**Disciplinary Procedure**

## Disciplinary Procedure

**Purpose**

This procedure is designed to help and encourage all employees to achieve and maintain high standards of behaviour, attendance, and job performance. This procedure seeks to ensure fair and consistent treatment for anyone in the organisation whose performance or conduct falls below our standards. This procedure does not form part of your contract of employment.

**Principles**

* Where appropriate, management will consider informal action to resolve any problems.
* Any complaint will be thoroughly investigated before any disciplinary action is taken.
* Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.
* Employees shall have the right to be accompanied by a work colleague or a trade union representative at formal meetings held under this procedure.
* Each stage of the procedure will be taken without unreasonable delay.
* It may be necessary to suspend employees whilst investigation takes place.
* No employee shall be dismissed for a first disciplinary offence, except in the case of gross misconduct, when the penalty will be dismissal without notice, or pay in lieu of notice.
* Employees will be fully informed of the stages of the procedure and the possible consequences, and of the right to appeal.
* For formal action the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary meeting;
* This procedure may be implemented at any stage if the employee’s alleged misconduct warrants this;
* When this procedure is applied to a disabled employee, due consideration will be given to what reasonable adjustments are necessary for the meeting to ensure that the employee is not disadvantaged in any way.

**Examples of Misconduct**

The following is a non-exhaustive list of examples of offences which amount to misconduct falling short of gross misconduct:

* Unauthorised absence from work.
* Poor timekeeping.
* Unacceptable performance.
* Inappropriate standard of dress.
* Time wasting.
* Contravention of minor safety regulations.
* Disruptive behaviour.

**Examples of Gross Misconduct**

The following list of examples of gross misconduct is not exhaustive but gives general guidance to the types of offence that may be considered gross misconduct and consequently lead to summary dismissal:

* Theft, fraud, dishonesty, deliberate falsification of records or assisting others in such activities.
* Physical violence, bullying, or harassment.
* Refusal to carry out a reasonable work instruction from an immediate supervisor or more senior member of management.
* Conviction of a criminal offence that makes you unsuitable or unable to carry out your duties.
* Deliberate and serious damage to property belonging to the Company or that of its customers.
* Misuse of the Company’s name or property belonging to the Company or that of its customers, including placing Company/Customer assets at risk.
* Rude or abusive behaviour to customers, members of the public, fellow employees, or management.
* Bringing the Company into serious disrepute.
* Serious breach of health and safety rules.
* Gross negligence which causes or might cause unacceptable loss, damage, or injury.
* Serious breach of our E-mail and Internet and Social Media Policies, including e-mail or internet abuse, e.g., visiting, viewing or downloading any material from a website containing sexual, illegal, or offensive material.
* Failure to observe the terms and conditions contained in your employment contract.
* Failure to observe and adhere to rules whilst working on site.
* Serious insubordination.
* Serious breach of our Smoking Policy.
* Serious breach of our Alcohol, Drugs and Substances Misuse Policy, including being under the influence of alcohol, drugs or substances during working time or on customer or company premises.
* Serious breach of our Mobile Phone Policy.
* Serious breach of confidentiality (excluding whistleblowing under the Public Disclosure Act 1998).
* Failure to renew statutory qualifications required by the Company to operate its business.
* Victimisation or retaliation against an employee who has made allegations or complaints of discrimination or harassment or who has provided information about such discrimination or harassment.

If an employee is accused of an act of gross misconduct, they may be suspended from work on full pay while the matter is investigated. If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

**The Procedure**

**First Stage of Formal Procedure**

This will normally be either:

* *An improvement note* where performance does not meet the required standard. This will set out the nature of the performance problem, the improvement that is required, the timescale, any help or support that is to be provided, and the right of appeal. A record of the improvement note will be kept on the employee’s personnel file but will be disregarded after a specified period (e.g., 6 months) subject to achieving and maintaining satisfactory performance.

or

* *A first written warning* where conduct has not met acceptable standards or if performance has not sufficiently improved within the duration of an improvement note or at an unacceptable standard. This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept on the employee’s personnel file but will be disregarded for disciplinary purposes after a specified period (e.g., 6 months).

**Final Written Warning**

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of an improvement note or first written warning, a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will provide a right of appeal. A record of the warning will be kept on the employee’s personnel file but will be disregarded for disciplinary purposes after a specified period (e.g., 6 months) or subject to achieving and maintaining satisfactory performance.

**Dismissal or Other Sanction**

If there is further misconduct or failure to improve performance the final stage in the procedure may be dismissal or some other sanction short of dismissal such as demotion or disciplinary suspension or transfer. Dismissal decisions can only be taken by [Insert Contact], and the employee will be provided in writing with the reasons for the dismissal, the date on which the employment will terminate, and the right of appeal.

If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that dismissal could result if there is further misconduct or no satisfactory improvement, and will be advised of the right of appeal. A record of the warning will be kept on the employee’s personnel file but will be disregarded for disciplinary purposes after a specified period (e.g., 6 months) or subject to achieving and maintaining satisfactory performance.

**Disciplinary Meetings**

Before disciplinary action is considered under any stage of this procedure, the employee will be informed in writing of the precise nature of the complaint and invited to a formal meeting to discuss the matter. Any allegations will be explained, and the employee given the opportunity to respond, to ask questions, present evidence, call witnesses, and raise any points about information provided by witnesses.

Copies of meeting notes will be provided to the employee, including copies of the minutes of the meeting. In certain circumstances, e.g., where it is reasonable and necessary to protect a witness, the employer may withhold certain information.

**Right to be accompanied at Disciplinary Meetings**

An employee attending a Disciplinary Meeting has a statutory right to be accompanied by a workplace companion, a person employed by a trade union or a trade union representative of their own choosing. Employees may also alter the choice of their companion if they so wish. The business will agree to all requests from employees regarding their right to be accompanied on the proviso the request meets the statutory criteria on representation.

However, as are good practice employees should act reasonably within their choice of companion bearing in mind the practicalities of availability, location and suitability together with the logistics placed on the business in facilitating their companion’s attendance at the meeting.

A reasonable employee request will depend on individual circumstances but would provide sufficient information (name and status of companion) and sufficient time for the business to put a request into place. If a request is not possible to achieve the business will postpone the meeting to another reasonable time to take place no more than five working days after the original proposed date.

**Appeals Procedure**

An employee who wishes to appeal against any decision taken under this procedure must do so within five working days. [Insert Contact] who did not hear the matter originally will hear all appeals and their decision will be final.

The outcome of the appeal shall be:

* To uphold the decision.
* To reduce the penalty to a lesser penalty.
* To reinstate the employee.

**Some Other Substantial Reason for Dismissal**

There are situations whereby employees may be precluded from full and gainful employment. These situations will be dealt with as ‘Some Other Substantial Reasons (SOSR)’ that may include, for instance:

* The removal or unobtainability of a licence, accreditation or certificate required to perform.
* A contravention of a client’s rules resulting in a ban from the site or premises of the client.
* Significant periods of incarceration in prison
* Breakdown in trust and confidence based on a dispute of significantimplied or expressed contractual terms.
* Whilst not exhaustive any other reason or situation that would constitute a substantial reason to dismiss.

A temporary incapacity to perform will not normally constitute a reason for dismissal or less favourable treatment under these grounds.

Where there is a situation considered as ‘Some Other Substantial Reason’ based on the action of a third party, the company will make the following considerations prior to making any further decisions:

* Was the client’s decision justified?
* What evidence did the client provide?
* If the decision to remove an employee from a client site is not believed to be justified, what steps did the employer take to get the employee re-engaged on the client site?
* Are there opportunities to relocate or reposition the employee in a different role?

Only when all considerations have been given to the situation and where no reasonable alternative role in the organisation can be found may an employer consider dismissal due to third party pressure. Dismissal on the grounds of Some Other Substantial Reasons should be given with statutory notice.

It is particularly important that employers can show that they have at least considered the potential injustice to the employee and that they can demonstrate the steps they have taken to try to alleviate the situation prior to dismissal.