

# DISCIPLINARY AND CAPABILITY PROCEDURE

Name of Policy	Disciplinary and Capability Procedure
Owner	HR
Reviewed:	September 2015 July 2017
Review Period	1 year
Related documents:	ACAS Code of Practice for Disciplinary Disciplinary and capability notes for managers

**This policy contains the following:**

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## 1. INTRODUCTION

It is not Church Army’s intention to impose unnecessary rules or standards of behaviour, but recognises that some rules and procedures are essential to promote fairness and to maintain good order in the interest of the organisation and its employees. The disciplinary procedure is designed to help and encourage all employees to achieve and maintain acceptable standards of performance and conduct. It should therefore not be viewed just as a means of imposing sanctions or as necessarily leading to dismissal, but as a way of facilitating and encouraging improvement on the part of the employee.

We prefer that discipline should be voluntary and self-imposed and in the majority of cases, this is how it works. There are times, however, when it becomes necessary to take action against an employee whose behaviour or performance is unacceptable. The following procedures, which have been drawn up with the benefit of detailed advice from ACAS and which will be operated in accordance with the ACAS Code of Practice, provide a fair method of dealing with alleged failures to observe Church Army rules and standards. They are for guidance only and are not intended to be contractually binding.

## 2. PRINCIPLES

- At all formal stages the employee has the right to be accompanied by a work colleague or trade union representative of his/her choice.
- Minor infringements of accepted standards of performance or conduct will be dealt with informally, without recourse to the procedure. Where this does not lead to improved performance or conduct, or where the matter is more serious, the procedure should be used.
- No disciplinary action will be taken against an employee until the case has been fully investigated, and there is clear evidence to support disciplinary action.
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be summary dismissal.
- Where as a result of an investigation it is found that there is no case to answer, all documentation relating to the case will be destroyed.
- An employee who is subject to the disciplinary procedure will be given clear explanations (in writing) of any warning periods or any penalties imposed.
- The employee will be given adequate time within the warning period to improve his/her conduct or performance before any further disciplinary action is considered. Clear standards of performance will be given.
- Any disciplinary action should be taken as quickly as possible and as closely as possible to its point of origin.

## 3. SCOPE

This procedure will apply to all those employed by Church Army, with the exception of those who are in their probationary or extended probationary period (a maximum total of 10 months). It excludes Evangelists in Training and independent students, for whom a separate procedure applies, which is similar to this procedure but reflects the fact that these people are not employed by Church Army.

**N.B. Disciplinary action must not be taken without reading all of this procedure.**

## 4. THE PROCEDURE IN OPERATION

Line managers can give informal verbal warnings for the purpose of improving conduct or performance at any time. These informal warnings are not part of this procedure.

The following standard 3 step formal disciplinary procedure must be followed if formal disciplinary warnings or sanctions are contemplated.

### Step 1.

Church Army may if necessary decide to hold an informal meeting and/or suspend on full pay to allow investigations to take place; if an informal meeting is held the employee must be told that it is an informal meeting. Authority to suspend can only be given by a Senior Manager of the Establishment/Department. Such a suspension will last for as short a period as possible, and shall not exceed 7 days without the prior approval of a senior manager. It should be made clear that suspension does not imply guilt. Suspension will be on full pay.

The employer must give the employee in writing the nature of the employee's conduct, capability or other circumstances that may result in a formal warning, dismissal or sanction short of dismissal. The employer must give the basis or reason of his complaint in sufficient detail for the employee to understand and invite the employee to attend a disciplinary hearing at a reasonable time (minimum 24 hours notice) and place and stating that the employee can be accompanied by a work colleague or Trade Union representative.

### Step 2.

The employee must take all reasonable steps to attend and if s/he cannot attend he must give reasons in writing. The manager chairing the hearing should be accompanied by HR, or another manager, who may also take notes. Any member of management responsible for the investigation of the disciplinary offence(s) may present any supporting facts and material to the disciplinary hearing. At the hearing the employee must be given ample opportunity to reply to any allegations. The person accompanying the employee should not answer direct questions to the employee but may ask questions to clarify matters or request adjournments.

The Chair of the meeting may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The employee will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with his/her fellow worker or trade union official, to consider the new information prior to the reconvening of the disciplinary proceedings.

After the hearing has been concluded the employer **must** inform or confirm to the employee in writing their decision; refer to this procedure; and confirm the right of appeal. The letter should normally be sent to the employee within seven days of the hearing.

### Step 3.

If the employee wishes to appeal s/he must notify the person designated for the appeal in writing within ten working days. Church Army will then appoint a new Chair, who will invite the employee to a further hearing to appeal against the employer's decision at a reasonable time and place, and stating that the employee can be accompanied by a work colleague or Trade Union representative.

At its conclusion the person hearing the appeal shall confirm in writing within seven working days of the appeal that:

- a) The warning or notice should not have been given and all reference to it will be deleted from the employee's records; or

- b) The warning or notice stands and remains effective from the date it was originally issued; or
- c) The sanction given may be changed.

The decision by the person hearing the appeal shall be final as far as Church Army is concerned.

## 5. DISCIPLINARY OFFENCES

It is not practicable to list all the offences which are likely to result in formal disciplinary action. The following are examples of offences and are grouped under the three headings of Unsatisfactory Conduct or Capability, Misconduct or Negligence and Gross Misconduct or Negligence. The list of examples is not exhaustive:

### **Unsatisfactory Conduct or Capability**

- Unsatisfactory attendance record
- Bad timekeeping
- Unauthorised absence
- Unsatisfactory work/lack of capability
- Minor violations of safety practices
- Initial refusal to obey a reasonable instruction

### **Serious Misconduct or Negligence**

- Serious neglect of work, or continued unsatisfactory work
- Incapacity at work due to alcohol or drugs
- Serious breach of safety rules or procedures
- Breach of safeguarding procedures
- Objectionable and/or insulting behaviour
- Subsequent refusal to obey a reasonable instruction

### **Gross Misconduct or Negligence**

- Theft of Organisational property or other theft committed in the course of employment
- Violent behaviour or threats of violence
- Discrimination, harassment, bullying, victimisation and certain types of insulting behaviour
- Certain gross breaches of duty which have an immediate and substantial effect on the individual's capacity to do his/her job
- Actions or behaviour which would be seriously prejudicial to Church Army or its work
- Falsifying time sheets or giving false information about one's own or another employee's time records.
- Wilful destruction of Church Army property
- Wilful and or serious breach or neglect of safety rules or procedures
- Wilful or serious breach of safeguarding procedures
- Use of Church Army time and/or equipment for employees own and/or a third party's benefit without the permission of a member of Senior Leadership Team.
- Prolonged unauthorised absence without satisfactory explanation
- Possession, custody or control of illegal drugs on the organisation's premises;

Conviction of a criminal offence that is relevant to the employee's employment;  
 Conduct that brings Church Army's name and reputation into disrepute

Example of the type and number of disciplinary offences and probable formal disciplinary warnings or sanctions:

Type of offence	1 <sup>st</sup> occasion	2 <sup>nd</sup> occasion	3 <sup>rd</sup> occasion
Unsatisfactory conduct or capability	Formal written	Formal final	Dismissal or sanction short of dismissal
Misconduct or negligence	Formal Final written warning	Dismissal or sanction short of dismissal	
Gross Misconduct or negligence	Dismissal or sanction short of dismissal		

Where a **formal written warning** is given, the employee will be advised of the reason for the warning and that this is the first stage of the procedure. Any plans for corrective action will be set out, along with a timescale for review. The employee will be informed that this is the first stage of the disciplinary procedure.

They will be advised that the warning remains in force for 6 months. At the end of that period, subject to satisfactory conduct, the warning will be deleted from the records and the employee will be informed that this has been done.

A **final written warning** is given because of repetition of the offence, or lack of improvement (which may be within 6 months depending on the nature of the problem) or in the first instance of serious misconduct. This will state the nature of the offence and that the likely consequence should the employee's conduct continue to be unacceptable will be dismissal, and that the warning will remain in force for 12 months. After the end of that period, subject to satisfactory conduct, the warning will normally be deleted from the records and the employee informed.

**Dismissal or Action Short of Dismissal** - Failure to meet the requirements set out in the final written warning will normally lead to dismissal with appropriate notice of termination, or payment in lieu of notice.

## 6. IMPORTANT NOTES

6.1. Church Army reserves the right to suspend on full pay any employee pending investigations into any disciplinary matter which may lead to a formal warning or

dismissal or sanction short of dismissal.

- 6.2. Any breach of the rules or any misconduct not specifically mentioned above, may be dealt with by disciplinary procedure. The taking of disciplinary action by Church Army does not preclude the possibility of action in Civil or Criminal Court, whether initiated by Church Army, the individual or the Civil Authorities.
- 6.3. During the probationary period or extended probationary period (a maximum total of 10 months), employment can be terminated without the need for formal written warnings if the employee is found to be so unsuitable that in the opinion of management training or counselling would not be appropriate. However, the right of appeal applies to all employees.
- 6.4. If dismissal has been caused by an act of Gross Misconduct, Church Army will be under no contractual obligation to make any payment of notice and if appealing after gross dismissal no payment will be made for attendance at the appeal.
- 6.5. Whilst formal warnings can only be issued after following the 3 step procedure above, informal warnings can be given by Supervisors/Managers at any appropriate time and place but these are not part of the above procedure.
- 6.6. Formal warnings will be retained in the employee's HR file; however they will only be valid for considering further disciplinary warnings or sanctions for a limited period - 6 months in the case of written warnings and 1 year for final written warnings.
- 6.7. Sanctions short of dismissal could include demotion, reductions in pay or suspension without pay but only as alternatives to dismissal with the signed agreement of the employee. Should the employee not agree to the sanction short of dismissal then dismissal would result.
- 6.8. Evangelist's Commission: Only the Chief Executive may withdraw or suspend an Evangelist's Commission. Such decisions do not come within the scope of this procedure.

# The Disciplinary Meeting

## Tell the employee in writing

- What s/he is alleged to have done
- The time & place for the meeting
- The right to be accompanied



## At the meeting

- State the evidence
- Let the employee put his/her case
- Consider witness statements
- Let the accompanying person ask questions



## Adjourn to consider action

Think about:

- Previous sanctions
- Employee's record
- Special circumstances



## Make a decision

- Inform the employee of the decision & right to appeal
- Monitor the situation & keep an open mind

### Check:

Carry out a thorough investigation before the meeting.

Give the employee copies of any information to be used.

Arrange another meeting if the employee or accompanying person cannot attend.

Consider fresh evidence if necessary

# Taking Action - Sanctions

