DISCIPLINARY AND GRIEVANCE PROCEDURE

**INTRODUCTION**

[Insert Company Name] encourages all employees to conduct themselves in an appropriate manner in their day-to-day work. Employees should familiarise themselves with our policies which set out expected standards of behaviour. Where employee conduct falls short of these standards, we will attempt to resolve the matter through informal means where appropriate so that employees are given the opportunity to improve. If these actions do not provide a resolution, then the Disciplinary Policy and Procedure set out in this document should be followed. The aim is to ensure consistent and fair treatment for all.

**SCOPE**

The Disciplinary policy sets out the process that will be applied for our employees. Where contractors and freelancers are engaged to undertake work for us, the principles of this policy will apply in respect of how we would respond to standards that fall short of those required, and where these standards cannot be remedied the engagement may be terminated.

**POLICY**

[Insert Company Name] may initiate the Disciplinary procedure for reasons of **POOR PERFORMANCE** and/or **MISCONDUCT**. These procedures will be used by us as a means to help, support and encourage you to improve your performance and/or conduct, rather than primarily as a means of punishment.

This does not however preclude that the outcome may in fact result in sanctions being applied. Please also note that depending upon the circumstances; each stage of the process may be escalated to a higher level without going through each individual stage. In addition, escalation of the sanctions shall usually apply to the same or similar instances of misconduct or failure to achieve the improvement targets set as part of the performance process.

Where the employee has less than 2 years’ service then the company reserves the right not to apply the disciplinary procedure but may choose to do so depending on the circumstances.

**Poor Performance**

Where your work performance falls below the standard required by the company, this issue will be addressed with you in order to encourage the improvement, achievement and/or maintenance of the required standard. Such cases may be addressed generally through the performance management process or as a specific instance of poor performance.

**Misconduct**

The primary objective of the disciplinary procedure for misconduct is not to seek your dismissal but to obtain a full explanation of the circumstances and following this, to ensure that such misconduct does not reoccur. However if the misconduct is serious this may result in the application of a sanction and in cases of Gross Misconduct, may result in summary dismissal.

Note that “Incapability” related to illness or injury shall be dealt with under a different process.

**INVESTIGATION**

A full impartial investigation will normally be undertaken to establish the facts, before and where appropriate, during the disciplinary process. As such an investigation may result in there being no grounds for formal action, it shall not always be necessary for the employee who may be subject of an allegation to be questioned in a formal investigation hearing prior to their attendance at a formal disciplinary hearing.

A formal investigation hearing shall normally only be carried out where there is insufficient clarity surrounding the issues to determine if a formal disciplinary hearing is necessary, bearing in mind that “Informal Resolution” may be more appropriate.

If a formal investigation hearing is carried out to determine clarity surrounding the issues, you will be invited in writing to the hearing will be entitled to have a work colleague or trade union representative present. During such a formal investigation hearing; at the point there becomes sufficient information to justify formal disciplinary proceedings, the hearing should be adjourned and a formal disciplinary hearing arranged.

**ESCALATION OF PROCESS**

The Company reserves the right depending on the severity of the poor performance or misconduct to escalate the disciplinary procedure to any stage without following each of the above steps, as deemed appropriate in the individual circumstances of the case.

**SANCTIONS**

In the event of the disciplinary procedure being initiated, there are a number of potential outcomes open to the company as detailed below. In addition, the length of time the sanction remains active on the employee record for disciplinary purposes varies dependent upon the sanction (and may be increased or decreased by the company as appropriate) but is normally as stated below:

|  |  |  |
| --- | --- | --- |
| **Method** | **Potential Sanction** | **Active on Employee Record** |
| Informal Resolution | * No Action
* Advice & Guidance
 | * Indefinitely (File Notes)
* Indefinitely (File Notes)
 |
| Formal Process (Misconduct) | * No Action
* Advice & Guidance
* 1st Formal Written Warning
* Final Formal Written Warning
 | * Indefinitely (File Notes)
* Indefinitely (File Notes)
* 6 months
* 12 months
 |
| Formal Process (Performance) | * No Action
* Advice & Guidance
* 1st Written Improvement Warning
* Final Written Improvement Warning
 | * Indefinitely (File Notes)
* Indefinitely (File Notes)
* 6 months
* 12 months
 |

The company may escalate of the warnings sequentially through each stage following continued poor performance or misconduct issues; or depending upon the severity of each case, the company reserves the right to escalate to any level of disciplinary procedure as appropriate.

In the event of such process reaching a “dismissal” stage either through escalation of warnings or Gross Misconduct, then the following sanctions may be applied:

|  |  |
| --- | --- |
| **Method** | **Potential Sanction** |
| Formal Process(Serious Misconduct or as result of Escalation of Warnings) | * Dismissal – **with** notice
 |
| Formal Process(Gross Misconduct) | * Dismissal – **without** notice
* Dismissal – **with** notice
 |
| Options available as an Alternative to Dismissal | * Demotion
* Change of role or Relocation
* Reduction in Salary
 |

**INFORMAL RESOLUTION**

Where there is an initial issue of poor or unsatisfactory performance; or where there is any allegation of misconduct (especially where it is of a minor nature) the company shall fully consider resolving this matter through informal methods.

If utilising “Informal Resolution”; then the company will deal in the first instance through a process of confidential discussion to encourage an improvement in your performance or behaviour. This is an opportunity for you as the employee to address any such failings and in most cases, no further formal action will be necessary. You do not have the right to have someone accompany you to such informal meetings.

Note that if “Informal Resolution” is used to deal with misconduct or poor performance, then written warnings cannot be applied as a sanction. However, if “Informal Resolution” has been used for instances of misconduct and/or poor performance and there is no improvement, then formal action may be taken.

**FORMAL PROCESS**

Where informal discussion does not result in an improvement in your performance, or there are continued allegations of misconduct (or these appear to be of a more serious nature), then formal action will be instigated by the company.

**Notification**

* You will receive a formal written letter outlining the areas of unsatisfactory performance and/or allegations of misconduct.
* You will also receive any pertinent and/or relevant evidence a reasonable time prior to the date of the hearing.
* This notification letter will also invite you to a meeting within 5 working days (or at a mutually agreeable time and date), where the meeting will be held, who will be present and will also inform you of the right to be accompanied.
* You are required to attend this meeting and failure to do so without a reasonable excuse will result in the meeting being rearranged within a further 5 working days.
* Failure to attend this rearranged meeting without reasonable excuse will result in a decision being taken in your absence.

**Meeting**

* During the meeting, which should be uninterrupted and held in private, a detailed discussion should take place outlining the areas of your poor performance and/or the allegations of misconduct.
* Full disclosure of the investigation undertaken by your employer will be made in order for you to be able to argue your case and offer an explanation of the alleged failings. This may include you providing evidence as part of the investigation process; or at the meeting itself; such as witnesses who were not interviewed as part of the original investigation, or other mitigating circumstances.
* Where there is evidence requiring further investigation, the meeting will be adjourned whilst this evidence is obtained. The meeting may also be adjourned for short periods to allow for comfort breaks, or to allow the manager conducting the meeting time to consider your comments and/or any evidence presented therein.

**Decision**

* Following the meeting, your employer will adjourn in order to fully review all the evidence prior to making any decision.
* Before making a decision, your employer will consider all the facts as well as your previous disciplinary record, previous performance, length of service and any action taken in any previous disciplinary cases. In addition careful consideration will be given to whether the intended action is reasonable and appropriate given the circumstances of the case.
* If the decision is to take no further action, you will be informed of this.
* The decision should be given to you orally upon reconvening of the hearing and will also be provided to you in writing as soon as practicable following the meeting.
* You have the right to appeal against the decision.

**WRITTEN WARNING**

Once consideration has been given to all the facts and evidence of the hearing, then the first formal sanction that may be taken by your employer is a written warning.

**Misconduct**

* The written warning should detail the nature of the misconduct, what is expected of you in order for you to change your behaviour for the future, appropriate review dates and your right to appeal against the decision.
* The letter will also be retained on your personnel record but will be disregarded for disciplinary purposes after a specified period (i.e. 6 months).

**Poor Performance**

* The written warning should detail the nature of the poor or under performance; the steps you need to take to improve, a timescale for achieving this, appropriate review dates and your right to appeal against the decision.
* In addition the letter should outline any help and support to achieve the improvement that you could receive from the company.
* The letter will also be retained on your personnel record and act as a framework for assessing and reviewing your performance over a specified period (i.e. 6 months). This may be combined with a formal process of Performance Management or Employee Appraisal.

**Please note:** You will also be notified that this written warning represents the first stage in a process where if improvement in performance and/or conduct is not achieved, may lead to a final written warning; some other penalty; and/or ultimately dismissal.

**FINAL WRITTEN WARNING**

If poor performance and/or conduct are not improved; usually within the specified period, you may be issued with a final written warning.

* However, depending upon the individual circumstances of each case, you may be issued with more than one written warning before reaching this stage.
* Prior to any decision being taken, your employer will follow the formal process as outlined above and only determine the severity of disciplinary action to be taken following a full investigation and relevant meetings with you.
* Where the decision is taken to issue you with a final written warning; this will be sent to you as soon as practicable following the meeting with you and will outline the necessary changes in your performance or behaviour that are required; and a timescale for those improvements; and your right to appeal against the decision.
* In cases of poor performance, any support the Company may offer you to achieve and improvement will also be outlined along with a date for further review. The letter will be retained on your personnel record and act as a framework for assessing and reviewing your performance over a specified period (i.e. 12 months).
* In cases of misconduct, the letter will clearly outline what is expected of you in order for you to change your behaviour in the future as well as a review date. The letter will also be retained on your personnel record but will be disregarded for disciplinary purposes after a specified period (i.e. 12 months).

**Please note:** You will also be notified that this written warning represents the final stage in a process where if improvement in performance and/or conduct is not achieved, may lead to a penalty which could include dismissal.

**DISMISSAL**

If there is a continued failure to improve poor performance and/or conduct after following the above process, then the final sanction available to your employer may be your dismissal. Alternative penalties may include demotion, transfer or loss of pay.

* Prior to any decision being taken, your employer will follow the formal process as outlined above and only determine the severity of disciplinary action to be taken following a full investigation and any relevant meetings with you.
* Where the decision is to dismiss; you will be informed of the reasons at the meeting and this will be supported in writing as soon as practicably thereafter.
* The letter outlining the reasons for dismissal will also state the date of termination of your contract, any notice period and your right to appeal against the decision.

**APPEAL**

If you wish to appeal against a decision from any stage of the above process then you must notify the company as detailed in the separate Appeals Policy.

**GROSS MISCONDUCT**

If the Company is satisfied that an act of gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice, but a lesser sanction may be applied.

Gross Misconduct is where there has been a serious breach of contractual terms. There is no exhaustive list which may constitute gross misconduct and whether a particular act or omission is gross misconduct, serious misconduct or general misconduct will depend on the circumstances. Some examples are listed below; where you:-

* commit a substantial breach of any of their obligations under the contract of employment, including failing to follow a reasonable lawful instruction
* breach any of the regulations in respect of your professional duties under current legislation, including but not exclusive to breaching any Code of Practice
* are guilty of any conduct which brings the Company into disrepute
* are convicted of any criminal offence (other than road traffic)
* become bankrupt
* commit theft, fraud or deliberate falsification of records
* assault or fight with another person
* deliberately damage company property
* are seriously incapable whilst at work through alcohol, whether required to travel by vehicle to your place of work or otherwise
* are under the influence of illegal drugs whilst at work
* through serious negligence cause unacceptable loss, damage or injury
* carry out a serious act of insubordination
* deliberately or maliciously breach the Company’s Equal Opportunity Policy.
* deliberately or maliciously breach the Company’s IT Policy
* conducts yourself in any way that is defamatory; offensive or obscene; untrue or malicious or in breach of copyright
* use any methodology for purposes of intimidation or harassment

**SUSPENSION FROM WORK**

Following an allegation of gross misconduct, your employer may suspend you with pay.

* Such decision will only be taken after careful consideration of the available facts.
* Suspension may occur for two reasons
	+ To carry out an investigation in which case the suspension will not normally be for more than five working days (but may be extended if necessary) and should only last for the period whilst the allegation is investigated;
	+ Pending a disciplinary hearing, where it is felt necessary by the company to do so in order to ensure that a fair and proper hearing is not prejudiced by the actions of any employee who may be involved;
* Suspension from work is not a disciplinary action and is not a prejudgment.
* The company reserves the right to place any employee on paid Garden Leave rather than suspension pending an investigation or disciplinary hearing.

DISCIPLINARY PROCESS

Decide the outcome of the disciplinary

**Poor performance** or **misconduct** is identified.

A full **investigation** will be undertaken to establish facts, either before or where appropriate.

Health related “incapability“ is dealt with separately

Investigations are carried out where there is insufficient clarity surrounding the issue.

Hold a disciplinary meeting. Employee Right to be accompanied

Where an employee has less than 2-years’ service the company reserves the discretionary right to not apply a disciplinary process.

Take appropriate **Sanctions** against the employee.

Progress to Formal Disciplinary

Informal
Response

Follow a performance management procedure

Minor misconduct

Gross misconduct

Address without applying a formal sanction

Arrange appropriate support

Dismissal

1st Written
Warning

Final Written
Warning

Alternatives to dismissal could also be considered here, such as relocation, a change of role, or demotion / reduction in salary.

**Sanctions** can be kept on file for a period:
1st Formal Written / Improvement Warning – 6 months
Final Formal Written / Improvement Warning – 1 year

Sanctions can be escalated

Employee has the **Right to Appeal**, which should be conducted by a different manager / or independent third party where possible to ensure best practice.

Provide guidance, issue file notes or letter of concern, no time constraint for retention on file

Suspend on full pay for serious incidents being investigated

No further action required

The investigation can result in no grounds for formal action. It is not always necessary for the employee to be questioned or provide a statement prior to attending a disciplinary hearing as the disciplinary hearing is their opportunity to respond.

GRIEVANCE AND DISPUTES PROCEDURE

**INTRODUCTION**

[Insert Company Name] encourages all employees to conduct themselves in an appropriate manner in their day-to-day work. The grievance and disputes procedure explains how employees can voice their complaints in a constructive way.

**SCOPE**

This policy refers to everyone in the company regardless of position or status. Where contractors and freelancers are engaged to undertake work for us, the principles of this policy will apply in respect of how we would respond to complaints and/or concerns raised by them or about them. The aim is to ensure consistent and fair treatment for all.

**POLICY**

If you are an employee and you have a grievance relating to your working environment or to a specific member of staff, you may initiate the Grievance Procedure to resolve the issue.

**Informal Discussions**

* If you have a grievance about your employment or about a member of staff, you should discuss it informally with your immediate line manager. It is hoped that most concerns will be resolved at this stage.

**Step 1 – in writing to your Line Manager:**

* If you feel that the matter has not been resolved through informal discussions, you must put your grievance in writing to your line manager. If the grievance relates to an issue with your line manager, then this should be put in writing to the next manager in seniority.

**Step 2 – invitation to a meeting:**

* You will receive a reply within 5 working days inviting you to a meeting where you will be able to raise your grievance. You have the right to be accompanied by a work colleague or Trade Union representative at this meeting.
* You must take all reasonable steps to attend this meeting.
* Once the grievance has been discussed, a decision will be sent to you in writing within a reasonable time.

**Step 3 – appeal hearing by Senior Manager/Director:**

* If you wish to appeal against a decision from any stage of the above process then you must notify the company as detailed in the separate Appeals Policy.

Where internal access to senior managers is limited, a fair process will be maintained and an independent third party may be engaged to hear any part of the process.

**Please note:** Written records will be maintained in respect of the nature of grievance, written correspondence, conversations, actions and decisions taken and the reasons for these. In the event of an appeal, records regarding this and any subsequent actions or developments will also be kept.

**CONTRACTORS AND FREELANCERS**

If you are not an employee of [Insert Company Name] but undertake work for us, you should raise any complaint and/or concern you may have in respect of your engagement with the person who engaged you. We will work to resolve the issues raised where possible.

If a complaint is made by an employee against you, we will follow our grievance and disputes procedure but if resolution cannot be achieved, your engagement with us may be terminated.

RIGHT OF APPEAL

**OVERVIEW**

[Insert Company Name] operates an appeal process which you may implement following any stage of the various formal hearing procedures operated by the company.

Initiation of the appeals process is available to you where you do not feel the decision and/or where any penalty issued has been fair and reasonable.

**PROCEDURE**

* If you wish to appeal against a decision from any stage of the above processes then you must notify the company, in writing, detailing the grounds for your appeal, within 7 days following the hearing date (unless stated otherwise to you).
* Following receipt of your appeal letter, we will write to you to arrange an appeal hearing as soon as possible and where practicable within 5 working days.
* You will receive a letter inviting you to the appeal which will outline the time and date of the meeting and the names of those who will be hearing the appeal.
* You have the right to be accompanied by a work colleague or Trade Union representative at any appeal hearing.
* The appeal will normally be heard by a more senior manager or Director; however, if due to the size of the company this is not possible, then another manager should hear your appeal.
* Please note however that your appeal hearing may, depending on the circumstances, be heard by the same person who dealt with the original hearing
* Once your appeal has been heard, you will be informed of the decision.
* A letter outlining the decision will also be sent to you within a reasonable time (not greater than 28 days) outlining the reasons for the decision. This will also state whether this appeal was the final step of the process or whether further representation is available to you.