

# DISCIPLINARY PROCEDURE

## Procedure

If an Employee is not meeting the required standard of work performance or behaviour, and the Employee has received the necessary instruction, training and coaching, the procedure set out below should be followed:

The disciplinary and performance management procedure involves the following actions:

- First counselling meeting
- Verbal Warning;
- Second counselling meeting and First Written Warning
- Third counselling meeting and Second (and final) Written Warning

## Involvement of Human Resources and Senior Managers

Prior to embarking on any disciplinary procedure, the Manager should discuss the issue with their up-line and the Recruitment & Retention Manager who will assist in implementing the appropriate disciplinary procedure.

Any final counselling meeting or Employee termination may only be conducted after discussion with up-line in conjunction with Recruitment & Retention Manager.

For the purposes of Franchise clubs, the Franchisee must be present at any Employee termination meeting. Franchisees also have access to Recruitment & Retention Manager for advice on process.

## Performance Improvement

If at any stage during the disciplinary process, the Employee achieves the required improvement in performance and/or behaviour, the formal disciplinary procedure will cease. However the Manager involved should continue to monitor the Employee's performance for a period of six (6) to twelve (12) months. If the performance and/or behavioural issues re-surface during the 12- month period, the counselling and disciplinary procedure will continue from the stage reached during the earlier counselling.

## Procedural Fairness

The following considerations should be followed to ensure that the counselling meetings are effective and procedural fairness is followed:

1. The Employee must be informed of the specific allegations of misconduct and must be given the opportunity to respond (i.e. deny, admit, explain etc. the behaviour);
2. The Employee must be advised what disciplinary action may be taken, up to and including dismissal;
3. The manager must consider whether or not the Employee's responses are reasonable in the circumstances of the allegations;
4. After considering the Employee's responses, the manager must consider appropriate disciplinary action, if any;
5. The manager must advise the Employee of disciplinary action in writing;
6. The allegations must be specific and substantiated, i.e. not based on rumour, subjective perception or inconclusive evidence;
7. Give the Employee advance notice of meeting times to allow them time to prepare and call a witness to attend the meeting (should they wish to have one there);
8. Ensure the Employee understands that the meeting is for the purpose of discussing his/her work performance/behaviour;
9. Conduct the meeting in a neutral area (e.g. meeting room) with no interruptions;

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10. A witness is required to be present at such meetings, the Employee must be advised of their rights with regard to having a witness present. The witness is a neutral party and should not participate in the discussion. The witness is there to verify that notes related to the meeting with regard to happenings in the meeting are true and correct;
11. Take notes during the meeting (or have a third party take notes) to ensure an accurate account of the discussion is recorded;
12. During any meetings, remain focused on the specifics of the performance issue. Avoid comments on the Employee's personality or personal values; and
13. Set reasonable review periods between counselling meetings to allow the Employee every opportunity to improve their performance. The review period will vary depending on the issues at hand, but two weeks is a suggested minimum.

**Informal VS Formal:** to avoid confusion with regard to the most appropriate format, it is advised that any discussions held with regard to performance and behaviour should be done in a formal way. A one-on-one meeting (with witness where required) with an opportunity for both parties to comment, documented agreed actions/outcomes, timeframe for action and review.

**NOTE:** Prior Planning Preparation Prevents Particularly Poor Performance – ensure investigations are completed and evidence of performance and/or behaviour is presented.

## Step 1 Verbal Warning

It is important that any verbal warning takes place as soon as possible after the poor work performance/behaviour is noticed. During the verbal warning:

1. Clearly outline the poor work performance and/or unsatisfactory behaviour. Be specific and describe the problem. An Employee File Note should be completed and brought to the meeting with any supporting documentation;
2. Ask why the Employee has demonstrated the poor work performance and/or unsatisfactory behaviour - give the Employee the opportunity to defend their performance/behaviour;
3. Ensure the Employee is aware that any necessary support will be made available to them to help in resolving the issue;
4. Ask the Employee to suggest actions to achieve performance/behaviour improvement and offer suggested actions yourself. Agree on a list of actions with the Employee;
5. Advise the Employee of a review date by which time the improvement in performance/behaviour is expected; and
6. Inform the Employee that if improvement in performance/behaviour is not achieved by the review date, the consequence will be a formal, written warning.

Immediately following the verbal warning, complete an **Employee Disciplinary Action Form**, tick the **Verbal Warning box**, noting the following:

- Date and time of discussion;
- Employee name and position title;
- Manager's name and position title;
- Name and position title of any third party present;
- Specific details of the performance/behaviour issue as outlined in the discussion;
- Employee's comments during the discussion;
- Agreed actions required to achieve improved performance/behaviour;
- Details of any additional support offered to assist Employee; and
- Details of the review date by which time performance/behaviour improvement is expected.

7. The Employee should be invited to sign the Disciplinary Action Form agreeing that it accurately summarises details of the discussion.

*Note that the Employee does not have to agree with the issues raised in the discussion but their signature confirms the discussion took place.*

8. A copy of the file note should be filed in their Personnel File and will remain an active document for a period of 12 months.
9. On the review date hold a meeting with the Employee to review their progress in achieving improvement in performance/behaviour.
10. If the required improvement has occurred, the discussion provides an opportunity to acknowledge the Employee's efforts in improving their performance/behaviour. It also allows both parties to assess the situation and reiterate the need for the improved standard of performance/behaviour to continue.
11. If the required improvement has not occurred by the review date, a formal counselling meeting should be conducted in line with the process outlined in Step 2 of these guidelines.

This action form should be attached to a Disciplinary Notice Letter.

## Step 2 First Written Warning

If the actions agreed on to improve performance/behaviour are not achieved by the agreed review date, it will be necessary to hold a counselling meeting to issue the Employee with a written warning.

### At this meeting:

1. Clearly outline the poor work performance and/or unsatisfactory behaviour. Refer to the Verbal Warning issued regarding the Employee's performance/behaviour. Be specific and describe the problem;
2. Ask why the Employee has demonstrated the poor work performance and/or unsatisfactory behaviour - give the Employee the opportunity to defend their performance/behaviour;
3. Consider the situation. The Employee may produce further evidence to defend his/her actions. If necessary, the interview may be halted and the additional information investigated or the disciplinary action reconsidered;
4. Ask the Employee to suggest actions to achieve performance/behaviour improvement and offer suggested actions yourself. Agree a list of actions with the Employee;
5. Ensure the Employee is aware that any necessary support will be made available to them to assist in resolving the issue;
6. Inform the Employee that they are being officially warned for the second time and that you will put this warning in writing. It is essential that the Employee understands their work performance/behaviour is "not acceptable to Fernwood / Company standards and as such must improve";
7. Set a review date to discuss the Employee's progress in improving their performance/behaviour. This is very important as it notifies the Employee that their work performance/behaviour will continue to be monitored; and
8. Inform the Employee that if improvement in performance and/or behaviour is not achieved by the review date, the consequence will be a second formal, written warning and possible eventual termination of employment.

Immediately following the meeting, complete an **Employee Disciplinary Action Form** – tick **First Written Warning box**, noting the following:

- Date and time of discussion;
- Employees name and position title;
- Manager's name and position title;

- Name and position title of any third party present;
  - Specific details of the performance/behaviour issue as outlined in the discussion;
  - Employee's comments during the discussion;
  - Agreed actions required to achieve improved performance/behaviour;
  - Details of any additional support offered to assist Employee; and
  - Details of the review date by which time performance/behaviour improvement is expected.
9. The Employee should be invited to sign the Disciplinary Action Form agreeing that it accurately summarises details of the discussion.

*Note that the Employee does not have to agree with the issues raised in the discussion but their signature confirms the discussion took place.*

10. A copy of the file note should be filed in their Personnel File and will remain an active document for a period of 12 months.

**On the review date** a meeting should be held with the Employee to discuss their progress in achieving improvement in performance and/or behaviour:

- If the required improvement HAS occurred, the meeting provides an opportunity to acknowledge the Employee's efforts in improving their performance/behaviour. It also allows both parties to assess the situation and reiterate the need for the improved standard of performance and/or behaviour to continue.
- If the required improvement HAS NOT occurred by the review date, a second counselling meeting should be conducted in line with the process outlined in Step 3 of these guidelines.

This action form should be attached to a Disciplinary Notice Letter.

### **Step 3 Second/Final Written Warning**

If the actions agreed on to improve performance and/or behaviour are still not achieved by the new review date, it will be necessary to hold a second counselling meeting to issue the Employee with a second official and final warning.

The Franchisee / Club Manager / HR Manager must be present at this stage of the warning process and (for company clubs) the HR Manager / Franchisee is to be informed of the process taking place.

#### **At this meeting:**

1. Review the specific details of the first meeting and the required actions agreed during that meeting;
2. Ask the Employee whether they feel the required improvement in performance/behaviour has been achieved. Give the Employee the opportunity to express their point of view then express your own assessment of the Employee's performance/behaviour during the review period;
3. Ask the Employee whether he/she has any explanation for the failure to improve their performance/behaviour, despite them having already received an official warning;
4. Give full consideration to the Employee's responses. If the Employee does not have any reasonable explanation for failure to improve, advise the Employee that their work performance/behaviour continues to be unacceptable to Fernwood's standards and as such must be improved immediately;
5. Reconsider and review the previously set actions with the Employee;
6. Ensure the Employee is once again offered any support required in resolving the issue;
7. Inform the Employee that they are being officially warned for the second and final time and that you will put this warning in writing;
8. Set a final review date to discuss the Employee's progress in improving their performance and/or behaviour; and

9. Inform the Employee that if improvement in performance/behaviour is not achieved by the review date, the consequence will be termination of employment.

Immediately following the second meeting, complete an **Employee Disciplinary Action Form** – tick the **Second and Final Warning box**

- Date and time of discussion;
- Employee's name and position title;
- Manager's name and position title;
- Name and position title of any third party present;
- Specific details of the performance/behaviour issue as outlined in the discussion;
- Employee's comments during the discussion;
- Agreed actions required to achieve improved performance/behaviour;
- Details of any additional support offered to assist Employee; and
- Details of the review date by which time performance/behaviour improvement is expected.

The Employee should be invited to sign the Disciplinary Action Form agreeing that it accurately summarises details of the discussion.

*Note that the Employee does not have to agree with the issues raised in the discussion but their signature confirms the discussion took place.*

10. A copy of the file note should be filed in their Personnel File and will remain an active document for a period of 12 months.

11. This action form should be attached to a Disciplinary Notice Letter.

**On the final review date** a meeting should be held with the Employee to discuss their progress in achieving improvement in performance.

- If the required improvement has occurred, the meeting provides an opportunity to acknowledge the Employee's efforts in improving their performance/behaviour. It also allows both parties to assess the situation and reiterate the need for the improved standard of performance/behaviour to continue.
- If the required improvement has not occurred, and it seems unlikely that it will, it may be necessary to terminate the Employee's employment – see Step 4 of these guidelines.

## Step 4 Termination of Employment

It is essential Franchisee / Club Manager / HR Manager be involved in any meeting to terminate employment. It is also necessary to liaise with the CEO.

1. Prior to the meeting, discussions will be held with relevant people in order to prepare for the meeting with the Employee. Immediately after the meeting, prepare any necessary documentation (e.g. Employee action form, letter of termination, certificate of service).
2. At the meeting with the Employee, ask why the Employee has continued to demonstrate poor work performance and/or unsatisfactory behaviour – give the Employee the opportunity to defend their performance/behaviour.
3. Should the response not be adequate and termination is justified, the Employee is to be informed that termination of their employment will take place.
4. When an Employee is terminated, extreme sensitivity needs to be applied. It is important that the Employee understands the specific reasons for the dismissal. Ensure to also be clear on what happens next (payment, security issues, etc).

### Following the final meeting:

5. Prepare relevant documentation (including Disciplinary Action Form and Termination Letter) and ensure that copies of are kept on the Employee's file; and
6. The Manager should speak to other members of the departing Employee's club in order to manage any miscommunication and possible negative impact of the termination. Be careful not to reveal details of confidential discussions in the disciplinary meetings

### Serious and Wilful Misconduct, Suspension with pay and Summary Dismissal:

Where an Employee is reported to have been involved in an act of serious and wilful misconduct the Employee's manager must involve the Franchisee / Up-line/ Recruitment & Retention Manager.

The recommendation may be to suspend the Employee, with pay, while an investigation is being conducted. Should an investigation substantiate a claim of serious and wilful misconduct the Employee may be summarily dismissed (without notice). The following list, which is not conclusive, shows the type of conduct that constitutes serious and wilful misconduct:

- Taking Fernwood / Club property off the premises without written permission (Theft).
- Approaching members for the purposes of enticing them away from Fernwood to an external business connected to the Employee.
- Breach of Confidentiality and Code of Conduct (as per Deed of Confidentiality and related policies).
- Unauthorised drinking of alcohol while on duty or coming to work under the influence of alcohol.
- Taking illegal drugs while on duty or coming to work under the influence of drugs.
- Intentionally damaging club / member property.
- Physical fighting at work.
- Leaving before completion of the shift without permission.
- Smoking (smoking is prohibited).
- Use of offensive language to colleagues, members, clients and general public accessing the premises.
- Bringing a gun or other weapon onto the premises.
- Using club facilities specified for members without prior permission.
- Intimidating or threatening other Employees.
- Unauthorised issuing or consumption of food, beverage or other club products / service.
- Gambling, betting, prostitution or any other immoral activity on club premises.
- Deliberately arguing with a member.
- Disobedience of a supervisor / manager's instructions without a good reason.
- Engaging in practical jokes or irresponsible actions which endanger safety, life or property.
- Deliberate breach of any safety regulation or wilful misconduct endangering the safety of other Employees or members.
- Accessing pornographic/offensive material via the internet or any other means of communication.