



**Young Bristol**

Works for young people

# **YOUNG BRISTOL**

## **DISCIPLINARY PROCEDURE**

Our thanks to Burges Salmon for their help and guidance in producing these Policies



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## **1 ABOUT THIS PROCEDURE**

- 1.1 The purpose of the Disciplinary Procedure (the "Procedure") is to encourage employees to improve and to maintain satisfactory standards of conduct. The primary objective is to take corrective rather than punitive action.
- 1.2 Our aim is to ensure consistent and fair treatment for all of our employees.
- 1.3 This policy does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure.
- 1.4 The Procedure does not form part of your Contract of Employment and we reserve the right to amend the Procedure from time to time.

## **2 PRINCIPLES**

### **2.1 The Procedure**

- (a) We will investigate complaints or allegations of misconduct to establish the facts of each case.
- (b) You will be advised of the nature and basis of the complaint against you and you will be given an opportunity to state your case before any decision is taken.
- (c) Each step and action under the Procedure will be taken without unreasonable delay.
- (d) We reserve the right to implement the Procedure at any stage if we consider the misconduct, or any other circumstance, warrants it.
- (e) 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.

### **2.2 Right to be Accompanied**

- (a) You will have the right to be accompanied to any disciplinary or appeal meeting by a fellow worker or a trade union official. If you wish to exercise your right to be accompanied, you should inform the manager holding the disciplinary meeting as soon as practicable of the identity of your proposed companion. Although the companion will be able to address the meeting and confer with you, s/he will not be permitted to answer questions on your behalf.
- (b) You (and any companion) must make every effort to attend the disciplinary and/or appeal meeting. If you (or your companion) are unable to attend the meeting, you should inform the manager dealing with the disciplinary meeting as soon as possible. In the event that you fail to attend a disciplinary or appeal meeting, we reserve the right to make a decision in your absence.

- (c) You do not normally have the right to bring a companion to an investigative interview. However, you may be allowed to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.

### 2.3 **Disciplinary Action**

- (a) We will record any disciplinary action taken. This information will be retained on your personnel file. Any warnings given under the Procedure will typically be "live" for a period of 12 months. At the end of that period, subject to your satisfactory conduct, the warning will normally be disregarded for disciplinary purposes but will remain permanently on your personnel record. However, we reserve the right to issue warnings for a longer period depending on the nature or seriousness of the offence and to take prior conduct into account when dealing with subsequent allegations of misconduct even when the stated duration of a warning(s) has expired.
- (b) Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain "live", and the likely consequences of further misconduct in that "live" period.
- (c) Please note that we reserve the right in our absolute sole discretion to extend the period of time in which the warning is live to reflect any period of time for which you are absent from work (not including annual leave) whilst the warning is live.
- (d) You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or is sufficiently serious to warrant dismissal or you have not yet completed your probationary period.
- (e) You will be given the opportunity to appeal against any disciplinary decision taken.

### 2.4 **Suspension**

- (a) We reserve the right, where we consider it appropriate, to suspend you (on full pay) whilst we undertake an investigation. We will endeavour to advise you of the expected length of that suspension and will keep you informed of any changes in that timeframe. Suspension is not considered to be a disciplinary sanction. You will be required to cooperate with any investigation and to be available for interview(s) during office hours. We may impose further conditions on you during the period of suspension of which you will be notified accordingly. Breach of any of these conditions may result in disciplinary action being taken.

### 2.5 **Confidentiality**

- (a) You must treat as confidential any information communicated to you in connection with an investigation or disciplinary matter.

- (b) You will normally be provided with evidence supporting the complaint against you before a decision is taken, but we reserve the right to take such steps as we consider appropriate to protect confidentiality and/or the interests of Young Bristol and others.
- (c) You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under the Procedure.

## 2.6 Criminal Charges

- (a) Where your conduct is the subject of a criminal investigation, charge or conviction, an investigation into the facts will take place before deciding whether to take formal disciplinary action.
- (b) 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, a decision may be taken based on the available evidence.
- (c) A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is in any way relevant to your employment or affects the reputation or interests of Young Bristol.

## 3 THE PROCEDURE

- 3.1 It is expected that cases of minor misconduct will be dealt with informally between you and your manager. However, if that informal discussion does not bring about an improvement or where there is a more serious case of misconduct, formal action under the Procedure may be necessary.
- 3.2 No disciplinary action will be taken until an investigation has been undertaken. We may arrange a meeting for investigation purposes only and to determine whether disciplinary action is necessary. Following our investigation, we will decide whether to take the matter further under the Procedure or not.

### Disciplinary Meetings

- (a) If formal action is necessary, you will be advised in writing of our concerns and the potential consequences if they are found to be true, and you will be asked to attend a disciplinary meeting.
- (b) We will give you a reasonable period of time to prepare for the disciplinary meeting. You will have the right to be accompanied to the disciplinary meeting by a fellow worker or a trade union official or, for those under the age of 18, by a parent/guardian.

- (c) You (and your companion if you wish to be accompanied) should make every effort to attend the meeting. If you (or your companion) are unable to attend the meeting, you should inform the manager dealing with your disciplinary meeting as soon as possible. In the event that you fail to attend any disciplinary meeting, we reserve the right to make a decision in your absence.
- (d) At the meeting 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. The meeting is an opportunity for you to set out your case and to answer the concerns raised.
- (e) We may adjourn the meeting if we consider there is a need to carry out any further investigations in the light of any new points you have raised at the hearing.
- (f) After the meeting, the manager/trustee or other nominated representative conducting it will decide whether or not any disciplinary or other action is to be taken. You will be notified of the decision, in writing, as soon as practicable after the disciplinary meeting. Disciplinary action may include any of the following:

#### **Stage 1 - Verbal Warning**

- (a) A verbal warning will normally be appropriate in cases of minor acts of misconduct or where informal counselling has failed to resolve the problem. In such cases, a note that a warning has been given (and the details of it) will be placed on your personnel file.
- (b) We will confirm the verbal warning to you in writing, including the period of time the warning will remain "live" for and any action that you are required to take to remedy the misconduct. Any further misconduct by you whilst that warning is "live" could lead to further disciplinary action being taken against you. A period of review and/or improvement may also be set.

#### **Stage 2 – First Written Warning**

- (a) Where your misconduct is of a more serious nature or, after a verbal warning has been given, you commit a repeated or further act(s) of misconduct, a first written warning may be issued. A record of that warning will be placed on your personnel file.
- (b) The warning will be confirmed to you in writing, including the period of time the warning will remain "live" for and of any action that you are required to take to remedy the misconduct. Any further misconduct by you whilst that warning is

"live" could lead to further disciplinary action being taken against you. A period of review and/or improvement may also be set.

### **Stage 3 - Final Written Warning**

- (a) Where your misconduct is considered sufficiently serious to warrant a final written warning but insufficiently serious to justify dismissal and/or, after a first written warning has been given, you commit a repeated or further act of misconduct, a final written warning may be issued. A record of the warning will be placed on your personnel file.
- (b) That warning will be confirmed to you in writing, including the period of time the warning will remain "live" for and any action that you are required to take to remedy the misconduct. Any further misconduct by you whilst the warning is "live" would be likely to lead to further disciplinary action being taken against you, which could include the termination of your employment. A period of review and/or improvement may also be set.

### **Stage 4 – Dismissal**

- (a) In the event that you commit an act of gross misconduct; you have not yet completed your probationary period and commit an act of misconduct; and/or, after a final written warning has been given, you commit a repeated or a further act of misconduct, we may consider dismissal or summary dismissal (that is dismissal without notice or payment in lieu of notice).

### **Other Sanctions**

- (a) We reserve the right to impose such other disciplinary sanctions as we consider appropriate, including demotion, transfer to a different role, a period of suspension without pay, a reduction or freeze in salary, loss of seniority, loss of future pay increment or bonus, and loss of overtime, or any other sanction stated in your contract.

## **4 GROSS MISCONDUCT**

4.1 Gross misconduct is behaviour which, in our opinion, is so serious or so unacceptable that it is calculated, or likely, to irreparably damage the relationship of trust and confidence between Young Bristol and the employee. If proved, the normal consequence will be summary dismissal (that is, dismissal without notice or payment in lieu of notice). It is not possible to give a definitive list of all offences that may constitute gross misconduct and, in any event, each case will be dealt with on its own facts. Examples of gross misconduct include (but this is not an exhaustive list):-

- (a) theft, fraud, dishonesty or deceit (including the provision of false or misleading information, bribery or corruption, or falsification of records, including records of working hours);


- (b) any act of violence or attempted violence, bullying or abusive or threatening behaviour towards people or property;
- (c) deliberate or serious damage to property;
- (d) serious misuse of our property or the Young Bristol name;
- (e) being under the influence of, or breaching any rules concerning, alcohol, non-prescribed drugs or other substances during the course of employment (whether or not at Young Bristol's premises or in a vehicle belonging to Young Bristol);
- (f) possession, use, supply or attempted supply of illegal drugs;
- (g) a serious act of insubordination, gross rudeness or extreme discourtesy to a superior, another employee or a third party in the course of employment;
- (h) a serious and deliberate breach of our policies and procedures on standards of conduct, health and safety or any conduct likely to endanger the health or safety of others;
- (i) serious negligence, neglect or failure in the performance of duties;
- (j) indecent, disorderly or immoral conduct during employment;
- (k) unauthorised use, disclosure or divulgence of any confidential information or trade secrets relating to Young Bristol or any of its officers or employees;
- (l) unlawful harassment or discrimination (including harassment or discrimination on the grounds of a person's marital or civil partnership status, sex, race (including colour, nationality or ethnic or national origins), sexual orientation, religion or belief, age, gender reassignment or disability);
- (m) deliberately accessing internet sites containing pornographic, offensive or obscene material;
- (n) a serious breach of our policies and procedures in relation to the use of IT, telecommunications, email and the internet;
- (o) unauthorised use, processing or disclosure of personal data contrary to our policies and procedures in relation to data protection;
- (p) a serious or deliberate breach of your employment contract or of our policies or operating procedures;
- (q) knowingly breaching statutory rules affecting your work;
- (r) accepting or offering a bribe or other secret payment or other breach of our policies and procedures in relation to bribery;



- (s) accepting a gift from a customer, young person, supplier, contractor or other third party in connection with your employment without prior consent from your line manager;
- (t) being charged with or convicted of a criminal offence (other than an offence which, in our opinion, does not affect your suitability to do the job and/or your relationship with Young Bristol, colleagues or the young people we work with);
- (u) undertaking unauthorised paid or unpaid employment during your working hours;
- (v) taking unauthorised absences; or
- (w) any other behaviour considered by us to be prejudicial to the interests or reputation of Young Bristol.

## **5 APPEALS**

- 5.1 All employees have the right to appeal against any disciplinary decision. If you wish to appeal, you should write to the nominated person within 5 working days of receiving the written notification of the disciplinary decision. We will deem that the notification of the disciplinary decision will have been received by you within two days of it being posted to you. All correspondence will be sent to your home address as notified by you to us from time to time. Your appeal letter must set out the reasons why you are appealing. Please note that an appeal will not suspend or delay any disciplinary action taken (including dismissal).
- 5.2 We will arrange for an appeal meeting to take place. Unless we consider this is not reasonably practicable, the appeal will normally be heard by a more senior manager than the manager who took the disciplinary action, and this may include a trustee or other nominated representative of Young Bristol. The decision of the person conducting the appeal will be final.
- 5.3 Following the appeal meeting, the manager conducting the appeal may:
- (a) confirm the original decision;
  - (b) revoke the original decision; or
  - (c) substitute a different penalty,
- and he/she will communicate the outcome of the appeal in writing as soon as reasonably practicable.
- 5.4 You must make every effort to attend the appeal meeting. If you fail to attend the appeal meeting, we reserve the right to take a decision on your appeal in your absence.

Signed: 

Ben Hardy Chair of Trustees

Signed: 

Lee Williams Chief Executive

Date: November 2016

**Last reviewed in November 2016.**