

# **DISCIPLINE**

---

## **1. PURPOSE**

To establish a clear procedure, in compliance with current legislation and codes of practice, that will ensure fair and consistent treatment of employees when disciplinary action, which is reasonable in all the circumstances, becomes necessary.

## **2. SCOPE**

All established and temporary employees.

## **3. POLICY STATEMENT**

We believe that most employees are motivated more by their responsibilities and involvement than by any fear of disciplinary action. We also believe that the majority of employees fully accept the need for our standards and Code of Conduct and do not find any difficulty in abiding by them. However, there will be cases where employees fail to achieve the required standards of work or conduct.

If informal action does not accomplish the desired effect or if the offence warrants more serious action then formal disciplinary procedures will be immediately invoked. In these cases disciplinary action will be taken in a fair, consistent and reasonable manner.

## **4. INVESTIGATION**

Normally, prior to a disciplinary hearing being held (see clause 6), an investigation into the circumstances of the incident and/or allegations(s) must be conducted. In cases of potential gross misconduct, where practicable, the investigating manager should not be the manager who will be conducting any disciplinary hearing necessary as a result of the investigation.

The purpose of the investigation will be to establish all of the facts surrounding the incident and/or allegation.

In the event of alleged gross misconduct (see Clause 10 of this policy), the employee concerned may be suspended from work (see Clause 5) while the investigation takes place.

The extent of the investigation will be dependent upon the nature and severity of the alleged misconduct.

For example, individuals who can contribute to the facts of the case may be interviewed by the investigating manager. These witnesses may be asked to sign a supporting witness statement as corroboration of their evidence. The witness statements will be provided to the employee accused of the offence. Witnesses may be required to attend any disciplinary hearing resulting from the investigation, in order that the accused employee (or his/her companion) may ask questions connected to their statement.

The employee concerned may also be interviewed as part of the investigation in order that the facts, from his/her point of view, can be considered. Any employee who is the subject of an investigation, who refuses to participate in such an investigation, will be informed that the Organisation will proceed with the investigation and, if necessary, any disciplinary hearing, having taken decisions based on the facts that are available.

Where an independent investigating manager has conducted the investigation, he/she will collect all of the facts based on the witness statements, the employee's statement and any supporting documentary evidence. These will then be presented to the relevant manager who, having considered all the facts will make a decision as to whether or not a disciplinary hearing is warranted.

At the conclusion of the investigation, the decision is made as to what level of severity the disciplinary action, if any, is to take. The manager's decision at this point is concerned solely with whether or not there is a case to answer which is sufficient in seriousness to warrant a disciplinary hearing to be held.

Where a disciplinary hearing is considered necessary, the procedure as outlined in clause 6 below must be followed.

## **5. SUSPENSION**

An employee may be suspended on full pay while further investigation takes place to establish whether disciplinary action is to be taken as part of the formal disciplinary procedure. Suspension may be authorised by an employee's manager. Suspension should be for the shortest practicable time, normally between one and five working days, in order for the investigation to be completed and for the employee to prepare their case. Suspension must be confirmed in writing (Appendix I may be used for this purpose).

## **6. FORMAL DISCIPLINARY PROCEDURE**

### **6.1 Disciplinary Hearing**

Where an informal caution has not effected the required change or where following an investigation it is determined that the situation warrants moving directly to the formal procedure, a disciplinary hearing will be arranged.

The employee will be asked to attend the hearing arranged by his/her manager where he/she will have the right to be accompanied by a fellow

worker or by a trade union representative. The manager chairing the hearing may also be accompanied by another manager/witness.

This invitation will be confirmed in writing. (Appendix II may be used for this purpose, except when there is Final Written Warning live on the employee's file or in cases of alleged gross misconduct when Appendix III must be used). Whenever practicable at least 24 hours' notice of the hearing will be given. The employee may request a postponement of the hearing of up to five days to enable his/her companion to attend the hearing. Where the employee chooses not to be accompanied it is advisable to make a note of this in the written minutes of the hearing.

Full details of the alleged offence/area of poor performance which is the subject of the disciplinary, and any witness statements being relied upon must be made available to the employee in advance of the hearing.

At the hearing the procedure will be as follows:

- the employee's manager will open the hearing by explaining the reasons why the hearing has been arranged and detailing the incident or allegation
- the employee or his/her companion will then be given the opportunity to respond to the allegations and, where appropriate, may ask for witnesses to attend
- the detail of the employee's response will then be discussed until the full content of his/her response has been clarified
- at any time the companion may add his/her input to the hearing and may confer with the employee; however, the companion must not respond to questions asked of the employee or speak for the employee
- the hearing will then be adjourned for a short time while the manager decides what action is appropriate
- the hearing will be reconvened and the employee will be informed as to what action, if any, is being taken and the appeals procedure will be explained.

## **6.2 Disciplinary Outcomes**

The manager conducting the hearing has the responsibility for making the disciplinary decision and must act fairly and reasonably. The manager should take into account and satisfy him/herself as to the following:

- that the investigation has been carried out reasonably and fully in the circumstances
- that the explanation given by the employee has been considered in full

- whether, on balance, there are reasonable grounds to believe that the employee has committed the alleged misconduct, or that there is a shortfall in the required job performance.

When determining what, if any, disciplinary action should be taken, the manager should consider the following:

- the level of severity of the misconduct/poor performance
- any mitigating circumstances put forward by, or on behalf of, the employee
- whether the disciplinary action taken is, in the circumstances, a reasonable response.

The measures, therefore, to be considered are the following:

- **Formal Warning Unwarranted**

If the manager conducting the hearing considers that the case against the employee is unfounded or that a formal warning is too severe in the circumstances, he/she will inform the employee of this at the hearing and then confirm this in writing. All reference to the matter in question will be removed from the employee's personal file.

- **First Written Warning**

This will be issued in cases of minor breaches of discipline/poor performance. A copy of a written warning (see Appendix IV) and notes of the discussion at the hearing will also be retained on the employee's file. Normally, this documentation will be removed from the file and the warning will become inactive six months after the hearing.

- **Final Written Warning**

This will be given:

- for a very serious offence/shortfall in job performance which would not amount to gross misconduct but would justify a final written warning, or
- for a very serious offence which would justify summary dismissal for gross misconduct but a lesser penalty is appropriate in the circumstances, or
- where there has been failure to improve conduct/job performance after a first written warning has been issued, or
- for a further offence/shortfall in job performance after a written warning has been given and remains live.

A copy of a final written warning (see Appendix III) and notes of the discussion at the hearing will also be retained on the employee's file. Normally, this documentation will be removed from the file and the warning will become inactive 12 months after the hearing.

**In all cases when a warning is issued,** the employee will be informed that his/her performance/conduct will be expected to improve to an acceptable standard within a specified timescale. As far as possible, specific objectives/measures will be given to establish the required standard.

The letter (see Appendix IV) confirming the details of the warning will inform the employee that, if performance/conduct does not improve sufficiently, or if further instances of misconduct/poor performance occur, then further action may be taken immediately. This may result in a further warning being issued or, if he/she has been issued with a Final Written Warning, in the employee's dismissal.

- **Dismissal**

An employee may be dismissed for failure to improve or for an incidence of further misconduct/poor performance after a Final Written Warning has been given and remains live. Dismissal will be with notice.

In the case of dismissal for an act(s) of gross misconduct (see Clause 10 of this policy), dismissal will be without notice (i.e. summary dismissal).

The reasons for the dismissal will be confirmed in writing within 14 days of the effective date of dismissal (see Appendix V).

- **Other Penalties**

As an alternative to a warning or a dismissal there may be unusual circumstances which warrant other penalties. These include sanctions such as suspension from work without pay and/or disciplinary transfer or demotion.

## **7. APPEAL**

Any employee who is dissatisfied with the outcome of the formal disciplinary procedure may appeal to a member of management immediately senior to the manager who has taken the decision. This must be done within ten working days of the disciplinary decision being communicated to the employee at the disciplinary hearing. The appeal must be made in writing. It must be sent or given to the Chief Executive and should clearly state the basis on which the appeal is to be made.

Only one appeal will be allowed following a formal disciplinary hearing. It does not apply to informal cautions or counselling meetings.

To consider the appeal, the employee will be asked to attend a hearing where he/she has the right to be accompanied by a fellow worker or by a trade union representative. The meeting may be postponed by up to five days to enable the employee's chosen companion to attend. This invitation will be confirmed in writing. Where the employee chooses not to be accompanied it is advisable to make a note of this in the written minutes of the hearing.

For appeals against formal warnings or alternative penalties, the meeting will, wherever possible, be chaired by a manager who has not previously been involved, directly or indirectly, with the case. Appeals against dismissal will be heard by the appropriate senior manager or director where possible with another manager/witness present. The decision will be final. In cases of appeal against dismissal the employee will not be permitted to resume working until the matter has been decided. The dismissal date will be as determined at the dismissal hearing. In the event that the dismissal decision is revoked at the appeal hearing, reinstatement or reengagement with continuous service will apply.

## **8. COMPANION**

The person chosen by the employee as his/her "companion" may be either a fellow worker; or a full-time official employed by a trade union; or a lay trade union official, as long as the union official is certified as having experience of, or having received training in, acting as a companion at such a hearing. Only where the employee may have a communication disability or where the employee's first language is not English, for reasons of providing equality and fairness at a disciplinary hearing, may an appropriate translator from outside the Organisation act as a companion.

Appendix VI may be provided to a companion in order to assist in explaining their role at a disciplinary hearing.

The Organisation reserves the right to refuse to accept an individual as a companion in the event that there is a conflict of interest or unwarranted expense incurred.

In all cases of discipline involving a trade union representative, the companion will be the appropriate official of the relevant trade union.

## **9. SHORT SERVICE**

Employees with less than 11 months' service will be subject to regular reviews of progress. At any time within this period, should there be a shortfall in job performance or conduct a meeting will be held with the employee to discuss the issue. The employee should be invited to this meeting in writing, normally at least 24 hours in advance. The employee will have the right to have a companion present. At this meeting the employee will also have the opportunity to put forward any mitigating circumstances that he/she would want to be taken into account. The manager holding the meeting will determine the appropriate outcome, which could result in no formal action being taken, a formal warning being issued or the employee's dismissal, with notice (provided the notice period

ends before the employee has 51 weeks service) or pay in lieu of notice (except in cases of gross misconduct where no notice will be given).

The outcome of the meeting will be confirmed in writing. The employee has the right to appeal against the outcome, in which case Clause 7 of this policy should be followed.

## **10. GROSS MISCONDUCT**

Gross misconduct is referred to within the Code of Conduct.

Where gross misconduct is alleged the employee may be suspended immediately their manager has sufficient reason to suspect that they may be the perpetrator of that breach. The procedure in Clause 5 above must be utilised. Where dismissal is a possibility at the hearing the employee must be informed that their future employment is at risk prior to that hearing.

## **11. RESPONSIBILITY**

Responsibilities are clearly defined within the Foreword of the Employee Handbook.

### SUSPENSION LETTER

**Note:** This letter must be sent/given to the individual as soon as possible following the decision to suspend them. A copy of the Discipline Policy (without the Appendices) must accompany the letter.

Dear < Insert Employee's Name >

#### **Suspension**

Further to our conversation I confirm that you are suspended from work on full pay from <insert date> until further notice.

Your suspension will be for as short a period as possible, while I make sure we have the full facts regarding the matter. Your suspension is not a disciplinary action and does not suggest any prejudgement of the facts.

I will be in touch with you again at your home address/telephone number at the earliest opportunity, to let you know what will happen next.

If you have any queries regarding the above arrangements please contact me immediately.

Yours sincerely

## APPENDIX II

### INVITATION TO A DISCIPLINARY HEARING

**NOTE:** This letter must be sent/given to the individual so that they receive it at least 24 hours ahead of the hearing. A copy of the Discipline Policy (without the Appendices) must accompany the letter.

Dear <insert employee's name>,

#### **Disciplinary Hearing**

Further to our conversation I confirm that you are required to attend a disciplinary hearing, regarding <insert issues to be dealt with at the meeting>. This has been arranged to take place in <insert location> office at <inserts time> hours on <insert date>.

You may ask a fellow worker or a trade union representative to accompany you to the hearing. I will chair the hearing with <name of another manager> in attendance.

If you have any queries regarding the above arrangements please contact me immediately. A copy of the Organisation's Discipline Policy is enclosed.

Yours sincerely

## APPENDIX III

### INVITATION TO CONSIDER AN ALLEGATION OF GROSS MISCONDUCT OR OTHER CASES WHERE DISMISSAL IS A POTENTIAL OUTCOME

**NOTE:** This letter must be sent/given to the individual so that they receive it at least 24 hours ahead of the hearing. A copy of the Discipline Policy (without the Appendices) must accompany the letter.

Dear < insert employee's name >

#### **Disciplinary Hearing**

Further to our conversation I confirm that you are required to attend a disciplinary hearing, regarding <insert issues to be dealt with at the meeting>. This has been arranged to take place in <insert location> office at <inserts time> hours on <insert date>.

I must inform you that any future employment with the Organisation will be subject to the outcome of this hearing.

You may ask a fellow worker or a trade union representative to accompany you to the hearing. I will chair the hearing with <name of another manager> in attendance.

If you have any queries regarding the above arrangements please contact me immediately. The Organisation's Discipline Policy is enclosed.

Yours sincerely

## APPENDIX IV

### WARNING LETTER

**NOTE:** The layout of this letter may be utilised to confirm a warning.

Dear <insert employee name>

#### Warning

I am writing to confirm the outcome of the hearing you attended in <insert location> office at <insert time of hearing> hours on <insert date of hearing>. You were accompanied by < insert name of companion> and <insert name of manager> also attended.

I opened the hearing by informing you that the reason for the hearing was.. <insert details of hearing>

You responded by stating that <insert details of employee's response>.

After discussing your response the hearing was adjourned in order that we could consider our decision. Upon your return I formally issued you with a [First/Final] Written Warning which states that the following improvement(s) would be necessary if you are to avoid this matter being taken further through our disciplinary procedure. If this procedure is exhausted your employment will be terminated.

During the next <insert period of time> I will be monitoring your <insert conduct/absenteeism etc.>

In order to avoid a further warning [I will expect/we agreed] that you would <insert conduct/absenteeism etc requirement.>

This warning will remain on your record for <insert six/12> months.

Finally, I informed you that if you wished to appeal against this decision you must appeal in writing to the <insert name of senior manager> within ten working days of the date of the disciplinary hearing.

Yours sincerely

## APPENDIX V

### DISMISSAL LETTER

**NOTE:** The context of this letter may change depending if it is a procedural or summary dismissal.

Dear <insert employee name>

#### **Dismissal**

I am writing to confirm the outcome of the hearing you attended in <insert location> office at <insert time of hearing> hours on <insert date of hearing>. You were accompanied by <insert name of companion> and <insert name of manager> also attended.

I opened the hearing by informing you that the reason for the hearing was <insert details of hearing>.

You responded by stating that <insert details of employee's response>.

**Where the employee has been found guilty of committing gross misconduct the following paragraph should be used:**

After discussing your response the hearing was adjourned in order that I could consider my decision. Upon your return I informed you of your dismissal with immediate effect. This is as a result of <insert detail the misconduct> which constitutes gross misconduct in accordance with the Organisation's policy and Code of Conduct.

**For any other reason the following paragraph should be used:**

After discussing your response the hearing was adjourned in order that I could consider my decision. Upon your return I informed you of your dismissal with <notice> or <payment in lieu of notice>. This is as a result of <your failure to improve in the following areas (detail the areas in which the employee has failed to improve) or <our continued lack of trust and confidence in (detail the area of lack of trust and confidence). The date of termination of your employment is <insert date>.

Finally, I informed you that if you <insert name of senior manager/director> within ten days of the date of the disciplinary hearing.

Yours sincerely

## APPENDIX VI

### THE ROLE OF THE COMPANION AT DISCIPLINARY AND GRIEVANCE HEARINGS

This document is to help you if you have been asked to act as a companion at a disciplinary or grievance hearing. It sets out what you can and cannot do and what your overall role is.

#### **Do I have a duty to accept a request to act as a companion?**

No, you do not have to accept a request to accompany a colleague at one of these hearings. No pressure should be placed on you to attend and you do not have to give a reason for your decision not to attend. You should think carefully before accepting any request to act as a companion as it is an important role and must be taken seriously.

However, do not be put off from acting as a companion through any fear of the perception the Organisation may have of you as a result of your acceptance of this role. Acceptance or refusal of any request will not reflect personally on you.

#### **What is my role as a companion?**

Your main role as a companion is to support the worker whom you are accompanying. You cannot ask and answer questions on behalf of the worker. You can, however, ask questions to increase your knowledge and understanding of the issues being discussed and you are allowed to ask to leave the room and confer with the worker. You may also ask to address the hearing if you so wish, to present the worker's case, sum up and respond on behalf of the worker to any view expressed at the hearing.

#### **Do I have to have legal knowledge and expertise?**

You do not have to know the law but you should be familiar with the facts of the particular case. You should get together with your colleague before the hearing to discuss the issues being considered at the hearing so that you are fully informed

#### **Will I get paid for the time off?**

Companions can attend meetings during working hours without loss of pay. You will be given the time not only to attend the hearing, but also reasonable time to familiarise yourself with the case and to confer with the worker before and after the hearing. If you choose to accept the request to act as a companion you are entitled to ask for a reasonable amount of paid time off in order to complete these duties.