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# DISCIPLINARY POLICY

Policy Owner – Director of HR

## Document History

Issue	Date	Amendment Comment
Issue 1	01/11/2010	General Issue
Draft	01/10/2017	Amended, submitted for approval
Issue 2	01/05/2018	General Issue
Issue 3	June 2019	Amended in line with new ACAS guidelines
Issue 4	July 2020	Amended to show differences in misconduct and performance cases
<b>Issue 5</b>	<b>16/02/2022</b>	<b>Updated to incorporate home working</b>

## Document Authorisation

Description	Name	Position	Sign
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Authorised By:	A Bowden	Managing Director	

## **Policy aims and objectives**

The purpose of the disciplinary policy is to help us deal fairly and consistently with disciplinary issues and to ensure that you, as an employee, are aware of the process for handling such matters.

This procedure does not apply during probationary periods, nor does it apply to sickness absence which is dealt with in our Attendance Management Policy.

Many potential disciplinary issues can be resolved informally. A quiet word is often all that is required to resolve an issue. At our discretion, we may choose to deal with minor instances of misconduct and initial unsatisfactory levels of performance (capability) informally by way of counselling, guidance or instruction or informal cautioning. If a problem continues or we judge it to be sufficiently serious, the following procedures will apply depending on the disciplinary issue.

Our policy breaks disciplinary down into two separate procedures for Misconduct and Performance.

### Misconduct

Misconduct is when an employee's inappropriate behaviour or action breaks workplace rules.

### Performance

Capability or performance is about an employee's ability to do the job. We will use Performance to describe this disciplinary procedure throughout this policy.

## **Misconduct Procedure**

Before making any formal disciplinary decision under this procedure we will carry out the following steps:

### Investigation

- We will carry out a prompt investigation to establish the facts of the case. In some cases, this will require the holding of an investigatory meeting with the employee before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the company for use at any disciplinary hearing.
- If an employee is invited to an investigatory meeting this will not by itself result in any disciplinary action and should not be viewed as such. If necessary, further disciplinary meetings will take place following the investigatory meetings. There is no right for an employee to be accompanied to an investigatory meeting or to be given notice to prepare, you will generally be invited to attend as soon as possible after the allegation is made.
- Depending on the circumstances, it may be appropriate to suspend you from work on full pay in order that an investigation can take place. Suspension on full pay does not amount to a disciplinary sanction and does not imply that any decision has already been made about the allegations.
- We will inform you whether any meeting you are asked to attend is investigatory or disciplinary. In serious cases, where practicable, different people should carry out the investigation and the disciplinary hearing.

### Disciplinary hearing

- If it is decided that there is a disciplinary case to answer, we will write to you setting out the complaint made against you and inform you of the possible outcomes of the disciplinary hearing. Also included will

be relevant evidence which may, where appropriate, include witness statements. The letter will inform you that you must attend a disciplinary hearing to discuss the matter and will confirm the time, date and location of that meeting.

- Subject to your place of work the hearing may be remote or in person at the Company's discretion. Home or hybrid workers may be required to attend Company premises for a meeting or hearing in person.
- The letter will also tell you that you have the right to be accompanied at the disciplinary hearing. As a matter of good practice, you should bear in mind the practicalities of any such request. For instance, you may choose to be accompanied by a fellow employee who is suitable, willing and available on site rather than someone from a geographically remote location.
- We will give you, together with any permitted person that you may choose as a companion, reasonable time to prepare your response, normally 5 days from invite to meeting.
- At the hearing we will explain the company's case and give you the opportunity to put your case in respect of the allegations made against you.
- We may miss out or expedite stages of the procedure if we think this would be reasonable in the circumstances.
- Each stage of this procedure will be carried out without unreasonable delay.

### **Performance Management Procedure**

Before making any formal disciplinary decision under this procedure we will carry out the following steps:

In the first instance, performance issues should normally be dealt with informally between the employee and their line manager as part of day-to-day management. The performance management procedure should be used for more serious cases, or in any case where there has been sustained poor performance or, an earlier informal discussion has not resulted in a satisfactory improvement.

#### **Disciplinary hearing**

- If it is decided that there is a disciplinary case to answer, we will write to you setting out the complaint made against you and inform you of the possible outcomes of the disciplinary hearing. The letter will inform you that you must attend a disciplinary hearing to discuss the matter and will confirm the time, date and location of that meeting.
- The letter will also tell you that you have the right to be accompanied at the disciplinary hearing. As a matter of good practice, you should bear in mind the practicalities of any such request. For instance, you may choose to be accompanied by a fellow employee who is suitable, willing and available on site rather than someone from a geographically remote location.
- We will give you, together with any permitted person that you may choose as a companion, reasonable time to prepare your response, normally 5 days from invite to meeting.
- At the hearing we will explain the company's case and give you the opportunity to put your case in respect of the allegations made against you.

- We may miss out or expedite stages of the procedure if we think this would be reasonable in the circumstances.
- Each stage of this procedure will be carried out without unreasonable delay. For an overview of our standard performance management process please see Appendix 1.
- Consideration will be given as to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to working conditions, including changing your duties or providing additional equipment or training. If the employee wishes to discuss this or inform us of any medical condition, they consider relevant, they should contact their line manager.

We aim to deal with disciplinary and performance matters sensitively and with due respect for the privacy of the individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or a disciplinary performance matter.

We will keep records indefinitely in line with GDPR of any action taken under these disciplinary procedures, including warnings that are no longer in effect, and are disregarded in determining a future penalty, for as long as necessary. Wherever possible, these records will be treated as confidential.

If you have difficulty at any stage of the disciplinary procedure because of a disability, you should discuss the situation with HR as soon as possible.

You have the right to appeal against any formal action taken against you under the disciplinary procedure. See 'Appeals' below.

This disciplinary procedure should be understood as incorporating provisions relating to discipline in any other company policies.

### **Disciplinary Procedure Outcomes**

The usual penalties for misconduct or failure to perform are set out below. No penalty should be imposed without a hearing.

### **Performance Improvement Plan**

We may choose to address any performance issues by creating a performance improvement plan (PIP). This will include setting clear objectives to work on over a set time period (normally 4-weeks) to help you reach the required level of performance. They can also address any training needs, or other help you require to reach the required level.

A performance improvement plan can continue throughout the disciplinary process, and a flowchart explaining the process can be found in appendix 1.

### **First written warning**

We may issue a first written warning if your conduct or performance does not meet the company's standards.

A first written warning will normally be issued by your immediate manager or a nominated deputy. Where, at the conclusion of the disciplinary hearing, we decide to issue such a warning, you will be informed of the following:

- the nature of the misconduct or poor performance that has led to the warning
- the action or improvement (if any) which is required of you
- if appropriate, the timescale for taking any such action
- the consequences if you do not take the required action or fail to improve or if there is further misconduct
- when the warning will cease to have effect, subject to satisfactory conduct or performance. This will normally be after twelve months, but a longer period may be stated in exceptional cases
- the right of appeal

All these matters will be confirmed to you in writing.

### **Final written warning**

We may issue a final written warning if:

- the required improvement is not achieved within the timescale stated in the first written warning
- further misconduct or poor performance occurs while a first written warning is still in effect, whether or not involving a repetition of the conduct or poor performance which was the subject of a previous warning
- the seriousness of the misconduct or poor performance merits it, regardless of whether we have issued any previous warnings

Where, at the conclusion of the disciplinary meeting, we decide to issue a final written warning, you will be informed of the following:

- the nature of the misconduct or poor performance that has led to the final warning, including any prior warning(s) which have been taken into account
- the action or improvement (if any) which is required of you, and timescales of this.
- if appropriate, the timescale for implementing any such action
- the fact that this is a final warning and that the next stage of the procedure will be dismissal
- when the warning will cease to have effect, subject to satisfactory conduct or performance. This will normally be after twelve months, but a longer period may be stated in exceptional cases
- the right of appeal

All these matters will be confirmed to you in writing.

### **Dismissal**

We may dismiss you if:

- the required improvement is not achieved within the timescale stated in the final written warning
- further misconduct or poor performance occurs while a final written warning is still in effect, whether or not involving a repetition of the conduct or poor performance which was the subject of a previous warning
- it is reasonably believed that you have committed an act of gross misconduct

Unless dismissal is for gross misconduct, you will be dismissed with notice.

You will be dismissed only after you have received a written invitation to a disciplinary hearing and the hearing has been held. If the manager decides to dismiss you, as soon as is reasonably practicable after the end of the disciplinary meeting, he or she will:

- state the reason for your dismissal
- state, where applicable, the length of notice you are being given
- state the date on which your employment will terminate
- inform you of your right to appeal

These matters will be confirmed in writing.

In exceptional circumstances, we may seek your agreement to a transfer, demotion or suspension without pay instead of dismissal. If you are transferred, demoted or suspended without pay, we may also give you a final warning.

### **Gross misconduct**

The following are examples of behaviour which fall within the definition of 'gross misconduct':

- refusal to accept and act on reasonable instructions from supervisor or other member of management
- criminal acts (whether or not in connection with employee's employment) or any conduct liable to lead to criminal proceedings
- serious negligence that could or does result in unacceptable loss, damage or injury
- fighting, assault or threatening or bullying behaviour
- harassment or deliberate direct or indirect discrimination
- theft, fraud, accepting or offering a bribe, falsification of company records or any dishonesty involving the company, its employees, customers or authorised visitors, or attempts to commit such offences
- deliberate and/or serious breach of any of our company policies
- deliberate or reckless damage to property belonging to the company, its employees, customers or authorised visitors
- being unfit to work due to misuse of alcohol or illegal drugs
- unauthorised disclosure of confidential information
- any action likely to endanger seriously the health and safety of the employee, any other person or the environment
- any action or behaviour which could seriously damage the company's reputation
- deliberately accessing prohibited Internet sites

The above list is *not* exhaustive. It illustrates the type of conduct that will normally merit dismissal without notice for a first offence. Other types of offence may also be treated as gross misconduct, depending on the seriousness of the particular facts.

Following investigation and a disciplinary hearing, if we are satisfied that you have committed gross misconduct, we will be entitled to dismiss you without notice or payment in lieu of notice.

### **Special Cases**

If an employee is charged with, or convicted of a criminal offence that is not normally in itself reason for disciplinary action consideration will be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and customers.

If an employee raises a grievance during the disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

## **Conduct of meetings under the policy, including appeals**

All disciplinary meetings, including appeals, will be held at a reasonable time and place. If you are invited to attend a disciplinary meeting you must take all reasonable steps to attend. If, without good cause, you are persistently unable or unwilling to attend, we will hear the matter in your absence and make a decision based on the evidence available to us.

An appropriate level of management, normally and where possible with a representative of HR will conduct hearings. At the meeting, the manager will explain the role of all those in attendance. The manager will then explain the case against you and go through the evidence that has been gathered. You will be given the opportunity to respond in full. This will include time to ask questions and present evidence. If you intend to call any witnesses, you must give us advance written notice that you intend to do this.

If any matters come to light during a disciplinary meeting which require further investigation, we may, at our discretion, adjourn a disciplinary meeting to enable us to investigate them.

## **Right to be accompanied in formal hearings**

In any formal disciplinary hearings under this policy, including appeals, you have a statutory right to make a reasonable request to be accompanied by a fellow worker or trade union official of your choice.

There is no right for an employee to be accompanied to an investigatory meeting.

A companion is allowed reasonable time off from their duties without loss of pay, but nobody is obliged to act as a companion if they do not wish to do so. If your chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than 5 working days afterward, we may request that you choose an alternative companion.

Your companion may address the hearing to put your case, sum up your case or respond on your behalf to any view expressed at the hearing. He or she may confer with you during the hearing but does not have the right to answer questions on your behalf, address the hearing if you do not want him or her to do so, or prevent anyone from making his or her contribution to the hearing.

If your companion is a home worker, they may be requested to attend an in-person meeting or attend via video conferencing, however this is at the discretion of the meeting chair.

## **Appeals**

If you feel that any disciplinary action taken is wrong or unjust you can appeal against that decision. Appeals should be in writing, setting out the reasons for the appeal, and should be delivered to HR within five working days of the disciplinary decision. We will then invite you to an appeal meeting which will normally take place within five working days of receipt of your appeal. In some circumstances we may need to investigate your complaint. If the investigation is likely to take longer than five days, we will confirm that to you.

The appeal meeting may take place after the disciplinary decision has taken effect. If you are appealing against dismissal and your appeal is subsequently upheld, you will normally be treated as having continued in employment pending the hearing of the appeal and will be reinstated with back pay. However, if your appeal is not successful, the original date of your dismissal will stand.

The grounds of appeal cannot just be that you disagree with the outcome. There needs to be a substantial reason for the appeal such as:

- New evidence has come to light
- Evidence was missed or not given adequate consideration
- There was a failure to follow procedure
- There was a clear misunderstanding of the evidence presented

You have the right to be accompanied to an appeal hearing by a fellow worker or a trade union official.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case.

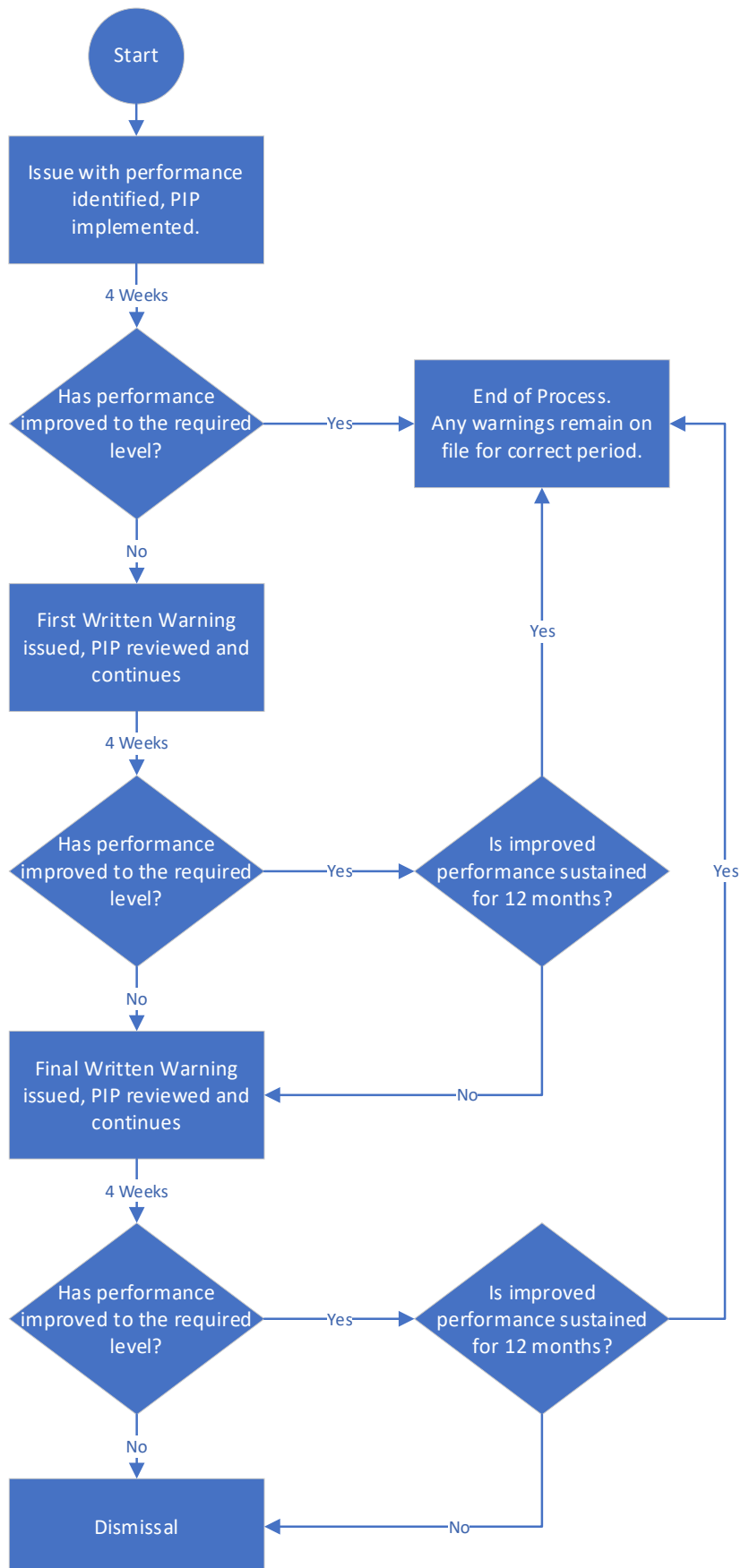
Wherever possible, your appeal will be heard by someone more senior than the person who took the decision to take disciplinary action against you. If this is not practicable, the appeal will be heard by another manager who has not previously been involved in the matter. We will tell you promptly of the outcome of the appeal, wherever possible within five working days of the hearing and confirm it in writing. Following the appeal hearing, we may either confirm the original decision; revoke the original decision; or substitute a different penalty. This decision will be final.

#### **Status of this policy**

This policy does not give contractual rights to individual employees. The company reserves the right to alter any of its terms at any time although we will notify you of any changes.



## Appendix 1 – Performance Improvement Plan (PIP) Process



We may miss out or expedite stages of this process if we think it is reasonable in the circumstances.