



PROCEDURE DOCUMENT

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BARTON HILL SETTLEMENT

DISCIPLINARY PROCEDURE

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Introduction

It is the responsibility of the Settlement Board of Trustees (SBT) to ensure that all requirements regarding standards of conduct, attendance, job performance and adherence to policy are understood and to ensure that these are updated and available to all workers. This responsibility is delegated to the Chief Executive Officer (CEO) for action on behalf of the Settlement Board of Trustees, except in the case of meeting this requirement with regard to the CEO, in which case the responsibility lies with the Chair of the Board of Trustees.

The rules set standards of performance and behaviour, whilst this procedure is designed to help promote fairness and order in the treatment of individuals. It is our aim that the rules and procedure should emphasise and encourage improvement in the conduct of individuals, where they are failing to meet the required standards.

Every effort will be made to ensure that any action taken under this procedure is fair, with employees being given the opportunity to state their case and appeal against any decision that they consider to be unjust.

Principles

- Disciplinary action will be taken only when all reasonable efforts have been made to assist a worker.
- The correct procedure will be used throughout the disciplinary process, and will be operated within agreed timescales.
- Employees have the right to 5 working days' notice in writing of any meeting called under this procedure.
- Any meeting under this procedure must take place as soon as possible, and within 20 working days of the date of the first notice.
- Any Appeal Board hearing will take place within 20 working days of receipt of the appeal being lodged.
- Responsibility to maintain confidentiality lies with all parties involved.
- Employees will be fully aware of the standards of performance, action and behaviour required of them.
- Disciplinary action, where necessary, will be taken speedily and in a fair, uniform and consistent manner.
- Employees will only be disciplined after careful investigation of the facts and the opportunity to present their side of the case. On some occasions temporary suspension on full pay may be necessary in order that an uninterrupted investigation can take place. This must not be regarded as disciplinary action or a penalty of any kind.
- Suspension will be notified to the worker in writing and will not normally exceed a period of 10 working days without review. In exceptional circumstances, the period of suspension may be extended to allow full investigation to take place. Any such extension will also be notified to the worker in writing. During such a suspension the worker will be paid at a rate equivalent to her/his contractual earnings.
- Employees have the right to be accompanied by a fellow employee or trade union official, at any hearing or appeal hearing. The chosen companion will be allowed to address the meeting, respond on the employee's behalf to any view expressed in the hearing, and sum up the case on the employee's behalf. However, both the hearing and appeal hearing are essentially meetings between the employer and employee, so any questions put directly to the employee should be dealt with by the employee, and not by the companion.
- Employees will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct.
- Employees will receive a written explanation of the decision made, and will have the right to appeal against the finding and the decision.

- In appropriate cases, e.g. poor performance, a worker will be advised in writing of the time allowed for improvement, and when and how reviews will take place. The worker will have the right of appeal against the time allowed for improvement.
- No disciplinary decision will be taken against a trade union representative until discussions have taken place with a full time official of the union.

The Procedure

All line managers are expected to encourage acceptable standards of conduct and performance. Every effort will be made to deal with minor problems through informal discussion and supervision in order to avoid the need to implement this formal procedure.

The Line Manager will arrange for provision of support, practical assistance and/or training as appropriate to ensure that acceptable standards of work performance and behaviour are met, and discussed through line management taking advice from the HR Officer as appropriate.

When the informal procedure fails, or the matter is more serious, the following formal procedure will be used.

Step 1 - Establish the facts of each case

It is important to carry out necessary investigations of potential disciplinary matters without unreasonable delay to establish the facts of the case. An investigatory meeting will be held with the employee before proceeding to any disciplinary hearing. The investigatory stage will include collation of evidence by the employer for use at any disciplinary hearing.

In misconduct cases, where practicable, the investigation and disciplinary hearing should not be carried out by the same person.

Step 2 - Inform the employee of the problem

If it is decided that there is a disciplinary case to answer, the employee will be notified of this in writing. This notification will contain sufficient information about the alleged misconduct or poor performance and its possible consequences, to enable the employee to prepare to answer the case at a disciplinary meeting. It would normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification.

The notification will also give details of the time and venue for the disciplinary meeting, and advise the employee of their right to be accompanied at the meeting.

Step 3 - Set up the meetings

The HR and Admin Officer is responsible for setting up all meetings, notifying the panel and attending to take notes and advise. The line manager of the person involved will be on the panel, accompanied by a member of the Senior Team and the HR and Admin Officer. If the line manager is unavailable, one of the other project managers will take their place.

Step 4 - Hold a disciplinary meeting with the employee to discuss the problem

It is a statutory right of the employee to attend a meeting to discuss the problem. Notes will be taken at all meetings and issued to all parties.

The meeting should be held without unreasonable delay whilst allowing the employee reasonable time to prepare his/her case.

Employers and employees (and their companions) should make every effort to attend the meeting.

At the meeting, the employer 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 given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. The employee will also be given an opportunity to raise points about any information provided by witnesses.

Where an employer or employee intends to call relevant witnesses, they should give advance notice that they intend to do this.

The employee, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

Step 5 - Decide on appropriate action

After the disciplinary meeting, the employer will decide whether disciplinary (or any other) action is justified, and will inform the employee accordingly in writing.

These are the various levels of action available:

Written Warning

If performance or conduct is not considered satisfactory, the employee will be interviewed by the line manager or Project Manager and given the opportunity to explain her/his actions. (In the case of the CEO, any disciplinary action at this stage will be taken by the Chair of the SBT.)

If the explanation is not satisfactory, a formal written warning will be given and recorded in the worker's personnel file. The letter will:

- state clearly the nature of the offence;
- if appropriate, state that repetition of the offence (or committing of further offences) may lead to further disciplinary action;
- specify any agreed action required of both parties, including timescales for improvement and methods of reviewing progress;
- inform the worker of the right of appeal.

The warning will remain confidential to the worker, any representative of the worker, the Line Manager and the HR and Admin Officer. It will be filed in the worker's personnel file for 12 months.

Final Written Warning

If there is no improvement in the standard of conduct/performance following a review at the end of the period, or where the seriousness of the alleged offence warrants immediate recourse to this stage of the procedure, the worker will be interviewed by the relevant Project Manager or a member of the Senior Team, and given the opportunity to explain her/his actions.

If the explanation is not satisfactory, a final written warning will be issued. The final written warning will:

- state clearly the nature of the offence;
- if appropriate, state that repetition of the offence or committing of further offences may lead to further disciplinary action;
- outline any agreed action required of both parties, including timescales for improvement and methods of reviewing progress;
- make clear that, if there is no or insufficient improvement in performance or conduct after the period specified, it may result in dismissal;
- inform the worker of the right of appeal.

The warning will remain confidential to the worker, any representative of the worker, the Line Manager, the issuing Manager and the HR and Admin Officer. It will be filed in the worker's personnel file for a specified period of at least one year, subject to the nature of the disciplinary case.

Dismissal

If there is still no sustained improvement in the standard of conduct/performance whilst a final written warning remains live, or if any new offence occurs whilst a final written warning remains live, or if there is any allegation of gross misconduct, or if the case involves an employee who has not yet completed their probationary period, the worker will be interviewed by the Project Manager, a member of the Senior Team, and the HR and Admin Officer. In exceptional circumstances where neither of these post holders are available, the CEO will be the interviewer.

If an acceptable explanation is not forthcoming, dismissal will normally result, with or without notice as appropriate.

The worker will be provided, as soon as is reasonably practicable, and within five working days, with written reasons for dismissal, the date on which employment will terminate, and the right of appeal.

Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence.

In cases of gross misconduct, dismissal will be without notice or payment in lieu of notice.

Types of Offences

The following are examples of the various categories of misconduct and/or poor performance, but the lists are not exhaustive. It is not practicable to specify all disciplinary rules or offences which may result in disciplinary action, as they may vary depending on the nature of the work. In addition to these specific examples of unsatisfactory conduct, misconduct and gross misconduct, a breach of other conditions, procedures, rules etc. within the procedure will also result in the Disciplinary Procedure being used.

Unsatisfactory Conduct and Misconduct

Offences of this type usually result in written warning or final written warning, and include:

- failure to abide by the general health and safety rules and procedures,
- smoking in any building,
- consumption of alcohol on the premises,
- persistent absenteeism and/or lateness,
- unsatisfactory standards or output of work,
- rudeness towards customers, members of the public or other employees,
- objectionable or insulting behaviour, harassment, bullying or bad language,

- failure to devote the whole of your time, attention and abilities to our business and its affairs during your normal working hours,
- unauthorised use of email and internet,
- failure to carry out all reasonable instructions,
- failure to follow our rules and procedures,
- failure to report immediately any damage to property or premises.

Serious Misconduct

Offences of this type usually result in final written warning.

Where one of the unsatisfactory conduct or misconduct rules has been broken and if, upon investigation, it is shown to be due to the employee's extreme carelessness or has a serious or substantial effect upon our operation or reputation; the employee may be issued with a final written warning in the first instance.

The employee may also receive a final written warning as the first course of action if, in an alleged gross misconduct disciplinary matter, upon investigation, it is shown to have some level of mitigation and is treated as an offence just short of dismissal.

Gross Misconduct

Offences of this type usually result in dismissal.

The employee will be liable to summary dismissal if found to have acted in any of the following ways:

- grossly indecent or immoral behaviour, deliberate acts of unlawful discrimination, or serious acts of harassment,
- dangerous behaviour, fighting or physical assault,
- incapacity at work, or poor performance, caused by intoxicants or drugs,
- possession, supply or use of illicit drugs,
- deliberate falsification of any records (including time sheets, absence records and so on) in respect of him/herself or any fellow employee,
- undertaking private work on the premises and/or in working hours without express permission,
- working in competition with Barton Hill Settlement,
- using his/her position in the Settlement to acquire private contracts or work,
- taking part in activities which result in adverse publicity to Barton Hill Settlement, or which cause us to lose faith in his/her integrity,
- theft or unauthorised possession of money or property, whether belonging to us, another employee, or a third party,
- destruction or sabotage of our property, or of any property on the premises,
- serious breaches of the health and safety rules which endanger the lives of employees, or any other person,
- gross insubordination and/or continuing refusal to carry out legitimate instructions,
- abuse of the personal harassment policy,
- a breach of the rules on confidentiality,
- abuse of the protected disclosure policy.

Authority to Take Disciplinary Action

<i>Action</i>	<i>Authority</i>	<i>Notes</i>
Written warning	Line Manager or Project Manager	A written warning will be disregarded after 12 months

Final written warning	Senior Manager	A final written warning will be disregarded after 12 months
Dismissal	Senior Manager	

In the case of the Settlement CEO, the Chair of the Settlement Board of Trustees is the authority for all actions.

Line Managers must ensure that each stage has been discussed with the HR and Admin Officer, and the relevant Project Manager.

The Appeal Process

The disciplinary rules and procedures which form part of an employee's contract of employment incorporate the right to lodge an appeal in respect of any disciplinary action taken against them.

If an employee wishes to exercise this right, they should apply in writing to the HR and Admin Officer within 5 working days, giving details of why they regard the action taken as too severe, inappropriate or unfair in the circumstances.

A member of staff other than the original Line Manager, and not previously connected with the disciplinary process, will normally conduct the disciplinary appeal procedure. This is to allow an independent decision to be made about the severity and appropriateness of the disciplinary action taken. In the case of that person being the CEO, then an Officer of the Board and an external independent suitable person will conduct the appeal procedure.

If the employee is appealing on the grounds that s/he has not committed the offence, the appeal may take the form of a complete re-hearing and re-appraisal of all matters so that the person who conducts the appeal can make an independent decision before deciding to grant or refuse the appeal.

The following information will be provided to the appellant in writing:

- the venue where the hearing will take place;
- the time and date of the hearing;
- the right to representation;
- the names of those hearing the appeal and any others expected to be present.

The appellant may be accompanied at any stage of the appeal hearing by a fellow employee of your choice or a trade union official, who will be allowed to address the meeting, respond on the employee's behalf to any view expressed in the hearing, and sum up the case on their behalf. However, both the hearing and appeal hearing are essentially meetings between the employer and employee, so any questions put directly to the employee must be dealt with by the employee and not their companion.

The result of the appeal will be made known to the appellant, in writing, within five working days of the hearing.