**Disciplinary Policy & Procedure**

**1. Policy statement**

The main purpose of this Disciplinary Policy & Procedure is to encourage an employee, whose standard of work or conduct is unsatisfactory, to improve.

The policy and procedure serves to ensure that this is done in a fair and consistent manner.

The Disciplinary Policy & Procedure is not contractual and may be varied by the Company. The Company expressly reserves the right to depart from the terms of the disciplinary procedure in circumstances where the employee does not have two years’ qualifying service.

The Disciplinary Policy & Procedure is strictly confidential and all aspects, including all documentation and records, shall be treated as such.

In line with this policy, the following will be adhered to:

* In minor cases of alleged misconduct, the manager should initially seek to resolve the matter informally by discussion with the employee.
* The Disciplinary Policy & Procedure is to be used where an employee’s work or conduct is alleged to be unsatisfactory.
* Each step and action under the procedure must be taken without unreasonable delay, by either the Company or the employee.
* The timing and location of meetings must be reasonable.

**2. Informal Verbal Warning**

Minor misconduct or poor performance issues can often be resolved informally between you and your line manager. These discussions should be held in a meeting between you and your line manager or another available manager where your misconduct or poor performance will be discussed and without undue delay whenever there is cause for concern.

In some cases, an informal verbal warning may be given, which will not form part of your disciplinary record (although it may be noted on your file). As part of the verbal warning you will be informed that any further misconduct or similar conduct or poor performance may lead to formal disciplinary action being taken against you.

Formal steps will be taken under this procedure if the matter cannot be resolved informally, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation or in cases of gross misconduct)**.**

**3. The Formal Disciplinary Procedure**

Any misconduct, gross misconduct or poor performance treated formally by the Company will be dealt with under the following procedure. This procedure may not apply within a probationary period or within the first two years of an employee’s employment, subject to the Company’s discretion.

**Investigating the matter**

Your Contract of Employment will continue whilst the Company considers the allegations made against you and collates any relevant evidence to establish whether disciplinary action is appropriate and if so, for use at any disciplinary hearing. The Company will endeavour to complete its investigations without unreasonable delay. You may be invited to attend an investigation meeting of which the purpose is fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

**Suspending you from work**

It might be necessary to suspend you from your employment (with pay) during the period of investigation into any serious allegations of misconduct brought against you.

If you are suspended, your Contract of Employment will continue but you will not be allowed to enter the Company’s premises or contact any of your fellow employees or any of the Company’s clients or customers without prior permission. The suspension will be for no longer than is necessary to investigate the allegations and will be kept under review.

Suspension is not a disciplinary penalty and does not imply that a decision has already been made about the allegations. The Company will write to you to confirm your suspension and the allegations against you.

**Inviting you to a meeting**

After the conclusion of an investigation, the Company will, where practicable, endeavour to write to you at least 5 working days in advance of the disciplinary hearing setting out the allegations of misconduct against you or the poor performance, which will be addressed at the hearing. You will be provided with copies of any documentary evidence obtained in the course of the investigation (including witness statements, and documents if relevant); informed of your right to be accompanied by a Trade Union representative or a work colleague and told what the potential sanctions might be. You will be informed of the date, time and place of the disciplinary hearing. Where the Company intends to call relevant witnesses (to give evidence at the disciplinary hearing), you will be given advance notice.

**Right to be accompanied at meetings**

At all stages of the disciplinary procedure, including any appeal, you will have the opportunity to be accompanied by a work colleague or a recognised Trade Union representative. You and your companion should make every effort to attend any disciplinary meetings including any appeal hearing. If you or your companion cannot attend at the time specified, you should inform the Company as soon as possible, and the Company will try, within reason, to agree to an alternative time.

We may at our discretion permit you to be accompanied by another individual (for example, a family member) where this will help overcome particular difficulties caused by a disability, or difficulty understanding English.

You are not entitled to be accompanied at an investigatory meeting. However, the Company may allow you to bring a companion to an investigatory meeting, if, for example, it would help you to overcome any disability, or any difficulty in understanding English.

Your companion may make representations to the Company to summarise your case, respond on your behalf to any views expressed during the meeting and ask questions. The companion should not answer questions on your behalf, address the hearing if you do not wish it or prevent you from explaining your case. You may confer privately with your companion at any time during the meeting.

**Disciplinary hearings**

In most cases of misconduct, gross misconduct or poor performance the Company will hold a formal disciplinary hearing. Before the hearing, you will be given details of those allegations of misconduct against you or the issues surrounding your poor performance by letter as set out above.

At the hearing, you will have an opportunity to set out your case, to respond to those allegations of misconduct or gross misconduct and/or performance issues, respond to the investigation evidence and ask questions. You will be provided with the opportunity to present relevant evidence (which should be provided to the Company at least 48 hours prior to the disciplinary hearing taking place).

You have the right to call relevant witnesses. This can either be done in writing or in person:

* If you ask written questions of any witnesses, such questions must be provided to the investigation officer, in advance of the hearing, who will request this information on your behalf. You should not make a direct approach to a witness without the prior approval of the disciplining officer.
* If you wish to call a witness to give evidence at the disciplinary hearing, such a request must be made to the Company at least 48 hours prior to the disciplinary hearing taking place. The Company reserves the right to refuse any such request if a witness does not wish to attend in person or if it decides that the request is unreasonable or inappropriate
* You will be provided with reasonable advance notice if the Company intends to call relevant witnesses to give evidence at the disciplinary hearing

The Company may need to adjourn the disciplinary hearing if further investigations are required. If so, then you will be invited to a reconvened disciplinary meeting to hear the remainder of your disciplinary.

The decision of the disciplining officer and your right of appeal will be confirmed to you in writing within 5 working days of the disciplinary meeting. However, if this is not reasonably practicable, the Company will write to you to confirm its reasons for the delay and confirm when it expects to provide you with an outcome of the disciplinary hearing.

If you fail to attend any meetings without good reason, this may be treated as misconduct itself. If you fail to attend without good reason or are persistently unable to do so (for example for health reasons), the Company may reach a decision in your absence and based on the available evidence.

**Disciplinary penalties**

Disciplinary action may take one of the forms set out below. If during the period of the warning you engage in any further misconduct, further disciplinary action will be instigated against you. No penalty should be imposed without a hearing and each case shall be assessed on its own merits.

Stage 1 - Written Warning - one copy of which will be retained by you and one copy will be enclosed within your personnel file. This will remain on your personnel file for 12 months.

In cases of poor performance, you will also be issued with a separate performance improvement plan setting out the standards of performance which you will be expected to achieve within a specific time scale as stated within the outcome letter.

Stage 2 - Final Written Warning – in cases where there is a live first written warning in place or where misconduct or poor performance is considered sufficiently serious to warrant a final warning even though there are no active warnings on your file.

The final written warning will confirm that a further offence or continued shortcomings will render you liable to dismissal or other alternative penalty if appropriate. One copy of the warning will be retained by you and one copy will be enclosed within your personnel file for 12 months.

In cases of poor performance, you will also be issued with a separate performance improvement plan setting out the standards of performance which you will be expected to achieve within a specific time scale as stated within the outcome letter.

Stage 3 - Dismissal with notice - for misconduct or poor performance where a live final written warning was previously issued to you.

In cases of gross misconduct - your contract will be terminated without notice.

All warnings lapse following the expiry of the period specified by the disciplining or appeal officer at the time of issuing the warning.

**Alternative sanctions**

If appropriate the Company might give consideration to enforcing some other disciplinary sanction such as suspension (with or without pay).

**Examples of gross misconduct**

The following acts are examples of Gross Misconduct and as such may render employees liable to Summary Dismissal (i.e. dismissal without notice). This list is not exhaustive:

* Theft
* Refusal to carry out duties or reasonable instructions
* Serious insubordination or the use of aggressive behaviour or excessive bad language
* Serious incapability or the potential for serious incapability whilst on duty brought on by alcohol or illegal drugs
* Serious negligence which causes or might cause unacceptable loss, damage or injury
* Unauthorised possession or disposal of or wilful damage to the Company’s property
* Misuse of the Company’s property or name or failure to report damage to Company property
* Use of Company vehicles without approval or the private use of commercial vehicles without prior authorisation. Failure to report any incident whilst driving our vehicles, whether or not personal injury or vehicle damage occurs
* Any serious breach of the Company’s Policies
* Clocking another employee in or out
* Undertaking private work on the premises without permission
* Fighting, physical assault, dangerous horseplay, actual or threatened violence including bullying
* Obscene behaviour
* Using threatening or offensive language towards customers or other employees
* Loss of your driving licence when you are required to use a vehicle as an essential part of your duties
* Any action or omission which would bring the Company into serious disrepute whether during or outside of your normal working hours and conviction on any criminal charge which is relevant to your employment
* Discrimination (including harassment) on grounds of sex, sexual orientation, race, religious or philosophical belief, disability or age or any other act which fundamentally breaches the dignity of people at work
* Committing any criminal offence save for minor motoring offences
* Unauthorised Absence
* Any other matter which in the reasonable opinion of the Company constitutes gross misconduct

**4. Appeals**

You have the right to appeal after a disciplinary sanction has been applied. You can exercise your right to appeal by writing to the person named in the letter confirming the outcome of the disciplinary hearing within 5 working days of receiving written notification of the disciplinary sanction. Your letter should state the grounds upon which you are lodging your appeal. If your appeal is against dismissal, the dismissal decision will stand unless or until the appeal officer decides otherwise.

The Company will write to you to invite you to an appeal hearing within 5 working days of receiving your appeal, where reasonably practicable. The appeal will be held as soon as reasonably possible and without undue delay. At the hearing, the appeal officer will consider all of the evidence and the decision made at the disciplinary hearing, as well as consider your grounds for appeal. It may be that the appeal officer needs to adjourn the appeal hearing or following the hearing, carry out further investigation into your appeal.

The decision of the appeal officer will usually be notified to you in writing within 5 working days of the appeal hearing and their decision will be final and binding.

Following the appeal, the appeal officer will either confirm the original decision, revoke the original decision or substitute a different penalty.

**5. Criminal investigations**

Where your conduct is the subject of a criminal investigation, charge or conviction, the Company will investigate the facts before deciding whether to take formal disciplinary action.

The Company will not usually wait for the outcome of any criminal prosecution before deciding what action, if any, to take against you. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Company may have to reach a decision based on evidence available to the Company.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the Company considers that it affects your suitability to do your job, or if it affects your relationship with the Company, work colleagues or the Company’s customers, suppliers, prospective customers, suppliers or clients or the Company reputation.

If you experience difficulty at any stage of the disciplinary procedure (e.g. for a reason related to a disability or because English is not your first language), you should discuss the situation with your line manager as soon as possible.