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1 Policy Statement

At Viewpoint our people make great things happen.

We believe that Viewpoint staff provide a unique service and want our people to feel excited and engaged about working with us. To ensure we provide a positive working environment for all, we have introduced this policy for those occasions when members of staff fail to meet high standards of conduct and behaviour.

Our aim is to always resolve things amicably and informally but when this is not possible a formal procedure is available.

This Disciplinary Policy and Procedures applies to all employees of Viewpoint and is in place to establish professional work conduct standards. The Disciplinary Procedures show clearly the steps to be followed to ensure a fair and transparent process for any employee involved in a disciplinary matter.

2 Aim

The purpose of this policy and procedure is to help and encourage employees to achieve and maintain acceptable standards of conduct, attendance and to provide clear guidance to help ensure consistency, fairness and reasonableness in the treatment of all employees.

Viewpoint is committed to providing equality and fairness for all of our people and we will not discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation, or any other protected characteristic.

3 Legislation/related policies

Viewpoint's main disciplinary documents are this Disciplinary Policy and Procedure and the Code of Conduct for all employees. All documents will be read in conjunction with each other should disciplinary action be considered or deemed necessary.

Viewpoint's Disciplinary Policy and Procedure and Code of Conduct are non-contractual documents. Viewpoint may therefore amend any of these documents from time to time and depart from and/or vary them or any time limit as may be appropriate in the circumstances. All changes to Policy will be approved by the Board.

Viewpoint's Disciplinary Policy and Procedure provides for disciplinary action to be taken for failure to meet Viewpoint's standards of conduct (whether during working hours or not), and includes (but is not limited to) poor attendance, breaching policies and procedures, breaching terms and conditions of employment, insubordination and/or acts of dishonesty.

This Disciplinary Policy and Procedure incorporates the advice and guidance set out in the ACAS statutory Code of Practice on discipline that provides the recommended standards to be followed by employers when dealing with disciplinary and/or dismissal situations.

Issues with regard to job performance are addressed in the Viewpoint Capability Policy and Procedure.

Issues with regard to persistent short-term absence, unrelated to a disability, as detailed in Viewpoint Absence Management Policy and Procedure, will normally be addressed via this Disciplinary Policy and Procedure.

Viewpoint's Dignity at Work Policy should be referred to in cases where issues arise relating to bullying and harassment allegations. Where allegations are made then this Disciplinary Policy and Procedure will also apply.

Where an employee raises a grievance during a disciplinary investigation or process then, depending on the circumstances, a decision may be taken to temporarily suspend the disciplinary process in order to deal with the grievance.

Where the disciplinary and grievance processes are related it may be appropriate to deal with both processes concurrently.

Under these types of circumstances, the facts of each case will be taken into consideration, to determine the best and fairest approach.

All disciplinary matters should be notified to the HR and their advice sought.

4 Scope

This Disciplinary Policy and Procedure applies to all employees. The Chief Executive (in consultation with HR and the Executive Team) will have discretion to apply it to agency workers, volunteers and work placements. In addition, all managers must also read the Disciplinary Guidance for Managers.

5 Compliance & Support

Viewpoint's Commitment to its Employees:

- A copy of this policy and procedures shall be made available to any employee involved in any disciplinary matter.
- Viewpoint will ensure that any employee involved in a formal disciplinary procedure is made aware of their statutory right to be accompanied by a JCC representative, work colleagues or independent trade union representative. If the disciplinary hearing is in relation to misconduct in a care or support setting, such that Viewpoint is required to notify the SSSC or another regulatory body of the disciplinary

action, the employee may be accompanied by their legal representative. Where an employee is legally represented, Viewpoint may also be legally represented.

- Viewpoint will ensure that there is a reference copy of this policy and procedure and the Code of Conduct accessible on the Viewpoint Intranet and with HR at all times.
- Viewpoint will endeavour to update this policy and procedure regularly in accordance with best practice.
- Changes to this policy will be notified to all employees.

Viewpoint's Commitment to its Managers:

- Existing managers receive training on this policy and procedure
- Each new manager receives training on this policy and procedure at the induction stage
- All managers are made aware when this policy and Procedure change, arranging further training as appropriate and
- Viewpoint will provide each manager with a copy of the Disciplinary Guidance for Managers.

Principles of the Policy:

This Disciplinary Policy and Procedure applies to all employees and each employee should familiarise themselves with their provision by reading these documents. In addition, all managers must also read the Disciplinary Guidance for Managers. The following General Principles will so far as possible be implemented depending on the particular circumstances, they are explained in more detail within the procedures section:

- Where appropriate, instances of minor misconduct will be addressed informally between the employee and their immediate line manager (if necessary taking into account statements of any relevant witnesses after an investigation)
- Mediation may be used to address situations, including but not limited to, conflicts involving colleagues of a similar job or grade, or between a line manager and their staff, relationship breakdown, personality clashes, communication problems, allegations of bullying and harassment. Mediation requires the consent of all parties concerned and may therefore not be appropriate in some circumstances
- No formal disciplinary action will be taken without there first being an investigation into the alleged misconduct
- The timing and location of all meetings will be reasonable in the circumstances
- Meetings will be conducted in a manner that enables both the employee and Viewpoint to explain their case
- If it is decided that formal disciplinary action is appropriate, the employee will be advised of:
 - the disciplinary sanction imposed and any decision taken relating to that sanction
 - the reason for the sanction

- any improvements expected from the employee
- any relevant timeframes for improvement
- the likely consequences of either further offences or of failure to improve
- the record being placed on the employee's file summarising the sanction taken and how long the disciplinary sanction/record will remain on file
- the right of appeal
- Viewpoint reserves the right to determine the appropriate level of disciplinary action for misconduct.
- In some cases Viewpoint may, at its discretion, consider alternatives to dismissal. These will usually be accompanied by a final written warning.
- Viewpoint reserves the right to suspend the employee from work on full pay where it considers it necessary.
- Disciplinary records shall be treated as confidential and kept in accordance with the provisions of the General Data Protection Regulations and the Data Protection Act 2018; and
- Viewpoint aims to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with any investigation or disciplinary matter.

6 Monitoring & Evaluation

Viewpoint's Disciplinary Policy and Procedures, will be fair, reliable, robust and auditable, i.e. capable of scrutiny.

Viewpoint will ensure our policy and procedures are reviewed by an external professional law provider to check legal compliance and fairness.

Procedures in support of the Disciplinary Policy

1 Introduction

This procedure should be read together with the Disciplinary Policy and the Employee Code of Conduct. This procedure is non-contractual and can therefore be amended by Viewpoint from time to time. In addition, time limits contained in this procedure may be varied depending on the relevant circumstances.

The ACAS statutory Code of Practice on discipline and grievance sets out the standards to be followed by employers when dealing with disciplinary and/or dismissal situations. This procedure is based upon the ACAS Code of Practice. Whilst the ACAS Code of Practice will normally be followed, Viewpoint reserves the right to apply such procedures as it considers appropriate depending on the circumstances.

The aim of this Disciplinary Procedure, together with the Disciplinary Policy and Employee Code of Conduct is to set out the standards of conduct expected by Viewpoint of all staff and provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and encourage improvement where necessary. In relation to issues of performance these will be dealt with under Viewpoint's Capability Policy and Procedure.

Viewpoint recognises that involvement in the disciplinary process can be challenging on an individual level. If an employee experiences personal difficulty during any disciplinary procedure, they should inform the manager chairing the disciplinary investigation or hearing and/or appeal hearing. The manager will discuss with the employee ways in which the employee can be supported

Viewpoint expects managers to use an informal process to manage staff where possible and should use the formal disciplinary process only where the informal approach has been unsuccessful, or the situation is sufficiently serious.

2 Informal Stage

Employees should be aware that this procedure is not intended to replace day-to-day informal processes such as coaching and counselling, which would normally be expected in an employment relationship.

Therefore, when an incidence of employee misconduct occurs (usually minor misconduct), the manager will, in the first instance, consider whether it is appropriate to use any of these informal processes.

Essentially the informal process involves speaking to the employee in a confidential, non-formal context and agreeing a course of action to remedy the minor misconduct. Remedial action agreed should also include an indication of the timescale of any future monitoring of behaviour/conduct (if it is considered appropriate) and when the formal process would apply should remedial action be unsuccessful.

Informal action may take numerous forms and will vary depending on the particular circumstances. It may include:

- **Counselling** – this is intended to include informal counselling by the manager on a day-to-day basis as a necessary part of the line management role.
- **Informal discipline** – may include an informal verbal warning that can be used at the line manager’s discretion for events of minor misconduct that are not appropriate to be addressed within the formal procedure.
- **Mediation** – this may be used to address situations and conflicts involving colleagues of a similar job or grade, between a line manager and their staff, relationship breakdowns, personality clashes, communication problems, bullying and harassment. It may be used during the formal disciplinary process where appropriate, in which case any ongoing formal procedures would be temporarily put on hold. Mediation requires the consent of all parties involved and therefore may not be appropriate in some circumstances.

3 Formal Stage

When a Head of or Director of the function feels that the informal stage has not been successful, is not appropriate and/or more formal action is necessary, the following procedure outlined under the formal process will apply.

4 Investigation

An Investigating Officer will be appointed by the Head of or Director of the function to fully investigate any disciplinary allegations. The purpose of an investigation is for Viewpoint to establish a fair and balanced view of the facts relating to any disciplinary allegations against the employee, before deciding whether to proceed with a formal 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 the employee and any witnesses, and/or reviewing relevant documents.

The investigation will normally be supported and guided by a member of the HR team.

5 Investigation Interview

The Investigating Officer may write to the employee inviting them to an investigatory interview. Investigatory interviews are solely for the purpose of fact finding and are not the same as a disciplinary hearing. No disciplinary action will be taken until after a full investigation has taken place and a disciplinary hearing (as outlined below) is held.

Regarding an investigatory Interview:

- The employee is obliged to take all reasonable steps to attend the meeting.

- The Investigating Officer will explain to, or show the employee, any evidence there is against the employee. The employee will be invited to present any evidence that they wish to be considered as part of the investigation.
- The Investigating Officer may request the employee to provide a written statement summarising their comments on the evidence against them or will record the content of the meeting and agree the notes with the employee asking them to sign the agreed copy;
- The Investigating Officer will outline the proposed timescale for completion of the investigation stage (normally no longer than 5 working days) and give the employee an estimated date of when it is anticipated the investigation report will be passed to the Head of or Director who will potentially Chair any disciplinary hearing and who will consider what action to take.
- The Head of or Director who has been given the role of Chair, will review the investigation report and decide whether:
 - The investigatory evidence requires a formal disciplinary hearing. If so, they will write to the employee and notify them accordingly of the allegations made against them;
 - The investigatory evidence has not substantiated the allegations and a formal disciplinary hearing is not appropriate. If so, they will write to the employee and notify them accordingly and provide written advice and guidance to the employee if required under the informal procedure;
 - The investigatory evidence has substantiated some of the allegations but not all and a disciplinary hearing is only appropriate in relation to some of the allegations. If so, they will write to the employee and notify them of the allegations justifying a formal disciplinary hearing; and/or
 - Further investigation is required before coming to a decision whether a hearing is necessary.

6 Suspension with Pay

In some circumstances (e.g. where the allegations are sufficiently serious or to facilitate a fair and thorough investigation free from prejudice or duress), it might be necessary to suspend an employee while an investigation is being carried out pending the outcome of that investigation and possibly until conclusion of the disciplinary procedure.

Suspension is not punitive nor a disciplinary sanction, nor an assumption of guilt. Alternatives to suspension will be considered.

In circumstances where suspension is necessary the following procedure will apply:

- The employee's Line Manager (LM) will consult with HR in the first instance to discuss the case for suspension with pay. Pay will be as set out in the contract and will exclude any overtime out with the contract.

- If agreed with HR, the employee's LM or where appropriate, the Head of or Director of the function, will meet the employee in a suitably private location to inform the employee of their suspension with pay.
- The LM will confirm the following, in writing, to the employee:
 - why the suspension with pay is necessary in the circumstances;
 - that the suspension with pay is not a disciplinary action but is to only allow the investigation to be conducted;
 - an estimate of how long the suspension with pay should last. (Every effort will be made to minimise the length of paid suspension to no more than what is necessary to conduct an investigation and where appropriate, the disciplinary procedure);
 - who will be the employee's point of contact at work while the employee is suspended;
 - that the employee is not permitted to contact colleagues, enter any of Viewpoint's premises, or access ICT systems during suspension. Specific arrangements will be made for employees who are tenants of Viewpoint; and
 - that, during suspension, the employee must give up all passwords, keys, access codes, mobile phones and other equipment owned by Viewpoint (where appropriate) to the LM. This does not normally include company cars, which are kept as part of the employee's contract during a period of suspension.

7 Disciplinary Hearing & Outcome

Following the investigation, if the Chair considers there are grounds for disciplinary action, they will invite the employee to a disciplinary hearing, in writing and giving appropriate notice. The Chair will inform the employee in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences, including potential dismissal if applicable, will be if the Chair decides, after the hearing, that the allegations are true.

The Chair will also include the following in the letter, where appropriate:

- Copy of the investigation report including all appendices and documents used as part of the investigation;
- copy of any relevant documents which will be used at the disciplinary hearing;
- copies of any relevant witness statements (except where a witness's identity is to be kept confidential, in which case as much information as possible will be given while maintaining confidentiality).
- date, time, and location of the hearing;
- those who will be present to consider the allegation(s) or to act as witnesses; and
- the employee's right to be accompanied by a JCC representative, work colleagues or independent trade union representative (explained further below).

7.1 The Disciplinary Hearing

A Hearing will be arranged as soon as possible after conclusion of the investigatory stage. The employee will be invited to the hearing and must make every effort to attend. If the employee cannot attend the hearing, the employee should propose another suitable time and date within 5 days of the original hearing date. Should the employee persistently refuse to attend a disciplinary hearing the Chair will make a decision based upon all the investigatory evidence in the employee's absence.

An employee subject to a disciplinary hearing has a right to be accompanied to that hearing by a JCC representative, work colleagues or independent trade union representative. (See below).

The Chair of the disciplinary hearing will adopt the following procedure at the hearing:

- the Chair will explain the allegations against the employee and review whatever evidence is available;
- the employee will be provided with an opportunity to respond to the allegations and present any of their own evidence;
- the Chair will consider whether further investigation is necessary in light of the employee's comments;
- if further investigation is not necessary the Chair will inform the employee that their comments, and any evidence they have provided, will be taken into account and written notification of the outcome of the hearing will likely be sent to them within 5 working days.
- if further investigation is necessary, the Chair will adjourn the meeting for no longer than 5 working days in normal circumstances to allow the Investigation Officer to carry out further investigations based on the employee's explanation. Following this, the Chair will reconvene the hearing as soon as possible.

7.2 The Disciplinary Outcome

After the hearing, the Chair will consider whether a disciplinary sanction is justified on the basis of the evidence gathered prior to and presented at the hearing. If it is, the Chair will consider what level of action should be taken, including but not limited to:

i. Verbal Warning

Which will normally remain active for a period of 6 months;

ii. Written Warning

Which will normally remain active for a period of 12 months;

iii. Final Written Warning

Which will normally remain active for a period of up to 12 months;

Viewpoint reserves the right to exercise discretion with regard to the period that any warning remains active within the maximum periods set out above.

iv. **Dismissal**

Either with notice or a payment in lieu of notice or in cases of gross misconduct without notice or payment in lieu of notice.

In some cases, Viewpoint may, at their discretion, consider alternatives to dismissal. These will usually be accompanied by a final written warning. Alternative sanctions may include demotion, suspension with or without pay, change of duties, reduction in pay, loss of a subsequent pay increase, and loss of overtime for a stipulated period.

The employee will be notified of their right of appeal and to whom it should be addressed.

8 The Appeal

If the employee is dissatisfied with the Disciplinary Outcome, the employee may submit a written appeal to Viewpoint within 5 days of receiving the letter notifying the employee of the Disciplinary Outcome.

The Disciplinary Outcome letter will inform the employee to whom the appeal should be submitted.

The employee's notice of appeal must set out the grounds on which the employee wishes to appeal.

Where possible, a manager not previously involved in the disciplinary and more senior than the Manager who undertook the original disciplinary hearing, will take the appeal hearing.

The appeal is a review of the disciplinary sanction and is not a re-run of the disciplinary hearing.

The Chair of the appeal hearing will invite the employee to attend an appeal hearing and confirm the date, time, and location for the hearing in writing. The Chair will also notify the employee who will be present to consider the appeal as well as anyone who will be attending in a note-taking capacity. The appeal hearing will usually be held within 10 working days of the appeal being received.

Similar to a disciplinary hearing, the employee has the right to be accompanied by a JCC representative, work colleague or an independent trade union representative.

The employee must take all reasonable steps to attend the meeting. If the employee (or their elected representative) is unable to attend the meeting on the day or at the time specified, the employee should let the Chair know without delay and the meeting might be rescheduled where this is reasonable, and within 5 days of the original date.

The employee will be informed of the decision within 5 working days from the date of the hearing. The decision on appeal will be final.

9 Role of an Employee's Companion

A JCC representative, work colleague or an independent trade union representative may accompany the employee at meetings during the process as a companion. The role of this companion is to support the employee. It is not normally appropriate for a family member to be a companion and this will only be allowed in special circumstances.

A lawyer may represent the employee where there is a possibility that disciplinary action may also require a referral to the Scottish Social Services Council (SSSC) or other regulatory body, which may result in the person no longer being able to work in their profession. Where the employee is represented by a lawyer, Viewpoint may also be legally represented, but not otherwise.

This presence of a companion might take the form of simply being moral support or the employee might ask that their companion be allowed to summarise their case and put forward submissions.

It is important to note, however, that the companion will not be permitted to answer questions on behalf of the employee where an explanation from the employee is required to a specific point.

The companion will be expected to act in a professional manner at all times.

Where a companion's role is to address an employee's disability, the Chair out of the hearing will ensure that reasonable adjustments are made.

If, in the view of the Chair of the meeting, the companion's behaviour is such that it is disruptive or not conducive with the conduct of a balanced and fair hearing, the colleague or representative will be warned and ultimately might be asked to leave the meeting.

10 Disciplinary Offences

The following are examples of the sort of offences that, if committed, will normally lead to formal disciplinary action being taken, and may result, depending on the circumstances, in suspension with pay pending an investigation. This list is not exhaustive:

- breach of Viewpoint's regulations (e.g. policies, procedures, guidance)
- repeated failure to comply with Viewpoint's policies, procedures or guidance, which have been properly notified
- unauthorised absence from work (e.g. repeated lateness, repeated failure to work contracted hours, leaving the workplace before the appointed time without permission)
- poor attendance (Refer to the Absence Management Policy & Procedure)
- negligence
- failure to comply with specific and lawful instructions
- irresponsible behaviour in relation to Viewpoint's other employees
- breach of Health and Safety rules/regulations
- bringing Viewpoint's name into disrepute
- insubordination (e.g. refusal to carry out reasonable instructions) and

- failure to disclose any personal interests/relationships which may conflict with any matter or client with which the employee is engaged, or any breach of confidence/confidentiality relating to Viewpoint or any of its clients' affairs.

List of examples of Gross Misconduct

The following are examples of gross misconduct that may result in summary dismissal (without notice) and/or suspension with pay pending investigation. This list is not exhaustive:

- breach of trust: any serious breach of trust such as persistent lying or acts of dishonesty in relation to your work
- negligence resulting in serious loss, damage or injury
- assault or attempted assault or serious conflict/disruption in the workplace
- theft
- malicious damage to property
- willful disregard of duties or of instructions relating to your employment
- attending work under the influence of alcohol or non-medically prescribed drugs or being in possession of illegal substances in the workplace
- deliberate and serious breach of confidence/confidentiality relating to Viewpoint or its client's affairs e.g. deliberate disclosure of information to unauthorised persons or sources such as the media, which is or could be damaging to Viewpoint or against its interests and could bring Viewpoint into disrepute, or against the interests of tenants, residents and employees. Exceptions would apply where this is done through the Whistleblowing Policy as compliant with legislation in force from time to time
- use for personal ends of confidential information obtained by you in the course of your employment
- accepting a gift which could constitute a bribe (e.g. gifts and/or hospitality from contractors, suppliers, consultants, applicants, tenants, without being declared and entered into Viewpoint's Gifts and Hospitality Register)
- breaching Health and Safety rules/regulations which endanger the safety of others
- failure to disclose correct information on your application form or your disclosure information or regarding a potential grant of benefit
- falsifying, destroying or tampering with records
- conduct within or out with work and working hours that casts doubt on an employee's capability or suitability to fulfil their contractual obligations (e.g. conduct that violates common decency, including racial or sexual abuse or harassment, or conviction on a criminal charge relevant to your employment)