



CARAS GRIEVANCE AND DISCIPLINARY PROCEDURES

This policy is for all **employees** at CARAS.

It applies to all employment settings, whether working online or face to face.

It does not apply to **volunteers**. Volunteers can make a complaint following our separate **Complaints Procedure**.

This policy was agreed by trustees on:

It will be reviewed every two years and updated as necessary.

The next review is due by:

Community Action for Refugees and Asylum Seekers
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0208 767 5378

www.caras.org.uk

charity number: 1124376

company number: 6462487

General principles

At CARAS, we believe that everyone should be treated fairly and with respect.

All of our work is values led. Our values are:

Kindness CARAS will nurture all who are part of our community, helping everyone develop their skills, talents and interests.

Justice CARAS will strive for social justice following a rights-based approach and challenging instances when rights are not upheld in wider society.

Empowerment CARAS works alongside people, recognising and respecting their skills and strengths and striving together for better outcomes.

'With' not 'for' CARAS will put the voices, opinions, experiences and needs of its beneficiaries at the heart of all that we do.

If you are unhappy about any treatment that you have received or about any aspect of your work, you should discuss this with your line manager in the first instance, who will attempt to resolve the situation informally. If you feel unable to approach your line manager directly, you should speak to a more senior member of the team, who will discuss ways of dealing with the matter with you.

Where attempts to resolve the matter informally do not work, it may be appropriate for you to raise a formal grievance under this procedure. Complaints that amount to an allegation(s) of misconduct on the part of another employee will be investigated and dealt with under the disciplinary procedure.

You will be protected from victimisation for being involved in or making a complaint of discrimination or harassment in good faith. Any individual accused of victimising another will be subject to a disciplinary inquiry or proceedings. See below for the CARAS Disciplinary Procedure.

The right to be accompanied.

In both the Grievance Procedure and the Disciplinary Procedure set out in this document, the persons involved have the right to be accompanied. By law, an employee can bring a relevant person with them to a disciplinary hearing. The employee should tell their employer as soon as possible who they want this person to be so that arrangements can be made in good time.

Who the employee can bring with them:

The employee must choose their companion from one of the following:

- A work colleague
- a workplace trade union representative who's certified or trained in acting as a companion
- an official employed by a trade union

Under discrimination law, employers must make reasonable adjustments for disabled employees. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects.

Reasonable adjustments:

In circumstances where any of the employees involved in a grievance or disciplinary process have reasonable adjustments in place to allow them to carry out their duties, these will be mirrored in the processes. If any further adjustments need to be made to allow for full participation, these should be discussed so that arrangements can be made.

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Formal Grievance Procedure

1. Making the complaint.

Put the complaint in writing. This written statement will form the basis of the subsequent hearing and any investigations. The written grievance should contain a brief description of the nature of your complaint, including any relevant facts, dates, and names of individuals involved. In some situations, we may need to ask you to provide further information. You should also explain how you think that your grievance can be resolved. If your grievance is unclear, you may be asked to clarify your complaint before the meeting takes place.

Your complaint should be headed "Formal Grievance" and sent to your line manager. If your complaint relates to the way in which your line manager is treating you, the complaint should be sent to the Managing Director or the Chair of the Board of Trustees.

Information will only be revealed strictly on a need-to-know basis. However, the identity of the person raising a grievance is usually revealed to the person against whom the complaint is made and to witnesses.

Before proceeding to a full grievance hearing, it may be necessary to carry out investigations relating to the allegations made by you, although the confidentiality of the grievance process will be respected. If any evidence is gathered in the course of these investigations, you will be given a copy in advance of the hearing for you to consider your response. In exceptional circumstances, the evidence given by the individuals may have to remain confidential. Where confidentiality is necessary, this will be explained to you and an appropriate summary of the evidence gathered will be given to you.

2. Having a grievance raised against you.

If you are the subject of a grievance, you will be informed of the relevant details by your line manager or a member of the senior team.

The following process applies to all parties involved in a grievance.

Grievance hearing:

The hearing normally be convened within 10 working days, and subject to any need to carry out prior investigations. It will usually be chaired by your line manager or an independent manager and attended by another member of the management team. At the meeting, you will be asked to explain the nature of your complaint and what action you feel should be taken to resolve the matter. Where appropriate, the hearing may be adjourned to allow for further investigations to take place.

All relevant parties should ensure that they attend the hearing at the specified time. If you are unable to attend because of circumstances beyond your control you should inform the manager chairing the meeting as soon as possible. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.

While all parties will be given every opportunity to explain their case fully, you should confine your explanation to matters that are directly relevant to your complaint. Focusing on irrelevant issues or incidents that took place long before the matters in hand can hinder the effective handling of your complaint. The manager chairing the meeting will intervene if they think that the discussion is straying too far away from the key issue. The manager chairing the meeting may also intervene to ensure that the meeting can be completed within a reasonable timeframe, depending on the nature and complexity of your complaint.

Following the meeting you will be informed in writing of the outcome without unreasonable delay and told of any action we propose to take as a result of your complaint. You can discuss the outcome informally with either the chair of the meeting or the Managing Director. If you are dissatisfied with the outcome, you may make a formal appeal.

Appeal

Should either party wish to make an appeal, it should be made in writing to the nominated independent manager as stated in the letter confirming the outcome of your grievance. You should clearly state the grounds of your appeal, i.e. the basis on which you say that the outcome of the grievance was wrong or that the action taken as a result was inappropriate. This should be done within 5 working days of the written notification of the outcome of the grievance. A grievance appeal meeting will normally be convened within 10 working days of us receiving notice that you wish to appeal.

The appeal hearing will be chaired by another independent manager, who will consider the grounds that you have put forward and assess whether or not the conclusion reached in the original grievance hearing was appropriate. The appeal is not a re-hearing of the original grievance, but a consideration of the specific areas with which you are dissatisfied in relation to the original grievance. The manager conducting the appeal may therefore confine the discussion to those specific areas rather than reconsider the whole matter afresh. Following the appeal meeting, you will be informed of the outcome without unreasonable delay. The outcome of this meeting will be final and reached within 5 working days following the meeting.

You have a right to be accompanied at the appeal hearing (see section "right to be accompanied.")

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 policy indicates the procedures that will normally be followed in the event you raise a grievance. However, we reserve the right to amend the policy from time to time, to omit stages of the procedure or to apply such grievance procedures, as, in our absolute discretion, we believe appropriate in the circumstances.

Disciplinary procedure

Our disciplinary procedure is based on the principle that employees and managers alike should carry out their duties to the best of their abilities, obey the rules and comply with established codes of conduct and behaviour. Formal steps will be taken under this procedure if the matter is not resolved as a result of the informal process or if an informal discussion is not appropriate. The following procedure will be applied fairly in all instances.

CARAS reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee. Where time limits are referred to in the course of this procedure they may be varied by agreement between the employee and CARAS.

Matters that CARAS views as amounting to disciplinary offences include (but are not limited to):

- persistent bad timekeeping
- unauthorised absence
- damage to CARAS property
- failure to observe CARAS procedures
- abusive behaviour
- unreasonable refusal to follow an instruction issued by a manager or supervisor
- absences that are not genuine or not for the reason provided
- data protection breaches and misuse of CARAS's information
- smoking or use of an e-cigarette in non-designated areas of CARAS's premise
- bribery offences under the Bribery Act 2010.

Investigation

Your manager (or, where appropriate, a different manager) will promptly and thoroughly investigate any matter that is reasonably suspected or believed to contravene any of CARAS policies or rules or may otherwise be a disciplinary matter. You will be informed as soon as possible as to the fact of an investigation and when it has been concluded.

There may be instances where suspension with pay is necessary while investigations are carried out. We have the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before a disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing you to remain at work. Suspension is not, in itself, a form of disciplinary sanction.

Depending on the circumstances of the case, you may be invited to attend an investigatory meeting. You will be informed at the outset that the meeting is an investigatory meeting. There is no right for you to be accompanied at an investigatory meeting. CARAS reserves the right to dispense with an investigatory meeting and to proceed directly to a disciplinary hearing.

Procedure

Where, upon completion of an investigation, there are reasonable grounds to believe that there is a disciplinary case to answer, you will be invited to attend a disciplinary hearing before a different manager to the investigation

In the event of a disciplinary hearing taking place CARAS will:

- give you a minimum of two working days' notice of the hearing.
- tell you the purpose of the hearing, its possible consequences and that it will be held under CARAS 's disciplinary procedure.
- explain your right to be accompanied at the appeal hearing (see section "right to be accompanied.")
- give you written details of the nature of their alleged misconduct; and
- provide you with all relevant information (including statements taken from any fellow employees or other persons that CARAS intends to rely upon against you) not less than two working days in advance of the hearing.

Where you are unable to attend a disciplinary hearing and provide a good reason for failing to attend, the time and/or date of the hearing will be rearranged. Unless there are special circumstances mitigating against it, if you are unable to attend the rearranged hearing, the rearranged hearing will take place in your absence. Your Companion may attend in such circumstances and will be allowed the opportunity to present your case. You will also be allowed to make written submissions in such a situation.

Recording of meetings

You or any person acting on your behalf, is not normally permitted to record electronically any meeting held by CARAS as part of the disciplinary process. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against you, up to and including dismissal. In certain limited

circumstances, CARAS may permit the meeting to be recorded electronically. For example, if you are disabled, it may be appropriate as a reasonable adjustment under the Equality Act 2010. Where CARAS permits the meeting to be recorded electronically, it will take responsibility for making the recording.

Data protection

CARAS processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with our data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the CARAS 's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

The disciplinary hearing

A disciplinary hearing will normally be conducted by a manager together with another manager who will take notes. Any member of management responsible for the investigation of the disciplinary offence(s) will not be a member of the panel, although such managers may present any relevant facts and material to the disciplinary hearing. You will be entitled to be given a full explanation of the case against you and be informed of the content of any statements provided by witnesses. You will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given the opportunity to raise points about any information provided by witnesses. Where CARAS or you intend to call relevant witnesses, both parties should give advance notice that they intend to do this.

CARAS may adjourn the disciplinary proceedings if it appears necessary or appropriate to do so (including for the purpose of gathering further information). You will be informed of the likely period of any adjournment. If further information is gathered, you will be allowed a reasonable period of time, together with your companion, to consider the new information prior to the reconvening of the disciplinary proceedings.

As soon as possible after the conclusion of the disciplinary proceedings, the panel will convey the decision to you and will also inform you what disciplinary action, if any, is to be taken. The decision will be confirmed in writing. You will be notified of your right of appeal under this procedure.

Disciplinary action

Where, following a disciplinary hearing, CARAS reasonably believes that that you have committed a disciplinary offence, the following disciplinary action may be taken:

1. Where a minor offence or offences have been committed, a recorded oral warning may be given. The warning will:
 - a. set out the nature of the offence committed.
 - b. inform you that further misconduct is liable to result in further disciplinary action under this procedure.
 - c. specify the period for which the warning will remain "live", after such period
 - d. state that you may appeal against the warning.
2. Where either a more serious disciplinary offence has been committed or following a recorded oral warning that remains "live", a further minor offence or offences have been committed by you, you will receive a first written warning. The warning will:
 1. set out the nature of the offence committed.
 - a. inform you that further misconduct is liable to result in further disciplinary action under this procedure.
 - b. specify the period for which the warning will remain "live", after such period
 - c. state that you may appeal against the warning.
3. Where a serious disciplinary offence amounting to gross misconduct has been committed, thereby justifying summary dismissal, but CARAS decides, after taking into account all relevant circumstances, that a lesser penalty is appropriate, or, where you commit further disciplinary offences after a first written warning has been issued and remains "live", a final (or combined first and final) written warning may be given. Such a warning will:
 1. set out the nature of the offence committed.
 - a. inform you that further misconduct is likely to result in their dismissal.
 - b. specify the period for which the warning will remain "live", after such period
 - c. state that you may appeal against the warning.
4. Where you have committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given under c. above, CARAS may elect to dismiss with notice or payment in lieu of notice (in line with the terms of your contract).
5. Where CARAS reasonably believes that you have committed an act of gross misconduct, you may be summarily dismissed without notice.
6. Where a final written warning is given to you under c. above, CARAS may also impose on you:
 1. disciplinary suspension without pay.
 - a. loss of seniority.
 - b. in line with any provision in the contract of employment, transfer to a job of a lower status.

The above sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

Expired warnings

Expired warnings will be retained on your personnel record as it may be necessary to take account of the warning when considering future conduct, for example establishing a pattern of behaviour or an awareness of the relevant rules. Documentation relating to the expired warning will not normally be retained unless there is a justification for this.

Appeal

If you are dissatisfied with the outcome at any stage of the Disciplinary Procedure, you have the right of appeal within 5 working days of the date of the letter confirming the outcome.

The date on which any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal overturns the decision to dismiss, you may be reinstated with no loss of continuity of employment or pay.

Your appeal should be addressed to the person listed on your outcome letter (a manager not involved in the disciplinary action thus far). The grounds for appeal must be set out in writing.

You will then be informed of the date, time and place of the appeal meeting usually held within 10 working days of receipt of your appeal request.

You have a right to be accompanied at the appeal hearing (see section "right to be accompanied.") the appeal meeting will consider your grounds for appeal and will take the following into account

- whether the misconduct was adequately investigated and substantiated
- whether our procedures were correctly and fairly implemented and substantiated
- whether our procedures were correctly and fairly implemented, and
- whether the disciplinary sanction given was reasonable based on the evidence.

The outcome of the appeal meeting will result in one of the following

- to confirm the original decision
- to revoke the original decision; or
- to substitute a different disciplinary sanction (this cannot be higher stage than the original decision)

In the event that the original outcome is evoked, and not replaced with an alternative disciplinary sanction, all records relating to the disciplinary sanction and decision will be removed from your employee record.

The outcome of the appeal will be confirmed to you in writing within 5 days. The outcome will be final, and there will be no further right of appeal.

Gross misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between you and CARAS. In the event that you commit an act of gross misconduct, CARAS will be entitled to terminate summarily your contract of employment without notice or pay in lieu of notice.

Matters that CARAS views as amounting to gross misconduct include (but are not limited to):

- theft or fraud
- other offences of dishonesty
- unauthorised absence
- falsification of a qualification that is a stated requirement of your employment or results in financial gain to you
- falsification of records including reports, accounts, expense claims or self-certification forms, whether or not for personal gain
- data protection breaches, disclosure of company documents, trade secrets and other confidential information to unauthorised third parties
- indecency
- physical violence or bullying
- deliberate damage to or misuse of property
- gross insubordination
- the use or distribution of illegal drugs while at work
- possession, custody or control of illegal drugs on CARAS 's premises
- serious incapability at work brought on by alcohol
- serious breach of CARAS 's rules, including, but not restricted to, health and safety rules and rules on computer use
- gross negligence
- conviction of a criminal offence that is relevant to your employment
- misuse or abuse of social media in and outside work
- deliberately accessing pornographic, offensive or obscene material
- making covert recordings of colleagues or managers
- conduct that brings CARAS 's name into disrepute
- unlawful discrimination or harassment
- Other acts of misconduct may come within the general definition of gross misconduct.

Performance Improvement Policy

This policy and procedure is non contractual and aims to ensure that individual performance meets our business needs. For most employees, a formal performance improvement procedure ('PIP') will never be applicable. However, the policy below is intended to ensure that, should there come a time when a PIP is necessary, you are fully informed of the stages involved.

This policy and the procedure set out below do not form part of your contract of employment and are not contractually binding upon you or CARAS. This policy indicates the procedures, which will normally be followed in the event of poor performance. It does not apply to cases involving genuine sickness absence, proposed redundancies or misconduct. If the performance in question amounts to gross negligence, then our disciplinary procedures will normally be followed.

We reserve the right to amend the policy from time to time, to omit stages of the procedure or to apply such other procedures as, in our absolute discretion, we believe appropriate in the circumstances.

Informal discussion

It is often appropriate for initial indications of inadequate performance to be dealt with by way of an informal discussion. Informal discussions do not form part of the formal PIP. However, to ensure that poor performance is not overlooked, discussions about inadequate performance should only take place on an informal basis once. For continued inadequate performance or further instances of inadequate performance, the formal performance review procedure should be used.

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 timescale for review.

If we have concerns about your performance, we 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.

A record of the conversation will be made in relation to any informal discussions held with you about poor performance and will be retained in your personnel file. Consideration should always be given to whether poor performance may be related to a change in someone's circumstances, whether temporary or permanent. If so, a conversation can take place to explore whether there are reasonable adjustments that could be made to working arrangements, including changing your duties or providing additional equipment or training. We may also consider making adjustments to this procedure in appropriate cases. If you wish to discuss this or inform us of any medical conditions you consider relevant, you should contact your manager.

Formal Performance Improvement Procedure ('PIP')

Stage 1

Your manager will inform you of the nature of the problem and confirm it in writing. You will be invited to an informal meeting to discuss concerns regarding your performance. The meeting will be conducted by your manager.

Following discussion of the problem, your manager may choose to:

- take no further action
- refer the matter for investigation under the disciplinary procedure; or
- issue guidance to you on what you need to do to improve your performance.

Stage 2

Where stage 1 does not lead to a satisfactory improvement in your performance, you will be invited to a performance review meeting.

The purpose of a performance review meeting is to discuss your performance and decide what measures should be taken, with a view to securing the required improvement in your performance. The meeting will be conducted by your manager and another manager may also be present.

You will be given an opportunity to respond to any criticisms of your performance and to put forward any explanation they may have for the matters identified by your manager as amounting to poor performance.

The outcome of the meeting may be:

- a decision to take no further action
- a decision to refer the matter for investigation under the disciplinary procedure; or

- the implementation of a performance improvement programme, designed to bring your performance up to an acceptable level.

Performance improvement programme

A performance improvement programme is a series of measures designed to help improve your performance. Each measure will be discussed and agreed with you, although the company reserves the right to insist on any aspect of the performance improvement programme in the absence of such agreement.

Each programme will be tailored to the particular situation, but will contain the following elements:

Timescale

The overall timescale in which the necessary improvement must be achieved will be set out, together with the timescale for reaching individual milestones where appropriate.

Targets

The performance improvement programme will specify the particular areas in which improved performance is needed and set out how, and on what criteria, your performance will be assessed. Where appropriate, specific targets will be set that will need to be achieved either by the end of the programme or at identifiable stages within it.

Measures

The performance improvement programme will specify what measures will be taken by the company to support you in improving your performance. Such measures may include: training; additional supervision; the reallocation of other duties; or the provision of additional support from colleagues.

Feedback

As part of the performance improvement programme, you will be given regular feedback from your line manager indicating the extent to which you are on track to deliver the improvements set out in the programme.

If, at any stage, the company feels that the performance improvement programme is not progressing in a satisfactory way, a further meeting may be held with you to discuss the issue. As a result of such a meeting, the employer may amend or extend any part of the programme.

Review

At the end of the performance improvement programme, your performance will be reviewed. If satisfactory progress has been made, you will be notified of this fact in writing. However, if your manager feels that progress has been insufficient, they may decide to extend and/or amend the performance improvement programme to such extent as your

manager considers appropriate. Alternatively, they may decide to refer the matter to a meeting under stage 3 of this procedure.

Ongoing review

Following the successful completion of a performance improvement programme, your performance will continue to be monitored. If, at any stage during the following 12 months following, your performance again starts to fall short of an acceptable standard, your line manager may decide to initiate stage 3 of this procedure.

Stage 3

If the performance improvement programme has not led to sufficient improvement in your performance, you will be invited to attend a formal performance management hearing. The invitation will set out the respects in which your manager believes your performance still falls short of an acceptable standard.

The hearing will be conducted by a different manager and second manager. At the meeting you have the right to be accompanied (see section "right to be accompanied.")

At the hearing, you will be given an opportunity to respond to any criticism of your performance and to make representations about any aspect of the way in which the process has been managed.

The outcome of the meeting may be a decision to:

- take no further action
- refer the matter for investigation under the disciplinary procedure
- institute another performance improvement programme; or
- issue a formal warning to you

A formal warning will be issued if the hearing concludes that reasonable steps have been taken by the company that should have allowed you to perform to an acceptable standard, but that these measures have not worked. The warning will explain the nature of the improvement that is required in your performance and state that the improvement must be immediate and sustained. It will also explain that, if the necessary improvement does not take place, you may be dismissed.

The warning will remain current for a period of 12 months, after which it will cease to have effect.

Where you are issued with a formal warning in accordance with this procedure, you will have a right of appeal.

Stage 4

If you have been issued with a warning under stage 3 that remains live and your manager believes that your performance is still not acceptable, the matter may be referred to a performance dismissal hearing.

You will be informed in writing of the grounds on which the hearing is being convened. In particular, you will be told of the respects in which your performance remains below an acceptable level.

The hearing will be conducted by a senior manager authorised to make dismissal decisions, accompanied by another manager. At the meeting you have the right to be accompanied (see section "right to be accompanied.")

At the meeting, you will have the opportunity to respond to any criticisms made of your performance and make representations about how the situation should be treated. The outcome of the meeting may be:

- a decision to take no further action
- the issuing of another performance management warning
- an offer to redeploy you to alternative work
- a decision to dismiss you

Any offer to redeploy you will be entirely at the company's discretion. Such an offer will be made only where the company is confident that you will be able to perform well in the redeployed role. It will normally be offered only as an alternative to dismissal in circumstances in which the company is satisfied that you should no longer be allowed to continue to work in your current role. While you are free to refuse any offer of redeployment, the only alternative available will usually be dismissal.

If we believe that there is no alternative role available and suitable for you, but you have not met an acceptable standard of performance, the company may decide to dismiss. Any dismissal will be with full notice or payment in lieu of notice. The decision to dismiss together with the reasons for dismissal will be set out in writing and sent to you. Where you are dismissed in accordance with this procedure, you will have a right of appeal.

Appeal

You have a right of appeal against a sanction issued under stages 3 or 4 of this procedure. A request for an appeal should be sent in writing to the Managing Director and set out the grounds on which you believe that the decision was flawed or unfair. The request should be sent within seven days of receiving written confirmation of the sanction imposed on you by the company.

An appeal hearing will be convened to consider the matter. It will be chaired by the Managing Director who may be accompanied by a member of the Trustee Board. At the meeting you have the right to be accompanied (see section "right to be accompanied.") At the hearing, the decision to impose the sanction will be reviewed and you will be entitled to make representations about the appropriateness of that decision.

The result of the hearing will be either to confirm the sanction or substitute any outcome that was available to the panel conducting the hearing at which the sanction was imposed on you.

The outcome of the appeal will be confirmed to you in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.

This policy was reviewed and approved on: 12.08.21

It will be reviewed within two years.

Signed:

Date: 12.08.2021



Charles Whitehead

Trustee

Signed:

Date: 12.08.2021



Katie Burgess

Trustee