

Millennium Farm Trust

HR8 Disciplinary Policy and Procedure V04

Next review date Mar 2028



Version control

Version number	Date of changes	Who	Review Summary
03	Mar 2022	H Wilson	Scheduled review. Minor revisions made
03	March 24	T Freathy	Scheduled review. No changes
04	August 2026	T Freathy	Major review. New legislation update. Best practice review update. New ACAS guidance out for consultation and direction of travel noted.

1. Purpose

Millennium Farm Trust (MFT) expects employees to maintain appropriate standards of conduct and to comply with their contractual obligations, the Staff Handbook, Code of Conduct and MFT's policies and procedures.

This policy explains how concerns about an employee's conduct will be addressed.

MFT aims to deal with concerns promptly, fairly, consistently and at the lowest appropriate level. The purpose of disciplinary action is primarily to address concerns and support improvement, rather than simply to punish.

No assumptions will be made before the relevant facts have been established, and each case will be considered on its individual circumstances.

This policy is non-contractual and MFT may amend it from time to time.

2. Scope

This policy applies to all employees of MFT.

It is principally concerned with **conduct and misconduct**.

Concerns about an employee's capability or performance will normally be addressed through supervision, training and appropriate performance management arrangements rather than disciplinary action, unless the concern involves deliberate misconduct or a failure to follow reasonable instructions.

Sickness absence and other health-related attendance matters will normally be managed under MFT's Sickness Absence Policy. Other forms of authorised leave will be managed under the relevant leave policies.

Where an issue involves both conduct and another employment matter, MFT will determine the most appropriate procedure to follow and will explain this to the employee.

Nothing in this policy prevents MFT from addressing minor concerns informally where this is appropriate.

3. General principles

MFT will:

- act fairly and reasonably;
- establish the relevant facts before deciding whether disciplinary action is appropriate;
- tell the employee clearly what the concern or allegation is;
- give the employee a reasonable opportunity to respond;
- provide relevant evidence in advance of a formal disciplinary hearing;
- allow the employee to be accompanied at a formal disciplinary hearing and appeal;
- consider each case on its individual circumstances;
- make reasonable adjustments for disabled employees where required;
- keep matters confidential so far as reasonably practicable;
- keep appropriate records of the process and decisions; and
- provide a right of appeal against any formal disciplinary sanction.

Where practicable, different people will undertake the investigation, disciplinary hearing

and appeal. MFT is a small organisation and this may not always be possible. Where roles cannot be separated completely, MFT will take reasonable steps to ensure that decisions are fair and impartial.

MFT will follow the ACAS Code of Practice on Disciplinary and Grievance Procedures.

4. Informal action

Minor concerns should normally be addressed informally in the first instance.

A manager may meet with the employee to:

- explain the concern;
- hear the employee's explanation;
- clarify the standard expected;
- identify any support, supervision or training that may help;
- agree what needs to change and, where appropriate, by when; and
- review whether the required improvement has taken place.

An appropriate note may be kept of an informal discussion, but informal management action does not constitute a formal disciplinary warning.

Informal action may not be appropriate where the alleged misconduct is sufficiently serious or where previous informal action has not resolved the concern.

5. Investigation

Before formal disciplinary action is considered, MFT will undertake such investigation as is reasonable and proportionate in the circumstances.

The purpose of the investigation is to establish the facts and determine whether there is a disciplinary case to answer. It is not to establish guilt or impose a sanction.

The investigation may include:

- speaking with the employee;
- interviewing witnesses;
- reviewing records, correspondence, LearnTrek entries or other relevant documents;
- reviewing CCTV, electronic or other evidence where lawfully available; and

- obtaining other information relevant to the allegation.

The employee is expected to cooperate reasonably with an investigation.

An investigatory meeting is a fact-finding meeting and is not itself a disciplinary hearing. There is no general statutory right to be accompanied at an investigatory meeting, although MFT may allow a companion where this is appropriate, including as a reasonable adjustment.

At the conclusion of the investigation, MFT will decide whether:

- no further action is required;
- the matter should be dealt with informally; or
- there is a disciplinary case to answer and a formal hearing should be arranged.

6. Suspension

Suspension will not be automatic, including where an allegation may amount to gross misconduct.

MFT may consider suspension where it is reasonably necessary, for example to:

- protect Farm Helpers, young people, employees or others;
- manage an identified safeguarding or health and safety risk;
- protect evidence or the integrity of an investigation; or
- prevent a serious disruption to MFT's work.

Before suspending an employee, MFT will consider whether another temporary arrangement could reasonably manage the risk, such as altered duties, alternative supervision, temporary redeployment or removal from particular activities or contact with particular individuals.

Any suspension will normally be on full pay and contractual benefits. It is a neutral act and is not a disciplinary sanction or an indication that the allegation has been established.

The employee will be told the reason for the suspension and any reasonable restrictions that apply during it.

Suspension will be kept as short as reasonably practicable and reviewed regularly.

7. Safeguarding concerns

Because of the nature of MFT's work, an allegation of misconduct may also constitute a safeguarding concern.

Where this occurs, MFT will follow its safeguarding procedures and make any referrals or notifications required by law, regulation, commissioning arrangements or MFT policy.

Safeguarding and employment processes may take place alongside one another. MFT may adjust or delay parts of the disciplinary process where necessary to avoid prejudicing a safeguarding, police, Local Authority Designated Officer (LADO) or other external investigation.

The outcome of an external safeguarding or other investigation will be taken into account where relevant but will not necessarily determine the outcome of an employment process. MFT must reach its own reasonable decision based on the information available to it and the appropriate employment standard.

8. Criminal allegations or conduct outside work

An employee will not automatically face disciplinary action simply because they have been charged with or convicted of a criminal offence, or because concerns have arisen about their conduct outside work.

MFT will consider whether the matter has a genuine bearing on:

- the employee's role;
- their suitability to work with Farm Helpers, young people or other vulnerable people;
- safeguarding;
- trust and confidence;
- relationships within MFT; or
- MFT's legitimate interests or reputation.

Where a police or other external investigation is taking place, MFT will consider whether it is reasonable to proceed with its own investigation or disciplinary process rather than automatically waiting for the external process to conclude.

9. Invitation to a disciplinary hearing

Where MFT considers that there is a disciplinary case to answer, the employee will be invited to a formal disciplinary hearing in writing.

The invitation will normally:

- explain the allegation or allegations;
- explain the possible consequences if the allegations are upheld;
- give the date, time and location of the hearing;
- identify who will chair the hearing;
- explain the employee's right to be accompanied; and
- include copies of relevant evidence or explain how it can be accessed.

The employee will be given reasonable time to prepare. MFT will normally aim to provide at least **five working days' notice**, although a shorter period may be agreed where appropriate.

10. Right to be accompanied

An employee has the right to make a reasonable request to be accompanied at a formal disciplinary hearing or appeal by:

- a fellow worker;
- a trade union representative; or
- an appropriately certified trade union official.

MFT may also agree to another appropriate companion where there is a good reason for doing so, including where this forms part of a reasonable adjustment.

The employee should tell MFT in advance who they wish to accompany them.

The companion may address the hearing, put and sum up the employee's case, respond on the employee's behalf to views expressed at the hearing and confer privately with the employee. They may not answer questions on the employee's behalf where the employee is required to answer personally or otherwise prevent MFT from explaining its case.

If the chosen companion cannot attend, the hearing will normally be rearranged to another reasonable time proposed by the employee in accordance with the statutory requirements.

11. The disciplinary hearing

The purpose of the hearing is to consider the allegation and evidence fairly before any decision is made.

The person chairing the hearing will:

- explain the allegations and relevant evidence;
- give the employee a full opportunity to respond;
- consider any evidence provided by the employee;
- ask appropriate questions;
- consider relevant mitigating circumstances; and
- adjourn where necessary to obtain further information.

The employee may ask relevant questions, present evidence and identify relevant witnesses.

Where further investigation is required following the hearing, the meeting may be adjourned and reconvened.

No disciplinary decision will normally be made until the hearing has concluded and the relevant information has been considered.

12. Failure to attend

Employees are expected to make reasonable efforts to attend investigation meetings, disciplinary hearings and appeals.

Where an employee cannot attend for a genuine reason, MFT will normally seek to rearrange the meeting.

If an employee repeatedly fails or refuses to attend without good reason, MFT may ultimately make a decision based on the information available. Before doing so, MFT will consider the employee's reasons for non-attendance and whether alternative arrangements, including a remote meeting or written representations, would be appropriate.

13. Possible outcomes

Following a disciplinary hearing, MFT may decide that:

- no disciplinary action is required;
- informal action is appropriate;
- a first written warning should be issued;
- a final written warning should be issued;
- the employee should be dismissed; or
- another appropriate sanction should be imposed where this is reasonable and contractually permitted.

MFT is not required to begin with a first written warning where the seriousness of the misconduct justifies a higher-level sanction.

The employee will be informed of the decision in writing as soon as reasonably practicable.

14. First written warning

A first written warning will normally set out:

- the misconduct established;
- the standard of conduct expected;
- any action or improvement required;
- any relevant timescale;
- the consequences of further misconduct;
- how long the warning will remain active; and
- the employee's right of appeal.

A first written warning will normally remain active for **six months**, after which it will normally be disregarded for disciplinary purposes, provided satisfactory conduct has been maintained.

15. Final written warning

A final written warning may be issued where:

- there has been further misconduct while a previous warning remains active; or
- misconduct is sufficiently serious to justify a final written warning even though there is no current warning.

The warning will explain the misconduct, the standard required and the possible consequences of further misconduct.

A final written warning will normally remain active for **12 months**. A different reasonable period may be specified where the circumstances justify it.

16. Dismissal or other sanction

Dismissal may be considered where:

- there has been further misconduct while a final written warning remains active;
- misconduct is sufficiently serious to justify dismissal; or
- gross misconduct has been established.

Except in cases of gross misconduct, dismissal will normally be with contractual or statutory notice, whichever is greater.

Where contractually permitted and appropriate, MFT may consider an alternative sanction instead of dismissal, such as a change of duties, demotion or transfer. Such sanctions will not be imposed where MFT does not have the contractual right or employee agreement necessary to do so.

Any dismissal decision will be confirmed in writing, including:

- the reason for dismissal;
- the date employment will end;
- whether notice or payment in lieu of notice applies;
- any relevant arrangements on termination; and
- the right of appeal.

17. Gross misconduct

Gross misconduct is misconduct sufficiently serious to destroy or fundamentally undermine the employment relationship and may result in dismissal without notice or payment in lieu of notice.

Examples may include, but are not limited to:

- theft, fraud or deliberate dishonesty;
- physical violence or serious threatening behaviour;
- serious bullying, harassment, discrimination or victimisation;
- serious or deliberate breach of safeguarding requirements;
- abuse, neglect or exploitation of a Farm Helper, young person or other person supported by MFT;
- serious breach of health and safety requirements;
- serious insubordination or deliberate refusal to follow a lawful and reasonable instruction;
- deliberate falsification of records, including safeguarding, attendance, financial, employment or service-user records;
- serious misuse or unauthorised disclosure of confidential or personal information;
- serious breach of data protection requirements;
- deliberate or serious damage to MFT property;
- bribery or corruption;
- serious misuse of MFT's IT, communications systems or property;
- being under the influence of alcohol or illegal drugs at work to an extent that creates a serious risk or makes the employee unfit to carry out their duties safely;
- serious breach of professional boundaries;
- conduct inside or outside work that seriously affects the employee's suitability for their role, particularly where safeguarding or work with vulnerable people is involved; or
- any other conduct which, in the circumstances, fundamentally breaches the relationship of trust and confidence between MFT and the employee.

This list is illustrative rather than exhaustive.

An allegation of gross misconduct does **not** mean that the employee will automatically be dismissed. MFT will investigate the allegation and provide the employee with an opportunity to respond at a disciplinary hearing before reaching a decision.

18. Decision-making authority

Formal disciplinary action will be taken only by a person with appropriate delegated authority.

Where reasonably practicable, a person who has been materially involved in investigating the matter will not make the disciplinary decision.

Dismissal decisions will be made in accordance with MFT's governance and delegated authority arrangements.

Where disciplinary action concerns the Director, or where the Director's previous involvement makes it inappropriate for them to determine the matter, the Chair of Trustees or another suitably authorised Trustee will arrange for the matter to be dealt with appropriately.

MFT may obtain independent HR advice at any stage of the process.

19. Grievances raised during disciplinary proceedings

If an employee raises a grievance during a disciplinary process, MFT will consider the nature of the grievance and its relationship to the disciplinary matter.

MFT may:

- temporarily pause the disciplinary process while the grievance is considered;
- deal with both matters concurrently; or
- consider the issues raised as part of the disciplinary process where they are closely related.

The appropriate approach will depend upon the circumstances.

20. Appeals

An employee may appeal against any formal disciplinary sanction.

An appeal should normally be made in writing within **five working days** of receiving the written decision and should explain the grounds of appeal.

Grounds might include:

- relevant new evidence;
- a material procedural failing;
- disagreement with the findings;
- the sanction being unreasonable or disproportionate; or
- another material reason why the decision should be reconsidered.

An appeal is not necessarily a complete rehearing of the case, although MFT may conduct a rehearing where appropriate.

Where reasonably practicable, the appeal will be heard by someone who has not previously been involved in the matter and who has appropriate authority.

The employee has the right to be accompanied at the appeal hearing.

The outcome of the appeal will be confirmed in writing and will be final within MFT's internal procedure.

Where an employee appeals against dismissal, the dismissal will normally remain effective while the appeal is considered. If the appeal is successful, appropriate arrangements will be made to restore continuity of employment and any pay due.

21. Confidentiality and records

Disciplinary matters will be handled sensitively and information shared only with those who reasonably need it for the process, professional advice, safeguarding, regulatory or legal purposes.

Employees, witnesses and companions are also expected to respect the confidentiality of the process, subject to an employee's right to obtain appropriate advice, representation or support.

Records will be kept in accordance with MFT's Data Protection and Privacy Policy and Document Retention Schedule.

Expired disciplinary warnings will not normally be relied upon to determine whether further disciplinary action should be taken, although records may be retained where there is a lawful and legitimate reason to do so.

22. Relationship with other policies

This policy should be read alongside relevant MFT policies and procedures, including, where applicable:

- Code of Conduct;
- Safeguarding Policy and Procedures;
- Sickness Absence Policy;
- Staff Training and Supervision arrangements;
- Equal Opportunities Policy;
- Health and Safety Policy;
- Data Protection and Privacy Policy;
- Whistleblowing Policy;
- Complaints Procedure; and
- relevant family and other leave policies.

Where another policy provides a more appropriate route for dealing with a matter, MFT may use that procedure instead.

23. Review

This policy will be reviewed periodically and following any significant change in legislation, ACAS guidance, MFT's operations or learning arising from its use.

Related guidance: ACAS Code of Practice on Disciplinary and Grievance Procedures.