
Disciplinary Policy and Procedure

Purpose

The purpose of this policy is to:

- Ensure that employees understand the behaviour that is expected of them, to highlight unacceptable levels and patterns of behaviour, and wherever possible provide the opportunity to improve their conduct or standard of work
- Ensure employees are treated fairly and consistently
- Explain how the Company will typically address any concerns with an employee's behaviour or failure to improve once a concern has been raised
- Provide an opportunity to agree suitable goals and timescales for improvements and identify any obstacles to achieving the standards and address them.

Scope

This policy applies to all employees with the exception of those employees serving a period of probation where we reserve the right to hold a probation review instead. It does not apply to self-employed contractors or agency workers. This policy does not form part of any employee's contract of employment and may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

Principles

- If an employee is subject to the disciplinary process they will normally be afforded a careful investigation prior to any action being taken.
- At every stage in the procedure the employee will usually be advised of the nature of the complaint against them and will be given the opportunity to state their case before a decision is made. They will be given an explanation of any penalty imposed.
- Written notification will usually be given of any formal disciplinary hearing and such notification shall include relevant documentation (in certain circumstances some information may be withheld, for example to protect a witness). Notification will be given to the employee concerned within reasonable timeframes with a view to arrange hearings at a mutually convenient time.
- Minutes will normally be taken at all formal meetings throughout this process. After the meeting we will, upon request, disclose the minutes to you and will give you the opportunity to make any comments regarding their accuracy.
- The Company will make all reasonable efforts to maintain confidentiality but the duty to investigate and remedy concerns make absolute confidentiality impossible. Information will only be shared on a need to know basis. Employees assisting in an investigation are required to keep it confidential.
- If the employee or his/her companion cannot attend the disciplinary hearing at the scheduled time he/she must inform us immediately and we will arrange an alternative time. (If the employee fails to attend a disciplinary hearing without good reason it may be treated as misconduct in itself). Where a hearing is re-arranged, another invitation will be sent for a further hearing to take place within 5 working days. If the employee concerned fails to attend a second hearing without good reason or is persistently unable to attend then we may have to take a decision based on the available evidence.
- Employees may ask relevant witnesses to appear at the hearing, provided we are given sufficient advance notice to arrange their attendance. Employees will not be given an opportunity to cross-examine witnesses except in exceptional circumstances.
- All employees have the right to appeal against any disciplinary action.
- The final outcome of the hearing will be confirmed in writing with the reason for the decision clearly stated.

In many cases of minor offences, disciplinary action will move through progressive stages. However, depending on the seriousness of the conduct, the Company may decide, at its absolute discretion, to invoke the disciplinary procedure at any of the levels set out in the section of this policy entitled Formal Action. In deciding whether a disciplinary penalty is appropriate the Company may consider the extent to which standards have been breached, any precedent, an employee's record, position, length of service, risk to the business and special circumstances, which might make it appropriate to adjust the severity of the penalty.

Standards of conduct and capability

Capability

Capability refers to an individual employee's ability to perform the work expected of them to required standards.

Capability may be unsatisfactory for any of the following reasons:

- Qualifications – An employee cannot perform because they do not have the necessary qualifications
- Incompetence – An employee makes it impossible for him/her to perform their duties
- Illness – An employee's illness makes it impossible for him/her to perform their duties

Conduct

In general terms employees must conduct themselves according to the rules and standards of conduct, which are set out in their contract of employment, the induction, policies, the employee handbook, or notices from time-to-time, or where common sense tells them there is an appropriate way to behave.

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Misconduct is defined as an act, which goes against the rules, procedures, and competencies of the Company. This would include an employee's attitude to work and behaviour in work, which negatively impacts the business and its operations, other people, and/or affects their ability to perform in their job.

Misconduct or serious misconduct

The following are examples of behaviour that would normally constitute Misconduct or Serious Misconduct. The Disciplinary Procedure would be invoked at a level appropriate to the conduct under investigation and/or your previous disciplinary record. The list is neither exclusive nor exhaustive.

- Poor performance / incapability of performing
- Poor attendance record or timekeeping
- Failure to adhere to absence reporting requirements
- Minor damage to the Company or a client's property
- Failure to observe the Company's rules or procedures
- Non-compliance with reasonable instructions of a minor nature

If an employee fails to perform to the required standard and this is found to be due to a lack of the required skills they will be assisted, wherever practicable, through training or coaching and will be given reasonable time to reach the required standard.

However, where sub-standard performance is due to negligence or lack of application on an employee's part then some form of disciplinary action would normally be appropriate. The employee will be given every opportunity to improve (to include setting agreed targets for improvement, a support programme and review meetings). It is only after insufficient improvement that disciplinary action would take place.

Employees would not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.

Gross misconduct

The following would normally constitute Gross Misconduct for which an employee would be liable for summary dismissal without notice or payment in lieu of notice. This list is not intended to be exclusive or exhaustive;

- Theft, fraud and deliberate falsification of records
- Physical violence, actual or threatened, against or in the vicinity of another person
- Use of abusive or threatening conduct or language to or about a fellow employee, contractor, client or member of the public, or creating an intimidating, hostile or offensive working environment
- Harassment of, or discrimination against fellow employees or any person (including contractors, clients or members of the public)
- Bullying (including intimidation, misuse or abuse of a position of authority to the detriment of a fellow employee, issuing unreasonable instructions or any act or series of behaviour designed to ostracise or "pick on" a fellow employee)
- Deliberate or serious damage to property
- Serious insubordination or failure to follow a reasonable management instruction
- Misuse of the Company's computer systems, e-mail or internet
- Misuse of an organisation's property (to include computer systems) or name
- Bringing the Company into serious disrepute
- Incapability whilst on duty brought on by alcohol or illegal/non-prescribed drugs
- Negligence which causes or might cause unacceptable loss, damage or injury
- Infringement of health and safety rules
- Serious breach of internal policies such as selling standards, expenses etc.
- Breach of Data Protection, Compliance and Security and Anti-Corruption and Bribery Policies
- Unauthorised disclosure of the Company's or any of its customers' confidential information
- Committing a criminal act on Company premises. In such instances, employees should also be aware that they may also be liable for criminal prosecution
- Conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our staff, customers or the public, or otherwise affects your suitability to continue to work for us
- Persistent unauthorised absence
- Persistent Misconduct and/or persistent Serious Misconduct
- Any other substantial reason (situations may arise where the Company has a good reason for dismissing an employee, which is not one of the above reasons)

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Investigation procedure

Investigating an allegation or complaint

Upon receipt of an allegation or complaint or when a manager has reason to believe that a breach of Company policy or procedure has occurred, or is occurring, prompt action will be taken. It is imperative that the Company investigate all employee issues completely and objectively. For confidentiality, in most cases we will not disclose the outcome of an investigation to any person not directly connected with it.

The employee will normally be approached informally during the investigation stage, informed about the allegation or complaint being investigated and given an opportunity to comment before any decision is made on whether to hold a disciplinary hearing. In some cases, a formal fact-finding meeting may be required. [If this is required, the employee will be given time to prepare for the meeting].

The right to representation does not extend to any informal or formal meetings during the investigation stage unless there is a language barrier or other similar reason exists for the employee to need such representation.

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

Suspension

In certain circumstances, for example in cases involving alleged gross misconduct, bullying, harassment, discrimination, customer abuse, or where the employee could be a potential threat to the business or others within the business, they may be suspended on full pay whilst an investigation is conducted. Suspension, which does not imply guilt or blame and is not a disciplinary sanction, is only imposed after careful consideration and will be reviewed to ensure it is not unnecessarily being used. An employee's immediate Manager, Senior Manager or a Human Resources Representative may invoke a suspension. Whilst suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by your manager.

Taking appropriate action

If the investigation results in a finding that there is a disciplinary case to answer, a disciplinary hearing will be held with the individual concerned (see below) following which remedial action will be taken if necessary so that the behaviour is eliminated and does not reoccur. Remedial action may consist of disciplinary action including dismissal or other corrective action such as training or coaching.

In some cases, there may also be a requirement to address the needs of the complainant by investigating any outstanding issues which relate to the complaint. All like situations will be treated similarly throughout the process.

Informal action

A Manager will deal informally with minor issues of conduct or capability. In such circumstances the employee will be made aware of the issues in question and advised of the improvements or changes required to meet the acceptable standards, together with the timescale in which this should be achieved, if appropriate and any help that may be required.

Any record of such action will be recorded on an employee's HR file and may be used as evidence in later formal procedures.

In the event that unacceptable standards continue or deteriorate or the employee commits an act of misconduct the formal procedure may be invoked.

Formal action

Written warning

- If capability or conduct does not meet acceptable standards the employee may be given a Written Warning. This will set out the capability or conduct problem, the improvement that is required, the timescale and any help that may be given.
- It will also warn that failure to improve may lead to a Final Written Warning or some other action short of dismissal and will refer to the right of appeal.
- A record of the warning will be kept, but disregarded for disciplinary purposes after a period of 6 months – subject to achievement and sustainment of satisfactory capability or conduct.
- The disciplinary process will normally be undertaken by an employee's Manager and Human Resources.
- Minutes of the meeting will normally be taken.

Final written warning

- If the offence is sufficiently serious, or there is a failure to improve and a live Written Warning is in place for the same type of offence, a Final Written Warning may be given to the employee. This will give details of the complaint, the improvement required, the timescale and any help that might be given to achieve that improvement.

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- It will also warn that failure to improve may lead to dismissal or some other action short of dismissal and will refer to the right of appeal.
- A record of the warning will be kept, but disregarded for disciplinary purposes after a period of 12 months – subject to achievement and sustainment of satisfactory capability or conduct.
- The disciplinary process will normally be undertaken by an employee's Manager and Human Resources.
- Minutes of the meeting will normally be taken.

Dismissal

- If the offence is sufficiently serious or if there is still a failure to improve and a live Final Written Warning is in place the final step in the procedure may be dismissal.
- The disciplinary process will normally be undertaken by an employee's Manager and Human Resources.
- Minutes of the meeting will normally be taken.
- The employee will be provided as soon as is reasonably practicable, with written reasons for dismissal, the date on which the employment terminated and the right to appeal.

Alternatives to dismissal

In some cases we may at our sole discretion consider alternatives to dismissal, which will usually be accompanied by a final written warning. Examples include:

- Demotion
- Transfer to another department or job
- A period of suspension without pay
- Reduction in pay
- Loss of future increment or bonus

Right to be accompanied at disciplinary hearings

During any formal disciplinary hearing all employees have the right to be accompanied by either a support person who may be an external support person, fellow employee (another employee of the Company) or a Trade Union Official (on the premise that they have either certified experience or training in acting as an employee's companion). This right does not extend to investigatory meetings.

- In order for an employee to exercise their right to be accompanied they must make a reasonable request – e.g. not choose a colleague who might prejudice the hearing or have a conflict of interests.
- There is no duty on a fellow employee or Trade Union Official to accept a request if they do not wish to act as a companion.
- The companion is allowed to participate as fully as possible and can address the hearing however they have no legal right to answer questions on the employee's behalf. The companion is also permitted reasonable time to confer privately with the employee, either in the hearing room or outside.
- Where the chosen companion cannot attend on the date proposed, they can offer an alternative time and date as long as it is reasonable and falls within a period not exceeding five working days from the original date proposed by the Company.
- Fellow employees who are acting as a representative are entitled to a reasonable amount of paid time off to prepare and attend hearings as required.

Appeals

All employees have the right to appeal at every stage of the formal procedure. It is an employee's responsibility to initiate the Appeal process. If they wish to appeal they should notify the disciplining manager, in writing, within five working days of the notification of the disciplinary decision, stating the grounds on which it should be heard.

- Wherever possible this will be heard by someone senior to the person who made the disciplinary decision and who was not involved in the original meeting or decision. Where this is not possible the Company shall ensure that this appeal is heard by someone with the authority to overturn the original decision.
- The appeal will usually take place as soon as reasonably practicable after receipt of the request to appeal letter.
- The employee will have the right to be accompanied by their Trade Union representative or an employee of choice. This person has the opportunity to comment on evidence arising during the appeal before any decision is taken.
- Where new evidence arises during the appeal the employee will be given the opportunity to comment before any action is taken. It may be more appropriate at this stage to adjourn the appeal to investigate or consider such points.
- The appeal decision is final.
- The outcome of the appeal, with reasons for the decision, will be confirmed in writing.

During the Appeal Hearing minutes will normally be taken as a record of the discussion. After the meeting we will, upon request, disclose the minutes to you and will give you the opportunity to make any comments regarding their accuracy.

Any action(s) needed to comply with the decision will be taken as soon as reasonably practicable.

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Revision of the policy

It is important to note that the Company may vary or amend this policy from time to time particularly to take account of changes in the law, best practice or business requirements. This document shall be revised by the appropriate person, the HR Manager or nominated deputy. You will be notified of any changes.