



Employment Law Training Ltd

www.eltraining.co.uk

Model Company Disciplinary Procedure (Conduct)

The purpose of the procedures

The purpose of the Company's disciplinary rules and procedures is to help all employees to achieve and maintain acceptable standards of conduct, attendance and job performance. The Company recognises that disciplinary action should not be viewed solely as a means of imposing sanctions but rather as a means of encouraging improvement. These rules and procedures are company policy statements, do not form part of your contract of employment and are for information purposes only.

These procedures do not apply to staff during their probationary period.

Poor performance resulting from lack of skill, qualification, ability, competence, or effort despite having received usual levels of training and support should be handled under the Capability Procedure.

Principles

All cases of formal disciplinary action under these procedures will be recorded and placed with the Company's records. At every stage in the formal procedure you will be advised in writing of the nature of the complaint against you and be given the opportunity to state your case before any decision is made. You will have the right to be accompanied by a trade union representative or a work-based colleague of your choosing. You will have the right to appeal against any formal disciplinary sanctions.

In operating this policy, managers will apply the organisation's commitment to equality by treating all employees fairly and without discrimination on the grounds of colour, race, ethnic or national origins, sexual orientations, age, marital status, disability, trade union association or religious beliefs.

An Employee who is subject to Discipline should not normally be considered for promotion, although a "sideways" move, or work at a lower grade should not be ruled out if it is felt to be appropriate and would result in improved performance.

Informal counselling

Informal counselling may be a more appropriate response to minor offences rather than formal disciplinary action. If appropriate, counselling will take the

form of a discussion with the object of determining and agreeing the improvement required. Where this informal approach fails to bring about the desired improvement, (or the offence is of a more serious nature) the formal procedure will then be followed. A file note may be made by the Manager of this informal meeting.

Investigations

No action will be taken by the Company before a proper investigation has been undertaken. If appropriate the Company may suspend you from work for a specified period during which time such an investigation will be undertaken. You will initially be paid your normal salary and benefits during any suspension. During the period of suspension, however, you will not be entitled to access to the Company's premises, except with the prior consent of the Company and subject to such conditions as the Company may impose. You are expected to be contactable during normal working hours should the need arise to speak to you. Any breach of these conditions will entitle the Company to consider making the suspension unpaid.

Disciplinary hearing

If, under these procedures, the Company decides to hold a disciplinary hearing in relation to the matter complained of, you will be given written details of the complaint against you at least three working days before any disciplinary hearing takes place.

If, for good cause, the employee is unable to attend the hearing, it will be

adjourned to another date convenient to both parties and depending upon the circumstances. If the employee is unable to attend the rearranged hearing it will proceed in his or her absence unless there are overriding reasons why it should not. The representative may present the case on the employee's behalf and any written submissions from the employee will be considered.

At any disciplinary hearing you will be given an opportunity to state your case.

Offences under the Company's disciplinary procedures fall into two main categories:

- (a) misconduct/gross misconduct;
- (b) poor performance, sickness absence.

The following sanction may be applied as a result of a disciplinary hearing:

[Note: that although this draft contains 3 formal stages of warning, it is acceptable to have two formal stages - a first formal warning, then a final formal warning.]

(a) Stage I - Formal Verbal warning

If conduct or performance is unsatisfactory, you will be given a formal verbal warning which will be recorded and will normally last for a period of six months but, subject to satisfactory conduct or performance, will be disregarded following the expiry of that period.

(b) Stage II - First written warning

If the offence is of a more serious nature or if, following a verbal warning, your conduct or performance is still unsatisfactory, a first written warning will be given to you which will state the reason for the warning and will require an improvement in your conduct or performance within a stipulated time period, failing which further disciplinary action will be taken. The written warning will

normally last for a period of 12 months but, subject to satisfactory conduct and performance, will be disregarded following the expiry of that period.

(c) Stage III - Final written warning

If the offence is very serious but does not amount to gross misconduct or if, following a first written warning, your conduct or performance is still unsatisfactory, a final written warning will be given which will state the reason for the warning and will require an improvement in your conduct or performance, failing which further disciplinary action will result which could ultimately lead to dismissal. This warning will normally last for a period of 12 months but, subject to satisfactory conduct or performance, will be disregarded following the expiry of that period.

(d) Stage IV - Dismissal

If, following a final written warning there is no satisfactory improvement in your conduct or performance within the specified time period, you will be subject to further disciplinary action which could lead to you being dismissed.

The company reserves the right to make a payment in lieu of notice on the termination of your contract, other than in cases of gross misconduct.

These warnings are normally issued in sequence, however in cases of serious or gross misconduct or where there is a pattern of persistent poor performance or misconduct, the sequence of warnings outlined above may not be followed. The procedure may be instigated at any stage felt appropriate by the company.

Note:

In addition to the disciplinary warnings outlined above, in cases of serious or gross misconduct further disciplinary measures may be invoked. These alternative measures include: a transfer to another job or location, demotion to a lower grade, withdrawal of flexible working privileges, reduction in sick pay entitlement or deductions from salary to cover repayment for loss or damage to Company property.

Misconduct

Examples of misconduct are:

- (a) bad time keeping;
- (b) unreasonable or unexplained absence;
- (c) persistent absenteeism;
- (d) minor damage to the Company's property;
- (e) smoking in no-smoking areas;
- (f) misuse of Company property;
- (g) non-submission of medical certificate or breach of sickness notification procedure;
- (h) use of obscene or offensive language;
- (i) breach of health and safety rules.

This list contains examples only and is not intended to be exhaustive.

Gross misconduct

Examples of gross misconduct are:

- (a) theft;
- (b) physical assault;
- (c) gross insubordination;
- (d) abusive behaviour;
- (e) breach of duty of confidentiality;
- (f) sexual, racial or disability harassment, bullying or other breaches of the company Equal Opportunity Policy, including Age discrimination;
- (g) fighting on the premises;
- (h) vandalism or wilful damage to Company property;
- (i) serious breach of health and safety rules or procedures
- (j) making false or fraudulent claims against the Company - falsification of records, expenses claims, time recording;
- (k) sale and/or consumption of alcohol or drugs on Company premises or being under the influence of alcohol or drugs at work;
- (l) failure to comply with lawful and reasonable instructions;
- (m) bringing the Company's name into disrepute;
- (n) abuse of e-mail or Internet access.

This list contains examples only and is not intended to be exhaustive.

If it is established, after investigation and after hearing your explanation of the matter, that you have committed an act of gross misconduct you will be summarily dismissed, i.e. without notice and/or any pay in lieu thereof. While the alleged gross misconduct is being investigated you may be suspended (on full pay) in accordance with the provision set out above. If the Company

takes the decision to dismiss you, you will be advised of the reason for the dismissal and the date upon which your employment will be terminated.

Appeals

If you wish to appeal against any disciplinary decision taken by the Company at any stage, you may do so, in the first instance, by appealing to [appropriate name(s) or job title(s)] within five working days of the disciplinary decision being received by you. You should state the reason for your appeal in writing. At such appeal you will be entitled to attend to state your case and to be accompanied by an employee of the Company of your choice or by a representative of any recognised union of which you are a member. The decision of [appropriate name(s) or job title(s)] will be final.

This draft procedure is just one example of the Appendices contained in “The Managers Guide to Discipline”, a publication written by Derek Eccleston and Kate Goschen of Employment Law Training Ltd. For further information on this book and the training workshops available from ELT, click the link below.

Employment Law Training Ltd

www.eltraining.co.uk

