



Disciplinary Procedure

1. Purpose and scope

FRESH expects its employees, volunteers and Directors to perform their duties and behave in an acceptable manner, and for its Members to keep to their commitment to FRESH's Membership Agreement

If disciplinary offences occur FRESH wishes to encourage improved conduct, to ensure that there are no future occurrences, and that the person or people involved are able to carry on working for FRESH in a reflective and supported way.

The Procedure applies to FRESH Members, employees, volunteers and Directors. It sets out the actions which will be taken in the event of breaches in FRESH's policies, rules, values, a complaint or grievance against an employee, volunteer, Director or Member, or the investigation of an allegation of abuse.

2. Core principles

The Procedure aims to establish the facts quickly and to ensure consistency when dealing with disciplinary issues. In particular:

- No disciplinary action will be taken until the matter has been fully investigated
- Throughout the investigation the person subject to the Procedure will have the opportunity to state their case and to be represented if they wish by a trade union representative, a fellow employee, a co-voluntary worker, a family member, carer or friend
- Before a disciplinary hearing the person subject to the Procedure will be informed in writing about the nature and detail of the alleged offence, the nature of the evidence and the possible outcomes, and reminded of their right to be represented
- The person subject to the Procedure has the right to appeal against any disciplinary sanction
- Where appropriate a warning will contain an expiry date, after which it will be disregarded in any further disciplinary hearings



3. The Procedure

All stages of this Procedure will be handled by a Disciplinary Panel of three Directors, appointed on a case-by-case basis by the Board of Directors.

Informal action

3.1. Cases of minor misconduct or unsatisfactory performance will be dealt with informally. After the investigation the person subject to the Procedure will be encouraged by the Disciplinary Panel to make the necessary improvement(s), and offered appropriate guidance, support, training and supervision. S/he will be informed that, should the required improvement be achieved, that will be the end of the matter

In cases where informal action does not bring about an improvement, or where the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, the matter will be dealt with under the following **formal Procedure**.

Formal Procedure

3.2. Oral warning

Following the investigation, if conduct or performance is found to be unsatisfactory the employee, volunteer, Director or Member will be given a **formal oral warning**, which will be recorded.

3.2. Written warning

If the investigation establishes that there is no improvement in conduct or performance, if a further offence occurs, or if the offence is sufficiently serious, the employee, volunteer, Director or Member will be given a **written warning**. This will set out the reason(s) for the warning and contain a statement that if there is insufficient improvement within the designated timescale (usually no more than six months) a final written warning will be given.

3.3. Final written warning

If the investigation establishes that conduct or performance remains unsatisfactory, or if the offence is sufficiently serious to warrant it, a **final written warning** will be given. This will make clear that any recurrence of the offence or any other serious misconduct within a period of twelve months will result in dismissal or termination of the relationship with FRESH, as relevant.



3.4. **Dismissal or termination of the relationship with FRESH**

- If the investigation establishes that there is no satisfactory improvement, if further serious misconduct occurs, or if the offence is one of gross misconduct, the employee, volunteer, Director or Member will normally be **dismissed or their relationship with FRESH will be terminated** as appropriate.
- Any decision to dismiss or terminate will be taken by the Disciplinary Panel. The Panel will consider all the documentation relating to the alleged offence, which will also be made available in advance of the hearing to the subject of the Procedure and his or her representative. At the hearing, the Panel will hear evidence from the person making the case against the subject of the Procedure, from the subject of the Procedure, and from any witnesses. Witnesses may be called by any party
- The Panel will then form a judgement on whether the offence has been proved on the balance of probability. If so, the Panel will receive evidence about any previous warning given which has not yet expired. They will then decide whether to dismiss or terminate the relationship of the employee, volunteer, Director or Member.

3.5. **Gross Misconduct**

Gross misconduct is misbehaviour so serious that it justifies dismissal or terminating a relationship with FRESH without any previous warnings and without notice or pay in lieu. If it is confirmed by the investigation that an employee, volunteer, Director or Member has committed gross misconduct, they will normally be dismissed or expelled, following the Procedure in 3.4. above. Gross misconduct includes the following examples, but they are given for guidance only and are not exhaustive or exclusive:

- Theft or unauthorised possession of property
- Gross rudeness or other inappropriate behaviour
- Gross negligence
- Serious damage deliberately committed to property
- Deliberate falsification of reports, accounts, expense claims or self-certification forms
- Bribery or corruption
- Refusal to carry out duties or reasonable instructions, or to comply with FRESH policies and procedures



- Conduct seriously inappropriate to the person's position, work or relationship with FRESH
- Misconduct adversely affecting the safety of children or vulnerable adults
- Serious misconduct as a result of being intoxicated due to consumption of alcohol or illegal drugs
- Violent, dangerous or intimidatory conduct
- Any form of harassment or prejudiced discrimination
- A criminal offence, which may (whether it is committed within or outside the person's work with FRESH) adversely affect FRESH, the person's suitability for the type of work s/he does, or her or his acceptability to colleagues, clients or service users.

3.6. **Suspension**

While alleged gross misconduct is being investigated, the employee, volunteer, Director or Member may be suspended, during which time they will be paid at their normal rate of pay if relevant. They will be entitled within three working days of being suspended to written reasons for it.

3.7. **Appeals**

- If the employee, volunteer, Director or Member wishes to appeal against a disciplinary decision, they must do so within five working days of the decision being conveyed to them. The appeal will be heard by an Appeal Panel comprising three members appointed of the Board of Directors, and different from those involved in the process so far
- The Panel will decide the case as impartially as possible. They will study all documentation from previous stages of the Procedure, which will also be made available at least five working days before the appeal hearing to both the subject of the Procedure and their representative.
- At the appeal hearing, the Panel will hear evidence from the person making the case against the subject of the Procedure, from the subject of the Procedure, and from any witnesses. The Panel will then decide whether or not the dismissal or termination should be upheld, and if relevant what other action should be taken.
- The Appeal Panel's decision will be final.



4. **Review**

- This policy will be reviewed annually by the Board on or around the anniversary of its adoption.
- Date of next scheduled review : November 2014

