

3<sup>rd</sup> December, 2015



# **THE ALICE CROSS CENTRE**

## **DISCIPLINARY POLICY**

Version 4

## **Introduction**

This policy is designed to provide practical guidance for The Alice Cross Centre and its employees. The aims of this policy are to set out the standards of conduct expected of all staff and to provide a framework within which the Charity can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

The Alice Cross Centre will always seek to resolve disciplinary issues in the workplace as quickly and fairly as possible.

The Alice Cross Centre and employees should:

- raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of decisions.
- act consistently.

The Alice Cross Centre will:

- carry out any necessary investigations, to establish the facts of the case.
- inform employees of the basis of the problem and give them the opportunity to put their case in response before any decisions are made.
- allow employees to be accompanied, by a work colleague, at any formal disciplinary meeting.
- allow an employee to appeal against any disciplinary action and formal decision made.

## **RULES**

While working for us you should at all times maintain professional and responsible standards of conduct. In particular, you should:

- observe the terms and conditions of your contract, particularly with regard to:
  - hours of work; and
  - confidentiality;
- observe all our policies, procedures and regulations which are included in this handbook or notified to you from time to time.
- take reasonable care in respect of the health and safety of colleagues and third parties, and comply with our health and safety policy;
- comply with all reasonable instructions given by managers; and
- act at all times in good faith and in the best interests of our business, customers, volunteers and staff.

## **Procedure**

It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future hearings. In some cases, an informal verbal warning may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the

matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your first year of employment.

If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your line manager as soon as possible.

### Confidentiality

Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

### Investigations

The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

You do not normally have the right to bring a companion to an investigative interview. However, the Alice Cross Centre may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.

You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

In some cases, the decision may be made to appoint an independent Disciplinary Investigation Officer.

Once the facts have been established a written factual report may be provided to the Line Manager of the Employee and this will be made available to the Employee.

### Criminal Charges

Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.

We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

## Suspension

In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by your Line Manager.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary during the period of suspension.

## Disciplinary Offences

### Misconduct

Where an Employees attendance falls below that reasonably expected, conduct or behaviour becomes unacceptable, or there has been a breach of rules, standards or regulations.

The following is a list of examples of offences which amount to misconduct falling short of gross misconduct:

- a) Absence from work that is unauthorised.
- b) Behaviour that is disruptive or which amounts to time wasting or may cause minor loss to the Employer;
- c) Breach of safety regulations of a minor nature;
- d) Lateness for work without good reason;
- e) Standard of appearance or dress that is not appropriate to the work place;
- f) Smoking on Employer's premises or in zones where smoking is prohibited.
- g) minor breaches of our policies
- h) minor breaches of your contract
- i) reckless or careless minor damage to, or unauthorised use of, the Charities property
- j) poor timekeeping
- k) refusal to follow instructions
- l) unauthorised use of the Charities telephone for personal calls
- m) negligence in the performance of your duties
- n) This list is intended to be a guide and is not exhaustive.

### Gross Misconduct

Where an Employee's behaviour or conduct or a breach of rules, standards and regulations is so serious that it could make the relationship between the employee and The Alice Cross Centre untenable.

The following non-exhaustive list provides examples of offences which The Alice Cross Centre will regard as gross misconduct:

- a) Theft, fraud or other instances of dishonesty;
- b) Misuse of internet and or email.
- c) Working whilst intoxicated or influenced by drink or illegal drugs that have not being prescribed by a medical practitioner.
- d) Threatening, insulting or abusive words or behaviour to the Employer, other Employees or customers;
- e) Serious breach of health and safety rules and regulations;
- f) Bringing The Alice Cross Centre into disrepute by conduct either at work or outside
- g) Dishonesty
- h) Failing to adhere to any statutory or regulatory requirements;
- i) Fraud on your employment application or any documents relating to your employment which may affect your qualifications for the job, your ability to carry out the job or may affect the Employer's trust and confidence in you;
- j) Falling asleep whilst at work;

- k) Falsification of any documents whether or not they give you pecuniary advantage or whether it is likely to cause the Employer or client loss;
- l) Inappropriate behaviour towards your colleagues
- m) Negligent behaviour which may be gross
- n) Rudeness to customers
- o) Physical violence or bullying
- p) Deliberate and serious damage to property
- q) Serious misuse of Charity property or name
- r) Repeated or serious failure to obey instructions, or any other serious act of insubordination
- s) Unlawful discrimination or harassment
- t) Being under the influence of alcohol, illegal drugs or other substances during working hours
- u) Causing loss, damage or injury through serious negligence
- v) Unauthorised use or disclosure of confidential information
- w) Conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our staff, customers or the public, or otherwise affects your suitability to continue to work for us
- x) Possession, use, supply or attempted supply of illegal drugs
- y) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- z) Knowing breach of statutory rules affecting your work
- aa) Harassment or discrimination against employees, contractors, clients or members of the public
- bb) Making untrue allegations in bad faith against a colleague

This list is intended to be a guide and is not exhaustive.

#### Conduct of Disciplinary Hearings

Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:

- a summary of relevant information gathered during the investigation;
- a copy of any relevant documents which will be used at the disciplinary hearing; and
- a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually two to seven days, to prepare your case based on the information we have given you.

You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell the Charity who your chosen companion is, in good time before the hearing.

A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

If your choice of companion is unreasonable we may require you to choose someone else, for example:

- if in our opinion your companion may have a conflict of interest or may prejudice the hearing; or

- if your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) where this will help overcome a disability, or where you have difficulty understanding English.

#### Procedure

If you or your companion cannot attend the hearing, you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.

The Hearing Panel will consist of the following attendees:

- the employee
- the Panel Chair
- wherever possible the employee's Line Manager and/or the Investigating Officer
- a note-taker
- any witnesses, as required by the Panel Chair

At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

We will inform you in writing of our decision and our reasons for it. Where possible we will also explain this information to you in person.

#### Disciplinary Sanctions

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

#### **Stage 1 – Verbal warning**

Where the disciplinary offence is minor, they may be issued with a formal verbal warning. This will be administered by the employee's Line Manager. The warning will be held on file for three months.

**Stage 2 - First written warning.** A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

**Stage 3 - Final written warning.** A final written warning will usually be appropriate for:

- misconduct where there is already an active written warning on your record; or
- misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

**Stage 4 - Dismissal.** Dismissal will usually only be appropriate for:

- any misconduct during your first 24 months of service;
- further misconduct where there is an active final written warning on your record; or
- any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in our Disciplinary Rules, which are set out below.

**Alternatives to dismissal.** In some cases, we may at our discretion consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:

- Demotion.
- Transfer to another department or job.
- A period of suspension without pay.
- Loss of seniority.
- Reduction in pay.
- Loss of future pay increment or bonus.
- Loss of overtime.

#### The Effect of a Warning

Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

A first written warning will usually remain active for 12 months and a final written warning will usually remain active for 12 months.

After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

#### Appeals against Disciplinary Sanction

If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Charity within 7 days of the date on which you were informed of the decision.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.

If you raise any new matters in your appeal, we may need to carry out further investigations. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.

We will give you written notice of the date, time and place of the appeal hearing.

The appeal hearing may be limited to your grounds of appeal, a complete re-hearing of the matter or a review of the fairness of the original decision in the light of the procedure that was followed and any new

information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal hearing will be conducted impartially by a manager who has not been previously involved in the case.

We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing we may:

- confirm the original decision;
- revoke the original decision; or
- substitute a different penalty.

We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal unless a more severe penalty is imposed after new information has come to light and there has been a re-hearing.



## Table of Authority

The following levels of management will deal with disciplinary matters:

Investigation	Line Manager or Independent Investigation Officer	To establish the facts to decide whether to proceed with a disciplinary hearing
Verbal warning	Line Manager	To make a decision up to verbal warning only
First written warning	Line Manager	To make a decision up to a first written warning
Final written warning	Chair of Trustees	To make a decision up to a final written warning
Dismissal	Chair of Trustees	To make a decision up to dismissal
Appeals against verbal, first written warning	Chair of Trustees	To decide whether to uphold, reject or reduce decision of Disciplinary Panel
Appeals against final written warning or dismissal	Chair of Trustees	To decide whether to uphold reject or reduce decision of the Disciplinary Panel
Disciplinary matters in relation to the Manager	Chair or Vice Chair of Trustees	To establish the facts to decide whether to proceed with a disciplinary hearing Procedure then continues as with other employees

## Keeping Written Records

Line Managers and where necessary Chair of trustees or nominated minute taker should keep a written record of any action carried out under this policy.

Records should include:

- the nature of the disciplinary
- what was decided and actions taken
- the reasons for the actions
- whether an appeal was lodged
- the outcome of the appeal
- any subsequent developments

Records should be treated as confidential and be kept no longer than necessary in accordance with the Data Protection Act 1998. This Act gives individuals the right to request and have access to certain personal data.

Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken.

Signed.....Chair of Trustees      Date.....