Disciplinary Procedure for Lay Employees

DISCIPLINARY PROCEDURES OF *AIREDALE METHODIST CIRCUIT / ……CHURCH*

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1. Introduction

Airedale Methodist Circuit / ……. Church requires good standards of conduct from its lay employees together with satisfactory standards of work. The purpose of the procedure is to be supportive and corrective rather than punitive and it should be recognised that the existence of procedures such as these is to help and encourage lay employees to achieve and maintain standards of conduct, attendance and job performance and to ensure consistent and fair treatment for all. This procedure has been written to reflect the principles set out in the ACAS Code of Practice and Guidance Notes on Disciplinary issues.
For the purpose of this policy the term "organisation" will mean the *Airedale Methodist Circuit / ……. Church.*

This policy applies to all lay employees who have successfully completed their probationary

period. If there are any issues that arise during probationary period please refer to the Probationary Policy. It does not apply to ordained staff members, agency workers or self employed contractors.

This procedure does not form part of any lay employees' contract and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

2. Policy Statement

As noted above, this policy takes into account ACAS advice and best practice. It is the policy of the *Airedale Methodist Circuit / ……. Church* to ensure that any disciplinary or performance matter is dealt with fairly and that steps are taken to establish the facts. Lay employees will not be subjected to formal disciplinary action (up to and including dismissal) without being provided with the following:

- a written statement of the allegations;
- a hearing before any decision is reached; and
- subsequent to the decision the right to an appeal hearing

3. General Principles

Minor conduct issues can often be resolved informally between the lay employee and their Line Manager. These discussions should be held in private and without undue delay whenever there is cause for concern.

If the misconduct or performance issue was found to be small and not serious, the employer might just have an **informal** talk with the lay employee. (It's a good idea for the employer to still keep a confidential written record of informal or verbal warnings for future reference.).

Formal steps will normally be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the concerns).

Except in cases of gross misconduct a lay employee will not normally be dismissed for a first act of misconduct. Staff will normally be given a warning and an opportunity to improve.

Any steps under this procedure should be taken promptly unless there is a good reason for delay. Management may vary any time limits set out in this procedure if it is reasonable to do so and if this is the case the lay employee will be kept informed.

It is good practice to appoint an independent Investigating Officer and the Case Manager to manage the disciplinary process.
If a lay employee has difficulty at any stage of the procedure for example because of disability, they should discuss the situation with their line manager as soon as possible so that any reasonable adjustments can be identified and made. Such adjustments should be determined in discussion with the employee beforehand.

In some situations a lay employee subject to this procedure may submit their resignation at a point before or during the proceedings. Management will consider the appropriate action based on the circumstances. In situations where there is evidence of criminal activity or there

is a safeguarding issue, Management may proceed with the disciplinary procedure in any event.

4. Confidentiality

The aim during an investigation or disciplinary procedure is to deal with matters sensitively and with due respect for the privacy of any individuals involved, so far as this is reasonably possible.

All lay employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter. Failure to do so could itself lead to disciplinary action.

Lay employees are not permitted to make any electronic recordings of any investigative meetings, disciplinary or appeal hearings. A representative, or any companion or witnesses who may accompany a member of staff to any meetings or hearings are also forbidden from making electronic recordings. However, a note taker will be present at formal hearings in order to produce and distribute a summary of the meeting; however this will not be verbatim.

A lay employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings, unless, in Management's discretion, it is considered that a witness's identity should remain confidential. This would only happen in exceptional cases where there is a risk that harm may be suffered by the witness and this risk is felt to outweigh any prejudice that may be suffered by the lay employee being disciplined in the event that they are not told of the witness's identity.

Witnesses must treat as confidential any information given to them in the course of an investigation or hearing, including the identity of any lay employees under investigation.

5. Investigation

The purpose of an investigation is to establish a fair and balanced view of the facts before deciding whether to proceed with a disciplinary hearing or take informal action. The amount and scope of investigation required will depend on the nature of the allegations and will vary from case to case. This may involve reviewing any relevant documents, interviewing the members of staff concerned and any witnesses, taking witness statements and any other action deemed appropriate by Management to fully establish the facts of the matter.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

Depending on the circumstances of the case, Investigating Officer may invite lay employee to attend an investigatory interview. Lay employee will be informed at the outset that the interview is an investigatory interview. There is no right for a companion to accompany them at an investigatory interview. *Airedale Methodist Circuit / ……. Church* reserve the right not to conduct an investigatory interview and to proceed directly to a disciplinary hearing.

Lay employees must cooperate fully and promptly in any investigation. This will include informing Management of the names of any witnesses they consider to be relevant to the

matter, disclosing any relevant documents to Management and attending any investigative interviews.

Where it is not possible to hold a face-to-face investigatory meeting, arrangements will be made for the meeting to be held remotely. *Airedale Methodist Circuit / ……. Church* will ensure that all participating in the process have access to the necessary technology. Lay employee's rights will not be affected, and we will ensure that the procedure remains fair and reasonable.

Where a lay employee's conduct is subject to criminal investigation, charge or conviction Management will investigate the facts before deciding whether to take formal disciplinary action. The employer will not usually wait for the outcome of any prosecution before deciding what action, if any, to take.

Where the lay employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, Management may have to take a decision based on the available evidence. A criminal investigation, charge or conviction relating to conduct outside of work may be treated as a disciplinary matter if we consider it to be relevant to the work undertaken by any of the individuals covered by this policy.

6. Suspension

In cases where the lay employee's continued presence in the workplace would hinder an investigation, Management may need to suspend the lay employee from work while an investigation or disciplinary procedure is ongoing. The suspension will be for no longer than necessary and will be kept under review. Management will confirm the arrangements to the staff member in writing.

While suspended a lay employee should not visit their place of work or contact any of their work colleagues, unless s/he has been authorised to do so in writing by Management. A suspended lay employee who attends or is a member of a Methodist Church must inform their manager of this when suspended in order to establish whether this attendance or membership has any bearing on the investigation.

Suspension of this kind is not a disciplinary sanction, is a neutral act, and does not imply that any decision has already been made about the case. Suspension will be on full pay.

7. Formal Disciplinary Procedure

7a. Written Information

Following any investigation, if Management considers there are grounds for disciplinary action, the lay employee will be informed in writing of the allegations against him/her and the basis for those allegations. This will normally include:

- a summary of relevant information gathered during the investigation;
- documents which will be used at the disciplinary hearing; and
- witness statements which will be used at the hearing, except where a witness's identity is to be kept confidential, in which case Management will give the lay employee as much information as possible while maintaining confidentiality.

It should be noted that such instances in which anonymity is allowed are rare and expert advice should be obtained from DLES prior to agreeing.

7b. Disciplinary Procedure

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

Where it is not possible to hold a face-to-face meeting, arrangements will be made for the meeting to be held remotely. *Airedale Methodist Circuit / ……. Church* will ensure that all participating in the process have access to the necessary technology. Lay employee's rights will not be affected, and we will ensure that the procedure remains fair and reasonable.

In good time before the hearing, the employer 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

Management will give the staff member a minimum of 5 working days notice of the date, time and place of the disciplinary hearing, and the names of those attending (unless it is necessary to protect the confidentiality of witnesses). If the lay employee wishes to submit any written evidence to the hearing they can do so. Names of witnesses must be submitted to the manager who will be chairing the meeting at least 2 days before the date of the hearing.

Where practical the hearing will be chaired by a manager who has not been involved in the investigation. The investigating officer will also attend to present the findings of the investigation.

For cases that involve the potential dismissal of a lay employee the Chair must be appointed by or on the authority of the Chair of the Management Committee, the Secretary of the Church Council or the Minister in Pastoral Charge, in consultation with the District Lay Employment Secretary, to ensure an appropriate level of independence.

The lay employee may bring a companion (work colleague or member of trade union) with him/her to the disciplinary hearing. The lay employee must take all reasonable steps to attend the hearing. If the lay employee or their companion cannot attend at the time specified s/he should inform Management immediately and an alternative time may be agreed usually within 5 working days of the original hearing.

If it is not possible to arrange a mutually convenient alternative time or Management is unable to contact the lay employee despite making reasonable attempts to do so, the hearing may proceed in their absence. The hearing may also proceed in the lay employee's absence if it is

considered that they have shown themselves to be persistently unwilling or unable to attend the hearing.

The purpose of the disciplinary hearing is to enable the Chair to consider the evidence and to enable the lay employee to respond to the allegations that have been made against him/her. If the lay employee has a companion, he or she may make representations to the Chair and ask questions, but should not answer questions on the lay employee's behalf. The lay employee may request a short adjournment in order to confer privately with his/her companion at any time during the hearing.

The process to be followed at the hearing is normally as follows:

- The Chair opens the proceedings by introducing all parties
- The Chair begins by presenting the allegations (this may also be done by the Investigating Officer), using evidence previously submitted and calling witnesses as appropriate.
- The Lay employee and his/her companion are given opportunity to set out their case and answer any allegations.
- At the hearing both the Chair and the lay employee may ask questions of any of the witnesses.
- The Chair may then ask questions of the lay employee.
- The Chair may then sum up their case The staff member may then sum up their response if they so wish
- The Chair will withdraw from the hearing to consider the case, including the evidence which has been submitted prior to the hearing prior to and during the hearing,
- Alternatively, the Chair may adjourn the disciplinary hearing if he or she feels that they need to carry out further investigations, such as re-interviewing witnesses in the light of any new points which the staff member has raised at the hearing. The lay employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- The Chair of the Hearing will inform the lay employee in writing of his/her decision concerning the disciplinary allegation(s), and the sanction to be applied, together with the reasons for his/her decision. The lay employee will also be informed of the right of appeal.

7c. Appeals

An appeal must be submitted in writing, to the Chair or the Secretary of the Management Committee and/or the Secretary of the Church Council or the Minister in pastoral charge stating the full grounds of appeal within 5 working days of the date on which the lay employee (the appellant) received written notification of the decision.

It is normally not sufficient to simply appeal because the lay employee is generally unhappy with the outcome of the hearing. Rather, the lay employee must set out clearly the grounds for appeal.

The appeal hearing will be heard by another impartial Officer, who will be either Secretary of the Management Committee, the Secretary of the Church Council and/or the Minister in pastoral charge who will give the staff member written notice of the date, time and place of the appeal hearing. The appeal hearing will be arranged without undue delay. Where it is not possible to hold a face-to-face meeting, arrangements will be made for the appeal hearing to

be held remotely. *Airedale Methodist Circuit / ……. Church* will ensure that all participating in the process have access to the necessary technology. Lay employee's rights will not be affected, and we will ensure that the procedure remains fair and reasonable.

As far as practicable, the appeal hearing will normally be conducted by a more senior manager than the person who chaired the original disciplinary hearing.

Appeals against dismissal will be heard by a nominated appeals panel of normally three members, chaired by the Chair of the District or their nominated representative. Nominations of the appeals panel members will be agreed by the Chair of the District.

No member of the appeals panel will have had direct involvement in the specific decision being appealed. Members of the appeals panel must declare any other conflict of interest to the Chair of the District.

The lay employee may bring a companion with him/her to the appeal meeting (see paragraph 8).

The order of the Appeal Hearing may be normally followed as below:

- The Chair will introduce all parties
- The lay employee (appellant) will present the basis for their appeal, and may use the evidence included in the appeal documentation previously submitted and also new evidence that is relevant, calling witnesses from the original hearing and any new witnesses as appropriate.
  The Chair of the Appeal Hearing may ask questions of the lay employee.

  N.B. There may be circumstances when exceptionally it may be appropriate for the Chair of the Appeal Hearing to call on the Chair of the original disciplinary hearing and any additional witnesses to attend the Appeal Hearing. In this situation both the Chair and the appellant may ask questions of the Chair of the original disciplinary hearing and the relevant witnesses.
- The Lay Employee may ask questions from the Chair of the Appeal Hearing
- The Chair may then sum up.
- If he/ she so wishes the lay employee may then sum up.

Following the appeal hearing the Panel of the Appeal Hearing may:

- confirm the original decision; or
- revoke the original decision; or
- substitute a different disciplinary sanction.

The Chair of the Appeals Panel will inform the lay employee in writing of the Panel's final decision as soon as possible following the appeal hearing, and normally within 5 working days. Under the policy there will be no further right of appeal.

The date on which any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, the lay employee will be reinstated with no loss of continuity of service or pay.

8. Right to be Accompanied

A lay employee may bring a companion to any disciplinary or appeal hearings under this procedure. The companion may be either a trade union representative or a work colleague. The lay employee should inform the Chair of the Disciplinary Hearing / Appeal Hearing the name of the representative as soon as possible prior to the hearing.

The Chair of the hearing may arrange for particular additional support to be available to the appellant at the hearing, to help overcome a particular difficulty such as a disability, or where the staff member has difficulty understanding English.

Acting as a companion is voluntary and staff members are under no obligation to do so. Lay employees will be allowed reasonable time off from duties without loss of pay to act as a companion.

If the lay employee's choice of representative is unreasonable the person conducting the hearing or appeal may ask him/her to choose someone else. For example:

- If in the Chair's opinion the companion may have a conflict of interest or may prejudice the hearing; or
- If the companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

9. Dismissals and Disciplinary Action

9a. Types of Offences

Offences which may be found to be minor, depending on the circumstances, include but are not limited to poor job performance involving sub-standard work, unsatisfactory time-keeping, absenteeism or some breaches of the *Airedale Methodist Circuit / ……. Church* regulations.

Offences which may be found to be serious, depending on the circumstances, include but are not limited to:

- poor performance or negligence resulting in actual or potential loss damage or injury;
- failure to comply with a reasonable management instruction;
- activities of impropriety*]*,whether or not within working hours, which the *Airedale Methodist Circuit / ……. Church* reasonably considers to be detrimental to or conflicting with the interests of the *Airedale Methodist Circuit / ……. Church*
- failure to disclose any personal interest of the lay employee which conflicts with any interest of the *Airedale Methodist Circuit / ……. Church* or
- breach of confidence relating to the *Airedale Methodist Circuit / ……. Church* other organisations involved with the *Airedale Methodist Circuit / ……. Church*

Gross Misconduct may include but is not limited to:

- serious negligence and/or disregard of Health and Safety and Security regulations resulting in actual or potential serious loss damage or injury;
- physical assault or attempted assault upon staff members volunteers or members of the public,
- theft or fraud,
- malicious damage to property,
- serious breach of safeguarding practice(s);,
- serious breach of any employment policy;,
- acts of bullying or harassment,
- deliberate breach of confidence relating to the *Airedale Methodist Circuit / ……. Church* or its affairs,
- gross misuse of the *Airedale Methodist Circuit / ……. Church* IT systems and telephone facilities, including but not limited to downloading of offensive material e.g. pornographic or racist etc. from the internet;
- falsification of records including reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- conviction on a criminal charge which is reasonably relevant to the staff member's work;
- conduct which is reasonably considered to demonstrably or potentially bring the *Airedale Methodist Circuit / ……. Church* into disrepute,
- the use or distribution of illegal drugs while at work;
- serious incapability at work brought on by alcohol
- misuse or abuse of social media in and outside work;
- making covert recordings of colleagues or managers;

Other acts of misconduct may come within the general definition of gross misconduct, which if alleged are likely to lead to disciplinary action. In addition, poor performance may lead to disciplinary action, up to and including dismissal. A finding of gross misconduct will normally result in dismissal without notice or pay in lieu of notice.

9b. Disciplinary Sanctions

The *Airedale Methodist Circuit / ……. Church* aims to treat all lay employees fairly and consistently. Disciplinary action previously taken against other lay employees for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

Depending on the seriousness of the matter (whether relating to conduct or poor performance) any of the following stages may be omitted.

9c. Stage One: First Written Warning

A first written warning will usually be given for:

- first acts of more serious misconduct or instances of poor performance, where there are no other active warnings on the lay employee's disciplinary record; or

- further misconduct or poor performance where informal action has not resulted in required improvement

The warning will set out the nature of the misconduct or poor performance (i.e. the findings of the disciplinary hearing), the change in behaviour required and over what period, and the likely consequences of further misconduct or poor performance.

The warning will be placed on the lay employee's personnel file and will remain active for a specified period from the date it is given, after which time it will be disregarded in deciding the outcome of any future disciplinary proceedings. The lay employee's conduct will be reviewed during and at the end of this period and if it does not improve as required Management may convene another hearing under this procedure.

9d. Stage 2: Final Written Warning

A final written warning will usually be given for:

- misconduct or poor performance where there is already an active warning on the record; or
- cases where there is no active written warning on file but the Chair of the Disciplinary Hearing considers that the misconduct or poor performance is sufficiently serious to warrant a final written warning.

The warning will set out the nature of the misconduct or poor performance, the change in behaviour required and over what period, and the likely consequences of further misconduct.

The warning will be placed on the lay employee's personnel file and will remain active for a period to be specified. The staff member's conduct may be reviewed during and at the end of this period and if it has not improved sufficiently a further hearing may be required at which the lay employee's future employment will be considered. After the active period the warning will be disregarded in deciding the result of future disciplinary proceedings, provided that sufficient improvement is attained.

9e. Stage 3: Dismissal

The Chair of a disciplinary hearing may decide to dismiss a lay employee in the following circumstances:

- misconduct or poor performance where there is an active final written warning on the staff member's record; or
- gross misconduct regardless of whether the staff member has received any previous warnings.

Gross misconduct will usually result in summary dismissal, that is, dismissal without notice or payment in lieu of notice.

In cases not involving gross misconduct the lay employee will be given his/her full contractual notice period, or payment in lieu of notice.

9f. Alternative Sanctions Short of Dismissal

In appropriate cases the Chair of the Disciplinary Hearing may consider some other sanction short of dismissal, such as:

- demotion;
- transfer to another role (where performance will continue to be monitored);

These sanctions may be used in conjunction with a written warning.

10. Decisions

Actions short of dismissal may be taken by the Chair of the disciplinary hearing.
The decision to dismiss a lay employee may only be made by, or on the authority of the Secretary of the Management Committee, the Secretary of the Church Council or the Minister in pastoral charge in consultation with the District Lay Employment Secretary.

Last Date Modified by Connexion: April 2021

CHECKLIST FOR THE DISCIPLINING OFFICER

REGARDING THE DISCIPLINARY HEARING

☐ Have all parties been made aware of the disciplinary charges

☐ Is the evidence provided balanced and comprehensive, or is there further evidence required

☐ Have all parties had reasonable access to copies of the evidence provided

☐ If required have appropriate witnesses been called

☐ Has reasonable time been given for all parties to respond to alleged charges

☐ As the Disciplining Officer, have you been able to ask any questions you have of all parties pertaining to the disciplinary charges

☐ As the Disciplining Officer, are you satisfied that there is comprehensive and balanced evidence upon which to make a decision, or whether further investigation is required

nb. The Disciplining Officer should normally inform the employee in writing of their decision regarding the disciplinary charges and any sanctions to be applied, together with the reasons for their decision. The employee will also be reminded of the right of appeal.

CHECKLIST FOR THE APPEAL OFFICER

REGARDING AN APPEAL HEALING

☐ Has the employee (appellant) presented the basis for their appeal, the basis of the appeal must demonstrate at least one of the three points listed under 7c.

☐ Are any further questions required of the employee (appellant)

☐ Is any further evidence required from the Chair of the original disciplinary hearing regarding why they came to their decision

nb. Once the appeal has been heard no further evidence may be submitted by either the employee (appellant) or Chair of the original hearing.

☐ Having heard the basis of the appeal, questioned all parties and considered any new evidence, do you wish to

- confirm the original decision; or
- revoke the original decision; or
- substitute a different disciplinary sanction.

The Appeal Officer will normally inform the employee in writing of the Panel's final decision as soon as possible following the appeal hearing, usually within 5 working days.

nb. Dismissal will take immediate effect and is not delayed pending the outcome of an appeal. If the appeal is successful, the employee (appellant) will be reinstated with no loss of continuity of service or pay. Following the decision of the Appeal Officer, no further internal appeal may be heard.