



Kingsley Staff Disciplinary Policy

1. Purpose and Scope

It should be recognised that satisfactory standards of both conduct (behaviour) and capability (performance) are necessary to undertake Kingsley's affairs and for the well-being of all employees. It should also be recognised that management has a positive role to play in encouraging all employees to perform professionally and effectively while at work. It is expected that, where appropriate, before any formal disciplinary procedures are invoked, line managers will seek to resolve matters informally. In cases of unsatisfactory performance, if after investigation, it is deemed appropriate to be dealt with informally. Should the required improvement not be forthcoming, or if the perceived problem is considered to be of a sufficiently serious nature, then the formal procedure set out in paragraph 5 of this document should be followed.

The purpose of this procedure is to ensure that disciplinary matters are dealt with promptly, fairly and consistently. The procedure gives guidance on how actions should be taken arising from misconduct and/or unsatisfactory performance. A separate procedure is also in place in relation to Sickness Absence. Guidance should be sought from CEO in instances of short-term uncertified absence.

Kingsley is committed to the promotion of equality, diversity, inclusivity and a supportive environment for all members of our community. Our commitment to equality and diversity means that this procedure has been screened in relation to the use of plain English, the promotion of the positive duty in relation to race, gender and disability and avoidance of discrimination to other equality groups related to age, sexual orientation, marriage and civil partnership, pregnancy and maternity, religion or belief or gender reassignment.

This procedure is not contractual and does not form part of the terms and conditions of employment.

1.1 Variations on the Procedure

1.1.1 Kingsley reserves the right to vary any stage in this procedure as it deems appropriate after consultation with the appropriate Trade Union in order to comply with any current legal obligations and best practice.

1.1.2 Where mention is made in this procedure of action by specific post or role holder this action may be delegated to an appropriate nominee where warranted by the circumstances, for example, where there is or may be any potential conflict of roles or interests, so long as the nominee has appropriate seniority and/or experience to be able to act on behalf of the specific post or role holder

2. General Principles

2.1 Application This procedure will apply to employees of Kingsley (excluding Designated Senior Post Holders)

2.2 General Principles

2.2.1 No disciplinary action will be taken against an employee until the initial investigation stage has been completed. It is expected that minor issues of misconduct and/or unsatisfactory performance can normally be resolved informally between the employee and his/her immediate line manager.

2.2.2 In reaching a decision to take disciplinary action, due regard must be paid to the gravity of the alleged misconduct and/or unsatisfactory performance, the current disciplinary record of the employee, and where relevant, any mitigating circumstances.

2.2.3 Where disciplinary allegations are made against a probationary employee, as a minimum, probationary employees will be provided with a written statement of the allegations made against them, given a fair hearing before any decision is reached, and given a right of appeal. Employees may be dismissed for misconduct and/or unsatisfactory performance during a probationary period.

2.2.4 Where the employee is a Trade Union representative, Kingsley shall, as soon as it is practicable, notify the relevant Trade Union official accordingly.

2.2.5 In the first instance it will be the duty of the Investigating Officer (as defined in paragraph 3.1) to decide, in consultation with the CEO, whether and at what level the formal procedure should be initiated.

2.2.6 Except for serious or gross misconduct (this term being one and the same), no employee will be dismissed for a first breach of discipline. An employee may be summarily dismissed i.e. dismissed without appropriate notice, for serious or gross misconduct after investigation and hearing.

2.2.7 An employee shall have the right to appeal against any sanction issued as a result of disciplinary procedures as set out in section 6 of this procedure.

2.2.8 Academic Freedom While nothing in this disciplinary procedure attempts to constrain or prevent individual expression by written or spoken medium, where there is an unjust and/or unlawful attempt to vilify or bring disrepute upon a colleague or Kingsley, then this will be seen as misconduct, and will be dealt with under the rules of this procedure.

2.2.9 An employee will, at the formal procedure stage, have the right to be accompanied by a companion who shall not be a legal representative but may be a representative of a Trade Union, a full-time official of a Trade Union or by a work colleague. Acting as a companion is voluntary and employees are under no obligation to do so. Employees will be allowed reasonable time off from duties without loss of pay to act as a companion. If the employee's choice of companion is unreasonable the Kingsley may ask him/her to choose someone else. For example:

(a) if in Kingsley's opinion the companion may have a conflict of interest or may prejudice the hearing;

or

(b) if the companion works at another site and someone reasonably suitable is available at the site at which the employee works;

or

(c) if the companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

2.2.10 Only the CEO (or his/her nominee providing such nominee is a member of the SMT) or a Designated Senior Post Holder shall have the right to suspend an employee for misconduct and/or unsatisfactory performance, or any other good and urgent cause.

2.2.11 Only the CEO or a Designated Senior Post Holder shall have the right to dismiss an employee for misconduct and/or unsatisfactory performance, or any other good and urgent cause under this Disciplinary Procedure.

2.2.12 The Kingsley in undertaking any aspect of this procedure will seek to make reasonable adjustments for employees with a disability.

2.3 Notice of Hearings

2.3.1 Normally ten working days' notice will be given for disciplinary or appeal hearings. It is recognised, however, that this may have to be exceeded in exceptional circumstances.

2.4 Confidentiality/Recording of Meetings

2.4.1 Kingsley aims during an investigation or any steps under this procedure to deal with matters sensitively and in confidence, to the extent that it is able to do so. All employees will be required to treat as confidential any information communicated to them in connection with an investigation or disciplinary matter. Witnesses will be required to treat as confidential any information given to them during the course of an investigation, including the identity of any employees under investigation.

2.4.2 Electronic recordings of any investigative meetings, disciplinary or appeal hearings are not permitted by any party, representative or companion. Kingsley will appoint a note taker to all meetings.

3. Initial Investigatory Stage

3.1 Where misconduct and/or unsatisfactory performance is alleged the employee's immediate line manager or an appropriate nominee should conduct an investigation and/or make enquiries in order to gather facts/information (the "Investigating Officer"). This may take the form of a fact gathering investigatory meeting with the employee in question. This is solely for the purpose of fact-finding, and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. The employee will be informed of the allegations and that an investigation is taking place.

3.2 Any employee involved in the investigatory stage is expected to cooperate fully and promptly and provide such assistance to the Investigating Officer. This will include informing the Investigating Officer of the names of any relevant witnesses, disclosing any relevant documents to him/her and attending any investigative interviews. The employee and any witnesses will be advised as to the sensitive nature of the investigation and the need for confidentiality.

3.3 The extent of any investigation and/or enquiry will depend on the nature of the allegations of misconduct and/or unsatisfactory performance and will vary from case to case.

3.4 Should the investigation indicate that a formal disciplinary hearing is warranted, the matter should proceed under the process set out at paragraph 5 below. In cases of unsatisfactory performance, the Investigating Officer may determine that it is more appropriate for Kingsley's Performance Improvement Procedure be followed rather than the formal procedure under paragraph 5. Where it is determined that the matter may be dealt with informally or that no further action will be taken, the employee will be advised in writing.

4. Suspension

4.1 Where the alleged misconduct and/or unsatisfactory performance is of such a nature that there are clear and compelling reasons or any other good and urgent cause why the employee's continuing attendance at the Kingsley cannot be justified or where it is felt the employee's continuing attendance may hamper an investigation then the employee may be suspended from duties by the CEO (or his appointed nominee providing such nominee is a Designated Senior Post Holder or a member of the Executive Board) who will confirm the suspension in writing to the employee. Suspension will normally be on full pay.

4.2 Suspension is not in itself a disciplinary sanction and does not imply that any decision has already been made about the employee's case.

5. Formal Procedure

5.1 When a decision has been taken to initiate the formal disciplinary procedure, the employee should be informed in writing of the decision to hold a disciplinary hearing and the individual who shall conduct the disciplinary hearing ("Disciplinary Officer"). The Disciplinary Officer will be determined will also detail the allegations of misconduct and/or unsatisfactory performance that will be considered at the disciplinary hearing, clearly state the time, place and date, and state the entitlement to be accompanied by a companion who may be a Trade Union representative, a full-time Trade Union official or a work colleague.

5.2 At least five working days before the date of the disciplinary hearing (unless this is not reasonably practicable) the employee should be provided with information and copies of any relevant documents and/or witness statements adduced as part of the investigatory stage that will be used at the hearing. In cases where a witness' identity is to be kept confidential, the employee will be provided with as much information as possible in relation to the evidence provided by the witness in question, whilst maintaining confidentiality. Reasonable time should be permitted for the employee to arrange his/her companion to attend, and for the employee to prepare for the hearing.

5.3 The employee must attend the hearing. If the employee or his/her companion cannot attend at the time specified he/she should inform the HR Business Partner or HR Director immediately, who will seek to agree an alternative time.

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

5.5 At the hearing the Disciplinary Officer will explain the process that will be followed and will confirm the allegations of misconduct and/or unsatisfactory performance. The case against the employee will be presented, together with any supporting evidence. The employee (or his/her companion) shall set out his/her response, referring where appropriate to evidence.

5.6 The disciplinary hearing may be adjourned if the Disciplinary Officer deems that further investigations are necessary. The employee will be given reasonable opportunity to consider any new information obtained before a disciplinary hearing is reconvened.

5.7 After the disciplinary hearing the Disciplinary Officer will determine whether the allegation(s) of misconduct and/or unsatisfactory performance against the employee are well founded and if so what the appropriate disciplinary sanction(s) should be.

5.8 The Disciplinary Officer will confirm the outcome of the disciplinary hearing to the employee in writing, usually within five working days of the hearing.

6. Right of Appeal

6.1 In the letter confirming the outcome of the disciplinary hearing, the employee will be notified of his/her right to appeal. An appeal against any disciplinary sanction other than dismissal shall be heard by the next higher level of authority to that at which the disciplinary sanction(s) were issued (the "Appeal Officer"). For appeals against discipline or dismissal, the Appeal Officer will be determined with reference to Appendix B.

6.2 A request for an appeal should be lodged in writing with the CEO or his/her nominated deputy within five working days of written notification to the employee of the outcome of the disciplinary hearing. The request for an appeal should state the full grounds for the appeal.

6.3 The employee will be notified in writing of the arrangements for the appeal and his/her right to be accompanied by a companion who may be a Trade Union representative, full-time Trade Union official or a work colleague. An appeal hearing will be held, where possible, within 10 working days following receipt of the request.

6.4 At the appeal hearing records and notes from the disciplinary hearing and any new evidence will be made available to the Appeal Officer, who will review the evidence and make a decision as to whether the original disciplinary sanction(s) should be upheld, amended or revoked. Any new supporting evidence that will be considered by the appeal hearing should be provided by all parties no later than five working days before the appeal hearing.

6.5 The employee will be informed of the outcome of the appeal in writing within five working days of the appeal hearing. There is no further right to appeal and the procedure is exhausted at this stage.

7. Disciplinary Action and Dismissal

7.1 Kingsley aims to treat all employees fairly and consistently. Each case will be assessed on its own merits. Non exhaustive examples of what may constitute misconduct, gross misconduct and/or unsatisfactory performance are set out at Appendix A. This is provided by way of guidance for the Disciplinary Officer.

7.2 Depending on the seriousness of the matter, any of the following stages in paragraphs 7.2 to 7.4 may be omitted:

7.2.1 First Formal Action for Misconduct

– Verbal Warning

7.2.1.1 A verbal warning will normally be given for first acts of misconduct where there are no other active warnings on the employee's disciplinary record depending on the nature of the misconduct.

7.2.1.2 The warning will set out the nature of the misconduct.

7.2.1.3 A record of the warning will be placed on the employee's personnel file and will remain active for three months from the date it is given, after which time it will be disregarded in deciding the outcome of future disciplinary proceedings. The employee's conduct may be reviewed at the end of this period and if it has not improved sufficiently the Kingsley may decide to take further disciplinary action.

7.2.1.4 Verbal warnings may be given by the levels of authority.

7.2.2 Second Formal Action for Misconduct – First Written Warning

7.2.2.1 A first written warning will normally be given for acts of misconduct where there is a record of a verbal warning or where there are no other active warnings on the employee's disciplinary record depending on the nature of the misconduct.

7.2.2.2 The warning will set out the nature of the misconduct.

7.2.2.3 The warning will be placed on the employee's personnel file and will remain active for six months from the date it is given, after which time it will be disregarded in deciding the outcome of future disciplinary proceedings. The employee's conduct may be reviewed at the end of this period and if it has not improved sufficiently Kingsley may decide to take further disciplinary action.

7.2.2.4 First written warnings may be given by the levels of authority.

7.3 First Formal Action for Unsatisfactory Performance

– Improvement Notice

7.3.1 An improvement notice is the equivalent to a written warning and can be given for acts of unsatisfactory performance, which have not been corrected by informal means and where there are no other improvement notices on the employee's disciplinary record.

7.3.2 The improvement notice will set out:

- The performance problem.
- The improvement that is required.
- The timescale for achieving this improvement.
- A review date.
- Any support, including training, to be provided to assist the employee.

7.3.3 The improvement notice will be placed on the employee's personnel file and will remain active for six months from the date it is given, after which time it will be disregarded in deciding the outcome of future disciplinary proceedings. The employee's performance may be reviewed at the end of the period and if it has not improved sufficiently the Kingsley may decide to take further disciplinary action.

7.3.4 An improvement notice may be given by the levels of authority.

7.4 Third Formal Action for Misconduct / Second Formal Action for Unsatisfactory Performance - Final Written Warning

7.4.1 A final written warning will usually be given for:

(a) Misconduct and/or unsatisfactory performance where there is already an active written warning and/or improvement notice on the employee's record;

or

(b) Cases where there is no active written warning and/or improvement notice on file but the Kingsley considers that the misconduct and/or unsatisfactory performance is sufficiently serious to warrant a final written warning.

7.4.2 The warning will set out the nature of the misconduct and/or unsatisfactory performance.

7.4.3 The warning will be placed on the employee's personnel file and will normally remain active for twelve months or if, based on the individual circumstances, Kingsley decides that the matter is more serious, for a longer period and the employee shall be notified accordingly of that extended period. The employee's misconduct and/or unsatisfactory performance may be reviewed at the end of the period and if it has not improved sufficiently the Kingsley may decide to take further disciplinary action.

7.4.4 Final written warnings may be given by the levels of authority.

7.5 Final Formal Action for Misconduct and/or Unsatisfactory Performance – Dismissal

7.5.1 Employees may be dismissed for the following circumstances:

(a) Misconduct and/or unsatisfactory performance during a probationary period;

or

(b) Misconduct and/or unsatisfactory performance where there is an active final written warning on the employee's record;

or

(c) Serious or gross misconduct regardless of whether the employee has received any previous warnings.

7.5.2 Gross misconduct can result in summary dismissal, that is, dismissal without notice or payment in lieu of notice. In cases of dismissal not involving gross misconduct the employee will be given his/her full contractual notice period, or payment in lieu of notice i.e. in instances of procedural dismissal. Procedural dismissal occurs in instances where, after a warning and / or series of warnings for the same or similar misconduct and / or unsatisfactory performance, the next available sanction is dismissal.

7.5.3 A decision to dismiss may be taken by the appropriate level of authority and will be with immediate effect with cessation of any contractual payments thereafter. In circumstances where the CEO determines to uphold an appeal by an employee, any contractual payments will be reinstated from the date the dismissal took immediate effect and the relevant employee will not be deemed to have had any break in service.

7.6 Alternative Sanctions Short of Dismissal

7.6.1 In appropriate cases, where the contract of employment allows, Kingsley may consider other sanctions short of dismissal, such as: (a) Demotion; (b) Transfer to another department or job; (c) Period of suspension without pay; (d) Reduction in pay.

7.6.2 These sanctions may be used in conjunction with a first written or final written warning.

8 Keeping of Records

8.1 Records of the disciplinary case will be kept for the period of the active sanction and comply with relevant statutes and will be destroyed thereafter. These records will include the complaint against the employee, the employee's defence, findings made and action taken, the reason for action taken, whether an appeal is lodged and the outcome. Notes of any formal meetings will also be kept.

9. Other Related Policies

9.1 Performance Improvement Procedure

9.2 Disciplinary Procedure for Designated Senior Post Holder

10. Monitoring and Review This procedure will be monitored and reviewed on behalf of SMT. The outcome of such monitoring and review will be published on an annual basis to these bodies.

11. Dissemination of and Access to the Policy This procedure will be disseminated to staff via website after full consultation with Kingsley's SMT. It will also, once approved, be held electronically in a document repository on the Kingsley intranet and a hard copy deposited in the CEO's office.

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