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# blue triangle

## Disciplinary Policy

6 September 2022

### Our Mission Statement

*“To empower people to thrive.”*

### Revision history

Rev No.	Rev. Date	Consultation Requirements	Lead Officer	Committee	Approved by COM	Review Due:
0	Sep 22	New Policy	GL	D&C	29/09/22	Sep-25

### Chairperson

Signed:

Dated: 29<sup>th</sup> September 2022

### Chief Executive Officer

Signed:

Dated: 29<sup>th</sup> September 2022

# Disciplinary Policy

## Introduction

Satisfactory conduct is implicit in each employee contract of employment. All employees are expected and required to fulfil their duties in a proper manner and in line with Blue Triangle policies and procedures which can be found in the employees' term and conditions.

Alleged misconduct will be dealt with in accordance with the procedure set out below. All stages of the procedure will be carried out without unreasonable delay.

These arrangements are designed to ensure that there is consistent and fair treatment of individuals whose conduct falls short of the standards expected and required by Blue Triangle and to encourage, as far as possible, a permanent improvement.

The disciplinary procedure is not appropriate for dealing with cases of poor work performance or poor attendance where there is no alleged misconduct. These will be handled separately under the capability or absence management procedures.

## Breaches of Safety Rules

The disciplinary procedure will not be applicable to a case where an incident may result in the Health & Safety at Work Act and/or Blue Triangle's safety rules being contravened, except where there is alleged personal misconduct. Examples of such personal misconduct include ignoring safety rules, regulations or procedures and concealing accidental breaches of the same. There will be a clear break between any technical enquiry and the instigation of the disciplinary procedure. It may however be necessary to suspend an employee from duty (with pay) until such investigations have been carried out.

## Representation

An employee has the right to be accompanied at any Disciplinary Interview or Appeal Hearing by a fellow employee or by an accredited representative of a recognised trade union. However, this should not be a family member.

The employee's representative may confer with the employee and address the Chairperson but may not answer questions on the employee's behalf.

## Informal Procedure

Disciplinary action in the form of oral or written warning, which may be confirmed in writing, can be taken by management without recourse to the formal procedure set out below, subject to the right of an employee and/or his representative to make representation to management where they feel unjustly accused.

Where an informal written warning is given, the employee shall be told that the warning is to be recorded in his personal records and retained there for a specified period (normally up to a period of 6 months).

## Initial Fact Find

Where misconduct is suspected an initial fact-find into the circumstances surrounding the incident(s) shall be undertaken. Where this involves one or more employee the individual(s) will be informed of the reasons for the fact find.

The fact find will be carried out by an appointed impartial Manager.

The Manager will explain to the individual that they are carrying out a fact find into their alleged misconduct which may lead to formal action in accordance with Blue Triangle's Disciplinary Procedure.

Whilst it is not normal practice for an employee to have representation at this stage of the procedure, they may request to be accompanied by a fellow employee or an accredited representative of a recognised Trade Union. There must be no unreasonable delay to the process as a result of such a request. The representative may only act in the capacity as an observer and must not be a family member.

If the Manager is satisfied that misconduct has occurred, then a formal disciplinary interview will be arranged, and the employee advised accordingly.

### **Immediate Suspension from Duty**

In particularly serious cases where the Manager considers the alleged misconduct is incompatible with the individual remaining at work, he or she may suspend the individual prior to the fact finding and disciplinary interview. Suspension can be with or without pay depending on the circumstances.

### **Disciplinary Interview**

Prior to the disciplinary interview, the employee concerned shall be notified in writing, at least five working days in advance, of the nature of the allegations and informed that they have the right to be represented by a fellow employee (who is not a family member) or a trade union representative. They will also be given copies of all documents that will be produced at the interview.

The employee must take all reasonable steps to attend the interview. If the employee cannot attend the interview on the appointed date, an alternative date will be offered. If, however, they fail to attend the rescheduled interview, a further interview will be held in their absence. In this event, the employee's representative may present the case on their behalf.

The interview will be recorded by a notetaker in order that a record can be produced, should it be necessary, following the hearing. Covert recording will not be tolerated and will be regarded as Gross Misconduct and dealt with via the Disciplinary Procedure.

At the interview the alleged misconduct shall be explained to the employee and the employee will be given the opportunity to present an explanation of events.

Should the employee at this stage admit the misconduct, the Manager will determine the penalty to be imposed which will depend upon the seriousness of the misconduct.

Should further information come to light which alters the initial fact find, the interview may be suspended pending further investigation.

If the employee does not admit the misconduct, the Manager will consider the situation in the light of all the information available, including witness statements, relevant documentary and other evidence. A decision will be made, or further investigation carried out. If the Manager is satisfied that misconduct has occurred, then he or she will impose an appropriate penalty.

Penalties, and a record of the reasons for which they were imposed, shall be confirmed in writing to the individual within three working days. Written confirmation of the penalty must contain notice of the right to appeal and the time in which and to whom any appeal should be notified.

## **Penalties**

In all cases penalties should be commensurate with the degree of seriousness of the misconduct and account must be taken of the employee's service, work record, previous behaviour and other extenuating circumstances.

The following penalties may be awarded under the formal procedure (on their own or a combination):

### **Written Warning:**

A formal written warning to the employee specifying the breach of conduct and stating what the penalty may be if a further breach occurs. This will normally last for a duration of 6 months.

### **Final Written Warning:**

A final written warning may be issued if there is a further misconduct during the active period of a formal warning or if the misconduct is sufficiently serious to justify more than a formal warning. Again, the breach of conduct will be specified and what the penalty may be if a further breach occurs. This will normally last for a duration of up to 12 months.

### **Suspension without pay:**

Suspension without pay, up to a maximum of two weeks' pay

### **Transfer to another post, whether:**

- ▲ At the same or lower grade at the same department; or
- ▲ At the same or lower grade in another department, on terms to be determined by the manager imposing the penalty.

### **Dismissal:**

- ▲ Dismissal with notice
- ▲ Dismissal without notice

Where a written or final written warning has been given, a copy of the letter shall be kept in the employee's record and retained there for the specified period unless during that period a further written warning is given, in which case the warnings shall be retained for a further specified period. Evidence of such disciplinary action can be used during the period it is retained in the employee's record, in the case of subsequent action involving the formal procedure.

Where suspension without pay is imposed on an employee who was immediately suspended from duty, the total period of suspension imposed shall include the period from the suspension from duty up to the formal interview and appeal.

A suspension will be permanently retained on the employee's record.

## **Right of Appeal**

Following a disciplinary interview, an employee has the right of an appeal against the decision of the Manager, an/or against the severity of the penalty imposed.

If the employee wishes to appeal, written notice, stating the ground for such an appeal, must be sent to the specified Manager within five working days or upon receipt of the notification of the decision.

The appeal hearing shall be heard as quickly as possible following receipt of the notice of appeal.

The appeal will be heard by a higher management level, not previously involved in the proceedings, who will be able to confirm or revoke the original decision and confirm, revoke or vary the original penalty.

The result of the appeal shall be confirmed in writing to the individual within three working days.