

## RE:SILIENT STAFF DISCIPLINE POLICY

### INTRODUCTION AND PURPOSE OF THE POLICY

RE:SILIENT is committed to creating an environment where all employees are able to perform to their best ability however we also recognise that there will be occasions when disciplinary and/or performance problems arise.

The purpose of this policy is to encourage improvement in individual staff conduct and performance, to clarify the process for managing disciplinary matters and provide assurance that disciplinary matters will be dealt with in a fair and consistent manner.

Line managers must ensure that their staff are aware of general and specific rules, standards and procedures covering work and conduct. Everyone should familiarise themselves with these standards and procedures and follow them.

No disciplinary action will be taken until a case has been thoroughly investigated. When starting an investigation into an allegation of misconduct or poor performance, there shall be no assumption that disciplinary action will automatically follow.

RE:SILIENT is committed to a full and fair procedure throughout and the process followed is adapted from the [Acas guide to discipline and grievances at work](#).

### PRINCIPLES

If a RE:SILIENT employee or staff member is subject to disciplinary action:

- The process is designed to establish the facts quickly and to deal consistently with disciplinary issues.
- The individual will be advised of the nature of the allegation/concern and given the opportunity to state their case before any decision is taken on whether to impose disciplinary action.
- The individual will be given the opportunity to be accompanied by a representative or friend not acting in a legal capacity if an interview is required as part of the disciplinary process.
- An investigation will be undertaken before any decision is taken to impose disciplinary action. The member of staff or employee may be temporarily suspended from any duties or operations whilst the investigation is underway.

## TYPES OF DISCIPLINARY PROCESSES

### Informal

Informal disciplinary processes should always be considered as the first step before any formal disciplinary processes are undertaken. In appropriate cases of minor misconduct or unacceptable performance or behaviour, line managers should use an informal management discussion as the first step to raise and address the issue. Informal actions may also include setting clear targets and expectations, monitoring progress over a reasonable time period and providing additional coaching or training.

Where informal action fails to bring about the desired improvement in performance or the allegation/concern is repeated formal disciplinary action may be taken. If the Manager has tried to resolve the issue informally but feels they need to start a formal disciplinary procedure, they must tell the employee straight away.

### Formal

Certain matters due to their seriousness will always require action under the formal disciplinary process. The following are some examples of matters which will need to be dealt with by the formal disciplinary process:

- Gross misconduct - a non-exhaustive list of the type of actions that may constitute gross misconduct can be found in Appendix A of this document.
- Serious misconduct, such as alleged dishonesty, drinking alcohol during working hours or abusive language
- Repeated minor misconduct

## THE FORMAL DISCIPLINARY PROCESS

### Notification

If the issue has been unable to be resolved informally or due to its seriousness requires action under the formal disciplinary process the employee must be notified straight away. This should be done in writing and should include:

- sufficient information about the alleged misconduct or poor performance
- possible consequences, for example a written warning/dismissal

The employee should have this information in time to prepare for any investigative interview.

## Investigation

When an alleged disciplinary issue arises requiring a formal disciplinary process, the nominated manager must carry out an investigation to get as much information as they reasonably can about the alleged misconduct or poor performance. The facts of the case should be investigated quickly and thoroughly before recollections fade.

The Manager must make sure they follow a full and fair investigation procedure throughout. This is for the protection of the employee, the Manager and the organisation.

The member of staff being investigated may be temporarily suspended from any duties or operations whilst the investigation is underway. Such suspension is not to be regarded as a form of disciplinary action and should be for no longer than is necessary to investigate any disciplinary matter, or so long as is otherwise reasonable while any disciplinary procedure against the member of staff is outstanding. The decision to suspend will be taken by the Manager responsible for Human Resources in consultation with the MD and CEO RE:ACT Group.

Investigations may be conducted by an appropriate Manager. Where there is an allegation of gross misconduct, the Manager responsible for Human Resources will carry out the investigation, or the MD where the allegation is made against the Manager responsible for Human Resources. If the allegation is against the MD or CEO RE:ACT Group, the Chair of the Board will conduct the investigation.

The investigation may involve obtaining written or verbal statements from witnesses, and from the member of staff under investigation. Where information is obtained verbally, then witnesses and the staff member:

- Will be asked to sign and date the recorded details as a true record;
- Will have the opportunity to record any additional comments, if they so wish;
- May choose to, or may be invited to provide an additional written statement at a later stage.

As part of the investigation, the employee under investigation will:

- Be advised of the allegation/conduct under investigation (noting that for reasons of confidentiality and safeguarding they may not be advised who has made the allegation).
- Have an opportunity to state their case, answer the allegations and put forward any mitigating circumstances.
- Have the opportunity to be accompanied by a representative or friend not acting in a legal capacity when they are interviewed.
- Be reminded where they can obtain a copy of the RE:SILIENT Staff

## Disciplinary Policy.

The outcome of the investigation will be documented by the investigating Manager along with supporting evidence. Where the investigation shows the employee has a case to answer, the Manager should ask them to a disciplinary meeting or 'hearing' with the MD for a decision on any disciplinary action.

The hearing should be held as soon as possible after the investigation, while giving reasonable time for the staff member to prepare.

### **Looking after staff wellbeing and mental health during formal disciplinary processes**

Going through a disciplinary procedure can be very stressful, so it's important that Managers consider the wellbeing and mental health of their staff. It's important throughout the procedure for the Manager to keep talking with both the employee being investigated and any other staff affected.

Clear, regular and confidential communication can help avoid:

- misunderstandings
- a drop in work morale
- absence
- stress or other mental health issues arising
- existing mental health issues getting worse
- further action, for example the employee raising a grievance
- legal action further down the line

The Manager should keep all personal information confidential. The Manager could arrange any meetings in a more private and comfortable location if this would help the staff member.

If the staff member raises a grievance during the disciplinary procedure, the Manager can pause the disciplinary and deal with the grievance first. It might be appropriate to deal with both at the same time if the grievance and disciplinary cases are related.

### **The Disciplinary Hearing**

In good time before the hearing, the Manager should put in writing to the employee:

- the alleged misconduct or performance issue
- any evidence from the investigation
- any other information they plan to talk about
- the date, time and location of the hearing

- information on the employee's right to be accompanied to the hearing
- the possible outcomes

The employee can also bring their own evidence to the hearing, for example emails, to show and talk about.

By law, an employee can bring a relevant person ('companion') with them to a disciplinary hearing. This is called 'the right to be accompanied'.

The hearing is the chance for both the Manager and the employee to state their case to the MD. The Manager, employee and their companion should make every effort to attend.

The Manager should:

- explain the employee's alleged misconduct or performance issue
- go through the evidence
- make sure someone takes notes

The employee should be given the chance to:

- set out their case
- answer any allegations
- ask questions
- show evidence
- call relevant witnesses (with good notice)
- respond to any information given by witnesses

The employee's companion should be allowed to:

- set out the staff member's case
- speak for the staff member
- talk with the staff member during the hearing
- take notes

It's a good idea for the MD to take some time after the hearing to consider the case carefully before making a decision. Any decision about imposing disciplinary action must not be made prior to the hearing's completion.

After following a fair disciplinary procedure, the MD should decide on the best outcome based on:

- the findings from the investigation and disciplinary meetings
- what is fair and reasonable
- what their workplace has done in any similar cases before

The MD should tell the employee of the outcome as soon as possible and in writing.

## **When no action is needed**

When it's decided there was no misconduct or performance issue, the MD should end the disciplinary procedure. To make sure there is no bad feeling, the MD/Manager should talk privately with the employee and any other staff who knew the disciplinary procedure was happening. They should make clear there is no longer anything to worry about and should help the employee get back to work as normal.

## **Disciplinary Actions**

The following are authorised to take decisions regarding disciplinary action:

- Informal action: All Managers/Directors
- Formal Action (First warning/Final warning/Dismissal): MD, CEO RE:ACT Group or Chair of the Board of Trustees or other designated member or members of the Board of Trustees

### **1. Formal Written Warning (First)**

If the conduct or performance is determined by the MD, following an investigation and hearing, to be unsatisfactory, a first formal written warning will be given. The formal written warning will:

- give details of the unsatisfactory conduct or performance
- set out the improvement that is required and a time frame
- make it clear that any recurrence of the conduct, lack of improvement in performance or any other serious misconduct within the stipulated timeframe will result in further disciplinary action.

A copy of the formal written warning will be kept on file but will lapse after 12 months, subject to satisfactory conduct and/or performance.

### **2. Formal Written Warning (Final)**

The MD can give a final written warning if, within a set timeframe, the staff member either:

- repeats or commits another misconduct
- does not improve performance

In cases of serious misconduct or poor performance, the MD does not have to give a first written warning and can instead go straight to a final written warning. For example, where the employee's actions have, or could, cause serious harm to the organisation.

If an employee does not meet the requirements of their final written warning in the timeframe set, it could lead to dismissal. The MD should make this clear to the staff member.

### **3. Dismissal**

The MD might end the employee's contract ('dismissal') in either of these cases:

- gross misconduct
- the disciplinary procedure has had to be repeated and the employee previously had a final written warning.

The employee should be told as soon as possible:

- the reasons for the dismissal
- the date the employment contract will end
- the notice period
- their right of appeal

To avoid the risk of an 'unfair dismissal' claim, the MD should always follow a full and fair disciplinary procedure before deciding on dismissal.

#### **Right of Appeal**

The MD should offer the staff member the right of appeal if they feel:

- the outcome is too severe
- any stage of the disciplinary procedure was wrong or unfair.

Appeals should be made in writing by the staff member to the Chair of the Board of Trustees within a reasonable time period following being notified of the MD's disciplinary decision.

#### **RECORD KEEPING**

No matter what the outcome of the disciplinary process, a written record should be kept to help with any questions or similar cases in the future. In line with data protection law, records should be confidential and only be kept for as long as necessary.

#### **AFTER THE DISCIPLINARY PROCESS**

Any disciplinary outcome and details must remain confidential. However, where appropriate, it can be a good idea for the MD/Manager to talk privately with any staff who knew the disciplinary procedure was happening. This can help avoid any negative effects on the business (bad feeling, gossip, bullying, low work morale)

## **POLICY MONITORING AND REVIEW**

This policy will be reviewed annually, or sooner if there has been a breach. The review will ensure the policy remains up-to-date in line with UK legislation and best practice, as well as assessing the effectiveness of how the policy is working in practice and taking action to address any identified issues.

## Appendix A

### What is gross misconduct?

Gross misconduct is defined as misconduct serious enough to destroy the employment contract between RE:SILIENT and the employee which makes further working relationship and trust impossible. Gross misconduct is normally restricted to serious offences. Gross misconduct is behaviour which is considered to be so serious because of its nature or consequences that it justifies RE:SILIENT no longer allowing an individual's continued involvement with RE:SILIENT.

It is not possible to list all circumstances that may constitute gross misconduct and this list is not exhaustive. Examples of gross misconduct include:

- Violence or other exceptionally offensive behaviour, including fighting
- Sexual abuse in any form
- Being in possession of a harmful weapon.
- Dishonesty, e.g. theft or fraud, including falsification of timesheets, qualifications, expenses claims
- Being under the influence of or affected by the abuse of substances, e.g. alcohol or drugs, other than those which have been medically prescribed during active operational deployment or during training-non stand down time.
- Serious or deliberate damage to RE:SILIENT's property or equipment
- Serious breaches of health and safety rules or regulations or endangering self or others
- Breaches of confidentiality
- Bullying, harassment, discrimination and other specific issues contained in RE:SILIENT's Code of Conduct and Equality and Diversity policy
- Criminal conduct outside of work which makes them unsuitable for employment and continued association with RE:SILIENT
- Failure to declare any conflict of interest which could be seen to result in actual or potential financial or material gain
- Actions or omissions which have the potential to bring RE:SILIENT into disrepute
- Serious breach of a RE:SILIENT policy or procedure
- Gross negligence
- Acts of misconduct as set out below where the act or omission, or the impact of it, is sufficiently serious because of its nature or consequences

### Examples of Misconduct

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Examples of misconduct other than gross misconduct include:

- Negligence
- Minor breach of any RE:SILIENT policy or procedure
- The commission of criminal offences