



Discipline and Grievance Policy

Version History

Version	Date	Author	Changes
Initial			Initial Version
2018/12	Dec 2018	JMB	Clarification of written warning.
2020/01	Jan 2020	JMB	Inclusion of wording from STEP

Discipline and Grievance Policy

Introduction

The disciplinary policy complies with the ACAS Code of Practice on discipline and grievance. The policy aims to ensure that all employees are aware of their rights and obligations under the disciplinary procedure.

Scope

The company requires good standards of conduct and performance from all employees. This disciplinary procedure will apply to any act of misconduct or failure to meet satisfactory standards of behaviour or attendance. Although this procedure is primarily aimed at misconduct, it will also be applied to cases of poor performance and capability.

Responsibility

The manager is responsible for ensuring that this policy is applied consistently to all appropriate acts of misconduct or capability and for briefing all employees within their area of accountability.

The employee is responsible for adhering to the standards of performance and behaviour set by the company.

Principles

- A. No formal disciplinary action will be taken against an employee until the matter has been fully investigated. In some cases this will require the holding of an investigatory meeting before proceeding to any disciplinary hearing.
- B. In advance of any disciplinary hearing, the employee(s) will be advised in writing of the nature of the conduct, capability or other circumstances that may result in disciplinary action or dismissal. The employee will be given the opportunity to discuss the issue and state their case at a meeting before any decision is made.
- C. All employees will be given the opportunity to prepare before attending a disciplinary hearing.
- D. The employee will be advised of their right to be accompanied by a work colleague of their choice or their trade union official during the disciplinary hearing.
- E. The disciplinary action taken will depend on the circumstances (including the nature of the complaint) and will be dealt with as soon as is reasonably practicable.
- F. Only the appropriate manager can take the decision to dismiss.
- G. Any suspension necessary before a disciplinary measure is determined will be on basic pay. Should an employee become unwell during any period of suspension (and thereby unable to attend work) then the appropriate sick pay will always be paid. Any period of suspension will be as brief as possible and will be kept under review.
- H. Where an employee is persistently unable or unwilling to attend a disciplinary hearing without good cause the appropriate manager will make a decision on the evidence available.
- I. Employees being disciplined will have the right of appeal, wherever practicable, to a level of management not previously involved.

The Right to be Accompanied

At any disciplinary hearing an employee may request to be accompanied by a fellow employee of their choice or by a trade union official. Where a trade union is recognised in the workplace, it is good practice for workers to ask an official from that union to accompany them. If an employee chooses a trade union official, they should be certified by their union as having experience of having received training in acting as an employee's companion at disciplinary hearings. The company may wish to see evidence that the trade union official who accompanies them is so certified.

Before the hearing takes place, in order to exercise the right to be accompanied a worker must first make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.

If the companion can't attend on a proposed date, the employee can suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date. The companion will be allowed to address the hearing in order to put the employee's case and sum up where appropriate. The companion can also confer with the employee during the hearing. The companion has no right to answer questions on the employee's behalf, or to address the hearing if the employee does not wish it, or to prevent the company from explaining their case.

The Procedure

Informal Procedure

Minor conduct issues can often be resolved informally between an employee and his manager. These discussions should be held in private and without undue delay whenever there is cause for concern.

For minor breaches of discipline, or failure to achieve satisfactory standards of behaviour or performance, the employee will normally be given an informal verbal warning.

A note of this warning will be recorded but it will be considered invalid for disciplinary purposes after 12 months subject to satisfactory conduct and performance.

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).

Formal Procedure

Where informal action does not bring an improvement or the matter is more serious, the following formal procedure will be used.

1. Before the company takes any formal action, a full investigation into the allegations will be carried out. Where practicable, the investigation will be carried out by a director who will not be involved in any potential disciplinary hearing.
2. As part of the investigation, the company will interview any witnesses to the incident or allegations. The witness will be notified that their statement may be used as part of the evidence in any potential disciplinary proceedings.
3. Following the investigation, the employee will receive written notice of the disciplinary hearing at which the allegations will be discussed. The written notice of the meeting should contain details of the meeting [date, time and location] and sufficient information for the employee to be able to fully understand the nature of the allegations and why they are not acceptable. It is normally appropriate for the written notice to include copies of any investigation notes or witness statements or other evidence that the employer wishes to discuss with the employee. The written notice will also inform the employee of their right to be accompanied at the hearing.
4. Where practicable, the director who will be conducting the disciplinary hearing should arrange for a competent note-taker to attend the meeting to ensure that a full record of the meeting is made. The note-taker may not participate in the hearing.
5. At the start of the disciplinary hearing, the director should ensure that the employee has received copies of all the relevant investigation notes etc. If the employee declines the right of representation, this should be recorded in the notes of the meeting.
6. The director should review the essence of the allegations and allow the employee to state their case in full.
7. The employee should be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. The employee (and their companion) should be permitted to raise points about any information provided by witnesses however, there is no right for the employee (or their companion) to cross examine witnesses.
8. Where the employer or the employee intends to call relevant witnesses to a disciplinary hearing, they should give advance notice that they intend to do this.
9. If new evidence comes to light at this stage, the hearing must be adjourned pending further investigations.
10. Once the director and employee have had the opportunity to review the allegations in full, the manager should adjourn the hearing to consider the appropriate level of disciplinary action. The length of adjournment will depend on the complexity of the allegations and must allow the director sufficient time to consider appropriate action. If the hearing is to be adjourned beyond the day of the hearing, the company will give the employee notice of the re-convened meeting.

11. When the disciplinary hearing is re-convened, the director will advise the employee of the level of disciplinary warning and the reasons for the decision. The employee will also be advised of their right of appeal.
12. In all cases warnings will be issued for misconduct, irrespective of the precise matters concerned, and any further breach of the rules in relation to similar or entirely independent matters of misconduct will be treated as further disciplinary matters, and allow the continuation of the disciplinary process through to dismissal if the warnings are not heeded.

Formal Verbal Warning

In cases of unsatisfactory conduct and/or misconduct, a Formal Verbal Warning may be given to the employee. It will detail the complaint, the improvement required and the timescale. It will warn that action under the next formal stage will be considered if there is no satisfactory improvement and will advise the right of appeal.

Formal Verbal Warnings will be considered invalid for disciplinary purposes after 6 months, subject to satisfactory conduct and performance.

Written Warning

If the offence is a serious one (or if a further offence occurs after an informal verbal warning), a Written Warning may be given to the employee. It will detail the complaint, the improvement required and the timescale. It will warn that action under the next formal stage will be considered if there is no satisfactory improvement and will advise the right of appeal.

Written Warnings will be considered invalid for disciplinary purposes after 12 months, subject to satisfactory conduct and performance.

Final Written Warning

If there is still a failure to improve, and conduct or performance is still unsatisfactory, OR if the misconduct is sufficiently serious to warrant only one written warning (but insufficiently serious to justify dismissal) a Final Written Warning may be given to the employee. It will detail the complaint, the improvements required, the timescale and will warn that dismissal may result if there is no satisfactory improvement and will advise on the right of appeal.

Final Written Warnings will be considered invalid for disciplinary purposes after 12 months, unless specified otherwise.

Dismissal

If conduct or performance is still unsatisfactory and the employee still fails to reach the prescribed standards, or misconduct is sufficiently serious to warrant it, then Dismissal may result. Only the appropriate senior manager can take the decision to dismiss. The employee will be provided, as soon as is reasonably practicable, with written reasons for the dismissal, together with the date on which employment will terminate and the right of appeal.

Following the disciplinary hearing, the manager is responsible for ensuring that the employee receives written notification of the disciplinary decision.

Gross misconduct

Employees may be summarily dismissed if it is established, after investigation and hearing the employee's case, that there has been an act of gross misconduct or poor performance of sufficient gravity to warrant summary dismissal. Such dismissals will occur without the need to issue prior disciplinary warnings. As a precautionary measure, employees may be suspended from work on full, contractual pay to enable the company to investigate the alleged offence.

Gross misconduct giving rise to dismissal without warning(s) will include, but not be limited to, the following:-

- Fighting, physical assault, violent conduct or dangerous horseplay;
- Failure to carry out a reasonable and lawful direct instruction given by a superior during working hours;
- Gross insubordination/failure to carry out legitimate instructions;
- The use of aggressive behaviour or excessive bad language;
- Theft, wilful damage or negligence which leads to damage of property belonging to the company or other employees;

- Falsification of company records (including timesheets, commission claims, etc.).
- Wilful acts of damage when representing the company or engaged on company business;
- Performing, arranging or carrying out work or activity which could be considered to be in competition with or which adversely affects in any way the company's interests;
- Fraud or any other offence committed against the company which would be a breach of the law of the land;
- Attending work while intoxicated by alcohol or non-medically prescribed drugs;
- Breach of safety rules and/or any action which seriously endangers the health or safety of an employee or any other person whilst at work;
- Deliberately making a false entry in the written records of the company;
- Deliberately falsifying any records (i.e. time sheets, absence records, medical certificates etc, in respect of yourself or any other employee);
- Knowingly giving false information or deliberately omitting relevant information on the job application form or curriculum vitae;
- Smoking in designated non-smoking areas;
- Partaking in discrimination or harassment;
- The viewing or downloading of pornographic or other derogatory, defamatory, obscene or inappropriate material from internet/e-mail systems;
- Unauthorised access to, or disclosure of, any confidential information;
- Abuse of internet/e-mail systems/telephone for personal usage;
- Abuse of the whistleblowing provisions;
- Abuse of the Social Networking policy;
- Working in competition against us;
- Partaking in activities which result in adverse publicity to ourselves, or which cause us to lose faith in your integrity.

Alternatives to Dismissal

An employee may have other punitive action imposed as a disciplinary measure as an alternative to dismissal including (but without limitation): demotion or transfer; loss of seniority or salary increment; suspension without pay. A Final Written Warning will normally accompany any alternative action. An employee will have the right to appeal against any such alternative disciplinary sanction, as set out below.

Right to Suspend

The Company reserves the right to suspend you on normal pay either during investigation into your conduct or pending disciplinary proceedings. You may also be suspended on normal pay for health and safety reasons.

Disciplinary/Capability General

Short Service Staff

We retain discretion in relation to the disciplinary/capability procedures to take into account your length of service and to vary the procedure accordingly. If you have a short amount of service, you may not be in receipt of any warnings before dismissal, but you will retain the right to a disciplinary hearing and you will have the right to appeal.

Disciplinary Rules

It is not practicable to specify all of the disciplinary rules and/or offences that could result in disciplinary action. In addition to the specific examples of misconduct, serious misconduct and gross misconduct shown in this handbook, a breach of other procedures, conditions, rules etc, that are contained within this handbook, or have otherwise been made known to you, will also result in the disciplinary procedure being used to deal with such matters.

Capability/Disciplinary Appeals

At any stage after a formal capability/disciplinary decision has been taken by the company, including dismissal, an employee has the right to appeal.

To start an appeal, the employee must confirm their intention to appeal in writing within five working days of receiving the written notification, following the capability/disciplinary action. The written confirmation should set out the grounds for the appeal. The Warning or Dismissal will stand unless and until it is altered on appeal.

On receipt of the written confirmation of the employee's wish to appeal, the company should undertake an appeal hearing as soon as is reasonably practicable. The company should write to the employee inviting them to the appeal hearing, and give the employee notice of the hearing. The written notice should also confirm that the employee has the right to be accompanied by a fellow employee or trade union official of their choice.

The company will endeavour to ensure that the person hearing the appeal was not party to the original capability/disciplinary decision.

At the appeal hearing, the employee will be given the opportunity to set out the grounds of their appeal in full. The manager should review the evidence on which the original capability/disciplinary decision was made and consider whether the decision was reasonable.

The manager should adjourn the appeal meeting to consider the information before re-convening to deliver the decision. The length of the adjournment will depend on the complexity of the case.

The manager is responsible for ensuring that the employee receives written notification of the decision taken at the appeal hearing i.e. that the appeal has been upheld or denied.

The decision taken at the Appeal is deemed to be final.

Grievance Procedure

If the employee who has made the complaint is not satisfied with the outcome, they may appeal in writing to the Board of Directors setting out the reasons for their dissatisfaction.

The appeal must be submitted within 5 working days of receipt of the written report from the manager who handled the complaint.

The manager responsible for the appeal will convene a hearing with the employee to establish the grounds for their dissatisfaction and explore possible resolutions, having notified them of their right to be accompanied by a colleague or trade union representative at the hearing.

The hearing will normally be held within a reasonable timeframe of receipt of the employee's written appeal.

The company will endeavour to ensure that the person hearing the appeal was not party to the original decision, where feasible.

Following the appeal hearing, a director will reply to the employee within a reasonable timeframe, describing any action that they propose to take and the time-scale, or informing the employee that the appeal has not been upheld and no further action will be taken.

If it is not possible to respond within the time periods expected, the employee will be given an explanation as to the reasons, and asked to agree to a reasonable extension of the timescale. This will be the final stage of the procedure.

Records

Records will be kept detailing the nature of the allegation of discrimination or harassment, the Company's response, any actions taken, the reasons for them and the outcome.

Details of these will be retained on file by the Board of Directors who will ensure the records are held in accordance with the General Data Protection Regulations (GDPR). The Directors will also be responsible for making arrangements for statistical data to be released about the procedure and its usage for the purposes of monitoring.