



Policy:	Disciplinary Procedure	Reference:	DPSES0086
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Purpose and Scope.

Every organisation depends upon its employees to carry out its instructions and abide by acceptable and established rules of conduct and behaviour. In situations where it is alleged that an employee has fallen below the minimum standards of conduct and behaviour, then some action must be taken. Fortunately, on many occasions pointing out what has caused offence, discussing this with the employee concerned, in private, and in a constructive manner, may be all that is necessary.

There will be instances, however, where such informal counselling, coaching or advice does not change the employee's behaviour, or a more serious breach of discipline may be alleged. It is in these circumstances where more formal disciplinary action needs to be taken. Where this is the case, then to ensure consistency and fairness, such action needs to be undertaken within a general framework. This framework is the disciplinary procedure, and applies to all employees without bias, favour or discrimination. All formal disciplinary action will be considered and undertaken within the following principles:

- All employees will be made aware of the type of misconduct which may lead to formal disciplinary action. Appendix A to this policy/procedure contains some guidelines.
- All disciplinary matters will be dealt with as quickly as possible.
- Employees will be advised of the nature of the allegations.
- No disciplinary action will be taken until all allegations have been investigated.
- At all stages of the procedure employees will be given the opportunity to explain their case fully, usually at a formal disciplinary interview or hearing. The employee will also have the right to submit any documentation which they wish to be considered.
- The employee will normally be given at least 3 calendar days' written notice of any such interview or hearing. In exceptional circumstances, such as an employee's refusal to attend a formal disciplinary interview, the matter may be considered in their absence.
- Except in cases of Gross Misconduct, no employee will be dismissed for a first breach of discipline.
- Employees will have the right to be accompanied (see 3.3 below).
- Employees will have the right to appeal against a written warning or dismissal.

General Provisions

- The procedure is intended to reflect good employment practice and does not confer any contractual rights on employees, although in certain circumstances it confers rights on the company. So other than where indicated in bold and *italics* this procedure does not have contractual effect:
- This disciplinary procedure is intended to ensure that employees are dealt with fairly in relation to any alleged misconduct.
- This disciplinary procedure is not necessarily sequential and may begin at any stage, or advance to any stage, depending on the seriousness of the offence(s). In exceptional circumstances an employee's conduct outside of work may constitute grounds for disciplinary action where that conduct affects either the performance of his/her duties or the reputation of the company.
- In most cases of minor misdemeanours, or shortcomings, the matter can, and will, be dealt with informally by the manager, without the need to utilise the more formal disciplinary procedure. There will be a two-way discussion between the employee and manager where the emphasis is encouraging and instructive in order to find ways to remedy problems through supervision, training, coaching, or counselling to enable the required standards to be achieved. The employee's line manager or supervisor will keep a record of the agreed course of action and the timescale in which it will be achieved for reference purposes.
Employees will be made aware, however, that if there is no improvement, or if the situation is more serious than originally thought, then the matter will be dealt with within the formal stages of the disciplinary procedure.
- All supervisors and managers who are charged with conducting disciplinary hearings are authorised to take any action, up to and including dismissal. However, as a safeguard, where dismissal is contemplated, this should be discussed and debated, in confidence, with a Manager of equal or superior status, provided that person



would not, ordinarily, be the most appropriate person who would conduct any appeal hearing, and such a person is available within the company's organisational structure.

Types of Disciplinary Action – The Formal Stages.

Obviously, one outcome of the formal disciplinary process is that no action is to be taken against the employee. However, where some action is appropriate, then it may be in one of the forms set out below: *The company has a contractual right to impose these disciplinary sanctions and these rights are therefore incorporated into all the contracts of employment of the company's employees.*

Written Warning(s) Written warnings can be either 'first' or 'final':

- A first written warning will state that any further occurrence of any act of misconduct may result in further disciplinary action which could eventually result in dismissal;
- A final written warning will state any further occurrence of any act of misconduct, where relevant, may result in dismissal.

There is no obligation or requirement to issue a first written warning before a final written warning is given, and an employee's first written warning may itself be a final written warning, if the employee's conduct is sufficiently serious to justify this.

Currency Period of Warnings.

Details of any formal warning given to an employee will be kept on that employee's personal file and may be referred to in any subsequent disciplinary proceedings or action. First written warnings shall normally expire after 6 months (12 months for final written warnings). If it is intended to apply a longer currency period to any particular warning, the employee concerned will be informed of this when he/she receives written notification of the disciplinary decision following the disciplinary hearing. In very exceptional circumstances, the Company reserves the right to apply an unlimited currency to the warning given, although the company will explain why this is the case to the employee and will review the currency of the warning on a regular six monthly basis.

Dismissal.

Dismissal on disciplinary grounds will normally only take place when one of the following actions have occurred:

- The employee has had formal disciplinary action taken against him/her previously and the cumulative effect of that employee's further act(s) of misconduct is sufficiently serious to justify their dismissal.
- The employee has been guilty of Gross Misconduct.

Decisions as to whether or not an employee's misconduct is sufficiently serious to constitute an act of Gross Misconduct and therefore justify their dismissal will depend upon the individual circumstances of each case.

Demotion/Changes of Terms of Employment.

As an alternative to dismissal, the company may consider it appropriate that the employee be demoted or provided with alternative terms of employment, including the offer of a position which has lower status and/or salary. This will normally be appropriate where the company does not consider that the employee, as a result of his/her conduct, can be trusted to carry out the job he/she was employed to do, but there is still sufficient confidence in the employee to carry out an alternative employment, and the employee agrees to such changes.

However, the company is under no duty to consider a demotion or change in terms of employment as an alternative to dismissal in all cases and has an absolute discretion to decide whether the sanction in this clause is appropriate in the particular circumstances. These sanctions may only be applied if unilateral variation of this kind is allowed for in the employee's contract of employment or has the employee's agreement.

Summary Dismissal

In the event that an employee is dismissed, summarily (i.e. without notice and on the spot) **in the most extreme circumstances**, for Gross Misconduct, then the company will set down in writing the nature of the alleged misconduct that has led to the dismissal, the evidence for this decision, and the right to appeal against the decision, and send a



copy of this to the employee. If the employee wishes to appeal, then he/she must inform the company. An appeal against dismissal must be made within one week of receipt of the dismissal letter, to the next level of management which inevitably will be one of the directors of the company. (provided that such a person is available within the company's organisational structure).

Disciplinary Process

Investigation

It is implicit in the operation of the disciplinary policy that any action taken against an individual (or individuals) is soundly based and follows an adequate and prompt investigation of the facts on which any allegation(s) is/are based, including most allegations of Gross Misconduct. The exact procedure for this may differ depending on the circumstances of the case (for example whether the matter is complex or straightforward) and can possibly involve written statements being obtained from the members of staff concerned, (particularly witnesses to any incident or misconduct), an investigatory interview, or both. Should the employee who is, potentially, the subject of disciplinary action be invited to an investigatory meeting, then they may be accompanied if they wish, although this is not a statutory right at this stage.

The employee will also be given advance warning of at least 3 days. Once the company has carried out a reasonable investigation, it will decide whether to drop the matter, deal with it informally, or arrange for it to be handled formally, in which case a disciplinary hearing will be convened. Where possible, the staff member investigating the matter will not be the staff member who leads the disciplinary hearing.

Invitation to Attend a Disciplinary Hearing

The employee will receive a written invitation from the company, with at least 3 calendar day's notice, to attend a disciplinary hearing. If the employee chooses to be accompanied then he/she may offer a reasonable alternative time within 5 days of the original date if their chosen companion cannot attend. Where possible, the timing and location of the hearing will be agreed with the employee in advance of the written invitation.

This invitation will include details of the nature of any allegations about his/her conduct, and the reason(s) why this conduct is not acceptable and in order that they may fully comprehend the seriousness of the situation, he/she will be informed in writing of the possible outcome(s) of the hearing in advance. If the employee has difficulty reading, or English is not their first language, the content of the letter will be explained to them orally.

Prior to the hearing, the employee will be told about the nature of any relevant statements and/or any other relevant evidence. If there are documents compiled before the disciplinary hearing, e.g. witness statements, then these will be exchanged with the employee before the hearing takes place. The employee will be informed, when given notice of the hearing, of the right to submit relevant documentation of their own for consideration at the hearing.

The Employees Right to be Accompanied

Where an employee is invited to attend a formal disciplinary hearing then they have the right to make a reasonable request to be accompanied. This right is, however, restricted to a fellow worker and not someone acting in a representative capacity. Employees will be reminded of this right prior to attending any hearing, and if they wish to exercise this right, they shall be required to give the company at least 24 hours notice of the name/status of the person who shall accompany them to the hearing. Rules governing the conduct of any accompanying third party are at Appendix B.

An employee who cannot attend a hearing is required to inform the company in advance, wherever possible. If the employee fails to attend through circumstances outside of their control and unforeseeable at the time the meeting was arranged (e.g. onset of sudden illness) the company will arrange another meeting.

The Disciplinary Hearing

The purpose of the hearing is to hear both sides of the case and to reach a conclusion on the basis of the evidence. It will be conducted in private, and with the least possible potential for any interruption. The employee will be given the



opportunity to state his/her case, ask questions, present evidence or invite witnesses of their own. If further investigation is required the hearing will be adjourned and reconvened once this has been completed.

Someone able to take notes and act as a witness to the proceedings will normally accompany the manager conducting the disciplinary hearing and a written record of the proceedings may be made. After the hearing the manager will consider all the facts, the employee's explanation, and any mitigating circumstances before coming to a decision. Due account will be taken of the employee's previous disciplinary and general record, actions taken in any previous and similar case, and, as a conclusion, whether the intended disciplinary action (if any) is reasonable having taken into account all of the circumstances. The employee will be told of the outcome as soon as possible after the hearing, but generally not at the hearing, (unless the matter is straightforward, when an immediate decision is sensible and in the interests of both parties) and any decision will then be confirmed to the employee in writing. Although every attempt will be made to do this on the same day, it should be understood that the need for a considered outcome is more important than speed, and those who are involved with conducting disciplinary hearings will take as long as is necessary, generally up to a maximum of 14 calendar days, to consider what, if any, disciplinary action is appropriate.

Result of a Disciplinary Hearing

Where a first written or final written warning is issued it will confirm:

- The nature of the misconduct or complaint.
- Details of the necessary action required to improve the situation, where appropriate, the conduct or performance expected, the periods of review, any agreed training to be provided, and any other supportive measures agreed upon.
- The timescale agreed for the situation to be improved, where appropriate.
- The likely consequences should there be a recurrence of the offence or any further breaches in the required standards of behaviour, including, in the case of a final written warning, a confirmation warning that dismissal will result if there is no satisfactory and sustained improvement.
- A statement confirming a copy of the letter on the employee's Personal File will be disregarded after an agreed period of satisfactory service.
- The right of appeal.

Where a dismissal is warranted the letter will confirm:

- Details of the complaint and reasons for dismissal (including the reasons for thinking at the time of the dismissal that the employee was guilty of the alleged misconduct).
- The effective date of termination and final salary/remuneration arrangements.
- The right of appeal.

Employees Right to Appeal

An appeal against a written warning or dismissal must be made within one week of receipt of the disciplinary letter, to the next level of management beyond the manager who made the original decision, (provided that such a person is available within the company's organisational structure).

Appeal Procedure

- The appeal must be made in writing, stating the grounds on which the employee wishes to appeal against the action.
- The appeal will normally be held within one week of receipt of the request.
- The employee concerned will have the right to be accompanied by a third party if he or she so chooses.
- The manager conducting the disciplinary hearing will usually be accompanied by someone able to take notes and act as a witness to the proceedings.
- The manager conducting the hearing will be someone more senior to the person who conducted the original hearing, and who has the necessary authority to overturn the previous decision (provided that such a person is available within the company's organisational structure). If no-one more senior is available, then where possible, a manager at a similar level will be identified.
- At the hearing, the employee will be given an opportunity to emphasise the grounds on which the appeal is made. The disciplining manager will also have the opportunity to explain to the manager hearing the appeal, the earlier decision to take disciplinary action.



The appeal hearing is intended to focus on the issues which the employee believes have received insufficient consideration at the original hearing, any relevant new evidence which has come to light since the original hearing, or any concerns which the employee may raise, such as extenuating circumstances, bias, undue severity of the sanction, inconsistency or unfairness during the disciplinary process. Where an appeal is against a decision of dismissal and the appeal fails, the effective date of termination shall be the date on which the employee was originally dismissed and the employee's employment with the company does not continue from the date of the original dismissal until the date when the appeal is made.

- After the hearing, the manager will consider all of the facts and issues raised by the employee and consider the reliability and fairness of the original decision and procedure. The appeal decision may be to quash, reduce, or uphold the disciplinary measure originally taken.
- The employee will be told of the decision as soon as possible after the hearing, although no decision will be made at the hearing, and the decision will be confirmed to the employee in writing. Although every attempt will be made to do this on the same day, it should be understood that the need for a considered verdict is more important than speed, and those involved in conducting appeals will take as long as is necessary to consider their decision, generally up to a maximum of 14 calendar days.
- The employee will be informed that this is the final stage of the appeal process.

Suspension

Depending upon the circumstances of the case, there may be occasions when it is considered undesirable for an employee to remain on duty pending a disciplinary hearing. The sole purpose of suspension from duty is to allow matters to be investigated and does not imply guilt on the part of the suspended employee, and is not considered a disciplinary action in itself. Such action will only be taken after careful consideration and will be kept under review to ensure that it is not unnecessarily protracted.

The Company's right to suspend under this section is a contractual right and is incorporated into all contracts of employment of the company's employees.

A personal interview, where possible, will be arranged to advise an employee of the intention to suspend. At the time of suspension the reasons for the suspension and, where established, the likely duration of the suspension will be notified to the employee and confirmed in writing as soon as possible.

In all cases involving the suspension of an employee, the employee will be paid in accordance with the normal rules regarding paid leave.

Where it is indicated that a suspended employee must not enter the company's premises (or any associated premises) at any time, this condition must be adhered to unless prior permission to re-enter, for an agreed purpose, has been obtained. Re-entry without permission is considered an act of Gross Misconduct, and may result in summary dismissal.

Investigations will take place as soon as is practicably possible and every effort will be made to identify, at the outset, the likely duration of the suspension which will be kept as short as reasonably possible. A suspended employee will be kept informed of any delay in the process and any reasons therefore.

No records will be kept of any suspension which does not lead to formal disciplinary action.

In particular, suspension from duty will normally apply when:

- Gross Misconduct is suspected.
- Violence has occurred, or it is reasonably believed that violence may occur.
- It is considered that a cooling off period would help.
- The employee is considered to be under the influence of alcohol or drugs, and it would be inadvisable to conduct an investigation or interview until the member of staff is no longer under the influence.

This list is indicative, and is not intended to cover every eventuality.

Failure to Attend a Disciplinary Hearing

It is in everyone's interests that disciplinary matters are conducted with the minimum of delay. If an employee cannot attend a meeting then they should inform the company in advance, wherever possible.



If the employee fails to attend through circumstances outside their control and unforeseeable at the time the meeting was arranged (e.g. illness) the company will arrange another meeting. A decision may be taken in the employees absence if they fail to attend the re-arranged meeting without good reason. If the employee chooses to be accompanied, and the companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed, although this time limit may be extended in exceptional circumstances, by mutual agreement.



Appendix A

Conduct Likely to Incur Disciplinary Action

The maintenance of an acceptable standard of behaviour, work ethic and discipline is essential to the proper conduct of the company's daily working practices. The following categories give an example of actions likely to give cause for disciplinary action. The list is not exhaustive, and may also be amended, altered or added to from time to time. Every instance of misconduct is considered in the light of its particular circumstances and context.

Typical Dismissal Offences

Any of the following may be considered misconduct and may lead to dismissal either with notice, or without notice and without pay in lieu of notice unless the employee can show substantial mitigating factors:

- Theft, fraud and deliberate falsification of records.
- Physical violence or abuse to anyone in or connected with the company.
- Serious bullying or harassment.
- Deliberate and serious damage to property.
- Serious insubordination.
- Serious misuse of the company's property or name.
- Bringing the company/employer into serious disrepute.
- Serious incapability whilst on duty brought on by alcohol or illegal drugs.
- Serious negligence which causes or might cause unacceptable loss, damage or injury.
- Serious infringement of health and safety rules.
- Serious breach of confidence.
- Serious breach of confidentiality.
- Committing a criminal offence either at or outside work that undermines the trust between the individual and the company.
- Serious professional misconduct.
- Inappropriate, wilful and excessive unauthorised entry to computer or other records, including the Internet and/or unauthorised use of personal data.
- Serious unlawful discrimination, for example; on the grounds of age, sex, race, disability, religion or belief, colour, ethnic origin, nationality, sexual orientation, gender reassignment etc or any act of harassment on such grounds.
- Soliciting gratuities from suppliers.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Repeated misconduct related to less serious offences than listed here.

Employees may also be dismissed for the following reasons:

- Where an employee has absented him/herself from duty and all reasonable efforts to make contact have failed.
- Where an employee has been given a term of imprisonment and keeping the employee's job open is not a viable or appropriate course of action.

Typical Written warning offences

Any of the following may be considered as acts which are sufficiently serious to result in a written warning (First or Final), even if the employee has not previously been warned:

- Unsatisfactory attendance and/or timekeeping.
- Unjustified absence from duty.
- Wilful failure to comply with policies and procedures, the consequences of which are not so serious as to warrant dismissal in the first instance.
- Behaviour not conducive to good order or working relationships.
- Leaving the premises without permission during a working period.
- Failing to report unsafe conditions.
- Violating rules regarding safe usage of machinery.
- Negligence.



- Abuse of rest breaks or lunch periods.
- Smoking in restricted areas, where such action represents a breach of safety regulations, but does not give rise to an immediate danger.
- Insubordination.
- Conduct that brings the company into disrepute but where the matter is not considered as sufficiently serious to warrant dismissal in the first instance.
- Contributing to unsafe, disorderly or unsatisfactory conditions breaching Health, safety & Welfare procedures.
- Failure to meet performance standards in regard to quantity, quality and efficiency of work performed (where such failure is considered wilful rather than simply as a result of a lack of competence on the part of the employee).



Appendix B

General rules of Conduct

1. All disciplinary hearings will be conducted in a professional and courteous manner.
2. The Manager or Supervisor who has arranged and is conducting the hearing is the Chair of the hearing and will determine all procedural matters either beforehand or at/during the course of the hearing.
3. All issues will be addressed through the Chair.
4. The employee who is the subject of disciplinary action has the right to be accompanied at the hearing by a single companion. In such circumstances, that person must:
 - be chosen by the employee.
 - be permitted to address the hearing in order to help put the employee's case.
 - be permitted to respond on the worker's behalf to any view expressed at the hearing.
 - be permitted to ask questions, and to participate as fully as possible in the hearing (but not to answer questions on behalf of the employee); and
 - be permitted to confer with the employee during the course of the hearing.
 - be permitted to help sum up the worker's case.

The companion has no right, however, to answer questions on the employee's behalf.

The Employment Rights Act states that the employee has the right to be accompanied by:

- another of the employer's workers.

People acting in a representative capacity (e.g. Solicitors) are excluded.

5. If, in the opinion of the Chair, any party is acting in a manner which is contrary to rule 1, above, then s/he may warn that party that further similar conduct may render the hearing to be terminated. If such premature termination takes place, then a further hearing will be arranged, but only, if, in the opinion of the Chair, it is appropriate to do so. In extreme cases, the Chair may determine that if the employee's conduct at the hearing is an issue, then that conduct may also be the subject of additional disciplinary action.
6. Where an employee raises a grievance during the meeting it may be appropriate to consider stopping the meeting and suspending the disciplinary procedure in order to deal with the grievance.