



## **Disciplinary Procedure**

### **SCOPE OF POLICY**

Corn Close Care Farm Disciplinary Procedure will be used only when necessary and as a last resort. Where possible, informal and/or formal counselling or other good management practice will be used to resolve matters prior to any disciplinary action being taken. The procedure is intended to be positive rather than punitive but recognises the fact that sanctions may have to be applied in some circumstances.

An employee can discuss any part of this policy with a Union Representative or their Line Manager. They can help clarify an employee's rights as well as give guidance and support where it may be needed. Every individual has the right to representation by a work colleague or trade union representative at any point during the disciplinary process.

### **SUSPENSION**

Suspension is not disciplinary action. The purpose of suspension is manifold and can be used in a variety of circumstances. For example: when it is necessary to remove a member of staff from the workplace pending an investigation; to allow time for a 'cooling down period' for both parties; for their own or others protection; to prevent them influencing or being influenced by others or to prevent possible interference with evidence. Only the Manager in charge of that individual, at that time or their superior, have the authority to suspend an individual.

An employee suspended from duty will receive written confirmation within three days of:

- the reason for the suspension
- the date and time from which the suspension will operate.
- the timescale of the ongoing investigation.
- the right of appeal to the immediate manager of the suspending manager should the suspension last more than 7 days

### **COUNSELLING**

Counselling is an attempt to correct a situation and prevent it from getting worse without having to use the disciplinary procedure. Where improvement is required, the employee must be given clear guidelines as to:

- what is expected in terms of improving shortcomings in conduct or performance
- the time scales for improvement

- when this will be reviewed
- the employee must also be told, where appropriate, that failure to improve may result in formal disciplinary action.

A record of the counselling should be given to the employee and a copy retained on file. It is imperative that any counselling should be followed up and improvements recognised and recorded. Once the counselling objectives have been met, any record of the counselling will be removed from the employee's file.

If during counselling it becomes clear that the matter is more serious, then the discussion should be adjourned, and pursued under the formal disciplinary procedure.

## **PROCEDURE FOR FORMAL INVESTIGATION**

Formal investigations should be carried out by a manager/senior person who is not directly involved with the incident being investigated. This person may involve others to assist with the investigation process. All the relevant facts should be gathered promptly as soon as is practicable after the incident. Statements should be taken from witnesses at the earliest opportunity. Any physical evidence should be preserved and/or photographed if reasonable to do so.

A report should be prepared which outlines the facts of the case. This should be submitted to an appropriate senior person who will decide whether further action is required. Where appropriate, this report may be made available to the individual and their representative.

In most circumstances where misconduct or serious misconduct is suspected, it will be appropriate to set up an investigatory hearing. This would be chaired by the appropriate senior person, who would be accompanied by another senior person if possible. The investigating person would be asked to present his/her findings. Witnesses should be called at this stage, and the employee (or their representative) allowed to question these witnesses. The employee has a right of representation at this hearing.

Following the full presentation of the facts, and the opportunity afforded to the employee to state their side of the case, the hearing should be adjourned, and everyone would leave the room except the senior person hearing the case, and the other senior person, if present. They would discuss the case and decide which of the following options was appropriate:

- take no further action against the employee
- recommend counselling for the employee
- proceed to a disciplinary hearing

All parties should be brought back, and informed as to which option has been chosen. Should the decision be taken to proceed to a disciplinary hearing, then this may follow on immediately from the investigatory hearing if the following criteria have been met:

- the employee has been informed by letter that the investigation may turn into a disciplinary hearing, and that s/he has the right of representation
- s/he has been told in advance what the nature of the complaint is, and had time to consult with a representative

- all the facts have been produced at the investigatory hearing, and the manager/senior person is in a position to decide on disciplinary action.

The manager/senior person should inform the employee and their representative that the hearing would now become a formal disciplinary hearing, and invite them to say anything further in relation to the case.

It may be appropriate at this point, at the discretion of the manager/senior person hearing the case, to adjourn proceedings. This might be for a number of reasons e.g. whilst necessary arrangements are made for a representative to attend the hearing at the request of the employee, or if the employee has become emotional or distressed.

Should anyone who is subject to disciplinary action resign during the course of it, the action will cease unless there are extenuating circumstances which require it's continuation. The subject of the discipline may also request that the disciplinary action continues.

If there are insufficient senior members of staff to adequately conduct a hearing, appropriate personnel will be hired on an ad hoc basis.

## **WARNINGS**

### **Examples of Minor Misconduct**

Below are listed examples of misconduct which may warrant either a Verbal Warning or a First Written Warning. It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issue of a warning.

- Persistent lateness and poor time-keeping.
- Absence from work, including going absent during work, without valid reason, notification or authorisation.
- Smoking within unauthorised areas.
- Failure to work in accordance with prescribed procedures.
- Unreasonable standards of dress or personal hygiene.
- Failure to observe Corn Close Care Farm regulations and procedures.

### **Verbal Warning**

A Verbal Warning is appropriate when it is necessary for the manager in charge to take action against an employee for any minor failing or minor misconduct. Written warnings will be placed on file.

### **First Written Warning**

A First Written Warning is appropriate when:

- a verbal warning has not been heeded and the misconduct is either repeated or performance has not improved as previously agreed.

- an offence is of a more serious nature for which a written warning is more appropriate.
- the recurrence or accumulation of an offence/offences will lead to more severe disciplinary action.

### **Examples of Gross – Misconduct**

Listed below are examples of misconduct which may be considered to be Gross Misconduct and may warrant a Final Warning, Demotion or Dismissal. It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issuing of a Final Warning, Demotion or Dismissal.

- Theft, including unauthorised possession of Company property.
- Breaches of confidentiality, prejudicial to the interest of the Corn Close Care Farm,
- Being unfit for duty because of the misuse/consumption of drugs or alcohol.
- Refusal to carry out a management instruction which is within the individual's capabilities and which would be seen to be in the interests of the Corn Close Care Farm.
- Breach of confidentiality / security procedures.
- Physical assault, breach of the peace or verbal abuse.
- False declaration of qualifications or professional registration.
- Failure to observe Corn Close Care Farm rules, regulations or procedures.
- Wilful damage of property at work.
- Incompetence or failure to apply sound professional judgement.
- Bribing or attempting to bribe another individual, or personally taking or knowingly allowing another person to take a bribe.

### **Final Written Warning**

A Final Written Warning is appropriate when:

- an employee's offence is of a serious nature falling just short of one justifying dismissal.
- an employee persists in the misconduct which previously warranted a lesser warning.

### **Downgrading or Transfer to another Post**

This action is appropriate when:

- previous attempts, via the disciplinary procedure, to rectify a problem have failed and this is a final attempt to solve a problem without having to dismiss an employee.
- an employee is considered by the Manager of the department to be incompetent or otherwise unfit to fulfil the duties for which he is employed but where dismissal is not thought to be appropriate.

## **Dismissal**

Dismissal is appropriate when

- an employee's behaviour is considered to be Gross Misconduct.
- an employees misconduct has persisted, exhausting all other lines of the disciplinary procedure.

## **Time Scales for the expiry of Warnings**

Warnings issued to employees shall be deemed to have expired after the following periods of time.

- Verbal Warnings: 6 months
- First Written Warnings: 12 months
- Final Written Warnings: 18 months (or as agreed and recorded at the hearing)

These time scales remain provided that during that period, no further warnings have been issued in respect of the employee's conduct.

## **LETTER OF WARNING**

All Warnings must contain the following information:

- The letter must be dated and issued within 7 days of the date of the disciplinary hearing.
- The nature of the offence and where appropriate, that if further misconduct occurs, more severe disciplinary action will be taken.
- The period of time given to the employee for improvement.
- The employees right to appeal to the manager directly above that of the one issuing the warning.
- A copy of the warning and any supporting documentation must be attached to the individual's file.
- The employee must also receive a copy of the warning which in the case of any written warning will be sent to their home address by recorded delivery if not handed to them in person.

- In the case of a final written warning, reference must be made to the fact that any further misconduct will lead to dismissal, and that the employee has the right of appeal, and to whom they can make that appeal.

The letter confirming dismissal will contain the following information:

- The reason for dismissal and any administrative matter arising from the termination of their employment.
- The employee's right of appeal and to whom they should make that appeal

## **APPEALS**

Every employee has the right to appeal against the outcome of a disciplinary hearing. The basis of an appeal should normally relate to one of the following areas:

- that the organisation's procedure had not been followed correctly.
- that the resulting disciplinary action was inappropriate.
- that the need for disciplinary action was not warranted.
- that new information regarding disciplinary action has arisen

An appeal should be put in writing to the manager/senior person who issued the disciplinary warning / dismissal. The letter of appeal may be constructed by the employee or their representative. The letter should contain the grounds for appeal and should be lodged within 10 days of receipt of the warning / dismissal letter.

An appeal will be arranged within 20 working days of receipt of the appeal letter.

### **Appeals against Verbal and First Warnings**

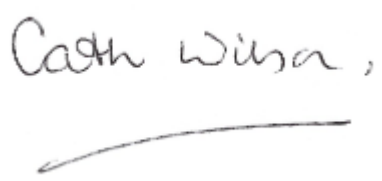
In the case of verbal and first warnings, the appeal will be heard by the manager next in line to the one who issued the warning.

### **Appeals against Downgrading, Final Warnings and Dismissal**

The hearing and determining of appeals against final warnings and dismissal will be heard by the manager. If possible they may also involve another senior person not previously involved with the case.

When dealing with an appeal against a Final Warning or Dismissal the appellant may submit a written statement for consideration by the person(s) hearing the appeal

The person(s) hearing the appeal may consider the appeal based on the information previously available including the investigation report, and any submissions made by the appellant. They may at their discretion seek any further information which they feel would help them to come to a fair conclusion. The decision of the person(s) hearing the appeal is final and no further right of appeal is available.

Date of procedure	30 <sup>th</sup> June 2021
Review date	29 <sup>th</sup> June 2022
Name	Cath Wilson
Signed	
Position	Manger