

Investigation, Disciplinary & Grievance Policy



Policy

Whilst the Company does not wish to impose unreasonable rules of conduct on its employees, certain standards of behaviour are necessary to maintain good employment relations and discipline in the interest of all employees. The Company prefers that discipline be voluntary and self-imposed and in the great majority of cases this is how it works. However, from time to time, it may be necessary for the Company to take action towards individuals whose level of behaviour or performance is unacceptable.

This disciplinary procedure is entirely non-contractual and does not form part of an employee's contract of employment.

Minor faults will be dealt with informally through counselling and training. However, in cases where informal discussion with the employee does not lead to an improvement in performance or where the matter is considered to be too serious to be classed as minor, the following disciplinary procedure will be used.

Procedure

Investigations

At all stages of the procedure, an investigation will be carried out. On completion of the investigation, the investigator will recommend whether a disciplinary hearing should take place. Employees do not have a right to be accompanied to an investigation meeting. Any meetings and discussions as part of an investigation are solely for the purpose of fact-finding and no disciplinary action will be taken without a disciplinary hearing. The investigating officer will be impartial to the case and not implicated in the incident being investigated.

Employees are not required to receive notice of an investigation meeting, however should the employee be on leave from normal duties then the investigating officer will arrange a suitable time to conduct their interview.

If the Company has grounds to believe that you may be guilty of misconduct which the Company considers to be serious (gross) misconduct, where relationships have broken down, or where the Company has grounds to consider that Company property or responsibilities to other parties are at risk, or where the Company considers that your continued presence at Company premises would hinder an investigation, the Company will

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be entitled to suspend you on full pay while we carry out the investigation or disciplinary procedure (or both).

Any such suspension will be as brief as possible and will be kept under review. A decision to suspend you is not considered a disciplinary action, nor does it imply that any decision has been taken about your case.

The investigating officer will use the investigation report to collate and review the evidence obtained.

The Disciplinary Hearing

The Company will notify the employee in writing of the allegations against them and will invite the employee to a disciplinary hearing to discuss the matter. The Company will provide sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case. This will include the provision of copies of written evidence, including witness statements, where appropriate and a copy of the investigation report.

Having given the employee reasonable time to prepare their case (at least 48 hours), the formal disciplinary hearing will then take place, conducted by a manager whom is impartial to the case and has not participated within the investigation, at which the employee will be given the chance to state his or her case, accompanied if requested by a trade union official, a trade union representative or a fellow employee of his or her choice.

Where possible, the manager chairing the meeting will be a manager who was not involved in the investigation. The employee must make every effort to attend the hearing. At the hearing, the employee will be allowed to set out their case and answer any allegations and will also be given a reasonable opportunity to ask questions, present evidence, call relevant witnesses and raise points about any information provided by witnesses.

The person accompanying you is entitled to address the hearing to put and sum up your case, respond on your behalf to any views expressed at the hearing and confer with you during the hearing. The person accompanying you does not have the right to answer questions on your behalf, address the hearing if you do not wish it or prevent the Company from explaining its case. Any work colleague who you have requested to accompany you will be given a reasonable amount of paid time off to prepare for and attend the hearing.

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Please note that it is prohibited for employees to record (whether covertly or otherwise) the proceeding at the disciplinary hearing, and at any appeal hearing, without the express permission of the Company. If the Company discovers that an employee has done this covertly, he or she could be subject to further disciplinary action.

Following the hearing, the Company will decide whether or not disciplinary action is justified and, if so, the employee will be informed in writing of the Company's decision in accordance with the stages set out below and notified of his or her right to appeal against that decision. Where possible, the decision will be issued within 5 working days of the hearing. It should be noted that an employee's behaviour is not looked at in isolation but each incident of misconduct is regarded cumulatively with any previous occurrences.

A possible outcome of a Disciplinary Hearing may be no further formal action, however recommendations and training actions may be deemed suitable.

The five possible outcomes from a disciplinary hearing are:

- **Substantiated:** there is sufficient evidence to prove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation
- **False:** there is sufficient evidence to disprove the allegation
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence, or
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made

Disciplinary action and dismissal

The usual penalties for misconduct or poor performance are:

STAGE 1: Written Warning

The employee will be given a formal WRITTEN WARNING. He or she will be advised of the reason for the warning, how they need to improve their conduct/performance, the timescale over which the improvement is to be achieved, that the warning is the first stage of the formal disciplinary procedure and the likely consequences if the

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terms of the warning are not complied with. The written warning will be recorded but nullified after 12 months, subject to satisfactory conduct.

STAGE 2: Final Written Warning

Failure to improve in response to the procedure so far, a repeat of misconduct for which a warning has previously been issued, or a first instance of serious misconduct or serious poor conduct, will result in a FINAL WRITTEN WARNING being issued. This will set out the nature of the misconduct/performance, how he or she needs to improve, the timescale over which the improvement is to be achieved and warn that dismissal will probably result if the terms of the warning are not complied with. This final written warning will be recorded but nullified after twelve months, subject to satisfactory conduct. However, the Company reserves the right to extend the validity of the final written warning in cases of very serious misconduct or where the employee has a history of misconduct issues.

STAGE 3: Dismissal

Failure to meet the requirements set out in the final written warning, or further misconduct/failure to improve performance, will normally lead to DISMISSAL with appropriate notice. A decision of this kind will only be made after the fullest possible investigation. Dismissal can be authorised only by a senior manager or a Director. The employee will be informed of the reasons for dismissal, the appropriate period of notice, the date on which his or her employment will terminate and how the employee can appeal against the dismissal decision.

Gross Misconduct

Offences under this heading are so serious that an employee who commits them will normally be summarily dismissed. In such cases, the Company reserves the right to dismiss without notice of termination or payment in lieu of notice. Examples of gross misconduct include:

- Any breach of the criminal law, such as theft.
- Any unauthorised possession or removal of Company products or property, or property belonging to another employee, client, customer or visitor, fraud (including making fraudulent or false expense claims), deliberate falsification of records, false declarations in connection with employment or applications for employment or any other form of dishonesty.
- Using the Company's property, materials or equipment to carry out work for third parties on a personal basis without permission.
- Misuse of Company benefits, such as improper use of a staff discount card.

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- Offering, promising or giving a bribe or requesting, agreeing to receive or accepting a bribe or bribing a foreign public official in connection with employment.
- Wilfully or negligently causing harm or injury to another employee, client, customer or visitor, physical violence, assault, fighting, bullying or grossly offensive, abusive or aggressive behaviour or language.
- Deliberately or negligently causing damage to the Company's property, or to property belonging to another employee, client, customer or visitor.
- Vandalism of, or otherwise intentionally interfering with, the Company's computers or computer or telephone network.
- Causing loss, damage or injury through serious carelessness or gross negligence.
- Dereliction of duty, including sleeping whilst at work and undertaking unauthorised activities during normal working hours.
- Wilful refusal to obey a reasonable management instruction or serious insubordination.
- Serious incapacity at work through an excess of alcohol or illegal drugs, whether consumed on or off Company premises but which affects the employee's ability to carry out their job duties whilst at work.
- Bringing illegal drugs or other illegal substances or items or weapons on to Company premises.
- Smoking on Company premises, other than in designated outside smoking areas.
- Logging on to sexually explicit websites, downloading or circulating pornographic or other offensive, illegal or obscene material or using the internet or e-mail for gambling, illegal activities or the sending of offensive e-mails to work colleagues (in the latter case, including from the employee's home computer in their own time).
- Engaging in sexual activity on Company premises at any time.
- Posting derogatory, offensive, discriminatory or defamatory comments online (for example, on social media websites) about the Company, its employees, clients or customers or otherwise conducting themselves online in a way that is detrimental to the Company or brings the Company into serious disrepute.
- A serious breach of health and safety rules, including acts or omissions which endanger the safety of another employee, client, customer or visitor.
- A serious breach of security rules.
- Discriminating against, harassing, bullying or victimising another employee, client, customer or visitor because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including colour, nationality and ethnic or national origins), religion or belief, sex and/or sexual orientation.

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- A serious breach of confidentiality, including unauthorised access of computer and personnel records and communicating or leaking trade secrets or confidential information about the Company or its employees, clients or customers to third parties.
- Working for a competitor without permission.
- Engaging in an unauthorised activity which conflicts with the interests of the Company or its clients or customers.
- Breaching copyright or any other proprietary interest belonging to the Company.
- Knowingly breaking a legal requirement in connection with employment.
- Bringing the Company into serious disrepute, even if done in the employee's own time.
- Unauthorised absence, including failure to return from a period of annual leave or other approved leave of absence.
- falsification of records or other Company documents, including those relating to obtaining employment;

The above is intended as a guide and is not an exhaustive list.

Alternative Disciplinary Action

As an alternative to issuing a final written warning or as an alternative to dismissal, the Company reserves the right to demote or redeploy an employee. This may be on a permanent basis or for a fixed period and will be done by notice in writing to the employee. The Company also reserves the right to impose a reduction in the employee's salary for the period of demotion and the written notice will detail any changes to the employee's terms and conditions of employment arising from such demotion. In particular, the notice will give details of any reduction to salary and/or loss of benefits arising from the demotion.

Where demotion is used as an alternative to summary dismissal for gross misconduct, the Company may also issue the employee with a final written warning with a further review period.

Appeals

An employee may appeal against any disciplinary decision, including dismissal, to a Director of the Company within five working days of receiving the decision. Appeals should be made in writing and state the grounds for appeal.

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The employee will be invited to attend an appeal hearing chaired by a senior manager or a Director. Where possible, the appeal will be heard by a senior manager or Director who has not been involved in the investigation or disciplinary hearing.

At the appeal hearing, the employee will again be given the chance to state his or her case and will have the right to be accompanied by a trade union official, a trade union representative or a fellow employee of his or her choice.

Following the appeal hearing, the employee will be informed in writing of the results of the hearing, where possible, within 5 working days of the appeal hearing. The Company's decision on an appeal will be final.

Employees with short service

This disciplinary procedure does not apply to any employee who has been employed by the Company for less than two years.

Grievance Procedure

Object

The object of the procedure is to provide an employee who considers that he or she has a grievance with an opportunity to have it examined quickly and effectively, and where a grievance is deemed to exist, to have it resolved, if possible, at the earliest practicable opportunity.

Most issues or grievances can be solved on an informal basis with line managers, and employees should aim to settle their grievances this way if possible. This procedure is designed to deal with those issues that need to be approached on a more formal basis. This grievance procedure is entirely non-contractual and does not form part of an employee's contract of employment.

Procedure

If a grievance cannot be settled informally with the relevant line manager, the employee should raise it formally. This procedure has been drawn up to establish the appropriate steps to be followed when pursuing and dealing with a formal grievance.

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Stage 1

In the event of the employee having a formal grievance relating to his or her employment he or she should, in the first instance, put their grievance in writing and address it to their line manager, making it clear that they wish to raise a formal grievance under the terms of this procedure.

Where the grievance is against the line manager, the complaint should be addressed to an alternative manager. The written grievance should set out the nature of the complaint, including any relevant facts, dates, and names of individuals involved so that we can investigate it.

This grievance procedure will not be invoked unless the employee raises their grievance in accordance with these requirements.

A manager (who may not be the manager to whom the grievance was addressed) will then invite the employee to a grievance meeting to discuss the grievance and the employee has the right to be accompanied at this meeting by a trade union official, a trade union representative or a fellow employee of their choice. The employee must make every effort to attend the meeting. At the meeting the employee will be permitted to explain their grievance and how they think it should be resolved.

Please note that it is prohibited for employees to record (whether covertly or otherwise) the proceedings at the grievance meeting, and at any appeal meeting, without the express permission of the Company. If the Company discovers that an employee has done this covertly, he or she could be subject to disciplinary action.

Following the meeting the Company will endeavour to respond to the grievance as soon as possible. If it is not possible to respond within this time period the employee will be given an explanation for the delay and be told when a response can be expected. The employee will be informed in writing of the Company's decision on the grievance and notified of their right to appeal against that decision if they are not satisfied with it.

Stage 2

In the event that the employee feels that his or her grievance has not been satisfactorily resolved, the employee may then appeal in writing to a more senior manager or to a Director of the Company within five working days of the grievance decision. The employee should also set out the grounds for their appeal.

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On receipt of such a request a more senior manager or a Director (who again may not be the person to whom the appeal was addressed) shall make arrangements to hear the grievance at an appeal meeting and at this meeting the employee may again, if they wish, be accompanied by a trade union official, a trade union representative or a fellow employee of their choice. The employee must make every effort to attend the appeal meeting. Where possible, the appeal meeting will be heard by a senior manager or a Director who was not involved in the grievance decision.

Following the meeting, the senior manager or Director will endeavour to respond to the grievance as soon as possible. If it is not possible to respond within this time period, the employee will be given an explanation for the delay and be told when a response can be expected. The employee will be informed in writing of the Company's decision on their grievance appeal.

This is the final stage of the grievance procedure and the Company's decision shall be final.

Disciplinary Issues

If an employee's complaint relates to his or her dissatisfaction with a disciplinary, performance review or dismissal decision, they should not invoke the grievance procedure but should instead appeal against that decision in accordance with the appeal procedure with which they will have been provided.

Further guidance

ACAS

<https://www.acas.org.uk/disciplinary-and-grievance-procedures>

<i>This policy was adopted on</i>	<i>Signed on behalf of the nursery</i>	<i>Date for review</i>
<i>16/1/2023</i>	<i>m khaira</i>	<i>16/01/2024</i>