

# SECTION EIGHT: Grievance, Capability & Disciplinary Procedures

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## 8.1 GRIEVANCE PROCEDURE

### Policy Statement

It is WRAS' policy to ensure that you have access to a procedure to help deal with any grievances relating to your employment fairly and without unreasonable delay. WRAS aims to investigate any formal grievance you raise, to hold a meeting to discuss it with you, to inform you in writing of the outcome and to give you a right of appeal if you are not satisfied.

Issues that may cause grievances include:

- terms and conditions of employment;
- health and safety;
- work relations;
- bullying and harassment;
- new working practices;
- working environment;
- organisational change; and/or
- discrimination.

This procedure is for guidance only and does not form part of your Contract of Employment. WRAS may amend it at any time or depart from it depending on the circumstances of the case.

### General Principles

This procedure applies to all employees. It does not apply to self-employed contractors.

If you have difficulty at any stage of the Grievance Procedure because of a disability or because English is not your first language, you should discuss the situation with your Manager as soon as possible.

This Grievance Procedure should not be used to complain about dismissal or disciplinary action. If you are dissatisfied with any disciplinary action, you should submit an appeal under the appropriate procedure in this Handbook.

WRAS has a separate Equal Opportunity and Anti-Bullying and Harassment Policy that may be useful if you have been the victim of bullying or harassment or wish to report an incident of bullying or harassment involving other people. That policy is set out in this Handbook.

WRAS operates a separate Whistleblowing Policy to enable you to report illegal activities, wrongdoing or malpractice within WRAS. Where you are directly affected by the matter in question however, or where you feel you have been victimised for an act of whistleblowing, you may raise the matter under this Grievance Procedure.

This procedure does not apply to grievances concerning two or more employees (collective grievances) raised by a representative of a trade union or other representative body.

Written grievances will be placed on your personnel file along with a record of any decisions taken and any notes or other documents compiled during the grievance process. These will be processed in accordance with WRAS' Internal Data Protection Policy.

### Raising Grievances Informally

Most grievances can be resolved quickly and informally through discussion with your Manager. If you feel unable to speak to your Manager because, for example, the complaint concerns him or her, then you should speak informally with another manager. If this does not resolve the issue, you should follow the formal procedure below.

## **Formal Written Grievances**

If your grievance cannot be resolved informally you should put it in writing and submit it to your Manager, indicating that it is a formal grievance. If the grievance concerns your Manager you may submit it instead to another manager.

The written grievance should contain a description of the nature of your complaint, including any relevant facts, dates and names of individuals involved. In some situations WRAS may need to ask you to provide further information.

## **Confidentiality**

WRAS seeks to deal with grievances sensitively and with due respect for the privacy of the individuals involved. You must treat as confidential any information communicated to you in connection with a matter which is subject to this Grievance Procedure.

You and anyone accompanying you (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure without the express written permission of WRAS.

You will normally be told the names of any witnesses whose evidence is relevant to your grievance meeting, unless WRAS believes that the identity of a witness should remain confidential. If you wish to call a witness or witnesses, you should inform WRAS in writing of the name of such witness or witnesses at least 24 hours before the meeting is to be held.

## **Investigations**

In some cases it may be necessary for WRAS to carry out an investigation into your grievance. The amount of any investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses and/or reviewing relevant documents. The investigation may be carried out by your Manager or someone else appointed by WRAS.

You must co-operate fully and promptly in any investigation. This may include informing WRAS of the names of any relevant witnesses, disclosing any relevant documents to WRAS and attending investigative interviews if required.

WRAS may initiate an investigation before holding a grievance meeting where it considers this appropriate. In other cases WRAS may hold a grievance meeting before deciding what investigation (if any) to carry out. In such cases WRAS will hold a further grievance meeting with you before it reaches a decision.

## **Right to be Accompanied**

You may bring a companion to any grievance meeting or appeal meeting under this procedure. Your companion may be either a trade union representative or a work colleague. You must tell the person holding the grievance meeting who your chosen companion is, in good time before the meeting.

At the meeting, your companion may make representations to WRAS and ask questions, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the meeting.

Acting as a companion is voluntary and your work colleagues are under no obligation to do so. Workers will be allowed reasonable time off from duties without loss of pay to act as a companion.

If your choice of companion is unreasonable WRAS may ask you to choose someone else, for example if your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days.

WRAS may, at its discretion, allow you to bring a companion who is not a work colleague or union representative (for example, a member of your family) but only where this will help overcome a particular difficulty caused by a disability or where you have difficulty understanding English.

## **Grievance Meetings**

WRAS will arrange a grievance meeting, normally within five to 10 working days of receiving your written grievance. The meeting will be chaired by an appropriate manager or an external third party. A person who will take minutes of the meetings will also be present. WRAS reserves the right, if it believes it necessary, to have any other person attend the meeting or, indeed, to arrange for any

other person to chair the meeting. WRAS will let you know in advance of the meeting who will be attending.

You and your companion (if any) should make every effort to attend any grievance meeting or appeal meeting under this procedure. If you or your companion cannot attend at the time specified, you should inform WRAS immediately and it will try, within reason, to agree an alternative time.

The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved as this will assist WRAS in reaching a decision based on the available evidence and the representations you have made.

After an initial grievance meeting WRAS may carry out further investigations and hold further grievance meetings as it considers appropriate. Such meetings will be arranged without unreasonable delay.

Your companion at a grievance meeting may make representations to WRAS and ask questions, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the meeting.

WRAS will write to you, usually within one week of the final grievance meeting, to inform you of the outcome of your grievance and any further action that it intends to take to resolve the grievance. WRAS will also remind you of your right of appeal.

### **Appeals**

If the grievance has not been resolved to your satisfaction you may appeal in writing to the Operations Director stating your full grounds of appeal, within one week of the date on which the decision was sent or given to you.

WRAS will hold an appeal meeting, normally within five to 10 working days of receiving your written appeal. If at all possible, this will be dealt with impartially by an alternative manager or an external third party who has not previously been involved in the case (although they may ask anyone previously involved to be present). You have a right to bring a companion to the appeal meeting (see above).

WRAS will confirm its final decision in writing to you, usually within one week of the appeal meeting. This is the end of the procedure and there is no further appeal.

## **8.2 CAPABILITY PROCEDURE**

### **Policy Statement**

The primary aim of this procedure is to provide a framework within which managers can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary.

It is WRAS' policy to ensure that concerns over performance are dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond at a hearing before any formal action is taken.

This procedure is for guidance only and does not form part of your Contract of Employment. WRAS may amend it at any time depending on the circumstances of the case.

WRAS may, at its discretion, start at any stage in the procedure.

### **General Principles**

This procedure applies to all employees regardless of length of service (subject to the clauses below) and is used to deal with poor performance. It does not apply to cases involving misconduct. In those cases reference should be made to the Disciplinary Procedure.

Employees will not normally be dismissed for performance reasons without previous warnings. In serious cases of gross negligence however, or in any case involving an employee who has not yet completed their probationary period or who has short service, dismissal without previous warnings may be appropriate.

In the first instance, performance issues should normally be dealt with informally between you and your Manager as part of day-to-day management. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future capability or misconduct hearings. The formal procedure should be used for more serious cases or in

any case where an earlier informal discussion has not resulted in a satisfactory improvement. Informal discussions may help:

- clarify the required standards;
- identify areas of concern;
- establish the likely causes of poor performance and identify any training needs; and/or
- set targets for improvement and a time-scale for review.

If WRAS has concerns about your performance, it will undertake an assessment to decide if there are grounds for taking formal action under this procedure. The procedure involved will depend on the circumstances, but may involve reviewing your personnel file including any appraisal records, gathering any relevant documents, monitoring your work and, if appropriate, interviewing you and/or other individuals confidentially regarding your work.

### **Disabilities**

Consideration should always be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to your working arrangements, including changing your duties or providing additional equipment or training. WRAS may also consider making adjustments to this procedure in appropriate cases.

If you wish to discuss this or inform WRAS of any medical condition you consider relevant, you should contact your Manager.

### **Confidentiality**

WRAS aims to deal with performance matters sensitively and with due respect for the privacy of the individuals involved. You must treat as confidential any information communicated to you in connection with a matter which is subject to this Capability Procedure.

You and anyone accompanying you (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure without the express written permission of WRAS.

You will normally be told the names of any witnesses whose evidence is relevant to your capability hearing, unless WRAS believes that the identity of a witness should remain confidential. If you wish to call a witness or witnesses, you should inform WRAS in writing of the name of such witness or witnesses at least 24 hours before the meeting is to be held.

### **Notification of a Hearing**

If WRAS considers that there are grounds for taking formal action over alleged poor performance, you will be required to attend a capability hearing. WRAS will notify you in writing of its concerns over your performance, the reasons for those concerns and the likely outcome if it decides after the hearing that your performance has been unsatisfactory. WRAS will also include the following where appropriate:

- a summary of relevant information gathered as part of any investigation;
- a copy of any relevant documents which will be used at the capability hearing; and
- a copy of any relevant witness statements, except where the identity of a witness is to be kept confidential, in which case WRAS will give you as much information as possible while maintaining confidentiality.

WRAS will give you written notice of the date, time and place of the capability hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually not less than two days, to prepare your case based on the information WRAS has given you.

### **Right to be Accompanied at Hearings**

You may bring a companion to any capability hearing or appeal hearing under this procedure. Your companion may be either a trade union representative or a work colleague. You must tell the person conducting the hearing who your chosen companion is, in good time before the hearing.

Your companion is allowed reasonable time off from duties without loss of pay to act, but no one is obliged to act as a companion if they do not wish to do so.

If your choice of companion is unreasonable WRAS may require you to choose someone else, for example if your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days thereafter.

WRAS may, at its discretion, allow you to bring a companion who is not a work colleague or union representative (for example, a member of your family) but only where this will help overcome a particular difficulty caused by a disability or where you have difficulty understanding English.

### **Procedure at Capability Hearings**

If you or your companion cannot attend the hearing you should inform WRAS immediately and it will usually arrange an alternative time. You must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason or are persistently unable to do so (for example for health reasons), WRAS may have to take a decision based on the available evidence.

The hearing will normally be chaired by your Manager, another manager or an external third party. A person who will take minutes of the hearing will also be present. WRAS reserves the right, if it believes it necessary, to have any other person attend the hearing or, indeed, to arrange for any other person to chair the hearing. WRAS will let you know in advance of the hearing who will be attending. You may bring a companion with you to the hearing (see above). Your companion may make representations, ask questions and sum up your case, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

You may ask relevant witnesses to appear at the hearing, provided you give WRAS sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. You will not however, normally be permitted to cross-examine witnesses unless, in exceptional circumstances, WRAS decides that a fair hearing could not be held otherwise.

The aims of a capability hearing will usually include:

- setting out the required standards that WRAS believes you may have failed to meet and going through any relevant evidence that it has gathered;
- allowing you to ask questions, present evidence, call witnesses, respond to evidence and make representations;
- establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement;
- identifying whether there are further measures, such as additional training or supervision, which may improve performance;
- where appropriate, discussing targets for improvement and a time-scale for review; and/or
- if dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

A hearing may be adjourned if WRAS needs to gather any further information or give consideration to matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

WRAS will inform you in writing of its decision and its reasons for it, usually within one week of the capability hearing.

### **Stage 1 - Improvement Note**

Following a Stage 1 capability hearing, if WRAS decides that your performance is unsatisfactory, it will give you an improvement note, setting out:

- the areas in which you have not met the required performance standards;
- targets for improvement;
- any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- a period for review; and

- the consequences of failing to improve within the review period, or of further unsatisfactory performance.

The improvement note will normally remain active for six months, after which time it will be disregarded for the purposes of the Capability Procedure. After the active period the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future capability proceedings.

Your performance will be monitored during the review period and WRAS will write to inform you of the outcome:

- if your Manager is satisfied with your performance, no further action will be taken;
- if your Manager is not satisfied, the matter may be progressed to a Stage 2 capability hearing; or
- if your Manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

### **Stage 2 - Final Written Warning**

If your performance does not improve within the review period set out in the improvement, or if there is further evidence of poor performance while your improvement note is still active, WRAS may decide to hold a Stage 2 capability hearing. It will send you written notification as set out above.

Following a Stage 2 capability hearing, if WRAS decides that your performance is unsatisfactory, it will give you a final written warning, setting out:

- the areas in which you have not met the required performance standards;
- targets for improvement;
- any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- a period for review; and
- the consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning will normally remain active for 12 months, after which time it will be disregarded for the purposes of this Capability Procedure. After the active period the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future capability proceedings.

Your performance will be monitored during the review period and WRAS will write to inform you of the outcome:

- if your Manager is satisfied with your performance, no further action will be taken;
- if your Manager is not satisfied, the matter may be progressed to a Stage 3 capability hearing; or
- if your Manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

WRAS reserves its rights to vary the length that warnings will remain active. It also reserves the right at its absolute discretion to include a second written warning if it feels that this would be appropriate in all the circumstances.

### **Stage 3: Dismissal or Redeployment**

WRAS may decide to hold a Stage 3 capability hearing if it has reason to believe:

- your performance has not improved sufficiently within the review period set out in a final written warning; or
- your performance is unsatisfactory while a final written warning is still active; or
- your performance has been grossly negligent such as to warrant dismissal without the need for a final written warning.

WRAS will send you written notification of the hearing as set out above.

Following the hearing, if WRAS finds that your performance is unsatisfactory, it may consider a range of options including:

- dismissing you;
- redeploying you into another suitable job at the same grade or, with your consent, or if your contract permits, a lower grade; or
- extending an active final written warning and setting a further review period (in exceptional cases where WRAS believes a substantial improvement is likely within the review period); and
- giving a final written warning (where no final written warning is currently active).

Dismissal will normally be with full notice or payment in lieu of notice, unless your performance has been so negligent as to amount to gross misconduct, in which case WRAS may dismiss you without notice or any pay in lieu.

### **Appeals against Action for Poor Performance**

If you feel that a decision about poor performance under this procedure is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Operations Director within one week of the date on which you were informed in writing of the decision.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. If however, your appeal is successful you will be reinstated with no loss of continuity or pay.

If you raise any new matters in your appeal, WRAS may need to carry out further investigation. If any new information comes to light WRAS will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.

WRAS will give you written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after you receive the written notice.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at WRAS' discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal hearing will be conducted by a manager or an external third party who has not been previously involved in the case (although they may ask anyone previously involved in the case to be present). A person who will take minutes of the hearing will also be present. WRAS reserves the right if it believes it necessary, to have any other person attend the hearing or, indeed, to arrange for any other person to chair the hearing. WRAS will let you know in advance of the hearing who will be attending. You may bring a companion with you to the appeal hearing (see above).

A hearing may be adjourned if WRAS needs to gather any further information or give consideration to matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing WRAS may:

- confirm the original decision; or
- revoke the original decision; or
- substitute a different penalty.

WRAS will inform you in writing of its final decision as soon as possible, usually within one week of the appeal hearing. There will be no further right of appeal.

## **8.3 DISCIPLINARY PROCEDURE**

### **Policy Statement**

The aim of the Disciplinary Procedure and the associated Disciplinary Rules is to set out the standards of conduct expected of all employees and to provide a framework within which WRAS can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

It is WRAS' policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

This procedure is for guidance only and does not form part of your Contract of Employment. WRAS may amend it at any time depending on the circumstances of the case.

WRAS may, at its discretion, start at any stage in the procedure.

### **What is covered by the Procedure**

This procedure is used to deal with misconduct. It applies to all employees. It does not apply to self-employed contractors. It does not apply to cases involving poor performance. In cases of poor performance, reference should be made to the Capability Procedure.

Employees will not normally be dismissed for misconduct reasons without previous warnings. In serious cases of gross misconduct however, or in any case involving an employee who has not yet completed their probationary period or who has short service, dismissal without previous warnings may be appropriate.

Minor conduct issues can often be resolved informally between you and your Manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future capability or misconduct hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

If you have difficulty at any stage of the procedure because of a disability you should discuss the situation with your Manager as soon as possible.

### **Confidentiality**

WRAS seeks to deal with disciplinary matters sensitively and with due respect for the privacy of the individuals involved. You must treat as confidential any information communicated to you in connection with an investigation or disciplinary matter.

You and anyone accompanying you (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure without the express written permission of WRAS.

You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless WRAS believes that the identity of a witness should remain confidential. If you wish to call a witness or witnesses, you should inform WRAS in writing of the name of such witness or witnesses at least 24 hours before the hearing is to be held.

### **Investigations**

The purpose of an investigation is for WRAS to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses and/or reviewing relevant documents.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

You do not normally have the right to bring a companion to an investigative interview. WRAS may however, allow you to bring a companion but only if it helps you to overcome any disability or any difficulty in understanding English.

You must co-operate fully and promptly in any investigation. This will include informing WRAS of the names of any relevant witnesses, disclosing any relevant documents to it and attending investigative interviews if required.

### **Criminal Charges**

Where your conduct is the subject of a criminal investigation, charge or conviction WRAS will investigate the facts before deciding whether to take formal disciplinary action.

WRAS will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, WRAS may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if WRAS considers that it is relevant to your employment.

### **Suspension**

In some circumstances WRAS may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and WRAS will confirm the arrangements to you in writing. While suspended you should not visit its premises or contact any of its trustees, employees, volunteers, donors, supporters or suppliers, unless you have been authorised to do so. WRAS may also suspend you if, in its opinion, a suspension pending a potential disciplinary hearing is in the best interests of WRAS or its employees.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full salary and benefits during the period of suspension except in exceptional circumstances.

### **Notification of a Hearing**

Following any investigation, if WRAS considers there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. WRAS will inform you in writing of the allegations against you, the basis for those allegations and what the likely range of outcome will be if it decides after the hearing that the allegations are true. WRAS will also include the following where appropriate:

- a summary of relevant information gathered during the investigation;
- a copy of any relevant documents which will be used at the disciplinary hearing; and
- a copy of any relevant witness statements, except where the identity of a witness is to be kept confidential, in which case WRAS will give you as much information as possible while maintaining confidentiality.

WRAS will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually two to seven days, to prepare your case based on the information WRAS has given you.

### **Right to be Accompanied**

You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. Your companion may be either a trade union representative or a work colleague. You must tell the person conducting the hearing who your chosen companion is, in good time before the hearing.

Acting as a companion is voluntary and your work colleagues are under no obligation to do so. Workers will be allowed reasonable time off from duties without loss of pay to act as a companion.

If your choice of companion is unreasonable WRAS may require you to choose someone else, for example if your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days thereafter.

WRAS may, at its discretion, allow you to bring a companion who is not a work colleague or union representative (for example, a member of your family) but only where this will help overcome a disability or where you have difficulty understanding English.

### **Disciplinary Hearings**

If you or your companion cannot attend the hearing you should inform WRAS immediately and it will arrange an alternative time. You must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason or are persistently unable to do so (for example for health reasons), WRAS may have to take a decision based on the available evidence.

The hearing will be chaired by an appropriate manager or an external third party. A person who will take minutes of the hearing will also be present. WRAS reserves the right if it believes it necessary, to have any other person attend the hearing or, indeed, to arrange for any other person to chair the hearing. WRAS will let you know in advance of the hearing who will be attending. You may bring a companion with you to the disciplinary hearing (see above).

At the disciplinary hearing WRAS will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to WRAS and ask questions, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

You may ask relevant witnesses to appear at the hearing, provided you give WRAS sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. You will not however, normally be permitted to cross-examine witnesses unless, in exceptional circumstances, WRAS decides that a fair hearing could not be held otherwise.

WRAS may adjourn the disciplinary hearing if it needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

WRAS will inform you in writing of its decision and its reasons for it, usually within one week of the disciplinary hearing.

### **Disciplinary Penalties**

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. WRAS aims to treat all employees fairly and consistently and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

#### **Stage 1 - First Written Warning.**

It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

#### **Stage 2 - Final Written Warning.**

It will usually be appropriate for:

- misconduct where there is already any active written warning on your record; or
- misconduct that WRAS considers sufficiently serious to warrant a final written warning even though there are no other active warnings on file.

#### **Stage 3 - Dismissal.**

It will usually only be appropriate for:

- any misconduct during your probationary period or while you have short service;
- further misconduct where there is an active final written warning on your record; or
- any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out under Disciplinary Rules.

WRAS reserves its rights to vary the length that warnings will remain active. WRAS also reserves the right at its absolute discretion to include a second written warning if it feels that this would be appropriate in all the circumstances.

### **Alternatives to Dismissal.**

In some cases WRAS may at its discretion and with your consent, consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:

- demotion;
- transfer to another department or job;
- a period of suspension without pay;
- loss of seniority;
- reduction in pay;
- loss of future pay increment or bonus; and/or
- loss of overtime.

## **Effect of a Warning**

Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active and the likely consequences of further misconduct in that active period.

A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely.

Your conduct may be reviewed during or at the end of a warning's active period and if it has not improved sufficiently, WRAS may decide to extend the active period.

After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## **Appeals against Disciplinary Action**

If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Operations Director within one week of the date on which you were informed of the decision.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. If your appeal is successful however, you will be reinstated with no loss of continuity or pay.

If you raise any new matters in your appeal, WRAS may need to carry out further investigation. If any new information comes to light WRAS will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.

WRAS will give you written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after you receive the written notice.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at WRAS' discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal hearing will be conducted impartially by a manager or an external third party who has not been previously involved in the case (although they may ask anyone previously involved in the case to be present) A person who will take minutes of the hearing will also be present. WRAS reserves the right if it believes it necessary, to have any other person attend the hearing or, indeed, to have any other person chair the hearing. WRAS will let you know in advance of the hearing who will be attending. You may bring a companion with you to the appeal hearing (see above).

WRAS may adjourn the appeal hearing if it needs to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing WRAS may:

- confirm the original decision; or
- revoke the original decision; or
- substitute a different penalty.

WRAS will inform you in writing of its final decision as soon as possible, usually within one week of the appeal hearing. There will be no further right of appeal.

## **8.4 DISCIPLINARY RULES**

These Disciplinary Rules should be read in conjunction with the Disciplinary Procedure. The aim of the Disciplinary Rules and the Disciplinary Procedure is to set out the standards of conduct expected of all employees and to provide a framework within which WRAS can work with employees to maintain those standards and encourage improvement where necessary.

It is WRAS' policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the Disciplinary Procedure.

If you are in any doubt as to your responsibilities or the standards of conduct expected you should speak to the Operations Director.

### **Rules of Conduct**

While employed by WRAS you should at all times maintain professional and responsible standards of conduct. In particular you should:

- observe the terms and conditions of your contract, particularly with regard to:
  - i. hours of work;
  - ii. confidentiality;
  - iii. any restrictive covenants or intellectual property clauses; and
  - iv. your duties and responsibilities.
- ensure that you understand and follow WRAS' codes of conduct which are set out throughout this Handbook;
- observe all policies, procedures and regulations included in this Handbook or notified to you from time to time by means of notice boards, e-mail or otherwise;
- take reasonable care in respect of the health and safety of all employees and third parties and comply with the Health and Safety Policy and associated health and safety rules;
- comply with all reasonable instructions given by managers; and
- act at all times in good faith and in the best interests of WRAS and its objectives, including the wildlife it cares for.

Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Procedure.

### **Misconduct & Serious Misconduct**

The following are examples of matters that will normally be regarded as misconduct or serious misconduct and will be dealt with under the Disciplinary Procedure:

- Minor breaches of WRAS' policies including the Absence from Work Policy, the Information and Communications Systems Policy and the Health and Safety Policy;
- Minor breaches of your employment contract;
- Minor damage to, or unauthorised use of, WRAS property;
- Poor timekeeping;
- Time wasting and/or disruptive behaviour;
- Unauthorised absence from work;
- Refusal to follow a reasonable instruction, but this could be seen as gross misconduct, depending on the seriousness;
- Excessive use of WRAS telephones (both landline and mobile) for personal calls;
- Excessive personal use of e-mail or the internet during working hours or via charity-issued equipment;
- Obscene language or other offensive (but non physical) behaviour, including shouting at or being verbally aggressive to others, including its trustees, colleagues, volunteers, donors, supporters, suppliers and members of the public, whether face to face or via telephone or other communication. Depending on the seriousness of the incident, this may be classed as gross misconduct (see below);
- Negligence in the performance of your duties and this may also fall within the category of gross misconduct;
- Failing to use PPE as appropriate and as directed by WRAS (this may also fall within the category of gross misconduct);
- Smoking in no-smoking areas and/or vehicles;

- Inappropriate standard of dress and appearance;
- Minor breach of the Money Laundering Regulations; and
- Any clauses within your Contract of Employment or this Handbook that state they may be construed as misconduct or serious misconduct.

This list is intended as a guide and is not exhaustive.

### **Gross Misconduct**

Gross misconduct is a serious breach of contract and includes misconduct which, in WRAS' opinion, is likely to prejudice its operations or reputation or irreparably damage the working relationship and trust between employer and employee. Gross misconduct will be dealt with under the Disciplinary Procedure and will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).

The following are examples of matters that are normally regarded as gross misconduct:

- Theft or unauthorised removal of WRAS property or the property of a trustee, employee, volunteer, donor, supporter, supplier or member of the public;
- Actual or threatened violence or bullying, or behaviour which provokes violence or intimidation;
- Deliberate damage to WRAS' buildings, fittings, property or equipment, or the property of a trustee, employee, volunteer, donor, supporter, supplier or member of the public;
- Serious misuse of WRASs property or its name; actions by you which destroy the trust and confidence that WRAS has in your judgement, conduct or performance;
- Deliberately accessing internet sites containing pornographic, offensive or obscene material and/or serious misuse of WRAS' electronic information and communications technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet);
- Repeated or serious disobedience of instructions, or other serious act of insubordination including any rudeness to trustees, employees, volunteers, donors, supporters, suppliers or members of the public;
- Harassment or discrimination against trustees, employees, volunteers, donors, supporters, suppliers or members of the public on the grounds of a protected characteristic contrary to WRAS' Equal Opportunity and Anti-Bullying and Harassment Policy;
- Bringing the organisation into disrepute;
- Being under the influence of alcohol, illegal drugs or other substances during working hours;
- Causing loss, damage or injury through serious negligence and/or reckless or serious misuse of a WRAS vehicle;
- Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- Fraud, forgery or other dishonesty, including fabrication of expense claims, mileage claims and time sheets or misuse of a WRAS credit card;
- Acceptance or offering a bribe or other secret payment arising out of your employment and/or accepting a gift from a volunteer, donor, supporter or other third party in connection with your employment without prior consent from the Operations Director or other breach of WRAS' Anti-Corruption and Bribery Policy;
- Refusing to allow a search to be carried out in accordance with this Handbook;
- Conviction for a criminal offence that in WRAS' opinion may affect its reputation or its relationships with its trustees, employees, volunteers, donors, supporters, suppliers or members of the public, or otherwise affects your suitability to remain an employee;
- Possession, use, supply or attempted supply of illegal drugs;

- Serious neglect of duties, or a serious or deliberate breach of your employment contract or operating procedures; or breach of any current statutory rules or regulatory requirements affecting your employment;
- Making untrue allegations in bad faith against a trustee, employee or volunteer;
- Unauthorised use, processing or disclosure of personal data contrary to WRAS' Internal Data Protection Policy and/or serious or repeated breaches of the Money Laundering Regulations;
- Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties, including failure to disclose correct information, or giving incorrect information on your application form and/or giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
- Carrying out related work in a private capacity or working for a competitor of WRAS during your employment;
- Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- Making a disclosure of false or misleading information under the Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith or victimising another employee who has raised concerns, made a complaint or given evidence or information under the Whistleblowing Policy, the Equal Opportunity and Anti-Bullying and Harassment Policy, the Grievance Procedure, the Capability Procedure, the Disciplinary Procedure, the Anti-Corruption and Bribery Policy or otherwise;
- Serious misuse of WRAS' electronic information and communications systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet);
- Undertaking unauthorised paid or unpaid employment during your working hours;
- Unauthorised entry into an area of the premises to which access is prohibited; and
- Any clauses within your Contract of Employment or this Handbook that state they may be construed as gross misconduct.

This list is intended as a guide and is not exhaustive.