

**Code of Discipline, Disciplinary
and Appeals Procedure**

1. Aims

The purpose of the Code is to provide:-

- . a sound basis for the maintenance of discipline throughout the Company;
- . a clear understanding between Management and employees of the need for discipline; and
- . a mutually acceptable and well-publicised procedure for dealing with breaches of discipline.

A Code of Discipline is necessary for the fair treatment of all employees and the following proposals (in conjunction with the Discipline Procedures) set standards of performance and behaviour at work. The Code of Discipline and Discipline Procedures are designed to promote fairness and consistency in the treatment of individuals. The procedure seeks to ensure that satisfactory standards are maintained and provides a fair method of dealing with any shortcomings.

2. Responsibilities

The formulation and promulgation of disciplinary rules including the classification of offences has been undertaken as a Management responsibility.

The Chief Executive is responsible for ensuring that the rules and accepted standards of behaviour and performance are known to all employees.

Employees, for their part, are expected to familiarise themselves with these rules and standards, and to abide by them.

3. Principles

Discipline need not be punitive. It is also intended to teach and to correct, to bring employees' shortcomings to their attention and provide an opportunity to improve. Before taking any action, thorough investigations should be carried out and employees at all times should be made aware of the cause for complaint and be given the opportunity to state their case.

The rights of appeal and representation at all stages of the procedure are guaranteed. The Code of Discipline outlines the essential features of a fair and reasonable disciplinary procedure, indicating that:-

- 3.1 An important aim of this Code is to encourage employees whose conduct or standard of work performance is unsatisfactory, to improve to acceptable levels.
- 3.2 The procedure is designed to work as quickly as possible, consistent with thorough investigation of the facts at each stage. Disciplinary investigations and hearings will be undertaken promptly at all stages and will not, unless in exceptional circumstance, normally be delayed for longer than 2 working days following the discovery of the offence. It should be noted that on occasions the timescales will require to be operated flexibly by the parties concerned.

- 3.3 Employees will be informed of complaint(s) against them in writing, and be given reasonable time to prepare their case within normal working hours due allowance to be made for shift/part time workers, job share etc. prior to a formal disciplinary hearing.
- 3.4. Employees suspended pending investigation or formal hearing i.e. precautionary suspension will be entitled to full pay and maintenance of conditions, including average bonus, shift allowance, contractual overtime etc.
- 3.5. Employees will have the right, at any stage of the procedure, to be represented by a Trade Union representative/official or employee of their choice. It will be the responsibility of the employee to ensure that their representative is present at any stage of the procedure. The Company will facilitate the release of any representative chosen who is an employee of the Company. This will include adequate time off with pay to represent the employee.
- 3.6 Employees will be made aware of the complaints and will be given the opportunity to state their case before disciplinary action is considered.
- 3.7 Employees will have the right of appeal against disciplinary action.
- 3.8 Employees must always be informed in writing of any disciplinary action and reason for it, their right of appeal and how to lodge an appeal.
- 3.9 The employee's Trade Union or other representative will be informed and given a copy of the notification of any disciplinary action, if the employee so wishes.
- 3.10 Employees will on receipt of written notification/confirmation of disciplinary action acknowledge receipt by signing and returning a copy to be lodged in the section dealing with personnel matters. A copy will be made available to the employees Trade Union only if the employee agrees.
- 3.11 The level of Management authorised to impose each form of disciplinary action will be clearly known to Management and employees.
- 3.12 The level of Management authorised to consider appeals against disciplinary action will be clearly known to Management and employees.

4. Dismissal.

4.1 Summary Dismissal

Employees will not normally be dismissed for a first offence but certain cases of gross misconduct may lead to summary dismissal without any prior warning, verbal or written.

Types of offences which constitute Gross Misconduct are outlined in para 6 of the

Code. If employment is terminated in these circumstances the employee has no entitlement to notice under the Employment Rights Act 1996 and the Company reserves its right to impose summary dismissal.

4.2 Dismissal with Notice

Examples of Unsatisfactory Conduct are detailed in para 7 of the Code. If employment is terminated in these circumstances the employee has entitlement to notice under the Employee Rights Act 1996, but the Department may give a payment in lieu of the appropriate notice in exceptional circumstances.

5. Listing Offences

While it is not possible to list all offences or to specify the nature of the disciplinary action in each case, every offence will be carefully considered and disciplinary action taken according to the gravity of the offence, the employee's record and mitigating circumstances.

6. Gross Misconduct

The following are examples of Gross Misconduct. The decision as to whether the employee's conduct can be construed as Gross Misconduct will be dependent on full consideration of all the facts and circumstances. If it is found that an offence comes under the heading of one of these examples, the extent and degree of the offence must be considered before the severity of disciplinary action is determined. The list of offences here is necessary to ensure that employees and Management recognise the relevant seriousness of breaches of the Code:-

- 6.1 Serious offences against the interests of the Company, including wilful injury to others and wilful damage to Company property;
- 6.2 Incapacity on duty due to the effect of intoxicating liquor or drugs;
- 6.3 Fraudulent salary/wage claims;
- 6.4 Misuse or abuse of documents, clock cards, flexi time systems or other payment records;
- 6.5 Falsification of official documents, stock cards etc;
- 6.6 Gross insubordination;
- 6.7 Neglect of duty resulting in serious consequences;
- 6.8 Failure to obey critical safety rules, e.g. smoking in an area prohibited for safety reasons;
- 6.9 Fighting in the workplace;
- 6.10 Theft from employer or fellow employees;

- 6.11 Theft from the public while at work;
- 6.12 False particulars given to secure employment with the Company (which could have affected the decision);
- 6.13 Criminal convictions having a material bearing on employment;
- 6.14 Persistent refusal to comply with a reasonable instruction or order;
- 6.15 Abusive behaviour toward colleagues and/or the public or customers of the Company, including matters of a racial or sexual nature;
- 6.16 Unauthorised use of Company vehicles and equipment;
- 6.17 Exceptionally serious offences of the types listed under para 7, "Unsatisfactory Conduct".
- 6.18 Abusive behaviour or statements made on any social media platform, for example statements which are bigoted, hateful or discriminatory
- 6.19 Serious breach of the Company's Code of Conduct
- 6.20 Serious breach of the Company's policies, including Social Media Guidance for Staff

This list is not exhaustive.

7. Unsatisfactory Conduct ("Other than Gross Misconduct").

Instances of failure to observe and maintain discipline which are less serious than offences constituting Gross Misconduct as described in para 6 are termed Unsatisfactory Conduct and may lead to warnings. Dependent upon the employee's disciplinary record, action up to and including dismissal may be taken.

Offences under this heading include:-

- 7.1 Bad time-keeping/abuse of flexi-time;
- 7.2 Unacceptable levels of attendance;
- 7.3 Unauthorised absence;
- 7.4 Unacceptable standard of work performance;
- 7.5 Negligence;
- 7.6 Refusal to carry out a reasonable instruction or order.
- 7.7 Unacceptable use of ICT facilities
- 7.8 Minor breach of the Company's Code of Conduct

7.9 Minor breach of the Company's policies, including Social Media Guidance for Staff.

This list is not exhaustive.

8. Discipline Procedure

8.1 Aims

The purpose of the Discipline Procedure is to ensure that the Code of Discipline is adhered to and to provide a fair method of dealing with alleged failures to observe the Code of Discipline.

8.2 General

8.2.1 The Chief Executive will be responsible for conduct and discipline within Glasgow Life and have the right to warn, dismiss, suspend with loss of pay, withhold sickness allowance, where appropriate withhold increments, or demote employees, subject to the right of appeal against disciplinary action.

8.2.2 These procedures will apply to all employees of the Company. The procedures to be adopted in the event of discipline or disciplinary matters in respect of the Chief Executive differ only insofar as his/her responsibilities are to the Board.

8.2.3 The formulation of the procedures setting out the course of action to be followed in the consideration of disciplinary cases with the appropriate Trade Unions.

8.3 Responsibility of Management

8.3.1 In accordance with the Code of Discipline, the Chief Executive is responsible for ensuring the maintenance of disciplinary standards. It is recognised, however, that it is appropriate for the Chief Executive to delegate this authority to nominated officers under his/her control.

8.3.2 The Chief Executive will identify the appropriate nominated officers, the limit of their authority with regard to levels of disciplinary action and the appropriate officers who will consider appeals. In doing so account should be taken of special requirements for shift workers and staff based in locations where appropriate senior officers may not always be available or in attendance. The Chief Executive should provide this information to Trade Unions and to all employees under their control and it should also be available with the Code of Discipline and the Disciplinary Procedures.

8.4 Responsibility of the HR Officer

8.4.1 An HR Officer (or officer with designated responsibility for HR matters) is available to offer advice to Management in the consideration of items under the Code of Discipline and Disciplinary Procedures. Although local management is responsible for the investigation and conduct of disciplinary matters within their level of authority, the HR Officer may be of assistance to them in interpreting the Code of Discipline and the Disciplinary Procedures in terms of the practice throughout the Company. In instances of Gross Misconduct and/or instances of potential serious misconduct the

HR Officer will be present at the disciplinary hearing to provide advice and will be responsible for intimating the decision of the Chief Executive (or nominated officer) regarding the Disciplinary Hearing and any disciplinary action arising from it and in the event of appeal will be available to assist local managers in the preparation and presentation of their case to the Appeals Panel and any subsequent Employment Tribunal.

- 8.4.2 The HR Officer (or person with designated responsibility for personnel matters) will also ensure that records detailing the nature of the breach of disciplinary rules, the action taken and the reasons for it, the date the action was taken and whether an appeal was lodged, its outcome etc., are maintained.

8.5 Responsibility of the Chief Executive

The Company will appoint appropriate legal advisers who in consultation with the Chief Executive and the HR Manager will assist in the preparation and presentation of Employment Tribunals.

8.6 Precautionary Suspension

- 8.6.1 Managers/Supervisors shall have the necessary delegated power to apply precautionary suspension to an employee who is considered to be creating a situation whereby he or she is either a danger to either him/herself or other employees or the alleged conduct has a significant bearing on the employee's duties. This shall entail the employee being sent from the workplace and reporting to the Chief Executive (or nominated officer) when required but in any event not later than the next working day. At this time an investigatory hearing and/or disciplinary hearing may be convened by the Chief Executive (or nominated officer). The employee should be given reasonable time to prepare his/her case and be given copies of any relevant reports, documentation etc.

- 8.6.2 Circumstances may arise in which an employee is suspended by the Chief Executive (or appropriate nominated officer) either:-

- to facilitate investigation into charges of misconduct or irregularity; or
- as a necessary precaution in the Company's interest in circumstances which involve, or may involve, criminal proceedings against the employee.

Precautionary suspension is not a punitive measure and will be with pay.

- 8.6.3 In circumstances, where the precautionary suspension is likely to extend over a period of time Management shall inform the suspended employee on a regular basis of the reasons for the continued suspension. Such information should be given at least every 2 weeks. The suspended employee should be given some indication when the investigation is anticipated to be completed.
- 8.6.4 Alternatively where appropriate an employee may be transferred to other duties to facilitate an investigation. There should be no loss of pay in these circumstances.

8.7 Counselling

After establishing the facts, the Manager/Supervisor may consider there is no need to take disciplinary action and that it is sufficient to talk the matter over with the employee. Such discussions should normally take place out of the hearing of other employees unless it is operationally necessary to do so immediately. Management and staff should be clear about the difference between counselling of this kind and a verbal warning issued as part of the formal procedure, and the employee should be left in no doubt as to which sort of action has been taken. Counselling should not be documented in the employee's personal record although the Manager/Supervisor will keep a diary note for reference purposes.

9. The Formal Procedure in Operation

When a disciplinary matter arises and it is considered that action beyond an informal counselling may be called for, the following procedure should apply:-

9.1 Complaint and Investigatory Stage

- 9.1.1 The Manager/Supervisor should establish the facts of the matter promptly before memory fades including interviewing, recording and taking into account the statements of any witnesses. Where the allegations involve possible misappropriation, fraud or embezzlement, there may be a requirement to notify the Company's Finance Officer and/or the Police. In potentially serious cases of defalcation, fraud or embezzlement the Chief Executive should be notified who will in turn inform the Director of Finance. Advice should be sought from the officer with designated responsibility for HR matters prior to any investigation being initiated.
- 9.1.2 Consideration may be given to a period of precautionary suspension of an employee where this is considered appropriate in order to conduct the investigation.
- 9.1.3 Having considered the initial investigation and ascertained the nature of the complaint, the Manager/Supervisor should interview the employee concerned and advise of the allegation and complaints made against him/her. The employee should be given a written statement of the allegations and be advised of his/her rights under the Disciplinary Procedure, including the right to be represented by a Trade Union representative/official or employee of their choice.
- 9.1.4 A note of the meeting should be taken for record purposes. If more time is needed to consider the matter further the interview may be adjourned and resumed later.
- 9.1.5 If the Manager/Supervisor considers that there is no complaint under the Code of Discipline, the member of staff should be informed and the matter concluded. Alternatively, if it is considered that there is a complaint to be answered, the matter should then be referred to the appropriate nominated officer who will advise the employee of the time, date and place of the formal disciplinary hearing including his/her right to be represented by a Trade Union Representative/official or employee of their choice. The employee should be given reasonable time to

prepare his/her case and be given copies of any relevant reports, documentation etc.

Where there is no dispute of the facts or where no investigation is required because the facts are already available then it is possible to proceed to the disciplinary hearing stage without a requirement to conduct a prior investigatory hearing. The disciplinary hearing should of course be conducted within the general terms of the Disciplinary Procedures.

9.2 **Disciplinary Hearing Stage**

The employee will be invited to a meeting in writing, the letter detailing the nature of the allegations. The appropriate nominated officer shall convene and chair the disciplinary hearing at which the allegations can be examined. If appropriate, the officer with designated responsibility for HR matters will also be in attendance. A record of the meeting shall be made. The procedure to be adopted shall be as follows:-

- 9.2.1 The Manager/Supervisor making the allegations will be present and will state the case giving rise to the allegations supporting this with witnesses/statements where appropriate.
- 9.2.2 The employee and his/her representative will respond to the allegations and call witnesses or give statements as appropriate.
- 9.2.3 Both parties' will have the opportunity to question each other's case and the Chairperson will have the opportunity to ask questions of either party.
- 9.2.4 The Chairperson should come to a clear view of the facts, bearing in mind all the available information before any decision is taken about disciplinary action.
- 9.2.5 if more time is needed to consider the matter or further investigations are necessary, the hearing should be adjourned and resumed as soon as is practically possible.
- 9.2.6 In certain circumstances where there is little dispute about the facts or no cause for a major investigation has taken place or in cases of minor offences then it may be unnecessary to have a Manager/Supervisor presenting the case. This role can be covered by the Manager/Supervisor chairing the hearing.

In these circumstances advice should be sought from the officer with designated responsibility for personnel matters.

9.3 **Consideration**

After establishing the facts and before deciding whether disciplinary action is appropriate and the form any such action should take, consideration should be given to the following:-

- 9.3.1 The employee's disciplinary record.

- 9.3.2 The employee's awareness of the standard of behaviour and performance and conduct.
- 9.3.3 The employee's position, general performance and conduct and understanding of the Company's expected standards.
- 9.3.4 Any mitigating circumstances, e.g. health or domestic problems.
- 9.3.5 Whether the Code of Discipline indicates what the likely action may be as a result of the particular misconduct which has been found.
- 9.3.6 The disciplinary action taken in similar cases in the past.
- 9.3.7 Whether the proposed action is reasonable and in accordance with the Code of Discipline, giving account to all the circumstances.

9.4 **Disciplinary Action**

Where it is decided that disciplinary action is appropriate, the following levels of such action and procedures should be considered with the level of action being dependent on the severity of the offence:-

9.4.1 Verbal Warning.

In the case of a minor offence warranting admonition, the appropriate Manager/Supervisor shall give a verbal warning to the employee, which shall be confirmed in writing for record purposes.

9.4.2 Formal Written Warning.

In the case of further minor offences or a more serious instance of Unsatisfactory Conduct, the appropriate nominated officer shall give a formal written warning to the employee.

9.4.3 Final Warning.

In the case of further minor offences or a serious instance of unsatisfactory conduct, the appropriate nominated officer shall give a final warning to the employee. At the same time, the full-time official of the employee's Trade Union shall be given a copy, where appropriate. A final warning may be extended beyond 12 months should a further minor breach of discipline occur.

9.4.4 Punitive Action Short of Dismissal.

In addition to issuing warnings the appropriate nominated officer may consider punitive disciplinary action short of dismissal including disciplinary transfer, suspension without pay, demotion, loss of seniority, withholding of sickness allowance or loss of increment.

Special consideration should be given before imposing punitive disciplinary action

involving loss of pay; any such loss of pay should not normally be for a prolonged period and should be reasonable in relation to the offence and the circumstances surrounding it. In most cases it should not normally exceed 2 weeks.

9.4.5 Dismissal.

In the event of further repeated minor offences of Unsatisfactory Conduct the final step will be dismissal. In the case of Gross Misconduct an employee can be dismissed summarily. Management should only move to dismiss when satisfied that all other avenues have been explored.

9.5 **Written Confirmation of Disciplinary Action**

All disciplinary action taken will be confirmed in writing to the employee who will confirm, in writing, receipt of the letter.

The written confirmation of disciplinary action will:-

- 9.5.1 Detail the nature of the misconduct giving rise to the action.
- 9.5.2 State, if appropriate, the period of time given for improvement and the standard of performance and conduct which is expected.
- 9.5.3 Confirm the level of disciplinary action taken and how long this action will be held on record.
- 9.5.4 Confirm the likely consequences of further misconduct.
- 9.5.5 Inform of the right to appeal and how it should be made and to whom.
- 9.5.6 Inform that if intending to appeal a statement giving the grounds of appeal will require to be submitted within 2 weeks of receiving the written confirmation.

10. **Time Limit of Disciplinary Action**

Disciplinary action will remain on the employee's record and will be considered should there be further disciplinary action necessary during its period on record. Warnings will have a specific time limit. On completion of a period of satisfactory conduct any record or warning will be expunged from the employee's record and he/she will be considered to have made a fresh start. The appropriate period will be as follow:-

Verbal Warning	6 months
Written Warning	6 months
*Final Warning	12 months
Punitive Action Short of Dismissal	12 months

A Final Warning may be extended beyond 12 months should a further minor breach of discipline occur.

11. Appeals

11.1 Appeal Against All Disciplinary Action Short of Dismissal

Appeals against all disciplinary action short of dismissal may be made to the relevant manager within 14 days of receipt of confirmation of the disciplinary action. The Manager (or appropriate nominated officer) will arrange an appeal hearing normally within a further 14 days. The procedure for the appeal hearing will be as per the Appeal Procedure.

11.2 Appeals Against Disciplinary Action Given by Chief Executive

Where disciplinary action has been taken by the Chief Executive, the appeal will be heard by a specially convened sub-committee of the Board of Glasgow Life. The procedure for the appeal hearing will be as per the Appeal Procedure.

11.3 Appeals against Dismissal

Where an employee has been dismissed, the employee shall be notified in writing of the reason for such action, and if the employee considers the dismissal is unfair, an appeal may be lodged in writing with the HR Manager either individually or through a Trade Union within 14 days of receiving written notification of the disciplinary action. Such appeals will be heard by an Appeal Panel of two Directors/Heads of Service, or equivalent, and an Officer with responsibility for HR matters. The procedure for the appeal hearing will be as per the Appeal Procedure.

11.4 Appeals against Disciplinary Action.

Appeals against verbal/ formal/final warnings and punitive action short of dismissal will be heard by a nominated officer at least of the same grade as the officer giving the warning and in all cases will be an officer uninvolved in the original disciplinary process.

12. Trade Union Representatives/Officials

Normal disciplinary standards will apply to Trade Union representatives/officials' conduct as employees of the Company but no disciplinary action should be taken until the circumstances of the case have been discussed with a full time official, unless local arrangements have been agreed.

13. Criminal Offences

Where an allegation of a criminal offence arises from the employment or has a bearing on the employment, the circumstances should be ascertained from the employee and investigated as fully as possible. Consideration should be given to all likely explanations for what has happened. Where the Police are called in, they should not be asked to conduct the disciplinary investigation on behalf of the Company or to be present at the disciplinary interview. The disciplinary investigation and the criminal investigation should be handled separately by the appropriate authorities since the Company's interest and the Police interest and their

consideration as to the nature of the circumstances differ. Before any decision is taken about disciplinary action, reasonable grounds must be established for believing that the individual committed the particular offence.

In considering criminal offences not arising from the employment or having a direct bearing on the employment, consideration should be given to the relevance of the alleged offence to the duties of the individual as an employee. The main consideration should be whether the alleged offence is one that makes the individual unsuitable for continuing employment in his/her type of work or unacceptable to other employees. Employees should not be dismissed solely because a charge against them is pending or because they are absent through having been remanded in custody. Where an employee is on bail pending a court hearing or an appeal and is still available for work, any decision concerning dismissal should be postponed if practicable, bearing in mind the effects on the Company's activities, until the outcome of the case or the appeal is known.

The Company as an employer has an interest if any employee is alleged to have committed a criminal offence whether the offence relates to employment with the Company or not. In considering such matters the Chief Executive (or nominated

officer) should decide whether sufficient information exists before proceeding to a disciplinary hearing and issuing disciplinary action. The Chief Executive and nominated officers are not expected to establish whether the employee committed the offence beyond reasonable doubt but rather whether the employee on the balance of probability committed the offence (reasonable belief). There is no requirement to await the outcome of a criminal charge through the Courts.

Where a custodial sentence is imposed and the employee is not available for work, the Chief Executive (or nominated officers) must be mindful of the need to act reasonably in the light of the needs of the Company before deciding whether or not to dismiss. Where disciplinary action is not justified by the nature of the actual or alleged offence but the employee is not available for work because of a custodial sentence, or through being remanded in custody, the question to be determined is whether in the light of the needs of the Company the employee's job can be kept open.

14. **Alcohol Drug Misuse and Gambling Recovery Programme**

In accordance with the terms of the Company's Policy Statements on Alcohol and Drug Misuse and Gambling Addiction, an employee with such a problem should be given the opportunity of accepting referral to the counselling services arranged by the Company. Care First or other agreed agency, and the employee accept that an alcohol, drug or gambling problem exists and providing the employee undertakes to co-operate and successfully undertakes the recovery programme, disciplinary action will be suspended in respect of the offence which led to the referral.

Offences which are either not related to the reason for referral or offences which are considered to be of such a serious nature will be dealt with in the normal way. If the employee is not accepted by the counselling service as having an alcohol, drug or gambling problem and therefore cannot be considered for the recovery programme,

the appropriate disciplinary action should be taken as normal. If the employee is accepted for counselling but does not complete the recovery programme, the suspension of disciplinary action which came into effect on referral will be removed and consideration of the original breach of discipline should be re-opened and the appropriate disciplinary action taken.

15. **Disciplinary Procedure for Senior Managers**

The foregoing procedures shall apply to Directors/Heads of Service or equivalent with the exception that appeals against verbal/written warnings, given by the Chief Executive, may be made to a specially convened subcommittee of the Board of Glasgow Life within 14 days of notification.

- 15.1 The Chief Executive will be responsible for all matters affecting the discipline of Directors.
- 15.2 Where a Director's work, conduct or omission is such as to warrant disciplinary action, the Chief Executive shall initiate the necessary action.
- 15.3 Any disciplinary matter will be considered within the foregoing Disciplinary Code and Procedures.
- 15.4 Appeals against all disciplinary action taken by the Chief Executive will be heard by a specially convened sub-committee of the Board of Glasgow Life. Any such appeal will be lodged with the HR Manager within 14 days of receipt of confirmation of the disciplinary action.

16. **Disciplinary Procedure for the Chief Executive**

- 16.1 If the Board has cause for complaint against the Chief Executive, it is recommended that the matter be investigated by a Committee of the Board set up specifically for this purpose. The Chief Executive shall have a right of appeal against the findings of this Committee.
- 16.2 Any appeal should be heard by the remaining Board Members, or a special Committee set up by the Board with delegated authority. Board Members who sat on the Disciplinary Committee shall be excluded.
- 16.3 Any meeting of the Committees relating to disciplinary action shall be held in private.

17. **Disciplinary Levels of Authority**

All officers within the service on Grade 5 and above are authorised to take disciplinary action up to and including final written warning.

Officers on Grade 7 and above are authorised to take action up to and including Dismissal.