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MODEL DISCIPLINARY PROCEDURE

This is a suggested format for a Disciplinary Procedure. Clearly there may be matters that you wish to change. For example, you may wish to change the list of offences constituting Gross Misconduct. If the Procedure as drafted does not suit your organisation and you wish to make changes, please consult Employment Advice at NYFVO for help in adapting it to meet your particular needs.

(Name of Employer)

Disciplinary Procedure

1 Preamble

This Disciplinary Procedure is aimed solely at providing fairness and consistency in the treatment of all employees. It is not a vehicle for punishing those who break the employer's rules in terms of conduct or who do not meet required performance standards. It is a means of assisting employees to achieve the required standards and by so doing, to contribute to the success of the organisation and the well-being of colleagues.

2 Gross Misconduct

Employees will not normally be dismissed for a first offence or without receiving warnings. The exception to this rule is where the offence is so serious that the employer has no alternative but to regard it as gross misconduct. In such a case, the employee will be dismissed without warning and without notice or pay in lieu of notice.

NB *The decision to dismiss because of gross misconduct will not be taken or acted upon without proper investigation and the holding of a formal disciplinary interview. If gross misconduct is suspected, then it is likely that the employee will be suspended from duty with pay whilst investigations are carried out (see **section 5** below) .*

Offences that may be regarded as Gross Misconduct are:

- Abusive behaviour or violence.
- Being unfit for work by reason of being under the influence of drink or drugs

- Drinking alcohol or taking illegal substances at work
- Harassment or victimisation or any other offence in breach of discrimination legislation.
- Theft, fraud or misappropriation of company property
- Misuse of the employer's property or name
- Deliberate damage of employer's equipment or property
- Serious negligence
- Breach of Health & Safety Regulations
- Serious insubordination or failing to obey a reasonable instruction from a superior.
- Breach of confidentiality in terms of the employer's activities or business.
- Any action by the employee outside work or working hours that has a negative impact on the work of the organisation, or directly or indirectly damages the good name of the organisation.

This list is not exhaustive. It is an indication of the types of offences that may be regarded as Gross Misconduct.

3 Less Serious Offences

Offences that will be classified as less serious and will not normally result in dismissal without prior warning(s) include:

- Bad timekeeping
- Unsatisfactory attendance record
- Unsatisfactory standard of work

Again this list is not exhaustive.

4 Disciplinary Meetings

Employees have the right to be accompanied by a work colleague or a union representative at all disciplinary, appeal or grievance meetings. If it is thought by the employer that the outcome of the disciplinary meeting could be a final written warning or dismissal, then the following steps will be taken.

Step 1

The employee will receive a letter from the employer asking him/her to attend a disciplinary meeting. The letter will set out the conduct or other circumstances that have led the employer to consider serious disciplinary action. The timing of the meeting will allow the employee sufficient time to prepare for the meeting and to arrange for representation by a colleague or a trade union official.

Step 2

At the disciplinary meeting, the employee will be told again what the issues are that have caused the meeting to be called. He/she will then be given the opportunity to respond to the matters that are under consideration. If a colleague or trade union official is present he/she may

speaking for the employee but will not be permitted to answer any questions put to the employee on the employee's behalf.

After the meeting, the employee will be told in writing what decision has been arrived at by the employer. The employee will be told of the right to appeal against the decision and how to make that appeal.

Step 3

If requested by the employee, a meeting to hear the appeal will be arranged and the appeal will be heard by..... After the meeting the employee will be informed of the final decision

5 Disciplinary Process

Stage One: Formal Verbal Warning

A formal verbal warning will normally be issued after a one-to-one discussion between the employee and his/her manager, when an employee's conduct or performance does not meet acceptable standards and after informal spoken warnings have been given.

Stage Two: First Written Warning

*A first written warning will normally be issued after a formal meeting as set out at **Step 2 of section 4** above, has taken place, unless at a preliminary meeting between the employee and his/her manager, it is agreed to dispense with the meeting. It is likely that a first written warning will be issued where a formal verbal warning has been issued within the past 6 months and conduct and/or performance have not improved. This warning will be placed on the employee's personal file and remain "live" for 6 months.*

Stage Three: Final written warning

*A Final Written Warning will normally be issued only after the full procedures set out at **section 4** above have been complied with. It is likely that a final written warning will be issued if the employee's conduct and/or performance has not improved after receiving a first written warning. The warning will be placed on the employee's file and remain "live" for 6 months.*

Stage Four: Dismissal

*Dismissal will normally follow a final written warning if the employee's conduct and/or performance has not improved to the required standard. Unless the dismissal arises from a case of Gross Misconduct, dismissal will not occur until the full procedure set out at **section 4** above have been complied with*

Modified Procedure

In exceptional circumstances when an employee has been summarily dismissed for gross misconduct, the disciplinary procedure in section 4 will not be appropriate, and a modified procedure will be used. The

employee will be informed in writing of the reasons for the dismissal and of his/her right to appeal against the decision to dismiss

Whilst the above sequence describes the normal progression of disciplinary action, the employer reserves the right to begin the disciplinary process at any stage, depending on the nature and seriousness of the offence(s).

5 Suspension

Suspension from duty may sometimes be necessary whilst an investigation into an alleged serious disciplinary offence is carried out. The employee will be paid full pay during the period of suspension. Suspension will initially be for a period of no longer than two weeks. If it is necessary to extend the suspension beyond two weeks, the employee will be notified in writing.

6 Appeals

At all stages, an employee has the to right appeal against any disciplinary decision. Any appeal will normally be heard and decided upon within 7 working days by (*a superior manager Trustee/Director?*) .

[NYFVO/EA/November 2005].