



orchard  
Education

# Disciplinary Policy and Procedure

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# **Disciplinary Policy and Procedure**

## **1. INTRODUCTION**

The Company requires good standards of discipline from its employees, together with satisfactory standards of work. The purpose of the disciplinary procedure is to ensure that any concerns over employees' conduct or performance are handled in a fair, consistent and timely manner, with the intention of bringing about an improvement, and to protect the proper operation of the Company's business and the health and safety of its employees.

This procedure may be reviewed and updated from time to time. Any amendments will be notified to employees in writing, following consultation and/or notice where appropriate.

## **2. RULES AND APPLICATION**

2.1 The following are examples of conduct/performance that will normally be addressed through implementation of the Company's disciplinary procedure:

- 2.1.1 Unsatisfactory work performance;
- 2.1.2 Breaches of Company policies and procedures;
- 2.1.3 Inappropriate behaviour (e.g. fighting, drunkenness, etc.);
- 2.1.4 Bullying, harassment or victimisation;
- 2.1.5 Discrimination on any of the grounds listed in the Company's Equal Opportunities Policy e.g. race, sex, sexual orientation, religion, disability, age, gender reassignment, marital status or ethnic origin;
- 2.1.6 Persistent lateness or poor timekeeping;
- 2.1.7 Unacceptable levels of absence, especially when unauthorised;
- 2.1.8 Serious or repeated failure to follow reasonable requests or instructions;
- 2.1.9 Abuse, misuse or neglect of Company property or facilities;
- 2.1.10 Use of Company facilities and equipment for personal reasons during work time e.g. Company email, telephones and internet access.

2.2 The disciplinary procedure does not apply to:-

- 2.2.1 Termination due to the non-renewal of fixed term contracts; or
- 2.2.2 Termination of employment by reason of redundancy.

2.3 Confidentiality:

- 2.3.1 Disciplinary matters will be handled with as high a degree of confidentiality as is practicable, particularly when the issue is of a sensitive nature.
- 2.3.2 Confidential records of disciplinary matters will be kept in the employee's personnel file in accordance with Data Protection legislation. Copies of meeting notes will be provided to the employee, although the Company reserves the right to withhold certain information (e.g. to protect a witness).

## 2.4 Suspension:

- 2.4.1 The Company reserves the right to suspend an employee from work, normally for no more than 5 working days while a disciplinary offence is being investigated.
- 2.4.2 Employees will be advised if the suspension is likely to last longer than 5 working days.
- 2.4.3 Suspension is not regarded by the Company as disciplinary action. The Company shall inform the employee of the reason for the suspension.
- 2.4.4 Employees may be suspended without pay/or on reduced pay but only if this is allowed by their employment contract and the Company is acting reasonably.

## 2.5 The Company reserves the right to:

- 2.5.1 Monitor employees' activities including telephone calls, email messages and internet use at any time, whether as part of a disciplinary investigation or otherwise. Employees should therefore not consider such activities and methods of communication to be confidential when conducted at work.
- 2.5.2 Search an employee's desk, bags, pockets, vehicle or other Company property or personal possessions where such action is considered necessary in the opinion of the Company. A search will only be carried out by an appropriate person in the presence of a witness and employees may request the presence of a work colleague.
- 2.5.3 Where time limits are referred to in this procedure, they may be shortened or extended by mutual consent.

## 3. DISCIPLINARY PROCEDURE:

### 3.1 Stage 1 - Informal discussion

- 3.1.1 The Company will initially try to resolve disciplinary issues informally by way of an informal discussion with the employee concerned.
- 3.1.2 This is a two way discussion where the Company will be able to inform the employee of their shortcomings in conduct or performance and at the same time provide the employee with the opportunity to provide an explanation.
- 3.1.3 The main purpose of the informal talk is to find a solution to the problem that is beneficial for both the Company and the employee.
- 3.1.4 Generally, cases of minor misconduct and/or unsatisfactory performance are dealt with informally. However, if the informal action does not provide a solution to the problem or if the disciplinary issue is too serious to be dealt with informally then the formal disciplinary procedure (Stage 2 below onwards) will be followed.

### 3.2 Stage 2 - Written notice of intended disciplinary meeting

- 3.2.1 If it is decided that there is a disciplinary case to answer the Company will provide the employee with written notice informing them that this constitutes the first stage of the formal disciplinary procedure and as such outline:
  - 3.2.1.1 the alleged misconduct or poor performance and any possible consequences of these;
  - 3.2.1.2 the improvement that is required, any timescale for achieving this improvement and any support available (if appropriate);
  - 3.2.1.3 details as to the time and venue of the disciplinary meeting; and
  - 3.2.1.4 notice of the employees statutory right to be accompanied if the meeting could result in a formal warning, the confirmation of a warning or the taking of some other disciplinary action. (This statutory right can be exercised once the employee has made a reasonable request to be accompanied).
- 3.2.2 The employee's chosen companion will be able to address the meeting to put or sum up the employee's case as well as confer with the employee during the meeting. They may not, however, answer questions on the employee's behalf, address the meeting if the employee does not wish them to do so or prevent the Company from explaining their case. The companion can be a fellow employee, trade union representative or official employed by a trade union.
- 3.2.3 The meeting will be scheduled in order to give the employee reasonable time to prepare for the meeting.
- 3.2.4 The Company will establish the facts before the meeting by collecting documents, identifying any relevant people to interview and taking statements before memories start to fade. Any requests for anonymity and confidentiality should be taken seriously.
- 3.2.5 Where the Company or an employee intend to call relevant witnesses they should give advance notice to the other party that they intend to do this. It may also be appropriate to provide copies of written evidence including any witness statements.
- 3.2.6 If the employee is unable to attend the disciplinary hearing at the agreed time, the Company shall offer an alternative reasonable time and date. If the employee repeatedly fails to attend rearranged meetings the Company, taking into consideration any reasons and concluding that such failure is without good cause, is free to decide upon the matter using the evidence available. The Company will inform the employee about such a decision in writing.
- 3.2.7 A record of this written notice will be disregarded after 12 months subject to satisfactory conduct and performance.

### 3.3 Stage 3 – Meeting

- 3.3.1 The Company will explain the complaint against the employee and go through any relevant evidence.
- 3.3.2 The employee will then be given the opportunity to present their own evidence, answer any allegations, ask questions and call relevant witnesses.
- 3.3.3 If the Company is unable to attend the meeting, such a delay should be conveyed to the employee at the earliest opportunity and a reasonable alternative should be provided to the employee.

- 3.3.4 Where possible, a manager who did not carry out the investigation will attend the meeting.

#### 3.4 Stage 4 - Outcome of meeting

- 3.4.1 If the Company finds there has been no misconduct/poor performance the employee will be informed of this in writing.
- 3.4.2 *First Formal Warning* - If misconduct/poor performance is confirmed the Company will issue a written warning setting out the complaint and stating that further misconduct or a failure to improve performance will result in a final written warning. This letter will include details as to the improvement required, time-scales for such improvement and details of any help that will be made available <<e.g. access to the Company therapist>>. A record of this warning shall be kept for 12 months and shall be disregarded thereafter subject to satisfactory conduct and performance.
- 3.4.3 *Final Formal Warning* - If the misconduct/ poor performance is sufficiently serious or there has been further misconduct or a failure to improve since a previous formal warning the Company may issue a final written warning. This will give details of the complaint and nature of the misconduct/poor performance, the improvement required, the time-scale for such improvement and details of any help available. It will also warn that failure to improve may lead to dismissal or some other contractual penalty e.g. demotion. A copy of this written warning will be kept on file and will be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct and performance.
- 3.4.4 *Dismissal / Other Penalty* - If there has been further misconduct or failure to improve performance since a final written warning the Company may dismiss the employee or take some other action short of dismissal such as demotion or disciplinary suspension. The employee will be provided with, in writing, the reasons for dismissal/or other action, the date on which the employment will terminate (if dismissed), and their right to appeal, as soon as reasonably practicable. The dismissal decision should only be taken by a manager who has the authority to do so.
- 3.4.5 *Dismissal without Notice* - If the Company finds that there has been gross misconduct the Company may call for dismissal without notice, the Company will follow a fair disciplinary procedure before taking any decision to dismiss without notice and this will be confirmed in writing (see Gross Misconduct section below).

#### 3.5 Stage 5 – Appeal

- 3.5.1 Employees have the right to appeal against any formal disciplinary action. An appeal should be made in writing within 5 working days of the disciplinary decision.
- 3.5.2 The employee must inform the Company as to the grounds for appeal in writing, and may be accompanied to the appeal meeting.
- 3.5.3 The Company will hear the appeal without unreasonable delay and where possible the appeal will be dealt with by a manager, preferably more senior, not previously involved in the case. However, where this is not practicable, the same manager may handle both the disciplinary and the appeal meetings and he/she will act as impartially as possible.

- 3.5.4 The outcome of the appeal will be confirmed in writing within 5 working days of the meeting. Decisions made at this stage will be final and there is no further right of internal appeal.

#### **4. SPECIAL CASES**

- 4.1 Where disciplinary action is being considered against an employee who is a trade union representative the above procedure should be followed. However it is advisable, depending on the circumstances, to obtain the employee's agreement and discuss the matter at an early stage with a senior trade union representative or permanent union official.
- 4.2 An employee being charged or convicted with a criminal offence is not in itself a reason for disciplinary action. The Company will consider whether the offence or alleged offence is one that makes the employee unsuitable for their type of work. Therefore, the Company will establish the facts of the case and consider whether the facts warrant starting the disciplinary procedure. Similarly, an employee cannot be dismissed solely because they were absent from work as a result of being remanded in custody.

#### **5. GROSS MISCONDUCT**

- 5.1 In the event that an employee commits an act of gross misconduct, the Company is entitled to summarily terminate the employee's contract of employment without notice or pay in lieu of notice.
- 5.2 The following non-exhaustive list gives examples of offences that the Company will normally regard as gross misconduct:-
- 5.2.1 Theft, fraud, dishonesty or deliberate falsification of records;
  - 5.2.2 Fighting, assault or other violent behaviour;
  - 5.2.3 Deliberate damage to, or misuse of, Company property;
  - 5.2.4 Deliberate use of internet and/or email to access or distribute material of a pornographic, offensive, obscene or inappropriate nature;
  - 5.2.5 Incapability at work due to the effect of alcohol or drugs;
  - 5.2.6 Possession, custody or control of illegal drugs on Company premises;
  - 5.2.7 Serious breach of the Company's rules, policies and procedures;
  - 5.2.8 Serious negligence which causes loss, damage or injury;
  - 5.2.9 Conviction of a criminal offence that is relevant to the employee's employment with the Company and renders them unsuitable for their work;
  - 5.2.10 Conduct likely to bring the Company's name into disrepute;
  - 5.2.11 Bullying, harassment, victimisation or discrimination;
  - 5.2.12 Serious acts of insubordination.
- 5.3 If the Company decides to summarily terminate the employee's contract of employment without notice or pay in lieu of notice the Company must be acting *fairly and reasonably* to take this action rather than following the Disciplinary Procedure set out in Clause 3 above.

This policy will be reviewed annually by a Director.

	Initial	Review 1	Review 2	Review 3
Signed		Dave Melia	Dave Melia	
Position		Director	Director	
Date		23.08.17	28/09/2018	