

DISCIPLINARY AND CAPABILITY PROCEDURE

for North East Thames Area Quaker meeting (NETAQM)

Purpose and scope

The aim of NETAQM is to encourage improvement, where needed, in an employee's: performance ('capability'); and conduct ('disciplinary'). This procedure sets out the action which will be taken when performance is considered to be below the required standard or when disciplinary rules are breached.

The aim is to enable the employee to understand the nature of the complaint, to identify how improvements can be made and to provide the help and support needed to implement those improvements.

The procedure will be operated in a manner which is clear, understandable, fair and equitable to all the individuals involved.

The fact that this procedure is expressed in formal tones does not indicate any reduction in the normal concern and care expected within a Quaker meeting.

The procedure applies to employees but not self-employed persons or volunteers.

This procedure does not form a part of employee's contracts of employment and may be changed from time to time.

Day to Day management of capability issues (performance)

Where there is a concern about an employee's capability to perform the duties of the post to a satisfactory standard, the manager will ensure that these matters are first addressed through normal management procedures such as regular 1-1 meetings. Areas where there is a need for improvement will be identified and the means of securing the improvement will also be identified including, where necessary, access to training and to support for the employee.

Where action using the normal management procedures fails to secure the required improvement, the line manager (normally the Clerk to Premises Committee) may invoke the formal procedure outlined below.

If the lack of capability is due to ill health then the issue will be addressed as a sickness issue.

If the lack of capability may be due to a disability, then reasonable adjustments will be determined and implemented before action is taken under this procedure.

Informal disciplinary discussions (conduct)

Where there is misconduct which is of a minor nature or is such that the Line Manager feels that it is best dealt with informally or through normal day to day contact with the employee, then the line manager will act informally, informing the employee of the nature of the concern and explaining that the misconduct should not recur. However, if the line manager feels that the matter is of such a serious nature, or if minor infringements persist, he/she may invoke the formal disciplinary procedures.

RESPONSIBILITY GRID

The following grid shows responsibilities at each stage of the disciplinary and capability procedure.

STAGE	IMPLEMENTED BY	APPEAL TO
Written Warning (s)	Line Manager, plus at least one other member of Premises Committee	Two local meeting overseers or elders
Final Written Warning	Line manager, plus at least one other member of Premises Committee	Two Area Meeting Trustees who were not previously involved in the case.
Dismissal	A panel constituted for this purpose by the AM Trustees. The AM clerk to Trustees (or in his/her absence, his/her nominee) should also always be consulted before a decision to dismiss.	Two area meeting Trustees who were not previously involved in the case.

At all stages, the Area Meeting Employment Coordinator should be consulted.

FORMAL DISCIPLINARY/CAPABILITY ACTION

Principles

a) The procedure is designed to establish the facts quickly and to deal consistently with disciplinary and capability issues. No disciplinary/capability action will be taken until the matter has been fully investigated.

b) At every stage employees will be informed in writing of the disciplinary or capability issue, will have the opportunity to state their case at a disciplinary/capability meeting and may be accompanied, if they wish, by a trade union representative or a work colleague.

c) An employee has the right to appeal against any formal warning or performance note given under this procedure.

The Procedure

1. Establish the facts of the case

Necessary investigations of potential disciplinary/capability matters will be undertaken without unreasonable delay to establish the facts of the case. In some cases this will require the holding of an investigatory meeting with the employee before proceeding to a formal disciplinary or capability meeting under this procedure.

In others, the investigatory stage will be the collation of evidence by the employer for use at any disciplinary or capability hearing.

In misconduct cases, where practicable, different people will carry out the investigation and disciplinary hearing.

An investigatory meeting will not in itself result in any formal warning or other sanction under this procedure.

In cases where a period of suspension with pay is considered necessary, this period will be as brief as possible, will be kept under review and it will be made clear that the suspension is not considered a disciplinary action.

2. Inform the employee of the problem

If it is decided that there is a disciplinary/capability case to answer, the employee will be notified of this in writing. This notification will contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a formal disciplinary or capability meeting. Copies of any written evidence, which may include any witness statements, will be provided with the notification.

The notification should also give details of the time and venue for the formal meeting and advise the employee of their right to be accompanied at that meeting.

3. Hold a formal meeting with the employee to discuss the problem

The formal disciplinary or capability meeting will be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case.

All parties will make every effort to attend the meeting. At the meeting the employer will explain the complaint against the employee and go through the evidence that has been gathered.

The employee will be:

- allowed to set out their case and answer any allegations that have been made or concerns that are raised.
- given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.

- given an opportunity to raise points about any information provided by witnesses.

Where an employer or employee intends to call relevant witnesses they should give advance notice that they intend to do this.

4. Allow the employee to be accompanied at the meeting

The employee has a legal right to be accompanied by a companion where the disciplinary or capability meeting could result in:

- a formal warning or improvement note being issued; or
- the taking of some other disciplinary action; or
- the confirmation of a warning or some other disciplinary action (ie appeal hearings).

The chosen companion may be a fellow worker, a certified trade union representative, or an official employed by a trade union.

To exercise the statutory right to be accompanied workers must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable, for example, for workers to insist on being accompanied by a companion whose presence would prejudice the hearing.

The companion will be allowed to address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing.

The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it or prevent the employer from explaining their case.

5. Decide on appropriate action

After the meeting the employer will consider the issue and decide whether or not action is justified under this procedure and inform the employee accordingly in writing.

Possible actions

- If it is determined that there is no misconduct and that performance is acceptable, there will be **no disciplinary or capability warning**.
- Where misconduct is confirmed or the employee is found to be performing unsatisfactorily it is usual to give the employee a **written warning** or, in the case of underperformance, an **improvement note**. A further confirmed act of misconduct or failure to improve performance within a set period would normally result (after a further disciplinary hearing) in a **final written warning**.

- If an employee's first misconduct or unsatisfactory performance is deemed sufficiently serious at a first disciplinary hearing, it may be appropriate to move directly to a **final written warning**. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the Meeting or Quakers generally.
- A written warning, performance note or final written warning will set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required. The warning will include the timescale over which improvement should occur and the timescale over which improvement must be maintained. The employee should be told how long the warning will remain current, which will normally be 6 months in the case of a first written warning and 12 months in the case of a final written warning. The employee should be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a final warning, ie that it may result in dismissal.
- The warning will be held confidentially on the employee's file.
- If conduct or performance reaches and maintains the required standard in the timescale indicated in the warning, and there is no further occurrence of misconduct or underperformance for the duration of the warning, the warning will be disregarded as 'spent.'
- A **decision to dismiss** will only be taken by a person who has the authority to do so (see responsibility grid). The employee should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.
- Dismissal will normally only occur after there has been at least a final written warning. However, some acts, termed **gross misconduct**, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence. But a fair disciplinary process will always be followed, before dismissing for gross misconduct.

6. Provide the employee with the opportunity to appeal

Where an employee feels that disciplinary or capability action taken against them is wrong or unjust, they should appeal in writing, stating their grounds for appeal, to the person or persons outlined in the 'responsibility grid' at the beginning of this procedure. Such individuals will not have been involved in the disciplinary decision. The appeal must be made within five working days. Appeals will be heard without unreasonable delay and ideally at an agreed time and place.

There is a statutory right to be accompanied at appeal hearings.

Employees will be informed in writing of the results of the appeal hearing as soon as possible.

Failure to attend a disciplinary or capability meeting

Where an employee is persistently unable or unwilling to attend a disciplinary or capability meeting without good cause, a decision will be made on the evidence available.

Gross Misconduct

Acts which may be deemed to be gross misconduct include the following (not exhaustive):

- theft, fraud and deliberate falsification of records;
- physical violence;
- damage to property;
- fraudulent misuse of the Meeting's property or name;
- incapacity for work due to being under the influence of alcohol or illegal drugs whilst at work;
- serious negligence which causes unacceptable loss, damage or injury;
- serious infringement of health and safety rules;
- serious breach of confidentiality,
- serious breach of the Meeting's equal opportunities standards
- any other acts which are deemed to be of sufficient seriousness as to constitute gross misconduct.

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