

## **The Diocesan Council of the Diocese of Cork, Cloyne & Ross ("the Diocesan Council")**

### **DISCIPLINARY POLICY**

#### **(i) Introduction**

The object of the disciplinary procedure is to establish fair and consistent treatment of employees who fail to maintain acceptable standards of performance or conduct. Its aim is to encourage employees to improve, rather than punish them. Supervisors should counsel employees informally in cases where conduct or performance is marginally below standard. However, in more serious cases or where informal counselling does not achieve the required improvement, formal disciplinary action will be required. This procedure will apply to all employees.

In any disciplinary situation the principles of natural justice which are derived from case and constitutional law will always be applied. This means that the following steps must be taken in any disciplinary process: -

- The employee must be presented with the case details in full.
- The employee concerned is given the opportunity to respond fully to any such allegations or complaints;
- The employee concerned is given the opportunity to be accompanied by a work colleague during the procedure;
- The employee concerned has the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee and any other relevant or appropriate evidence, factors or circumstances;
- A sanction decided upon must be appropriate to the gravity of the circumstances. While the Diocesan Council acknowledges that the need for disciplinary action seldom arises, this policy is designed to ensure that when it is necessary, it is exercised in a fair and reasonable manner, with due regard to the rights and responsibilities of all concerned.

#### **SCOPE**

This policy applies to all employees, whether full-time, part-time, fixed-term, temporary or permanent. The progressive steps provided for in the policy may be skipped when applied to an employee during their probationary period, or in circumstances where it is deemed necessary by the company to do so. The policy sets out the consequences of failing to meet the Diocesan Councils standards of conduct, performance and capability.

It is the responsibility of every employee to ensure that they understand and keep up to date with the content of this policy.

### **Implementing this Policy**

For the purposes of implementing the procedures outlined in this policy, the Diocesan Council will appoint and act through a sub-committee ('Employment Committee') of its own members which it shall elect triennially.

#### **(ii) Pre-disciplinary action procedure/informal counselling**

Counselling or informal warnings may be a more satisfactory method of resolving problems than formal disciplinary action. The objective of any such action is to help the employee improve. Therefore, counselling or informal warnings should normally be given except where the offence is repeated or serious enough to warrant immediate recourse to the formal procedure.

When a counselling session is conducted, it will specify that if performance (e.g. production) and/or conduct (e.g. lateness, absence) has not been sufficiently improved or the employee has failed to meet any of the performance or conduct standards (e.g. adherence to policies) within the specified time scale, then the formal procedure should be invoked.

#### **(iii) Formal disciplinary procedures**

There are a number of sanctions in the formal disciplinary procedures which may be imposed depending on the seriousness of the offence. These are as follows: -

- A verbal warning
- A written warning
- A final written warning
- Suspension without pay
- Removal from the sickness benefit programme
- Demotion
- Loss of bonus
- Some other appropriate disciplinary action short of dismissal
- Dismissal

All cases of disciplinary action will be recorded and placed on the employee's personnel file. Therefore, it is of importance that those in authority (managers/supervisors) retain accurate notes of all "counselling", meetings and conversations as they may be relevant if disciplinary action is taken. It is also of importance that these notes are kept securely and confidentially.

If there is no further offence, or if the required improvement is achieved and maintained, warnings are normally disregarded for disciplinary purposes as follows: -

- A verbal warning – after 6 months
- A written warning – after 9 months
- A final written warning – after 12 months.

However, there may be exceptional cases where different time limits may be applied.

Separate procedures operate under the disciplinary action procedure heading. The first will deal with performance/capability issues and the second will deal with issues of misconduct/gross misconduct.

### **Performance/capability**

Where a complaint or incident relates to any act or omission constituting poor performance and/or incapability, the pre-disciplinary action procedure/informal counselling may be invoked by a direct supervisor. Where a counselling session has been conducted, and performance has not been sufficiently improved (following a performance improvement plan) or the employee has failed to meet any of the performance standards within the specified time scale, then the formal procedure shall be invoked.

### **Formal procedure**

#### **(i) First stage verbal warning**

The employee will be invited by a representative/s of the Employment Committee to attend a disciplinary hearing if the counselling sessions have failed. Following the hearing, the person conducting the hearing may decide to issue a formal verbal warning if they find that the employee has not improved. At this stage the person conducting the hearing will agree the following with the employee and his/her representative: -

- A further performance improvement plan (PIP) will be issued to the employee.
- A time scale will be given for the employee to improve.
- A plan for assistance and review of the first stage will be made.
- The outcome of the hearing will be confirmed to the employee in writing and notes of the discussion will be retained on the employee's file.
- The warning will remain active on the employee's file for 6 months.

#### **(ii) Second stage – written warning**

If there is no improvement in the employee's performance/capability after the first stage, then the employee is invited to a further disciplinary hearing after which a representative/s of the Employment Committee may decide to issue a written warning. This written warning will set out the precise nature of the problem. The employee will be given a further time period within which to improve and a date for a further review of their progress. The outcome of the hearing will be confirmed to the employee in writing and a note of the action taken will be retained on the employee's file for a period of 9 months.

**(iii) Third stage – final written warning**

The representative/s of the Employment Committee will hold a further disciplinary hearing if there has been no improvement in the employee's performance. After this hearing the representative/s of the Employment Committee may decide to issue a final warning. The employee will be issued with a written warning and this warning will state that any subsequent lack of progress will lead to dismissal. The outcome of the hearing will be confirmed to the employee in writing and notes of the disciplinary hearing will be retained on the employee's file. The warning will remain active on the employee's file for 12 months. The Diocesan Council will again give the employee a time frame within which to improve and will set a date for a further review of the employee's progress.

**(iv) Fourth stage – dismissal**

If the performance is still unsatisfactory the representative/s of the Employment Committee, after conducting a further disciplinary hearing, may decide to dismiss the employee. The letter inviting the employee to the disciplinary hearing will contain the information set out below under the heading "Disciplinary Hearings". The dismissal will be confirmed in writing and will comply with the Minimum Notice and Terms as set out in the relevant legislation. The letter will set out the reasons why the employee was dismissed, the appropriate period of notice, the date on which the employment will be terminated and how the employee can appeal against the dismissal decision.

There may be occasions when, depending on the seriousness of the matter, it will be appropriate to skip to a later stage, for example stage 3 (final written warning) or considered suspension for the employee concerned on full pay pending investigation. The Employment Committee reserves the right to skip stages where it deems it appropriate.

**Disciplinary action for misconduct/gross misconduct**

## **Investigation**

A full investigation of all the circumstances will be carried out without delay, where that is appropriate in the reasonable opinion of the Employment Committee. Any act of gross misconduct shall entitle the representative/s of the Employment Committee to summarily dismiss an employee. However, notwithstanding the above, the Employment Committee will nominate a member/s to carry out an investigation into any matter which is considered to be gross misconduct, prior to dismissal. If appropriate, the representative/s of the Employment Committee may by written notice, suspend an employee on full pay for a specific period during which time the investigation can be undertaken. If an employee is so suspended, the contract of employment will be deemed to continue together with all rights under the contract, including payment of salary or wages. However, during such periods of suspension the Employment Committee reserves the right to refuse an employee access to the Diocesan Council premises or any of its records except at the prior request for or with the prior consent of the Bishop and subject to such conditions as may be imposed. The investigation will be carried out by the representative/s of the Employment Committee or such other third party as should be nominated from time to time by the Employment Committee.

## **Investigative Procedure**

The Employment Committee will appoint a designated person to investigate the circumstances and this investigation will be governed by terms of reference. The time scale for the completion of the investigation will be outlined to the person(s) against whom complaints have been made.

Statements from all parties will be recorded in writing and those giving the statements will be required to sign them. Copies of all statements made will be given to the persons who made them.

The objective of the investigation will be to ascertain whether or not, on the balance of probabilities, the behaviours complained of occurred. Witness statements may be relied upon for this purpose.

The investigation will be conducted thoroughly, objectively, with sensitivity, utmost confidentiality, but at all times with due respect to the rights of all parties.

The investigator will meet with all relevant parties who will be advised that they may be accompanied by a work colleague to any such meetings. Where possible the investigation will be completed within seven days and if this is not possible then within an agreed time frame.

Following completion of the investigation, the investigator will submit a report to the employer to include the investigator's conclusions.

The Employment Committee will then decide in light of the investigator's report and comments made what action, if any, is to be taken arising from the report.

### **Disciplinary hearing**

Following the investigation, it may be necessary to hold a disciplinary hearing. This hearing shall be put in place by the Employment Committee. The employee will be notified of the disciplinary hearing in writing and this letter will contain the time and date for such a hearing, the details of the complaint against the employee, and it will specify that the employee may be accompanied to the hearing by a work colleague. The letter inviting the employee to a disciplinary hearing will also set out that there is a risk that sanctions will be imposed up to and including dismissal.

Prior to the disciplinary hearing the employee should be given all witness statements compiled during the investigation, where possible, at least two working days prior to the disciplinary hearing unless the employer considers the matter so urgent that the witness statements cannot reasonably be provided prior to the hearing. If the statements have not been provided, the employee concerned will be informed at the beginning of the hearing of the main areas of complaint and the statements will be furnished to the employee and the employee given an opportunity to respond to the complaint made and to review the written statements.

The employee will also be given an opportunity to interview the person on whose statements the Employment Committee will be relying on. The person conducting the hearing will open the hearing by explaining the reasons why the hearing has been arranged and detailing the allegation. The employer will keep a written record of each disciplinary hearing which will include details of the employer's case, the response of the employee and the outcome of the meeting. The employee may be asked to agree and sign the record of the meeting after consultation with the employee's representative. Where appropriate, copies of the record will be given to everyone who has attended the meeting as soon as possible. At the hearing the employee will be given the opportunity to respond to each of the allegations. All details of the employee's responses will then be discussed until the full context of the response has been clarified.

The disciplinary hearing may be adjourned from time to time to allow consideration of the information, which was presented to it, or to allow for the conduct of further enquiries in the light of any information presented to it. Where any such hearing is adjourned, any suspension which may be enforced may be continued, other action may be taken where it is considered necessary or appropriate in the circumstances, e.g. continuing existing suspension or imposing suspension if that is not already in place. The disciplinary hearing will be concluded as quickly as possible. Failure to attend the disciplinary hearing without giving reasonable notice and a reasonable explanation will itself be considered a disciplinary matter.

An employee will be informed as to what action, if any, has been taken and the appeals procedure will be explained. appeal

Dismissal for gross misconduct will always be summary (no notice period). In other cases of dismissal, payment in lieu of notice may apply.

## **Appeals**

An employee may appeal against any disciplinary decision, including dismissal, within 5 working days of the date of the decision. The appeal will be to the Bishop (or if this is not appropriate to the Chancellor of the Diocese). The appeal must be made in writing and should clearly state the basis on which the appeal is to be made. The appeal hearing (unless it is decided to conduct the appeal by way of paper appeal only) will be conducted as soon as possible thereafter, and where possible not later than 10 days after the notification of the desire to appeal is received by the Bishop. The employee will be given an opportunity to state their case and will be entitled to be accompanied by a fellow employee. The decision in relation to the appeal will be notified to the employee in writing and will be final and binding. The person hearing the appeal will not have been previously involved, directly or indirectly with the disciplinary process.

## **What constitutes gross misconduct?**

Gross misconduct refers to any serious breach of guidelines. Confirmed cases of gross or serious misconduct or dishonesty will not be subject to the warning procedure detailed above but may result in dismissal from the company without notice (i.e. summary dismissal). The following matters will generally be regarded as liable to result in dismissal without notice (gross misconduct), unless there are exceptional mitigating circumstances: -

- Theft or attempted theft from the Diocesan Council or from another employee, client or visitor to the company.
- Unexcused absences lasting one or more days.
- Breach of the Diocesan Council's policies or procedures.
- Being in possession of or under the influence of alcohol or illegal, non-prescription drugs in the workplace.
- Sleeping while on duty.
- Refusal to carry out reasonable instruction or serious insubordination.
- Working elsewhere while on leave/absent from the Diocesan Council.
- Dishonesty, fraud or intention to defraud the Diocesan Council.
- Breach of health and safety work legislation.

- Allowing any of the Diocesan Council's confidential information to fall into the hands of individuals who are not employed by or members of the Diocesan Council.
- Violence, assault or sexual misconduct to include sexual harassment.
- Wilful damage to the Diocesan Council's or Church property, or the property of another employee.
- Accessing and circulating pornographic material and/or inappropriate behaviour.
- Any action amounting to a criminal offence which has a direct bearing on the person's suitability for employment.
- Serious negligence which causes unacceptable loss, damage or injury.
- Serious breach of the Diocesan Council's security procedures.
- Breach of the Church's policy on child protection (*Safeguarding* Trust).

This list is not exhaustive.



### **Misconduct**

The following are examples of misconduct: -

- Bad timekeeping.
- Unauthorised absence.
- Minor damage to the Diocesan Council's property.
- Minor breach of the Diocesan Council's rules.
- Failure to observe procedures.

### **Incapability**

The following are examples of incapability: -

- Poor performance.
- Incompetence.
- Unsuitability.
- Lack of application.

These examples are not exhaustive or exclusive and instances of a similar nature will be dealt with under this procedure. Subject to satisfactory performance and conduct, any warnings under these procedures will be removed from the Diocesan Council's records after one year.

**End**