



## **DISCIPLINARY PROCEDURE**

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**DOCUMENT CONTROL**

<b>DOCUMENT NAME</b>	Disciplinary Procedure
<b>ABSTRACT</b>	This document details the Disciplinary Procedure – guidelines for the management and employees
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**AUTHORISATION**

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## **1. PURPOSE & SCOPE**

This procedure only applies to Company employees, but the Company will not usually apply all stages of this procedure to employees with less than two years' service. Company may also vary this procedure, including implementing it at any stage, omitting stages or changing time limits, as appropriate in any case.

This procedure is designed to help and encourage all employees of the Company to achieve and maintain appropriate standards of conduct. The aim is to ensure consistent and fair treatment for all. This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies, or poor performance. In those cases, reference should be made to the appropriate policy or procedure.

## **2. EMPLOYEE OBLIGATIONS**

Employees are required to comply with the terms and conditions set out in offer/ contract of employment. Employee must also comply with all reasonable instructions whether given verbally or posted on notice boards, posted in SharePoint portal, updated in HRMS, sent by e-mail, or otherwise brought to his/her attention. He/she must observe all Company practices, policies and procedures. Breach of any of these requirements may lead to disciplinary action, up to and including summary dismissal.

## **3. MISCONDUCT**

The following list provides examples of offences which are usually regarded as misconduct. The list is not exhaustive. Serious examples of some of the behaviours as set out below may be considered as misconduct:

- a. minor breaches of employment contract;
- b. failure to comply with statutory rules and regulations and Company practices, policies and procedures;
- c. damage to Company property or property belonging to the Company's staff or clients;
- d. poor timekeeping, time wasting or lateness (including taking excessive breaks);
- e. short periods of unauthorised absence from work, or failure to comply with the notification and certification requirements;
- f. refusal to follow a reasonable instruction;
- g. unauthorised or excessive use of the Company's telephone for personal calls;
- h. excessive personal email, internet usage or social media use in company time;
- i. conduct likely to offend other employees, customers, visitors, or members of the public;
- j. substandard personal appearance or hygiene;
- k. smoking in the Company's offices, any other workplace, any of the Company's vehicles or any other non-smoking areas;
- l. disregard or neglect of duties; and

- m. unauthorised sale of goods on Company premises
- n. sexual harassment towards any member of staff including but not limited to; requests for sexual favours, including implied or over promises of preferential treatment or threats concerning present or future employment status, offensive gestures or comments; sexually-orientated jibes, innuendos or jokes and unwanted physical contact.

#### **4. GROSS MISCONDUCT**

The following list provides examples of offences which are normally regarded as gross misconduct. This list is not exhaustive:

- a. theft, fraud, dishonesty, deliberate falsification of records;
- b. fighting, assault on another person or persons or threat of such behaviour;
- c. deliberate damage to Company property or that of a fellow employee, worker or client;
- d. serious misuse of Company property or the Company's name;
- e. serious incapability through alcohol or being under the influence of non-prescription drugs/substances or possession, use or abuse of alcohol or non-prescription drugs/substances during working hours;
- f. serious negligence or neglect of duty which causes unacceptable loss, damage or injury or risk of unacceptable loss, damage or injury;
- g. fraudulent or reckless misrepresentation;
- h. serious acts of insubordination or wilful disobedience of a reasonable instruction;
- i. serious misuse of the Company's email and/or Internet connection;
- j. unauthorised or negligent use or disclosure of confidential information;
- k. conviction of a criminal offence which in the Company's view affects employee's suitability to remain employed;
- l. behaviour which breaches mutual trust and confidence or brings employee or the Company into disrepute (whether or not committed in the course of work);
- m. acceptance of bribes or other corrupt practices;
- n. serious breaches of health and safety rules including deliberate damage to or misappropriation of safety equipment;
- o. failure to declare a conflict of interest which prejudices the Company's interests;
- p. working for or having any involvement with a competitor whether as principal, agent, employee, director, officer, worker, consultant or otherwise;
- q. undertaking unauthorised paid or unpaid employment during working hours;
- r. knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- s. making a disclosure of false or misleading information under any Company whistleblowing policy maliciously, for personal gain, or otherwise in bad faith;
- t. making untrue allegations in bad faith against a colleague;
- u. discrimination, harassment or bullying of any person;

- v. victimising a colleague who has raised concerns, made a complaint or given evidence or information under any Company policy such as whistleblowing, anti-corruption and bribery, anti-harassment and bullying, grievance procedure, disciplinary procedure or otherwise;
- w. obtaining employment with the Company by means of false or misleading information, including a failure to disclose correct information on application form or when questioned at interview;
- x. Sexual abuse/racial abuse/gender abuse or any such abuse aimed at any colleague or customer representative; and
- y. Any manager who develops a personal relationship with a more junior member of staff or has a family relationship will need to notify HR immediately so that the junior member can be reassigned to a different reporting manager

## **5. MINOR ISSUES**

Day to day supervision of employee conduct will be undertaken by the reporting manager and minor conduct issues can often be resolved on an informal basis. Manager and/or other staff members may accordingly raise minor issues of misconduct with employee on a when needed basis.

These discussions will normally be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed in employee personnel file but will be ignored for the purposes of determining the appropriate level of disciplinary sanctions in future. In some cases, an informal verbal warning may be given, which will not form part of employee disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

## **6. CONFIDENTIALITY**

Company aims to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Employee, and anyone accompanying him/her (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure. If any such records are made without the prior consent of all parties to the meeting this may be treated as an act of misconduct in itself.

## **7. INVESTIGATIONS**

The purpose of an investigation is for company to establish a fair and balanced view of the facts relating to any disciplinary allegations, before deciding whether to proceed with a disciplinary meeting. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from employee and any witnesses, and/or reviewing relevant documents.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

Employee does not normally have the right to bring a companion to an investigative interview. However, company may allow him/her to bring a companion if it helps him/her to overcome any disability, or any difficulty in understanding English.

Employee must co-operate fully and promptly in any investigation. This will include informing investigating manager of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required. Any employee's failure to co-operate in a disciplinary investigation, without good reason, may be treated as an act of misconduct in itself.

## **8. MISCONDUCT - CRIMINAL ALLEGATIONS**

Where employee's conduct is the subject of a criminal investigation, charge or conviction company will investigate the facts before deciding whether to take formal disciplinary action.

Company will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employee is unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, company may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if company considers that it is relevant to the employment.

## **9. MISCONDUCT - SUSPENSION**

The Company reserves the right to suspend employee on full pay if it considers it necessary in order to protect the interests of the Company, employee and/or other staff members, to protect the Company's property, to prevent evidence being tampered with or to allow matters to be properly investigated. Any suspension would usually last until the outcome of the disciplinary process has been communicated to employee. Suspension is not and should not be considered as a form of disciplinary action.

If the Company exercises its right to suspend employee, it will advise him/her of the suspension in writing and its likely duration. If the period of suspension needs to be extended, he/she will be advised of the reason for the extension and its likely duration.

While suspended employee should not visit company premises or contact any of company clients, customers, suppliers, contractors or staff, unless he/she has been authorised to do so.

## **10. MISCONDUCT – INVITATION TO HEARING**

Following any investigation, if company consider there are grounds for disciplinary action, employee will be required to attend a disciplinary hearing. Employee will be advised in writing of the nature of the complaint against him/her. In most cases, the Company will provide employee with copies of the evidence and any relevant witness statements, which it has obtained as part of its investigation, prior to the disciplinary hearing. The Company reserves the right to anonymise statements or, if necessary, to provide a summary of the evidence obtained where it considers such action is necessary to protect the witnesses, or where it has only been possible to obtain evidence on a confidential basis.

The likely consequences for findings of different offences of misconduct are set out in this policy, which employee should consider upon receipt of an invitation to a disciplinary hearing. The invitation letter may, in any event, advise employee of what the likely range of consequences will be if company decides after the hearing that the allegations are true.

If the Company intends to call any witnesses at the hearing, it will inform employee in advance. Equally, if employee wishes to call any witnesses at the hearing, he/she should inform the manager conducting the disciplinary hearing in advance as to the identity of proposed witnesses and the relevance of their evidence, so that it can be considered if their attendance will be appropriate. Employee must ensure that any allowed witnesses are available to attend the hearing, or the Company is given sufficient advance notice to arrange their attendance.

Employee will usually be given at least three working days' notice of the time, date and location of the disciplinary hearing.

Employee will have the right to have a companion at a disciplinary hearing.

## **11. MISCONDUCT - DISCIPLINARY HEARING**

Employee must take all reasonable steps to attend a hearing to which he/she has been invited under this procedure. If employee fails to attend for a legitimate reason, the hearing will be postponed once. If he/she fails to attend without reasonable explanation, or if he/she does not attend a rearranged hearing, the Company may, if appropriate, proceed with the hearing and



issue employee with a warning or notice of dismissal in his/her absence. The Company may also treat any failure to attend without good reason as misconduct in itself.

The hearing will normally be chaired by reporting manager, but if the manager conducted the investigation into the allegations of misconduct, employee may be invited to a disciplinary hearing with another manager of equal or higher seniority. Where possible, the same person will not conduct the investigation and the disciplinary hearing. Additional members of staff may be present to take a note of the proceedings and/or to provide HR support. The person who has conducted the investigation may attend to present their findings.

The Company will arrange for notes of each disciplinary hearing to be taken. Employee will usually be given a copy of the Company's notes of the hearing. Employee and companion are entitled to take their own notes.

At the disciplinary hearing company will go through the allegations against employee and the evidence that has been gathered. Employee will be given the opportunity to state his/her case, ask questions, present evidence and, where appropriate, call witnesses or submit witness statements.

Employee will be given the opportunity to respond to any information given by a witness. However, he/she will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, company decide that a fair hearing could not be held otherwise.

Company may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points employee has raised at the hearing. Employee will normally be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Where the facts are in dispute, the Company is entitled to conclude that employee committed the alleged misconduct if, following the review of a proper investigation and having taken into account his/her comments, the manager conducting the disciplinary process reasonably and honestly believes that the allegations are true.

Following the disciplinary hearing, employee will be notified of the Company's decision and this will be confirmed in writing usually within one week of the disciplinary hearing and he/she will be advised of his/her right of appeal.

If employee is issued with a written or final written warning he/she will be advised of the reason for the warning, given guidance as to appropriate conduct (if necessary), and receive confirmation that he/she has been disciplined under the Disciplinary Procedure. The warning will set out the period for which the warning remains active and explain that action under further stages will be considered if he/she commits any further misconduct.

If employee is dismissed, he/she will be given written reasons for dismissal, receive confirmation that he/she has been dismissed under the Disciplinary Procedure, and receive confirmation of the date on which his/her employment will terminate. In cases of gross misconduct, the Company may terminate employment without notice or pay in lieu of notice.

## **12. DISCIPLINARY PENALTIES**

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. Company aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

Stage 1 - First written warning. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on employees' disciplinary record.

Stage 2 - Final written warning. It will usually be appropriate for:

- a. misconduct where there is already an active written warning on employees' record; or
- b. misconduct that company considers sufficiently serious to warrant a final written warning even though there are no other active warnings on employees' record.

Stage 3 - Dismissal. It will usually only be appropriate for:

- a. any misconduct during probationary period;
- b. further misconduct where there is an active final written warning on record; or
- c. any gross misconduct regardless of whether there are active warnings on record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

The decision to dismiss will normally be taken, or approved, by a CXO of the Company.

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

- a. demotion;
- b. transfer to another department or job;
- c. a period of suspension without pay;
- d. loss of seniority;
- e. reduction in pay;
- f. loss of future pay increment or bonus; and
- g. loss of overtime.

Unless employment contract specifically provides for such sanctions, company will not normally impose any of these alternatives to dismissal without employee's consent.