

## Disciplinary Procedure

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

Without prejudice to the above, the procedure does not apply to:

- termination during or at the end of a probationary period of service (including any extended probationary period of employment) - where a basic procedure in line with the statutory dismissal and disciplinary procedure will apply instead;
- termination by mutual consent.

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

The Company may suspend you on full or part pay or without payment in the event that it has reason to believe that you have been guilty of misconduct. Furthermore, the Employer may suspend you with pay for any reason relating to your health and safety or that of any other person.

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

The Company allows employees to be accompanied at any disciplinary hearing by a fellow worker or trade union official of their choice.

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

- persistent bad timekeeping;
- unauthorised absence;
- minor damage to Company property;
- failure to observe Company procedures;
- abusive behaviour or conduct;
- breaches of written policies or verbal instructions
- conduct that prejudices the company reputation
- circulation of inflammatory or offensive material (including via the internet)
- unreasonable refusal to follow an instruction issued by a manager or supervisor;
- poor attendance; and

### 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 Employer'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.

Where it is believed that the matter to be investigated involves serious misconduct, the employee may be immediately suspended from work on full pay and contractual benefits. If serious misconduct is not initially suspected or believed to have occurred, but during the course of an investigation the person conducting it reasonably forms the opinion that a serious breach of discipline may have occurred, the employee who is the subject of the investigation may then be suspended. Any decision to suspend will be confirmed in writing within [three] working days and such written confirmation will state that the nature of the suspension is precautionary, not disciplinary, pending the outcome of the disciplinary proceedings.

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. The Company 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 department 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 oral warnings have failed to produce a satisfactory improvement to performance.

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

- (a) give the employee a minimum of two 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) give the employee written details of the nature of his/her alleged misconduct; and
- (d) provide to the employee all relevant information (which should include statements taken from any fellow employees or other persons that the Company intends to rely upon against the employee) not less than [two] 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 Company 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.

### **The disciplinary hearing**

A disciplinary hearing will normally be conducted by the employee's department manager together with the Company's personnel officer (the panel). Any member of management responsible for the investigation of the disciplinary offence(s) shall not be a member of the panel, save to the extent that such a manager 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 also be entitled to state his/her case in response to the Company's case and put forward an explanation of his/her conduct and/or mitigating factors.

The Company 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 department 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 Company 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 Company 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:

- (i) set out the nature of the offence committed;
- (ii) inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
- (iii) specify the period for which the warning will remain 'live', after such period [the Company will review the warning/the warning will automatically lapse]; and
- (iv) 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 Company 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:

- (i) set out the nature of the offence committed;
- (ii) inform the employee that further misconduct is likely to result in his/her dismissal; and
- (iii) 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 under (c) above, the employee may be dismissed with notice or with pay in lieu of notice.

(e) Where the Company 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 (c) above, the Company may also impose on the employee:

- (i) disciplinary suspension;
- (ii) demotion;

(iii) requirement to repay costs or losses suffered by the company, an employee or client,

(iii) stoppage of remuneration for such period as the Company thinks fit in the circumstances subject to a maximum of four weeks; or

(iv) transfer to a job of a lower status.

The foregoing 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 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 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 Company's decision at the appeal is final. The decision will be confirmed in writing within [one week].

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 Company will be under no obligation to 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.

### **Gross misconduct**

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

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

- stealing from the Company, 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 Company's property;
- serious damage to the Company's property;
- drunkenness or being under the influence of illegal drugs whilst at work;
- possession, custody or control of illegal drugs on the Company's premises;
- serious breach of the Company'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 Company's name into disrepute; and
- discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, race, disability, age or religion or belief.

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

### **Procedure in the event of an employee going off sick during a disciplinary process**

1. Where the Company is contemplating dismissal or action short of dismissal (other than suspension on full pay or a warning) the statutory disciplinary and dismissal procedures apply. Failure to follow these rules will result in an automatically unfair dismissal regardless of the merits of the case and an employment tribunal may increase compensation by between 10% and 50%. It is

therefore essential to ensure that the statutory procedures are followed in these circumstances.

2. If an employee goes off sick when first being informed of the disciplinary charge or at any point during the investigation, the Company will continue with the investigation as far as possible in the absence of the employee. The investigating officer will interview any other witnesses to the matters in question and will collect and investigate any documents that may be relevant to the case. The investigation will be completed in all respects save for enquiries that need to be made with the employee himself/herself.
3. The Company will ascertain how long the employee is likely to be absent by following its normal sickness absence procedure. If the sickness absence is for less than seven days, it will not be necessary for the employee to produce a medical certificate and the process will not be unduly delayed. If the absence is for more than seven days, the employee will be required to produce a medical certificate in accordance with normal sickness absence procedures. The medical certificate will give an initial indication of the length of sickness absence.
4. If it becomes apparent that the sickness absence will exceed four weeks, the Company will take steps to ascertain the employee's fitness to take part in the disciplinary process. Employees with some conditions or minor injuries may be well enough to attend an investigatory interview or disciplinary hearing even if they are not well enough to perform the duties of their job.
5. The Company should not proceed with the disciplinary process (other than as set out in paragraph 2 above) if the employee is not well enough to take part.
6. A medical opinion will be sought from the employee's GP, the treating specialist or the Company's occupational health adviser. If the employee is not well enough to take part in the process, the absence should be managed in accordance with normal sickness absence procedures. The employee will be informed that the disciplinary process will be resumed upon his/her return to work and/or the sickness absence procedures will be managed through to their conclusion.
7. If medical opinion is that the employee is well enough to take part in the disciplinary process, this will then continue subject to any conditions set out by the medical professional. The Company will make reasonable adjustments that are required for disabled employees (eg wheelchair access).
8. The employee must take all reasonable steps to attend an investigatory meeting and/or disciplinary hearing. If the employee becomes sick following the investigation and when a date has been notified for the disciplinary hearing, the Company will issue a second invitation to a disciplinary hearing (unless it is clear from the facts available that there is no reasonable prospect of the employee being well enough to attend the hearing within a reasonable period). A decision may be taken as a last resort in the employee's absence if he/she fails to attend the rearranged hearing without good reason.
9. If two separate dates have been set for the disciplinary hearing and the employee remains off sick, the absence will continue to be managed in accordance with normal sickness absence procedures unless or until the employee is well enough to attend, at which time a further date will be set.

## Miscellaneous provisions

If an employee who is an accredited representative of a trade union recognised by the Company for collective bargaining purposes is suspected of having committed a disciplinary offence, the Company will take no action under this procedure (with the exception of suspending the employee in a case of suspected or known gross misconduct) until the Company has had a chance to discuss the matter with a full-time official of that trade union.

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

Criminal charges or convictions for offences of dishonesty or violence committed outside working hours may result in disciplinary proceedings being taken against the employee up to and including summary dismissal.

A charge or conviction for any other type of offence may result in disciplinary proceedings being taken against the employee where, in the opinion of the Employer, the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in which he/she is employed, or the business or reputation of the Employer, or where the existence of the charge or conviction could, in the opinion of the Employer, otherwise seriously undermine the trust and confidence that the Employer has in the employee.

Records of disciplinary matters are retained and may be referred to any reference provided by the company, when requested by a third party.