

Dated 26<sup>th</sup> July 2017



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**DISCIPLINARY & GRIEVANCE POLICY**

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## **Part 1: Disciplinary Procedure**

### **Introduction**

Whilst the Company does not wish to impose unreasonable rules of conduct on its employees, certain standards of behaviour are necessary to maintain good employment relations and discipline in the interest of all employees. The Company prefers that discipline be voluntary and self-imposed and in the great majority of cases this is how it works. However, from time to time, it may be necessary for the Company to take action towards individuals whose level of behaviour or performance is unacceptable.

This disciplinary procedure is entirely non-contractual and does not form part of an employee's contract of employment.

Minor faults will be dealt with informally through counselling and training. However, in cases where informal discussion with the employee does not lead to an improvement in conduct or performance or where the matter is considered to be too serious to be classed as minor, for example, unauthorised absences, persistent poor timekeeping, sub-standard work performance, etc the following disciplinary procedure will be used. At all stages of the procedure, an investigation will be carried out.

Employees have the right to be accompanied at a formal disciplinary hearing by a companion, fellow worker or trade union official of their choice.

Matters that the organisation views as disciplinary offences (misconduct) include (but are not limited to):

- persistent bad timekeeping;
- unauthorised absence;
- minor damage to the organisation's property;
- failure to observe the organisation's procedures;
- abusive behaviour;
- unreasonable refusal to follow an instruction issued by a manager or supervisor;
- poor attendance;
- dishonestly claiming to be sick;
- disclosure of confidential information;
- discrimination, bullying or harassment;
- smoking in non-designated areas of the organisation's (or customers) premises; and
- bribery offences under the Bribery Act 2010.

### **Investigation**

An employee's supervisor or manager will promptly and thoroughly investigate any matter that is reasonably suspected or believed to contravene any of the organisation's policies or rules or may otherwise be a disciplinary matter. The employee 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. The organisation has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before the disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing the employee to remain at work.

Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. If such an interview is held prior to a disciplinary hearing, the employee will be informed at the outset that the interview is an investigatory interview. There is no right for employees to be accompanied at a formal investigatory interview. The

organisation reserves the right to dispense with an investigatory interview and to proceed directly to a formal disciplinary hearing.

## **Procedure**

Where, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the employee will be invited to attend a disciplinary hearing before the employee's line manager or manager of a similar level.

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

- a. give the employee a minimum of [two] working days' advance notice of the hearing;
- b. tell the employee the purpose of the hearing and that it will be held under the Employer's disciplinary procedure;
- c. explain the employee's right to be accompanied at the hearing by a fellow worker or trade union official;
- d. give the employee written details of the nature of his/her alleged misconduct; and
- e. provide to the employee all relevant information (which should include statements taken from any fellow employees or other persons that the organisation intends to rely upon against the employee) not less than [two] working days in advance of the hearing.

Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day. The organisation will comply with (a) above in respect of giving notice of the rearranged hearing. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in the employee's absence. The employee's fellow worker or trade union official may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

Where the chosen companion is unavailable on the day scheduled for the meeting, it will be rescheduled, provided that the employee proposes an alternative time within five working days of the scheduled date.

## **Role of Companion**

The employee's chosen companion has the right to address the hearing to put the employee's case, sum up the case and respond on the employee's behalf to any view expressed at the hearing. The companion may also confer with the employee during the hearing. However, there is no requirement for the employer to permit the companion to answer questions on behalf of the employee, or to address the hearing where the employee indicates that he/she does not wish this.

## **The Disciplinary Hearing**

A disciplinary hearing will normally be conducted by the employee's line manager together with another member of the management team. Any member of management responsible for the investigation of the disciplinary offence(s) shall not be a member of the panel, although such managers may present any supporting facts and material to the disciplinary hearing. The employee will be entitled to be given a full explanation of the case against him/her and be informed of the content of any statements provided by witnesses. The employee will be able to call his/her own witnesses. He/she will be permitted to set out

his/her case and answer any allegations. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. He/she will also be given the opportunity to raise points about any information provided by witnesses. Where the organisation intends to call relevant witnesses it will give the employee advance notice of this. The employee must also give advance notice if he/she intends to call relevant witnesses.

The organisation may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The employee will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with his/her fellow worker or trade union official, 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 employee's line manager will convey the decision of the panel to the employee and will also inform the employee what disciplinary action, if any, is to be taken. The decision will be confirmed in writing. The employee will be notified of his/her right of appeal under this procedure.

### **Disciplinary Action**

Where, following a disciplinary hearing, the organisation establishes that the employee has committed a disciplinary offence, the following disciplinary action may be taken:

- a. Where a minor offence or offences have been committed, a recorded oral warning may be given. The warning will ordinarily state that any further misconduct will render the employee liable to further, more severe disciplinary action. The employee should be informed of the period that the warning will remain "live". During this period, the organisation may rely on such a warning in the event of further misconduct on the part of the employee.
- b. Where either a more serious disciplinary offence has been committed or further minor offences have been committed by an employee following a recorded oral warning that remains "live", the employee will receive a first written warning. The warning will:
  - set out the nature of the offence committed;
  - inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
  - specify the period for which the warning will remain "live", after such period [the organisation will review the warning/the warning will automatically lapse]; and
  - state that the employee may appeal against the warning.
- c. Where a serious disciplinary offence amounting to gross misconduct has been committed, thereby justifying summary dismissal, but the organisation decides, after taking into account all appropriate circumstances, that a lesser penalty is appropriate, or, where an employee commits 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:
  - set out the nature of the offence committed;
  - inform the employee that further misconduct is likely to result in his/her dismissal;
  - state that the employee may appeal against the warning.
- d. Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given as above, the employee may be dismissed with notice or with pay in lieu of notice.

- e. Where the organisation establishes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed.
  
- f. Where a final written warning is given to an employee under as above, the organisation may also impose on the employee:
  - i. disciplinary suspension;
  - ii. demotion;
  - iii. in line with any provision in the contract of employment, stoppage of pay for such period as the organisation thinks fit in the circumstances subject to a maximum of [number of weeks]; or
  - iv. 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.

### **Appeal**

An employee may appeal against any disciplinary sanction imposed against him/her, with the exception of an informal oral warning. The appeal will be heard by a senior manager who has not been involved in the decision to impose the disciplinary sanction on the employee. The senior manager is obliged to consider any representations made by the employee, the employee's fellow employee or trade union official and those of the manager who conducted the investigation and the manager who conducted the disciplinary hearing and imposed the disciplinary sanction. The senior manager hearing the appeal must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light, whether or not to uphold the disciplinary sanction. In the event that the senior manager finds for the employee, the senior manager shall allow the appeal and shall remove all records of the disciplinary sanction from the employee's record. In the event that the senior manager does not accept the representations made by or on behalf of the employee, the senior manager must uphold the disciplinary sanction.

When lodging an appeal, the employee should state:

- a) the grounds of appeal; and
  
- b) whether he/she is appealing against the finding that he/she has committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

The employee must provide written notice of the appeal within five working days of being informed of the disciplinary sanction being imposed against him/her.

Appeal hearings will normally take place within 14 days of receipt of the employee's written notice of appeal.

Upon completion of the appeal, the senior manager conducting the hearing will convey his/her decision to the employee. The decision will be confirmed in writing within [one week]. The organisation's decision at the appeal is final.

Where an appeal lies against a dismissal by the panel, the panel's decision to dismiss will have had immediate effect and, therefore, if the dismissal is by notice, the period of notice will already have commenced on the date that the decision was given by the panel. If the

panel's decision was to dismiss the employee summarily without notice, the organisation will be under no obligation to reinstate or pay the employee for any period between the date of the original dismissal and the appeal decision and the original date of termination will stand. In the event that the panel's decision to dismiss is overturned, the employee will be reinstated with immediate effect and he/she will be paid for any period between the date of the original dismissal and the successful appeal decision. His/her continuous service will not be affected.

## **Gross Misconduct**

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

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

- stealing from the organisation, members of staff or the public;
- other offences of dishonesty;
- falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee;
- falsification of records, reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- sexual misconduct at work;
- fighting with or physical assault on members of staff or the public;
- deliberate damage to or misuse of the organisation's property;
- serious damage to the organisation's property;
- drunkenness or being under the influence of illegal drugs while at work;
- possession, custody or control of illegal drugs on the organisation's premises;
- serious breach of the organisation'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 the employee's employment;
- conduct that brings the organisation's name into disrepute;
- discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, race, disability, age or religion or belief;
- serious negligence that could or does result in unacceptable loss, damage or injury;
- sleeping whilst on duty (or other similar behaviour including giving the appearance of being asleep);
- any action likely to endanger the health and safety of an employee or any other person;
- any action or behaviour which could or has the potential to damage the organisations reputation;
- communicating directly with the Client on any subject matter likely to fall outside of their scope of interest or responsibility including, but not limited to, employment matters;
- deliberately accessing internet sites containing pornographic, offensive or obscene material, or illegal file sharing sites or facilities; and
- excessive speed in company vehicles (proven by onboard GPS tracker)

Other acts of misconduct may come within the general definition of gross misconduct.

## **Miscellaneous**

This procedure will be periodically reviewed. Any amendment to it will be notified to employees in writing by the organisation's HR Office and such written advice will inform employees as to the date when any amendment comes into effect.

## **Employees with short service**

This disciplinary procedure does not apply to any employee who has been employed by the Company for less than two years.

## **Part 2: Grievance Procedure**

### **Introduction**

The organisation believes that all employees should be treated fairly and with respect. If you are unhappy about the treatment that you have received or about any aspect of your work, you should discuss this with your line manager, who will attempt to resolve the situation on an informal basis. If you feel unable to approach your line manager directly, you should approach a Company Director 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. A formal grievance should be concerned with the way in which you have been treated by the organisation or managers acting on its behalf. Complaints that amount to an allegation of misconduct on the part of another employee will be investigated and dealt with under the disciplinary procedure and you will be informed of the outcome.

Grievances may be concerned with a wide range of issues, including the allocation of work, your working environment or conditions, the opportunities that you have been given for career development or the way in which you have been managed.

Complaints that you may have about any disciplinary action taken against you should be dealt with as an appeal under the disciplinary procedure.

Grievances raised while you are subject to disciplinary proceedings will usually be heard only when the disciplinary process has been completed. Insofar as a grievance has any bearing on the disciplinary proceedings, it can be raised as a relevant issue in the course of those proceedings.

### **Mediation**

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of your grievance. This involves the appointment of a third-party mediator, who will discuss the issues raised by your grievance with all of those involved and seek to facilitate a resolution. Mediation will be used only where all parties involved in the grievance agree.

### **The Right to be Accompanied**

You have the right to be accompanied by a fellow worker or trade union official at any grievance meeting or subsequent appeal. The trade union official need not be an employee of the organisation, but if he/she is not a fellow worker or an employee of his/her union, the organisation may insist on him/her being certified by the union as being experienced or trained in accompanying employees at grievance hearings.

The choice of companion is a matter for you. Please note that individual workers are not obliged to agree to accompany you. Companions will be given appropriate paid time off to allow them to accompany colleagues at a grievance hearing or appeal hearing.

At any hearing or appeal hearing, your chosen companion will be allowed to address the meeting, respond on your behalf to any view expressed in the hearing, and sum up the case on your behalf. However, both the hearing and appeal hearing are essentially meetings between the employer and you, so any questions put directly to you should be dealt with by you and not your companion.

Where the chosen companion is unavailable on the day scheduled for the meeting or appeal, the meeting will be rescheduled, provided that you can propose an alternative time within five working days of the scheduled date.

### **Accessibility**

If any aspect of the grievance procedure causes you difficulty on account of any disability that you may have, or if you need assistance because English is not your first language, you should raise this issue with the person to which you are addressing your grievance to, who will make appropriate arrangements.

### **Conducting the Grievance Procedure**

The organisation recognises that a formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The organisation will not tolerate abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the disciplinary procedure.

### **Formal Grievance Procedure**

#### *Making the Complaint*

The first stage of the grievance procedure is for you to put your complaint in writing. This written statement will form the basis of the subsequent hearing and any investigations, so it is important that you set out clearly the nature of your grievance and indicate the outcome that you are seeking. If your grievance is unclear, you may be asked to clarify your complaint before any 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 may be sent to a Company Director as detailed previously.

Further attempts may be made to resolve the matter informally, depending on the nature of your complaint. However, if you are not satisfied with the outcome, you may insist on the matter proceeding to a full grievance hearing.

Before proceeding to a full grievance hearing, it may be necessary to carry out investigations of any 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 long enough in advance of the hearing for you to consider your response. In exceptional circumstances, the evidence given by 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.



## *The Grievance Hearing*

The hearing will be held as soon as is reasonably practicable and, subject to any need to carry out prior investigations, within [five] working days of the receipt of your written complaint. It will be conducted by your line manager and 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 meeting may be adjourned to allow further investigations to take place.

You should ensure that you attend the meeting at the specified time. If you are unable to attend because of circumstances beyond your control, you should inform your line manager 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 you will be given every opportunity to explain your 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 is not helpful and can hinder the effective handling of your complaint. The manager conducting the hearing will intervene if he/she thinks that the discussion is straying too far from the key issue. The manager 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 within [seven] working days and told of any action that the organisation proposes to take as a result of your complaint. You may discuss this outcome informally with either your manager or a Company Director.

If you are dissatisfied with the outcome, you may make a formal appeal.

## *Appeal*

Your appeal should be made in writing to the manager or director who conducted the initial grievance hearing. You should clearly state the grounds of your appeal, ie the basis on which you say that the result of the grievance was wrong or that the action taken as a result was inappropriate. This should be done within [seven] working days of the written notification of the outcome of the grievance. An appeal meeting will be arranged to take place within [five] working days of the submission of your formal appeal.

You should ensure that you attend the meeting at the specified time. If you are unable to attend because of circumstances beyond your control, you should inform your line manager of this 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.

The appeal hearing will be conducted by a Company Director, 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 rehearing of the original grievance, but rather a consideration of the specific areas with which you are dissatisfied in relation to the original grievance. The Director conducting the appeal may therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.

Following the appeal meeting, you will be informed of the outcome within [seven] working days. The outcome of this meeting will be final.