

## 02 Disciplinary Policy

### 1. Overview

- 1.1. This policy covers the Company's procedures relating to disciplinary issues and where there is suspicion of misconduct. Misconduct generally covers action by you that breaches the Company's rules or what is generally considered acceptable. It may also cover instances of intentional poor performance.
- 1.2. It applies to all employees but does not form part of contracts of employment. It does not apply to contractors, workers, agency workers or volunteers (although such persons must refrain from the types of conduct listed as examples of misconduct below).
- 1.3. We reserve the right to amend this policy at any time and to depart from some or all of the warning stages if it is deemed appropriate to do so (e.g. for an employee who is in their probationary period or who has less than 2 years continuous service).

### 2. When we will take informal action

- 2.1. Sometimes we may choose to discuss a disciplinary issue with you before taking formal action. If this happens and is deemed sufficient to address the problem we will give you a written note detailing the concern/s and agreed actions.
- 2.2. If this fails to resolve the problem, or we feel this approach is inappropriate in the circumstances, we will normally use the procedures below.

### 3. How we investigate

- 3.1. We will not take disciplinary action without inviting you to a formal meeting, but — depending on the specific circumstances — that hearing may be the only meeting we invite you to attend. In other words, there may not be separate meetings for the investigation and disciplinary stages.
- 3.2. An investigation may include a search of your work activities (e.g. calls, emails, data storage, etc.). You should avoid using these for items that do not relate to your work and which are private.
- 3.3. If deemed appropriate we may require you to submit to a search of your clothing and other possessions. A search will only be carried out by an appropriate person in the presence of a witness and you may request the presence of a work colleague.

### 4. Suspension

- 4.1. If you face a misconduct allegation, you may be suspended. Suspension is a neutral act, normally intended to cause the least disruption to the business while we investigate. If we suspend, you:- must stay away from work, not visit any Company premises or make contact with staff, clients, suppliers or contractors (unless we authorise this in writing). But if you want to contact somebody specifically to ask them to be a witness, or to accompany you at the hearing, then you may do so without asking us first.
- 4.2. Suspension will be on full pay, unless your contract says otherwise. If you are suspended on full pay but tell us you are unfit to work because of sickness issues, then you will be paid

according to our Absence Policy (which could entail a reduction in what you are paid, for example only paying you statutory sick pay).

4.3. If pre-approved holidays fall during a period of suspension, they will still count as holiday leave and will be deducted from your holiday entitlement as normal.

## **5. Grievances**

5.1. If you lodge a grievance while we are investigating a disciplinary matter, we will not normally put the disciplinary process on hold. If the subject of your grievance is linked to the matters involved in the disciplinary investigation, or the process we are following, then we will normally consider the matters you raise as part of the disciplinary process and not start a separate grievance process.

## **6. Your right to be accompanied**

6.1. You are entitled to be accompanied by a colleague or trade union representative at any meeting where you face formal sanctions (including dismissal). If we are holding separate investigation and disciplinary meetings, then your right to be accompanied only applies to the disciplinary meeting.

6.2. If you want to exercise this right, you should tell us as soon as possible who you want to accompany you. It is your responsibility to arrange for the companion to attend. If you choose a work colleague, we will not prevent them from attending, but we may rearrange the meeting if their absence from work will cause operational problems.

6.3. Your colleague or union representative can, if this is your preference, explain the key points of your case to the meeting and can respond on your behalf. You can also confer with them during the meetings. They must not however answer questions put directly to you or try to prevent the Company asking questions or outlining its arguments.

## **7. How we carry out the formal hearing**

7.1. We will write to you to tell you:

- when and where your disciplinary hearing will take place,
- the details of the allegation of misconduct made against you; and
- the possible outcomes of the hearing.

7.2. We will usually include copies of witness statements and other relevant documents, unless there is a good reason not to.

7.3. You are entitled to bring a companion with you to the hearing — see above at paragraph 6 for details of what they can and cannot do.

7.4. You must let us know as soon as possible if you want to bring your own witnesses to the meeting and/or you have documents or other evidence you want to present.

7.5. It is your responsibility to attend the hearing but, if you cannot, we will normally reschedule the meeting, so long as we are satisfied with your explanation for why you cannot attend.

- 7.6. We may however be obliged to make our decision without you being present, and we will in any case only reschedule the meeting once unless there are very good reasons to justify a second rescheduling.
- 7.7. We may record the meeting, but we will not do so without telling you. You are also invited to record the meeting if you wish, but please tell us as we would consider it discourteous to the managers involved for you to make a covert recording.
- 7.8. We will go through all the details at the meeting so that you fully understand the allegation of misconduct made against you. We will also outline the evidence we found when we carried out our investigation.
- 7.9. We will give you the time you need to respond to the allegations made against you and to put your own case. We will also give you the opportunity to question us, to present your own evidence, to call your own witnesses, and to respond to evidence the Company's witnesses put forward. If there are any questions you want us to put to the Company's witnesses, please tell us and (unless there is a good reason not to) we will make sure they are asked.
- 7.10. The decision following the hearing will be sent to you in writing. We try to do this within two weeks of the disciplinary hearing.

## **8. The disciplinary action and dismissal process**

- 8.1. These are the three stages of our procedure for dealing with cases of misconduct.
- 8.2. First stage: We will issue you with a first written warning. Unless you already have active written warnings relating to disciplinary matters on your work record, a first written warning will usually remain 'live' for 12 months from the date you are notified of the decision.
- 8.3. Second stage: If there is an active first written warning on your record and you are involved in further misconduct, we will usually issue you with a final written warning. In serious cases of misconduct, we may issue a final written warning without first issuing a first written warning. In either case, the final written warning remains 'live' for 12 months from the date you are notified of the decision.
- 8.4. Third stage: If there is an active final written warning against you and you are involved in further misconduct, you may be dismissed. You may also be dismissed for a serious case of misconduct, or if you are involved in gross misconduct. We give examples of what 'misconduct' and 'gross misconduct' mean in the lists below.
- 8.5. Sometimes we are prepared to explore other actions short of dismissal. These may include deploying you to a different role, demoting you, or deducting an appropriate amount from your wages. We will only do this if either you agree to the action short of dismissal, or your contract of employment allows this.

## **9. Your right to appeal**

- 9.1. You have the right to appeal against any disciplinary decision taken against you. To do this, you need to respond within a week of being told of the sanction, by writing directly to

whoever is named in the letter you received. In your response to that letter, you must explain exactly why you are appealing.

- 9.2. We will invite you to an appeal meeting. Wherever possible, the appeal meeting will not be led by the manager who decided what disciplinary sanction to impose. You may be accompanied by a trade union representative or work colleague, in line with the process outlined in paragraph 6 above.
- 9.3. The Company's final decision will be sent to you in writing. We try to do this within two weeks of the appeal hearing. You do not have any further right to appeal against our decision.

## **10. Records of past disciplinary sanctions**

- 10.1. Warnings that are no longer 'live' will be treated as 'spent' warnings; as such they will not be relied upon to justify a higher level of disciplinary sanction for further misconduct.
- 10.2. A record that the warning was issued will remain on file in case the fact of the warning becomes relevant as background information in any future formal hearings (e.g. a grievance by you or an Employment Tribunal claim).

## **11. How we define 'gross misconduct' and 'misconduct'**

- 11.1. You will usually be dismissed without warning, without notice, and without payment in lieu of notice if we find you have committed an act of gross misconduct. This is known as summary dismissal.
- 11.2. The following list gives examples of what we normally regard as gross misconduct. This list is not exhaustive and should be referred to as a guide.
  - bullying or physical violence
  - fraud, theft, or any act of dishonesty
  - malicious misuse of any of our procedures, for example if you make up allegations when taking out a grievance against someone
  - negligence or carelessness or gross neglect of duty, particularly if it leads to the Company losing trust and confidence in you
  - serious breaches of a Company Policy
  - serious breaches of Health and Safety
  - serious breaches of the Data Protection legislation
  - serious and intentional damage to Company property
  - bullying, harassment or discrimination
  - viewing, receiving, or sending anything that breaches the Company's harassment, bullying and equal opportunities policies
  - knowingly accessing websites containing offensive, obscene or pornographic material
  - serious insubordination or refusal to obey a management instruction

- serious breaches of confidence
- conduct that breaches common decency or risks bringing the Company into disrepute
- unauthorised absence from work
- [WHERE VEHICLE TRACKING IS USED] using a GPS jamming device whilst driving a company vehicle or a vehicle hired for company use
- removing or copying confidential information from the Company's systems and / or 'banking' documents for use in litigation against the Company
- being under the influence of, or possessing illegal drugs, or bringing such substances to work
- being under the influence of alcohol, unless this is with your manager's express knowledge and permission — for example, where you are involved in entertaining on the Company's behalf

11.3. The following list gives examples of what we would normally regard as misconduct but not gross misconduct. This list is not exhaustive and should be referred to as a guide.

- minor breaches of Company policy
- minor breaches of your employment contract
- unauthorised use, or damage to, Company property
- poor attendance and timekeeping
- refusing to follow instructions
- making an excessive number of personal calls using Company phones
- sending and receiving an excessive number of personal emails
- using the internet to excess for personal purposes
- using obscene language or otherwise behaving offensively
- being careless when carrying out your duties
- wasting time during your contracted working hours
- smoking in areas where smoking is not allowed.