
PO51 DISCIPLINARY POLICY AND PROCEDURE

Policy

Introduction

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

Scope

The organisation requires good standards of conduct and performance from all staff. 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.

Staff do not have a contractual right to the benefit of this disciplinary procedure and we reserve the right to change this procedure from time to time without prior notice.

Guidance

Responsibility

Your Line Manager is responsible for ensuring that this policy is applied consistently to all appropriate acts of misconduct or capability and for briefing all staff within their area of accountability.

The staff member 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 a staff member 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. In others, the investigatory stage will be the collation of evidence by the organisation at any disciplinary hearing.
- b) In advance of any disciplinary hearing, the staff member(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 staff member will be given the opportunity to discuss the issue and state their case at a meeting before any decision is made.
- c) All staff will be given the opportunity to prepare before attending a disciplinary hearing.
- d) The staff 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.

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- 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 CEO can take the decision to dismiss.
- g) Any suspension necessary before a disciplinary measure is determined will be on basic pay. Should a staff member 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 a staff member is persistently unable or unwilling to attend a disciplinary hearing without good cause the CEO will make a decision on the evidence available.
- i) Staff 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 a staff member may request to be accompanied by a fellow staff member 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 a staff member chooses a lay trade union official they should be certified by their union as having experience of having received training in acting as a staff member'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 staff to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for staff member 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 staff member 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 staff member's case and sum up where appropriate. The companion can also confer with the staff member during the hearing. The companion has no right to answer questions on the staff member's behalf, or to address the hearing if the staff member does not wish it, or to prevent the company from explaining their case.

Informal Action

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

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

A note of this warning will be recorded and retained on the file.

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).

THE FORMAL PROCEDURE

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

- Before the company takes any formal action, a full investigation into the allegations will be carried out.
- 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.
- Following the investigation, the staff member 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 staff member 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 staff member. The written notice will also inform the staff member of their right to be accompanied at the hearing.
- Where practicable, the manager 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.
- At the start of the disciplinary hearing, the manager should ensure that the staff member has received copies of all the relevant investigation notes etc. If the staff member declines the right of representation, this should be recorded in the notes of the meeting.
- The manager should review the essence of the allegations and allow the staff member to state their case in full.
- The staff member should be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. The staff member (and their companion) should be permitted to raise points about any information provided by witnesses however, there is no right for the staff member (or their companion) to cross examine witnesses.
- Where the employer or the staff member intends to call relevant witnesses to a disciplinary hearing, they should give advance notice that they intend to do this.
- If new evidence comes to light at this stage, the hearing must be adjourned pending further investigations.

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- Once the manager and staff member 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 manager sufficient time to consider appropriate action. If the hearing is to be adjourned beyond the day of the hearing, the company will give the staff member notice of the re-convened meeting.
- When the disciplinary hearing is re-convened, the manager will advise the staff member of the level of disciplinary warning and the reasons for the decision. The staff member will also be advised of their right of appeal.

Written Warning

If the offence is a serious one (or if a further offence occurs after an informal verbal warning), a WRITTEN WARNING will be given to the staff member. 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 will normally be given to the staff member. It will detail the complaint, the improvements required, the timescale and will warn that dismissal will 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 staff member still fails to reach the prescribed standards, or misconduct is sufficiently serious to warrant it, then DISMISSAL will result. Only the CEO can take the decision to dismiss. The staff member 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 staff member receives written notification of the disciplinary decision.

Gross Misconduct

Staff will be summarily dismissed if it is established, after investigation and hearing the staff member'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, staff may be suspended from work on full pay to enable the company to investigate the alleged offence.

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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.
- 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 staff.
- Falsification of company records (including timesheets, expense 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.
- Acts of gross negligence or misconduct involving carelessness or reckless driving.
- Loss of driving licence on conviction when driving is all or an essential part of the job requirements.
- Serious breach of legal limits when driving company vehicles.
- Breach of safety rules and/or any action which seriously endangers the health or safety of a staff member or any other person whilst at work.
- Deliberately making a false entry in the written records of the company.
- 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.

Alternatives to Dismissal

A staff member 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. A staff member will have the right to appeal against any such alternative disciplinary sanction, as set out below.

Appeals

At any stage after a formal disciplinary decision has been taken by the company, including dismissal, a staff member has the right to appeal to the Board.

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To start an appeal, the staff member must confirm their intention to appeal in writing within five working days of receiving the written notification, following the 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 staff member's wish to appeal, the company should undertake an appeal hearing as soon as is reasonably practicable. The company should write to the staff member inviting them to the appeal hearing, and give the staff member notice of the hearing. The written notice should also confirm that the staff member has the right to be accompanied by a fellow staff member or trade union official of their choice.

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

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

The Director 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 Director is responsible for ensuring that the staff member 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.

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Related Documents:	none	
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