

ORGANISATIONAL EMPLOYEE POLICIES

DISCIPLINARY POLICY AND PROCEDURE

This policy and procedure does not form part of the employment contract

Introduction

It is necessary for the proper operation of the organisation's business and the health and safety of the organisation's employees that the organisation operates a disciplinary procedure. The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary by the organisation's management save to the extent that a minor reprimand is given for any minor act of misconduct committed by an employee.

The organisation reserves the right to implement the procedure at any stage as set out below taking into account the severity of the alleged misconduct of an employee. Employees will not ordinarily be dismissed for a first disciplinary offence.

Where time limits are referred to in the course of this procedure they may be varied by agreement between the employee and the organisation.

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

Should there be a potential conflict of interest at any stage in the process, the organisation will consider the appointment of a suitable external consultant to assist.

All those involved in the process are required to maintain the appropriate levels of confidentiality in respect of both information and/or individuals concerned.

Examples of matters that the organisation views as amounting to disciplinary offences 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;
- bribery offences under the Bribery Act 2010.

Accessibility

If any aspect of the disciplinary 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 your designated PDV contact, who will make appropriate arrangements.

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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.

In all circumstances the organisation will carry out an investigation to establish the facts, this may include an investigatory meeting with the employee. If such a meeting is held the employee will be informed at the outset that the meeting is an investigatory meeting. There is no right for employees to be accompanied at a formal investigatory meeting. The organisation reserves the right to dispense with an investigatory meeting with an employee 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 department manager or manager of a similar level to the departmental manager. In the event of poor performance by an employee, disciplinary hearings will usually be undertaken only where counselling of the employee, further training (if appropriate) and informal warnings have failed to produce a satisfactory improvement to performance.

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

1. give the employee a minimum of two working days' advance notice of the hearing;
2. tell the employee the purpose of the hearing and that it will be held under the organisation's disciplinary procedure;
3. explain the employee's right to be accompanied at the hearing by a fellow worker or trade union official (the 'chosen companion');
4. give the employee written details of the nature of his/her alleged misconduct; and
5. 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 at the hearing) 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. Unless there are special circumstances, where an 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.

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

Role of companion

The employee's chosen companion has the right to address the hearing to put the employee's case and ask questions (where appropriate). The companion may also confer with the employee during the hearing and may request a short adjournment to do this. The companion is not permitted 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 a manager of the appropriate level this can include the employee's department manager and attended by a member of the PDV Team. The member of management responsible for the investigation of the disciplinary offence(s) shall not normally be a member of a disciplinary panel, although such managers may present any supporting facts and material to the disciplinary hearing. 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 usually be informed of the likely period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with his/her chosen companion, to consider the new information prior to the reconvening of the disciplinary hearing.

As soon as possible after the conclusion of the disciplinary hearing, the decision will be sent to the employee in writing, which will confirm what disciplinary action, if any, is to be taken. 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:

Recorded Oral Warning: 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" for disciplinary purposes. During this period, the organisation may rely on such a warning in the event of further misconduct. The warning will usually be for 6 months and will:

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1. set out the nature of the offence committed;
2. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
3. specify the period for which the warning will remain "live", after such period the warning will automatically lapse; and
4. state that the employee may appeal against the warning.

First Written Warning: 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 usually be for 12 months and will:

1. set out the nature of the offence committed;
2. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
3. specify the period for which the warning will remain "live", after such period the warning will automatically lapse; and
4. state that the employee may appeal against the warning.

Final Written Warning: Where either a more serious disciplinary offence has been committed which justifies a final written warning, or further minor offences have been committed by an employee following a first written warning having been issued and remains "live", a **final written warning** may be given. Such a warning will usually be for 12 months and will:

1. set out the nature of the offence committed;
2. inform the employee that further misconduct is likely to result in further disciplinary action which may result in his/her dismissal; and
3. state that the employee may appeal against the warning.

***Dismissal with or without notice (or pay in lieu):** Where the employee has committed further acts of misconduct (other than gross misconduct) following a final written warning, the employee may be **dismissed with notice or with pay in lieu of notice**. Where the organisation establishes that an employee has committed an act of gross misconduct, the employee may be **summarily dismissed**. That is: employment ends immediately, no notice is payable, only outstanding accrued holiday. 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 conduct 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;

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- 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; and discrimination or harassment of a fellow worker on the grounds of one or more of the protected characteristics (sex, sexual orientation, race, religion or belief, age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity).

This list is not exhaustive and other acts of misconduct may come within the general definition of gross misconduct.

Appeal

An employee may appeal against any disciplinary sanction imposed against him/her within 5 working days of being informed of the disciplinary sanction being imposed.

When lodging an appeal, the employee should state:

1. the reasons or grounds of appeal; and
2. 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 appeal will be heard by a manager who has not been involved in the decision to impose the disciplinary sanction on the employee and will usually be senior to, or at the same level as the manager who made the original decision.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

If the employee raises any new matters in his/her appeal, the organisation may need to carry out further investigation. If any new information comes to light the organisation will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

The employee will be given written notice of the date, time and place of the appeal hearing. This is usually within fourteen days of the employee's notice of appeal.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of the employee's case. In any event the appeal will be dealt with as impartially as possible. Following the appeal hearing the organisation may:

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- (a) confirm the original decision;
- (b) revoke the original decision; or
- (c) substitute a different penalty.

Upon completion of the appeal, the decision will be confirmed in writing to the employee, usually within five working days. The organisation's decision at the appeal is final.

Miscellaneous

This procedure will be reviewed on a regular basis. Any amendment to it will be notified to employees in writing by the organisation's PDV Business Partner and such written advice will inform employees as to the date when any amendment comes into effect. This may be by means of the organisation's intranet or via use of notice boards.