

DRAFT Grievance and Disciplinary Policy,

January 2011

Introduction

Surrey Youth Focus is a small organisation – currently with five paid staff (4p/t, 1f/t). There is a strong culture of fairness and dignity in the organisation, encouraging employees and trustees to respect one another and resolve any misunderstandings amicably.

The Surrey Youth Focus Grievance and Disciplinary Policy is closely aligned to the ACAS Code of Practice on Disciplinary and Grievance procedures and applies to all employees. This policy is to ensure there is a clear and transparent framework in SYF to deal with difficulties in which may arise as part of any working relationship from either the employer's or employee's perspective. It ensures that everybody is treated in the same way in similar circumstances, ensures issues are dealt with fairly and reasonably, and that SYF are compliant with current legislation¹ and follow the Acas Code of Practice for handling disciplinary and grievance

rievance procedure

This procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

This procedure is for guidance only and does not form part of your contract of employment. SYF may amend the procedure as appropriate to a particular case.

Most grievances can be resolved quickly and informally through discussion with your manager. If this does not resolve the problem you should use the formal procedure below.

Step 1 Written Grievance

You should put your grievance in writing and submit it to your manager. If your grievance concerns your manager you may submit it to one of the Vice Chairman of Surrey Youth Focus.

The written grievance should contain a brief description of the reasons for your complaint, including any relevant facts, dates, and names of individuals involved so

¹ The Employment Act (2008) and the Employment Tribunals (Constitution & Rules of Procedure) (Amendment) Regulations (2008)

that we may investigate it if necessary. A mischievous or potentially false grievance may be construed as a prima facie case of misconduct and result in disciplinary proceedings against the complainant.

Step 2 Meeting

We will invite you to a grievance meeting, which will normally be set for a date no more than two weeks after we have received your written grievance. You should make reasonable efforts to attend.

You have the right to bring a companion to any meetings under the procedure. The companion may be either a trade union official or a colleague. Employees are allowed reasonable time off from duties without loss of pay to act as a companion.

If you or your companion cannot attend at the time specified you should let us know as soon as possible and we will seek, within reason, to agree an alternative time.

We may adjourn the meeting if we need to carry out further investigations, after which the meeting will usually be reconvened.

We will confirm our decision and your right of appeal in writing within one week of the conclusion of the meeting.

Step 3 Appeals

If you wish to appeal you should do so in writing to the Chairman of Surrey Youth Focus, stating your full grounds of appeal, within one week of the date on which the decision was sent or given to you.

We will hold an appeal meeting, normally within two weeks of receiving the appeal.

Our final decision will be confirmed to you in writing within one week of the appeal hearing.

Disciplinary Policy and Procedure

Policy Statement

The aim of a disciplinary procedure is to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts. Employees should not be dismissed or subjected to disciplinary action without the following steps being taken:

- a) written statement of the allegations;
- b) a fair hearing before any decision is reached; and
- c) the right to an appeal hearing unless we have only given a warning.

General Principles

The following disciplinary rules will apply to all employees:

Surrey Youth Focus may take disciplinary action against any employee who has:

- committed an act of misconduct or gross misconduct (see below)
- not performed in their role as expected
- harassed or victimised another employee or a contractor, adviser, client, supplier or any other third party
- discriminated in any way against another employee or contractor, adviser, client, supplier or any other third party
- misused Surrey Youth Focus property or facilities (including email and / or internet)
- repeatedly failed to turn up to work on time
- repeatedly absented themselves from work without good reason.

The above list is intended to be illustrative and not exhaustive, as it is unlikely that any set of disciplinary rules can cover all the circumstances that may arise.

Examples of acts of gross misconduct are as follows:

- fighting, physical assault, violent behaviour or dangerous horseplay (including using aggressive or threatening behaviour and excessive use of bad language)
- theft, misuse or unauthorised removal of, or deliberate and serious damage to property belonging to the Trust or other employees
- fraud or falsification of data or records
- dishonesty or accepting bribes
- serious acts of negligence
- breach of health and safety rules and / or any action which seriously endangers the health and safety of an employee or any other person whilst at work
- serious insubordination or wilfully failing to obey a reasonable instruction issued by a supervisor whilst at work
- serious bullying or harassment
- any form of discrimination contrary to the law
- breach of confidentiality (subject to Public Interest (Disclosure) Act 1998) and unauthorised divulging of Trust data
- misuse of the organisation's name or bringing Surrey Youth Focus into serious disrepute
- misuse of property or facilities (including internet and email)
- persistent smoking in a designated non-smoking area
- drunkenness on Surrey Youth Focus premises or whilst on its business, or working under the influence of alcohol or illegal or non-medically prescribed drugs
- selling to or providing others with alcohol or illegal drugs on the premises
- failure to cooperate with a request under the Substance Abuse Policy
- gaming or gambling on Surrey Youth Focus premises
- unauthorised absence from work
- any other action involving repudiation of the contract of employment.

The list above is illustrative and not exhaustive. In cases of gross misconduct the employee will normally be dismissed with immediate effect and without further payment.

Procedure

The disciplinary procedure should not be viewed primarily as a means of imposing sanctions. Instead, it should be seen as a way of helping and encouraging improvement if either conduct or standard of work is unsatisfactory.

If a disciplinary matter arises, the Line Manager will be responsible for promptly establishing the facts (gathering witness statements and keeping written notes before memories fade) and deciding whether an informal approach is appropriate or whether the matter needs to be dealt with using the disciplinary procedure.

Informal Discussion

It may be better to deal with minor breaches of discipline, or failure to achieve satisfactory standards of performance or conduct informally through discussion between the employee and their Line Manager. This can often bring about the desired improvement quickly and help to preserve a good working relationship.

Formal procedure

If the desired improvement does not occur after using the informal approach or the misconduct or unsatisfactory performance is considered too serious to be classed as minor then the employee will be advised that the formal disciplinary procedure will be invoked, according to the following principles:

- no disciplinary action will be taken against an employee until the matter has been investigated to the extent appropriate in the circumstances
- at every stage of the procedure, the employee(s) will be advised in writing of the nature of the complaint and that the consequence may be dismissal or disciplinary action. The employee(s) will be invited to a hearing (with the Vice Chair, one other Trustee and the Manager) and given the opportunity to state their case before any decision is made
- all employees will be given the opportunity to prepare before attending a disciplinary hearing which will be arranged at a reasonable time and place
- at all stages during the disciplinary procedure, an employee has the right to be accompanied by a work colleague of their choice or their trade union representative (see below)
- any disciplinary action taken will depend on the circumstances (including the nature of the complaint) and will be dealt with, wherever possible, within seven working days of the incident occurring
- after the hearing, Surrey Youth Focus will inform the employee(s) of the decision and offer the right to appeal
- suspension with pay will be at basic salary rate
- if employee(s) appeal they will be invited to attend a further hearing which, wherever practicable, will be heard by the Chairman of Surrey Youth Focus

who was not previously involved. The final decision will be communicated to the employee(s) in writing

- only the Chairman can take the decision to dismiss an employee.

If the alleged offence or misconduct is considered sufficiently serious, Surrey Youth Focus will commence proceedings at a level it considers appropriate (see below). Likewise where an employee already under warnings commits an offence or misconduct, either of a similar or different nature of sufficient seriousness, Surrey Youth Focus may move to a higher level of the procedure.

Stage 1 - Written Warning

If the offence is a serious one, or if a further offence occurs, a written warning will be given to the employee. It will detail:

- the complaint;
- the improvement required;
- the timescale within which the improvement is expected;
- the review date; and
- the support provided by Surrey Youth Focus.

It will warn that action under Stage 2, potential dismissal will be considered if there is no satisfactory improvement and will advise the right of appeal.

Written Warnings will be considered invalid for disciplinary purposes after 12 months, subject to satisfactory conduct and performance.

Stage 2 - Final Written Warning

If there is still a failure to improve, and / or conduct or performance is still unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning (but insufficiently serious to justify dismissal) a final written warning will normally be given to the employee. It will detail:

- the complaint;
- the improvements required;
- the timescale within which the improvement is expected;
- the review date; and
- the support provided by Surrey Youth Focus.

It will also warn that dismissal will result if there is no satisfactory improvement and will advise on the right of appeal. Final Written Warnings will be considered invalid for disciplinary purposes after 12 months, unless specified otherwise.

Stage 3 – Dismissal

If conduct or performance is still unsatisfactory and the employee still fails to reach the prescribed standards, or misconduct is sufficiently serious to warrant it, then dismissal will result. The employee will be provided with written reasons for the

dismissal as soon as is reasonably practicable, together with the date on which employment will terminate and details of the right of appeal.

If an allegation of gross misconduct is made, the employee will usually be suspended immediately pending a thorough investigation and a disciplinary hearing. The employee will be informed that the outcome of the investigation may result in dismissal. If Surrey Youth Focus dismisses an employee for gross misconduct it will write to the employee stating:

- the employee's alleged misconduct which has led to the dismissal,
- the reasons for thinking at the time of the dismissal that the employee was guilty of the alleged misconduct, and
- the employee's right of appeal.

Suspension and other sanctions

In certain circumstances (for example alleged gross misconduct, where relationships have become difficult, where there may be risks to property etc.) it may be necessary to consider suspension with pay whilst an issue or incident is investigated.

Such action will not be protracted and will not be part of any disciplinary action or suggest that Surrey Youth Focus has formed any view regarding disciplinary action.

An employee may have other punitive action imposed as a disciplinary measure without resort to dismissal including (but not limited to) demotion or transfer, loss of seniority or salary increment, suspension without pay.

In the event that any act or omissions in breach of a contract cause Surrey Youth Focus loss, Surrey Youth Focus reserves the right to recover from the employee the loss or damage that result.

Right to be accompanied

An employee has a statutory right to be accompanied at a formal disciplinary meeting by a single companion who is fellow worker, i.e., another employee of Surrey Youth Focus.

A work colleague who has been requested to accompany an employee at a disciplinary hearing will be entitled to take a reasonable amount of paid time off to fulfil this responsibility. Where the chosen companion cannot attend on the date proposed Surrey Youth Focus will offer an alternative time and date so long as it is reasonable and falls before the end of the period of 5 working days beginning with the first working day after the day proposed by the employer.

The chosen companion has a right to address the meeting but no right to answer questions on the employee's behalf.

Appeals

At any stage after a disciplinary decision has been taken by Surrey Youth Focus (including dismissal for gross misconduct or otherwise), an employee has the right to appeal to the next level of management or in the case of dismissal to the Chairman

of Surrey Youth Focus. The employee must confirm their intention to appeal in writing within 5 working days of receiving the written notification of the outcome of the disciplinary action. The written confirmation of appeal should identify the grounds for the appeal. The disciplinary warning or dismissal will prevail unless and until it is altered on appeal.

Surrey Youth Focus will try to undertake any appeal hearing within 10 working days of receipt of any written confirmation. If working or operational conditions make this impracticable, then the meeting will be undertaken as soon as is practicable.

All appeals will be heard in the presence of a management representative, the employee, a work colleague or trade union official of the employee's choice (if the employee wishes) and another appropriate representative from Surrey Youth Focus. Surrey Youth Focus will endeavour to ensure that the person hearing the Appeal was not party to the original disciplinary decision.

The decision taken at the appeal will be deemed final