

Chapter 6

AGREEMENT BETWEEN THE NATIONAL TRAINERS FEDERATION & THE NATIONAL ASSOCIATION OF STABLE STAFF ON DISCIPLINE AND APPEAL PROCEDURES

Agreement

1. This Agreement is effective from 21st May 2010.
- 1.1 It should be noted that if the employer has taken a step under the disciplinary/dismissal procedure prior to 6th April 2009 then the previous procedure (effective 1st November 2007) should continue to be followed. A step for these purposes includes a step 1 letter inviting the employee to a disciplinary meeting, a step 2 letter or a dismissal.

Purpose

2. To maintain good relations with justice in a yard so that horses can be prepared for racing at the highest possible standards.
3. To ensure consistent and fair treatment of disciplinary and performance issues and to help and encourage employees to achieve and maintain appropriate standards of conduct and performance.

General Principles

4. The purpose of this document is to set out the current procedure and rules for the handling of disciplinary matters. It does not confer any contractual rights.
5. The employer and his or her managers can choose to deal with minor instances of initial unsatisfactory levels of performance or misconduct informally, by way of counselling, guidance or instruction or by informally cautioning the employee. The employer may wish to diarise a record of this.
6. If a problem continues or the employer or his or her manager judges it to be sufficiently serious, the procedure will apply.
7. The employer will not dismiss any employee for a first offence, unless the offence amounts to gross misconduct (see section on gross misconduct below) in which case the employee will be dismissed without notice and without payment in lieu.
8. The employer will not usually take any formal disciplinary action under this procedure without:
 - 8.1 having carried out a prompt investigation. The employer will inform the employee whether any meeting he or she is asked to attend is investigatory or disciplinary.
 - 8.2 giving or sending a letter setting out the complaint made against him or her and possible outcomes of the disciplinary hearing. The letter will also inform the employee that he or she must attend a disciplinary hearing to discuss the matter and confirm the time, date and location of the meeting. Any employee who has difficulty understanding such a letter should ask the employer or his or her office for an explanation.
 - 8.3 before the meeting, providing the employee with relevant evidence (for example witness statements, anonymised if appropriate)
 - 8.4 giving the employee a reasonable opportunity to consider his or her response to that information
 - 8.5 explaining the employer's case at the meeting and giving the employee an opportunity to put his or her case in respect of the allegations made. The employee has the right to answer any

allegations made, is allowed to ask questions, present evidence, call relevant witnesses and raise points about information provided by witnesses.

9. Employees have the right to appeal against any formal action taken against them under the procedure.
10. Depending upon the seriousness of the misconduct or poor performance or the employee's disciplinary record taken as a whole, the first written warning may be omitted and a final written warning issued.
11. Depending upon the circumstances, it may be appropriate to suspend the employee from work on full pay to enable the investigation to take place. Suspension on full pay does not amount to a disciplinary sanction.
12. If the employer has other policies which are relevant to disciplinary matters, such as a bullying/harassment policy, equal opportunities policy, and/or health and safety policy, then this procedure should be read as incorporating provisions relating to discipline in other such procedures.
13. No sanction will be imposed on a trade union official without the matter first being discussed with a senior or full time official of the trade union.
14. Each stage of this procedure will be carried out without unreasonable delay.
15. The company will keep records of any action taken under these disciplinary procedures. These will be treated as confidential.

Gross Misconduct

16. The following are examples of conduct falling within the definition of gross misconduct and which entitle the employer to dismiss without notice or payment in lieu:
 - i. falsification of records
 - ii. deliberate disregard of safety rules or precautions
 - iii. theft, fraud or dishonesty
 - iv. abuse of property
 - v. fighting or bullying
 - vi. threatened assault or intimidation
 - vii. drunkenness or abuse of drugs
 - viii. refusal to carry out a reasonable instruction.
 - ix. abusing a horse
 - x. serious breach of trust and confidence towards the employer's business

This list is not exhaustive. It illustrates the type of conduct that normally amounts to gross misconduct.

17. If the employer is satisfied, following investigation and a disciplinary hearing, that the employee has committed gross misconduct, the employer will normally dismiss the employee without notice and without payment in lieu.

Other Misconduct or Poor Performance

18. In other cases coming within the ambit of this procedure a first offence will not ordinarily result in dismissal. Instead the employer may issue a formal warning to an employee, which may be a first written warning or a final warning as appropriate.

Conduct of Meetings under the Procedure, including Appeals

19. All disciplinary meetings, including appeals, will be held at a reasonable time and place. An employee who has been invited to attend a disciplinary meeting must take all reasonable

steps to attend the meeting.

20. In any disciplinary proceedings under the procedure, including appeals, an employee has the statutory right reasonably to request to be accompanied by a fellow worker. The employee may alternatively be accompanied by a trade union representative. Where the companion is a trade union representative he or she must be either an employed official of the trade union or, alternatively, an official who has been certified by the applicable union as competent to act as a companion. The companion may address the hearing to put the employee's case, sum up his or her case or respond on the employee's behalf to any view expressed at the hearing. He or she may also confer with the employee during the hearing, but does not have the right to answer questions on his or her behalf, address the hearing if the employee does not want him or her to or prevent anyone, including the employee, from making his or her contribution to the hearing.
21. The appropriate level of management will conduct the meetings. At the meeting, the person conducting the meeting will explain the role of all those attending on its behalf and will explain the employer's case against the employee and will give the employee the opportunity to respond in full. At appeal meetings, the employee will present his or her reasons for appealing the decision and the employer will consider these.
22. If matters come to light during a disciplinary meeting which require further investigation, the employer may at his or her discretion, adjourn any disciplinary meeting to enable further investigation to be carried out.

Possible outcomes of a disciplinary hearing

First Written Warning/Improvement Note

23. The employer may issue a first written warning if the employee's conduct does not meet the employer's standards or an improvement note if the employee's performance does not meet the employer's standards.
24. A first written warning or improvement notice may be issued normally by the employee's employer, immediate manager or a nominated deputy. Where, at the conclusion, of the disciplinary hearing, the employer or manager or nominated deputy decides to issue a warning or improvement notice, he or she will inform the employee of the following:
 - the reason for the warning or improvement notice
 - that it is the first stage of the disciplinary procedure
 - the action or improvement (if any) which is required of the employee
 - if appropriate, the timescale for implementing any such action
 - the consequences for the employee of not implementing required action or of further misconduct
 - when the warning will cease to have effect, subject to satisfactory conduct or performance. This will normally be after 6 months but a longer period may be stated in exceptional cases
 - the right of appeal.

This will be confirmed to the employee in writing.

Final Warning

25. The employer may issue a final warning if:
 - the required improvement is not achieved within any timescale set in a second warning; or
 - further misconduct or poor performance takes place during the currency of a first written warning, whether or not involving a repetition of conduct or poor performance which was the subject of a previous warning; or
 - the seriousness of the misconduct or poor performance merits it, regardless of

whether it has issued any previous warnings

- 26.** A final warning may be issued by employer (or a nominated deputy). Where at the conclusion of the disciplinary meeting, the employer or nominated deputy decides to issue a final warning he or she will inform the employee of:

- the reason for the final warning
- the action or improvement (if any) which is required of the employee
- if appropriate, the timescale for implementing any such action
- the fact that this is a final warning and that the next stage of the procedure will be dismissal
- when the warning will cease to have effect, subject to satisfactory conduct or performance. This will normally be after 6 months but a longer period may be stated in exceptional cases
- the right of appeal

All of these matters will be confirmed to the employee in writing.

Dismissal

- 27.** The employer may dismiss an employee where:

- the required improvement is not achieved within any time scale stated in a final warning; or
- further misconduct or poor performance takes place during the currency of a final warning – whether or not involving a repetition of conduct (or poor performance) which was the subject of a previous warning; or
- it is reasonably believed that he or she has committed an act of gross misconduct

- 28.** Unless dismissal is for gross misconduct, the employee will be dismissed with notice.

- 29.** An employee will only be dismissed after he or she has received a written invitation to a disciplinary hearing as set out in clauses 8.2 and 8.3 of this agreement and the disciplinary hearing has been held, the employee having had a reasonable opportunity to consider his or her response prior to the meeting and having been able to put his or her case to the employer at the meeting. Where the decision is taken to dismiss the employee, the person making the decision will state the reason, the date on which the dismissal takes effect and inform the employee of his or her right to appeal as soon as possible after the end of the disciplinary meeting, or if not, as soon as reasonably practicable. These matters will be confirmed in writing.

Appeals

- 30.** Any employee who is dissatisfied with a disciplinary decision taken in respect of him or her may appeal against that decision. Appeals should be in writing, setting out the reason for the appeal and should be delivered to the employer within five working days of the disciplinary decision. If an employee submits an appeal outside of the permitted 5 days he or she should advise the employer as to the reason for the delay. If the employer considers the reason for the delay was reasonable then the appeal should be heard. The employer will then invite the employee to an appeal meeting which will normally take place within five working days. The appeal meeting may take place after the disciplinary decision has taken effect.

Wherever possible an appeal will be heard by a manager who has not been previously involved in the case.

The decision on the appeal will be communicated to the employee in writing within a reasonable time frame following the hearing. The decision is final.

Employees with difficulty reading or where English is not first language

- 31.** If the employee has difficulty reading, or English is not their first language, the employer should explain the content of the letter or note orally to them.

