



orchard
Education

Disciplinary Policy and Procedure

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Disciplinary Policy and Procedure

PRINCIPLES

At all stages you will be informed of the basis of the problem and given an opportunity to put your case before any decisions are made. The Company will deal with the matter promptly and expect that you will not unreasonably delay the process. Where the disciplinary process is utilised, employees will not normally be dismissed for a first breach of discipline except in the case of gross misconduct, when the sanction may be dismissal without notice or payment in lieu of notice. It should be noted that this does not mean that the dismissal is an automatic act. All facts will be considered before any action is taken.

Suspension

The Company reserves the right, prior to disciplinary action, to suspend you with payment from your duties, in accordance with the terms and conditions in this handbook, whilst investigations are undertaken. Suspension is not disciplinary action. During any period of suspension, you shall not attend your place of work other than for the purpose of attending disciplinary proceedings. You shall not contact any other employees, suppliers or customers of the Company, except your companion in any disciplinary proceedings, without the Company's consent and assistance.

INVESTIGATORY STAGE

Upon the receipt of an allegation against you the Company will carry out an investigation into the matter.

This will normally involve having a fact finding meeting with you where you will be given the opportunity to give a full account of your interpretation of the matter.

- Following this the Company will make a decision as to whether formal disciplinary action is warranted.
- In some circumstances the Company may choose to deal with the matter informally.
- If formal disciplinary action is warranted, the following procedure will apply.

THE DISCIPLINARY PROCEDURE

Formal disciplinary meeting

You will be invited to attend a formal disciplinary meeting. At the meeting you will be given an opportunity to state your case and present information in your defence before any decision is made.

After the disciplinary interview, you will be informed of the disciplinary decision and of any disciplinary sanction imposed. The procedure may be implemented at any stage if your alleged misconduct or performance warrants such action.

Right to be accompanied

You have the right to be accompanied at any formal meeting (including an appeal

meeting) by a single companion who is:

- A work colleague; or
- An official employed by a trade union; or
- A trade union representative provided they have been certified in writing by their union as being competent to accompany a worker.

Your companion has the right to explain and sum up your case, ask questions, and to respond to any views expressed at the hearing. He or she may not answer questions on your behalf. If your companion cannot attend on the date set for the hearing or appeal, then the date can be postponed for up to five working days. At its discretion, the Company may postpone the meeting for longer.

Minor faults

Minor faults will be dealt with informally, but where the matter is more serious the following procedure and sanctions will apply.

Stage one - written warning

If conduct or performance does not meet acceptable standards you will normally be given a written warning. You will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of your right of appeal. A copy of this written warning will be kept on your personnel file, but it will be disregarded for disciplinary purposes after 9 months subject to satisfactory conduct and performance.

Stage two – final written warning

If there is a failure to improve and conduct or performance is still unsatisfactory or there is a further offence, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal (in effect both the first and final written warning), a final written warning will normally be given to you. This will give details of the complaint, will warn that dismissal will result if there is repetition of such conduct, if there is a further offence or no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept on your personnel file, but it will be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct and performance.

Stage three – dismissal

If conduct or performance is still unsatisfactory and you fail to reach the prescribed standards, if there is a further offence, or if you have committed a gross misconduct offence, dismissal will normally result. Only a Director can take the decision to dismiss. As an alternative to the dismissal, the Managing Director may consider demotion, which would involve a reallocation of duties on a salary commensurate with the post, as an appropriate sanction. As soon as reasonably practicable following the disciplinary interview, you will be provided with written reasons for dismissal or any action short of dismissal, the date on which employment will terminate (if relevant) and the right of appeal.

APPEALS PROCEDURE

You may appeal against a disciplinary decision by informing the Managing Director in writing within five working days of the decision.

All appeals must set out the grounds on which you are making the appeal.

You will be invited to an appeal meeting and you have the right to be accompanied

at that meeting (and you will be notified of that right when you are invited to the appeal meeting). The appeal meeting will reconsider the original decision. You will have an opportunity to put forward, should you so wish:

- New evidence which was not available during the first meeting; and/or
- Complaints of a flaw in the original decision-making process, such as the failure to follow procedures or the failure to give you a fair hearing.

The outcome of any appeal will be confirmed to you in writing and will take one of three forms:

- The original decision may be upheld, in which case the disciplinary sanction will be confirmed;
- The original decision may be overruled, in which case the disciplinary sanction will be rescinded;
- The original decision may be substantially confirmed but a less severe sanction may be substituted for that originally imposed (usually in cases of appeals based on extenuating circumstances). The disciplinary sanction cannot be increased.

The decision of the Managing Director is final, and there is no further right of appeal.

LEVELS OF SERIOUS BREACH

Misconduct

The following (not exhaustive) list provides examples of offences which are normally regarded as misconduct.

- **Accidents**
Failing to report an accident, no matter how minor/slight.
- **Safe working environment**
Failing to create and maintain a safe operating working environment.
- **Punctuality**
Failure to be punctual and work to the hours defined in your Principal Statement of Terms of Employment.
- **Early departure**
Leaving your place of work before your normal finishing time without permission whether verbal or written.
- **Lateness**
Lateness will be considered a breach of the terms of your Contract of Employment.
- **Skill and aptitude for the job**
Failing to show the skill or aptitude required for the job, particularly where those skills were claimed at the time of your commencing the job.
- **Acting in interest of Company**
Failing to act wholeheartedly in the interest of the Company at all times.

- **Undertaking reasonable duties**
Not being prepared to undertake reasonable duties other than those for which you have been specifically employed.
- **Reporting absence**
Failure to follow the correct absence reporting procedures or to keep us informed of the reason for your absence and your likely return date (see earlier Chapter for guidelines).
- **Continued absence**
Where an absence is expected to continue for more than seven days failing to obtain and send a medical certificate to the Company.
- **Persistent absenteeism**
Regular and persistent absenteeism.
- **Independent medical examination**
Refusal to undergo an independent medical examination in the event of persistent absence for reasons of ill health.
- **Inform Company of infectious or contagious diseases**
Failure to inform the Company if you contract an infectious or contagious illness.
- **Removal of material from work**
Removal of any material or equipment from your place of work without prior permission.
- **Unauthorised work**
Using Company time, materials or equipment for unauthorised work.
- **Follow Company procedures**
Failure to follow Company working or operating procedures.
- **Company vehicles**
If you drive a Company vehicle, failure to observe all Company operating procedures.
- **Reporting offences**
Failure to report any convictions for driving offences and/or endorsements or any convictions that may affect your suitability for employment with the Company.
- **Fines during use of Company vehicle**
Attempting to place any liability arising out of your wrongful or illegal use of a Company vehicle upon the Company.
- **Vehicle mileage requirement**
Failure to comply with all statutory and/or Company regulations regarding the recording of daily mileage, journeys undertaken, actual driving hours etc.
- **No unauthorised passengers**
Carrying unauthorised passengers or using the vehicle for personal gain without permission.

- **Health and safety of colleagues**
Endangering the health and safety of any other employee whilst at work.
- **Protective clothing**
Where you are issued with any protective and/or safety clothing, equipment etc., failure to use this as instructed, unless you have good reason not to.
- **Unauthorised use of computers, email and internet usage**
Failing to follow the Computer policy
- **Unauthorised personal usage of computers, email and internet**
Emailing or using the internet for personal use outside of break times.

Gross Misconduct

The following (not exhaustive) list provides examples of offences which are normally regarded as gross misconduct.

- **Fighting**
Fighting, assault on another person, bullying, harassment, victimisation or discrimination, including dangerous horseplay.
- **Failure to carry out instruction**
The failure to follow a reasonable instruction and/or request given to you.
- **Insubordination**
Serious act(s) of insubordination.
- **Offensive language**
Single or repeated use of offensive or excessive bad language.
- **Offensive behaviour**
Single or repeated use of offensive behaviour on Company premises, or in front of service users.
- **Smoking and fire hazard**
Failure to observe all rules dealing with smoking and fire hazards.
- **Theft**
The theft of the Company's property and/or the property of others.
- **Damage to property**
Deliberate damage to Company property.
- **Damage to Company business**
Being concerned or interested in action which is damaging to or competes with the business of the Company.
- **Interest in other companies**
Having interest in any other business, associating with contentious organisations or engaging in any activities which may interfere with the performance of your duties or cause a conflict of interest.

- **Bringing Company into disrepute**
Bringing the Company into serious disrepute by your actions and/or negligence of your duties or any adverse personal publicity that could potentially damage the Company's reputation or business interests.
- **Being at work under the influence of alcohol or drugs**
Serious incapability/intoxication through alcohol or being under the influence of illegal or non-prescribed drugs whilst at work.
- **Seriously endangering health and safety**
Seriously endangering the health and safety of yourself and/or others on Company premises or representing the Company.
- **Falsifying official Company records**
Knowingly and deliberately placing false information, or inducing another person to place false information, in Company records with a view to gaining a pecuniary advantage or which proves harmful to another.
- **Fraud**
Participating in fraudulent activity against the interests of the Company.
- **Bribery**
Offering, promising or giving a bribe to another person to bring about or reward the improper performance of a function or activity or to obtain or retain business or an advantage in the conduct of business for this Company.
- **Receiving bribes**
Requesting or receiving a bribe or inducement to place business with a supplier of goods or services.
- **Failure to comply with anti-bribery policy or procedures**
Failure to comply with Company policy or procedures regarding the receipt of gifts, giving of gifts to third parties, hospitality or third party expenses.
- **Negligence**
Serious or gross negligence which causes unacceptable loss, damage or injury.
- **Intentional or multiple acts of misconduct**
Intentional breach of any rule or procedure or multiple acts of misconduct.
- **Inappropriate use of the Internet**
Using an internet enabled Company device to deliberately access internet sites containing, or to store and/or transfer pornographic, offensive or obscene material.
- **Inappropriate postings on social media sites**
Postings that damage, offend, or embarrass the Company, clients or colleagues.
- **Company property**
Unauthorised possession of the Company's property.

- **Criminal offence affecting Company business**
Commission of a criminal offence (which affects the Company's business either directly, or where the impact is to bring the Company's reputation into disrepute).
- **Subjecting a colleague to any detriment on the ground that they have raised a whistleblowing concern**
Harassing, threatening or taking any other retaliatory action against a whistleblower.
- **Serious/deliberate breach of Company policy**
Serious or deliberate breach of any of rules/policies contained in Company documentation.

If you are accused of an act of gross misconduct, you may be suspended from work on full pay, normally for no more than five working days (although in some cases this period may be longer, for example in order to carry out a full investigation), while the Company investigates the alleged offence. If, on completion of the investigation and the full disciplinary procedure, the Company is satisfied that gross misconduct has occurred, the result is likely to be summary dismissal without notice or payment in lieu of notice.

This policy will be reviewed annually by a Director.

	Initial	Review 1	Review 2	Review 3	Review 4
Signed		Dave Melia	Dave Melia	Dave Melia	Dave Melia (annual review)
Position		Director	Director	Director	Director
Date		23.08.17	28/09/2018	11/03/19	12/09/19