or that of other employees or of clients.
- serious misuse of Mind's property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- disorderly or indecent conduct, fighting on Mind's premises or threatening physical violence or bullying

- serious breach of Mind's equal opportunities policy, i.e. acts of incitement or acts of discrimination on grounds of sex, race, ethnic origin, religion, disability age or sexual orientation.
- knowingly giving false information either verbal or written in the course of applying for employment with Mind in Croydon, or in carrying out duties at work
- bringing the organisation into serious disrepute

5.2 The employee may be suspended whilst the circumstances of any complaint are investigated. (See paragraph 7: Suspension). The employee may appeal against dismissal (see paragraph 9).

6. DISCIPLINARY ACTION AGAINST THE CHIEF EXECUTIVE

Should disciplinary action against the Chief Executive be necessary it will be implemented initially by the Chair. If a disciplinary interview is held the interview panel will consist of the Chair and one or more trustees. In the event of an appeal against a decision to dismiss the Chief Executive an independent person will be appointed to chair the appeal panel which will consist of the independent person and two trustees not previously involved in the disciplinary action.

7. SUSPENSION

The employer reserves the right to suspend an employee from work while a complaint or allegation of misconduct or poor work performance is investigated. Any such suspension must not be seen as a disciplinary action in itself and will not involve any prejudgement. The employee will be suspended on full pay.

8. EMPLOYEE RECORDS

Written records will be kept of all disciplinary action, including disciplinary interviews. The Chief Executive will be informed of any disciplinary action taken against an employee and a record of this will be kept in the employee's personnel file. It will be disregarded after the expiry of whatever period of time has been specified during the disciplinary process.

9. APPEAL HEARINGS

9.1 The employee will have the right to appeal at any stage, but must make the appeal, in writing to the Chair, or in his absence to another Honorary Officer, within 5 working days of the date of the disciplinary action. (In the event of the employee's absence from work through sickness, immediately following disciplinary action, the time limit for lodging an appeal may be extended at the discretion of the Chair or Chief Executive, depending on the circumstances.) Employees will be offered the right to be accompanied by a work colleague or a trade union official at the appeal hearing.

9.2 A panel of 2 trustees, who have not previously been involved in any aspect of the disciplinary action or the events leading to it, will hear the appeal as soon as possible, and in any case within 21 days, and inform the employee of its decision in writing. If the decision is the final stage of the appeals procedure this will also be made clear in the letter to the employee. (See paragraph 6 for an appeal against dismissal made by the Chief Executive).

10. PROCEDURE FOR STAFF IN PROBATIONARY PERIOD

10.1 Employees should receive close supervision and guidance during their probationary period and this should enable the line manager to make the employee aware of unsatisfactory performance or conduct and the employee to do their best to amend it. Informal warnings should rarely be necessary. If they are felt to be needed for a particular issue (e.g. poor timekeeping) or in response to a specific complaint, a note of the warning should be kept on the employee's file but may be disregarded once the probationary period is over.

10.2 **Disciplinary Interview**

10.2.1 Where there is a case of more serious misconduct or an employee, after being allowed time for improvement, fails to reach and maintain the standard of conduct and job performance required by Mind a disciplinary interview will be conducted by the employee's line manager in the presence of the Chief Executive or an Hon. Officer. If an investigation is necessary this should be carried out as speedily as possible. The procedure for the interview will follow that laid down in paragraph 4.3.1.

10.2.2 In all but exceptional circumstances, if persistent misconduct or unsatisfactory performance is substantiated the action taken will be a recommendation that the employee should be dismissed.

10.2.3 **Dismissal:**
Paragraph 4.5 will apply.

10.3.4 **Appeals**
An employee in the probationary period may appeal only following the disciplinary interview.
The procedure will follow that laid down in paragraph 9.

11. DISMISSAL ON GROUNDS OF INCAPACITY FOR OR ABSENCE FROM WORK ON GROUNDS OF ILL HEALTH.

This is covered in a separate policy on long-term sickness.

12. This policy should be read in conjunction with the ACAS code of practice on Disciplinary and Grievance Procedures. This is available at www.acas.org.uk or from the Human Resources Manager at Mind.