



# Disciplinary, Capability and Grievance Policy

## Introduction

Our success depends on maintaining good working relationships with our clients and the effective performance and conduct of our employees. The disciplinary, capability and grievance procedures below set out the actions we will normally take when conduct falls below such standards or in circumstances in which misunderstandings or grievances arise which cannot be resolved informally.

## Principles of the disciplinary, capability and grievance procedures

The principles are to:

- help maintain a high standard of professional ethics, integrity and work performance by having a framework to deal with misconduct and poor performance in a fair and consistent way
- act promptly and take informal action where appropriate
- fully investigate all cases before any decision is made
- inform people about the issue or nature of under-performance before any formal action is taken
- enable information to be presented in a formal meeting before a decision is made
- provide, where appropriate, written copies of evidence and witness statements in advance of a formal meeting and
- notify employees of their legal rights

## General points

We will seek to resolve capability, disciplinary or grievance issues informally in the workplace. In most cases capability or disciplinary procedures will move from one stage to the next, i.e. from the informal stage to a written warning, to a final written warning and then dismissal. There may, however, be occasions where this is not appropriate, and the process may start at any stage, including the outcome being dismissal without notice (known as summary dismissal).

These procedures apply to all employees, irrespective of job or grade and whether full-time, part-time or fixed-term.

Whilst it is our intention to follow these procedures where practicable, they do not form part of your contract of employment. If appropriate, the procedures relating to time limits may vary.

For those with less than two years' service, we reserve the right to dismiss you without following the procedure below or having issued any previous warnings. We reserve the right to vary the disciplinary procedure to take into account your length of service or other circumstances. We may start the capability or disciplinary procedure, depending on the circumstances, at any of the levels.

If you have a disability or medical condition affecting your performance, you should inform a member of the People Department. If necessary, reasonable adjustments can be made to the requirements of the job to aid performance.

Where a grievance is raised during the disciplinary process, the disciplinary process may be suspended so we can deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.



## Informal procedure

Minor concerns about your conduct or performance will normally be dealt with informally between you and your Line Manager, as part of day-to-day management and regular feedback.

You should address any concerns with your Line Manager immediately and you should subsequently check with your Line Manager they are satisfied the problem has been remedied. Informal discussions may be held with a view to:

- clarifying the standards required
- identifying areas of concern
- establishing the likely causes of misconduct or poor performance and identifying training needs
- setting targets for improvement and
- agreeing a time-scale for review

File notes will be made and retained on the file, following an informal meeting, as a reminder of the issues and actions agreed.

## Mediation

At any stage of the disciplinary, capability or grievance procedures, if it is appropriate, mediation may be offered to resolve the issue. Mediation is voluntary and an independent mediator helps two or more people reach an agreement. Examples of when mediation can be used include:

- conflicts between people of the same grade or between a person and a Director
- rebuilding relationships after a formal dispute has been resolved and
- addressing issues such as a relationship breakdown, personality clash or communication problem

If mediation is agreed to, then the formal disciplinary, capability or grievance procedure will be put on hold.

## Formal procedure

The formal procedure is used for more serious cases of misconduct or under-performance or where informal discussions have not resulted in improvement. We may decide to deal with under-performance through one of two routes, disciplinary or capability.

## Records

Records will be kept at each stage of the capability, disciplinary and grievance procedures including any initial informal discussion. You will have an opportunity to check the accuracy of the records, which will be treated as confidential and will be retained in accordance with the relevant data protection laws.

## Right to be accompanied

You may, if you wish, be accompanied at any formal hearing by a work colleague or an appropriate trade union official. You must make this arrangement and if possible, you must provide the name and status of your proposed companion before the hearing.

An “appropriate trade union official” means an official employed by a trade union or a lay official who has been reasonably certified in writing by their union as having experience of, or as having received



training in, acting as a worker's companion at disciplinary or grievance meetings. Legal representatives are not permitted at hearings or meetings.

A companion may address the hearing to sum up your case or confer with you during the hearing. However, a companion has no right to answer questions on your behalf or to address the hearing if you do not wish it or prevent us from explaining our case.

## **Appeal**

Appeals will only be considered if made in line with the procedure and within the time limits advised. You may appeal against the outcome of any stage of the formal disciplinary or capability procedure.

If you wish to appeal, you must the People Department with a written request explaining the grounds of your appeal within five working days of the date you were informed of the decision in writing.

We will then invite you to attend an appeal hearing with a different Member of Management not previously involved in the matter or an independent person, which you must take all reasonable steps to attend. We will give you a reasonable amount of written notice to attend this hearing. In cases of dismissal, the appeal will be held within four weeks of the date of receiving the letter.

If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with details in writing. You will have a reasonable opportunity to consider this information before the hearing, depending on the grounds for your appeal.

After the appeal hearing, we may

- confirm the original decision
- revoke the original decision or
- substitute a different outcome

The final decision will be confirmed to you in writing within 10 days of the appeal meeting. There will be no further right of appeal. The date that any dismissal takes effect will not be delayed pending the outcome of an appeal.

However, in the cases of dismissal, if the appeal is successful, the decision to dismiss you will be revoked with no loss of continuity of service or pay and benefits.

## **Capability or disciplinary?**

If the issue relates to misconduct, then the disciplinary process will be followed. If the issue is under-performance, then either the capability or disciplinary process may be used. The following gives a list of examples of issues which will usually result in the use of the formal disciplinary procedure:

- unauthorised absence from work
- bad timekeeping and/or wasting time
- failure to follow reasonable instructions or rules
- some breaches of technical rules and procedures and
- disruptive behaviour.

Each case will be judged on its individual merits and mitigating circumstances will be considered where appropriate.



The capability process will be used when it is felt you are unable to or not capable of performing to the required standards in your role. For example, there may be a long term health issue that means you are unable to perform in your role or you may lack, despite guidance and training, the skills and knowledge to fulfil the role to the required standard. If you are absent from work because of health issues, we may seek medical advice and find the best way to work with you which will be discussed at a meeting. This may include holding or hearing at a convenient location, such as your home address.

## **Disciplinary Procedure**

### **Investigation**

Depending on the circumstances, you may be required to attend an investigation meeting before a decision is taken to invoke the disciplinary procedure. An investigation meeting is an informal meeting and therefore, you are not permitted to be accompanied unless you are under the age of 18 (when a parent or guardian will be permitted).

Depending on the outcome of the investigation, we will decide whether to proceed with a disciplinary hearing.

If it is decided there is no case to answer, then you will be informed of this either in writing. This will end the process.

### **Suspension**

If necessary, at any point of the process we may suspend you from work on your basic salary and benefits while the investigation is completed. This is a purely precautionary action and would not affect the outcome or your future employment. Suspension is not formal action and will be for as short a period as possible, under constant review and would only be used after careful consideration.

### **Invitation to a disciplinary hearing**

If you are required to attend a disciplinary hearing, you will be informed of this in writing.

In the letter, we will set out the issues that are to be considered, how seriously these are being viewed, the potential consequences and details of any intention to call witnesses. The letter will also inform you of the date and time of the hearing to allow you sufficient time to prepare your case, usually at least 5 working days.

The letter will also explain your right to be accompanied.

### **The hearing**

The hearing will normally be chaired by a member of management, a member of the People Department or a Director. There may be a note taker present. The chairperson will not usually have been involved in the formal investigation prior to the hearing.

Our policy is that meetings or hearings are not recorded. You will be asked at the beginning of a hearing to confirm you are not recording the conversation. Any breach may lead to disciplinary action against you, up to and including dismissal.

In certain circumstances, we may permit the meeting or hearing to be recorded electronically e.g. as an appropriate reasonable adjustment under the Equality Act 2010. If you would like to record the hearing,



please speak to us beforehand and if we permit the recording, we will take responsibility for making the recording.

During the hearing you have every opportunity to respond. The hearing can be adjourned at any time by you or the chairperson and will be reconvened at the earliest opportunity.

You will be invited to submit any documents you want to be considered at the disciplinary hearing, including witness statements at least 1 day before the hearing date. If it is reasonably believed that witness statements would not be adequate, you are able to invite a witness to the disciplinary hearing, so that the witness can be questioned by both the chairperson and yourself. You should inform the chairperson in advance of the meeting if you wish to invite a witness to your hearing.

The timing and location will be arranged to be reasonable for all involved and will normally be arranged at least 5 days in advance.

You should take all reasonable steps to attend the hearing. If your companion cannot attend, for a reason that was not reasonably foreseeable when the hearing was arranged, the hearing will be rearranged. If the hearing has been postponed, please propose an alternative hearing date which is no more than five working days after the original date. If you do not attend this alternative hearing, it may result in the hearing being held without you.

The chairperson will be responsible for the final decision and may decide to adjournment to consider all the facts properly and take advice if necessary. The adjournment will be for as long as it takes to make an informed decision. If further investigation is needed prior to a decision being made, an adjournment may last as long as reasonable long to conclude this investigation. At the end of the hearing a decision communicated without undue delay in writing.

## **After the hearing**

A decision will be taken as to whether we wish to take action. Before deciding on any action, we will consider any previous sanctions or informal action on your record, the seriousness of the issue, actions taken in any previous similar case and the explanations given by you, including any mitigating circumstances.

Where formal action (apart from dismissal) is taken, you will be advised in writing of:

- the issue(s) and the improvement required
- the timescale for achieving this improvement and a review date
- the time the action will remain on record
- any measures, such as additional training or supervision which will be taken with a view to improving performance
- what may happen if the improvement required is not achieved and
- your right of appeal

Where formal action is dismissal, you will be advised in writing of:

- the reason(s) for dismissal
- your effective last day and details about your notice
- the reason why dismissal was considered to be appropriate and
- the timescale for lodging an appeal and how it should be made



Where it is decided that no action will be taken, you will be informed of this decision in writing.

## Definitions

### Misconduct

Misconduct would normally warrant either a written or final written warning and the disciplinary process will be followed. A non-exhaustive list of examples includes:

- poor time-keeping
- absenteeism
- time wasting
- smoking in areas where it is prohibited to do so
- using materials or equipment for personal use
- failure to adhere to the Company's policies and procedures
- providing incorrect or unchecked advice to a client
- use or excessive use of a mobile phone in working hours

### Gross misconduct

Below are examples of offences and failures to meet our standards which may result in summary dismissal without notice or pay in lieu of notice. We also reserve the right to inform the Police of any criminal offences. A non-exhaustive list of examples of gross misconduct includes:

- serious breach to your contract of employment
- excessive and unauthorised use of Facebook, X, TikTok, WhatsApp, Instagram, LinkedIn, or other similar forms of social media during working hours
- the misuse of IT or social media
- giving inaccurate or unauthorised advice which has resulted in a significant risk to the Company
- participation in any crime which relates to or affects ability to perform employment duties or participation in any criminal offence (excluding minor traffic offences) taking place on the Company's premises or during the course of employment
- the aiding or abetting of such a criminal offence
- the theft or attempted theft of property belonging to the Company, its employees, clients or any other persons
- possession of, or supplying any illegal drugs or psychoactive substances
- reporting for work when incapable through the effect of or under the influence of alcohol, illegal drugs or psychoactive substances
- causing deliberate or reckless damage to the Company's property (or property belonging to employees/clients/others)
- grossly insulting or discourteous behaviour towards clients, colleagues or management
- fighting, disorderly or violent conduct, threatening physical violence or indecent conduct or assault whilst on the Company's premises or client's premises
- any act of harassment, incitement, victimisation or discrimination on the grounds age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex or sexual orientation.
- deliberate falsification of records, including accounts, expenses or other information of a financial or statistical nature (or gross negligence in compiling such information)
- failure to disclose previous criminal convictions or material facts relating to previous employment, amounting to falsification of records



- grossly negligent behaviour endangering the health and safety of employees/ clients/others or their respective properties
- serious contravention of policies and procedures
- divulgence to outside parties of confidential information regarding the affairs of the Company, its employees, management or clients which could be damaging to our business
- breach or implied breach of any signed Non-Disclosure Agreement
- breach of the social media/networking policy
- unauthorised media contact or the making of defamatory remarks to outside parties regarding the Company, its employees and clients
- the giving away of the Company's property without payment or at an unauthorised discount
- unauthorised access to a computer and/or associated peripherals including software
- breach of professional confidence or ethics
- fraudulent recording of time worked or expenses
- serious insubordination
- taking sick leave when you are fit enough to go to work and failing without good cause to submit a valid medical certificate
- leaving your place of work without authority
- engaging in other work when claiming to be unfit for work due to sickness or injury
- any other act or omission which is or could be seriously detrimental to the good of the Company's business.
- serious health and safety breaches
- failure to disclose changes in immigration status that affects your right to work.

## **Sanctions**

There are three sanctions you could be given following a formal disciplinary hearing. They are normally applied in sequence but this will depend on the seriousness of the matter. They are:

### **Level 1 (written warning)**

A level 1 written warning will normally be issued by your line manager or manager of equivalent level or higher. We may issue a level 1 written warning if your conduct does not meet the Company's standards. Where, at the conclusion of the disciplinary hearing, the chair decides to issue a level 1 written warning, you will be informed of the following:

- the nature of the misconduct that has led to the warning
- that it is the first stage of our disciplinary procedure
- 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, fail to improve or there is further misconduct
- when the warning will cease to have effect, subject to satisfactory conduct. This will normally be after 6 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.



## **Level 2 (final written warning)**

A level 2 final written warning will normally be issued by a senior member of management or Director. We may issue a final written warning if:

- the required improvement is not achieved within any timescale stated in a level 1 warning or
- further misconduct takes place during the timescale of a level 1 warning, whether or not involving a repetition of conduct which was the subject of a previous warning or
- the seriousness of the misconduct merits it, regardless of whether we have issued any previous warnings

Where, at the conclusion of the disciplinary hearing, the chair decides to issue a final written warning you will be informed of:

- the nature of the misconduct that has led to the final written warning, including any prior warning(s) taken into account
- the action or improvement (if any) which is required of you
- if appropriate, the timescale for implementing any such action
- the fact that this is a final written warning and that the next stage of the procedure may be dismissal
- when the warning will cease to have effect, subject to satisfactory conduct. This will normally be after 12 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.

## **Level 3 (possible dismissal, demotion, redeployment or transfer)**

A level 3 dismissal will normally be issued by senior member of management or Director. Dismissal occurs when your employment is terminated either with or without notice. Dismissal without notice is also referred to as 'summary dismissal' and is restricted to cases of gross misconduct.

You will only be dismissed after you have received a written invitation to a disciplinary hearing and the disciplinary hearing has been held. If the decision is made to dismiss you, you will be informed of the reasons for your dismissal, confirmation of any applicable notice, the date on which your employment will terminate and your right to appeal. These matters will be confirmed in writing.

We reserve the right, at our complete discretion, to impose a sanction short of dismissal if it is deemed appropriate. This may include demotion, transfer to a different post or another appropriate sanction. Any such decision will be confirmed to you in your outcome letter. You will have the right to appeal.

## **Capability Procedure**

This is the recommended process when dealing with capability problems. We reserve the right to start the process at any stage dependent upon the nature and severity of the issue.

### **Capability Meetings and Hearing**

Where performance is unsatisfactory, and informal steps have either failed to resolve the situation or are not appropriate, a meeting or hearing will be held to look at the following:



- setting out the required standard and where those standards are considered not to have been met
- establishing the likely causes of poor performance
- allowing you the opportunity to explain the poor performance and ask any relevant questions
- discussing measures, such as additional training or supervision, which may improve performance
- setting targets for improvement and
- setting a timescale for review

Our policy is that meetings and hearings are not recorded. You will be asked at the beginning of a meeting or hearing to confirm you are not recording the conversation. Any breach may lead to disciplinary action against you, up to and including dismissal.

In certain circumstances, we may permit the meeting or hearing to be recorded electronically eg as an appropriate reasonable adjustment under the Equality Act 2010. If you would like to record the hearing, please speak to us beforehand and if we permit the recording, we will take responsibility for making the recording.

Following the meeting or hearing, if we decide that it is appropriate to do so, we may decide to impose the following sanctions as detailed below.

## **Sanctions**

There are three sanctions that you could be given following a capability meeting or hearing. They tend to be applied in sequence but this will depend on the seriousness of the capability issue. If performance has been managed informally typically the first sanction to be applied is a written warning.

### **Level 1 Meeting (written warning)**

We may issue a level 1 written warning if your performance does not meet our expected standards.

A level 1 written warning will normally be issued by your line manager or manager of equivalent level or higher. Where, at the conclusion of the capability/poor performance meeting, we decide to issue such a warning, you will be informed of the following:

- the nature of the capability/poor performance that has led to the warning
- that it is the first stage of our capability procedure
- a performance improvement plan
- the consequences if you fail to improve or there are further issues of poor performance
- when the warning will cease to have effect, subject to satisfactory performance. This will normally be after 6 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.

### **Level 2 Meeting (final written warning)**

We may issue a level 2 final written warning if:



- the required improvement is not achieved within any timescale stated in a level 1 written warning or
- further issues of poor performance take place during the timescale of a level 1 warning or
- the seriousness of the capability/poor performance issue merits it, regardless of whether we have issued any previous warnings

A final written warning will normally be issued by a senior member of management or Director. As with level 1 warnings, where, at the end of the meeting, we decide to issue a final written warning you will be informed of:

- the nature of the capability/poor performance issue(s) that have led to the final written warning, including any prior warning(s) taken into account
- a performance improvement plan
- if appropriate, the timescale for implementing any such action
- the fact that this is a final written warning and that the next stage of the procedure may be dismissal
- when the warning will cease to have effect, subject to satisfactory conduct. This will normally be after 12 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.

### **Level 3 Hearing (possible dismissal, demotion, redeployment or transfer)**

We may dismiss you where:

- the required improvement is not achieved within any timescale stated in a final written warning
- further capability/poor performance issues come to light during the timescale of a final written warning, whether or not involving a repetition of issues under a previous warning

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

A decision to dismiss you will normally be taken by a senior member of management or Director. You will only be dismissed after you have received a written invitation to a capability hearing and the capability hearing has been held. If the decision is taken to dismiss you, you will be informed of the reasons for your dismissal, confirmation of any applicable notice, the date on which your employment will terminate and your right to appeal. These matters will be confirmed in writing.

In exceptional circumstances, we may seek your agreement to a transfer or demotion instead of dismissal.

### **Grievance Procedure**

#### **Standard formal procedure**

The purpose of this Grievance Policy is to provide a fair, transparent, and efficient process for employees to raise and address concerns, complaints, or grievances related to their employment. Where informal action has not resolved your grievance, then you may initiate the formal procedure.



## **Statement of grievance**

You must provide your Line Manager with a written statement without unreasonable delay. This should set out the nature of your grievance and explain the basis for it. If your grievance relates to this person, you should provide your written statement to their Line Manager, if in doubt, please contact the People Department and they will advise on who to direct your grievance to.

## **Meeting**

We will invite you to attend a meeting with your Line Manager / management and a member of the People Department may be present, within 10 working days of receipt of the grievance, unless in all circumstance this is not reasonably practicable to discuss your grievance. We will aim to agree the timing and location of the meeting with you (and any companion), allowing us a reasonable opportunity to consider our response to the information set out above. You (and any companion) must take all reasonable steps to attend the meeting.

At the meeting, you will have an opportunity to explain your grievance and inform us how you think it should be resolved. We may adjourn the meeting to make further investigation or obtain advice.

Our policy is that meetings are not recorded. You will be asked at the beginning of a meeting to confirm you are not recording the conversation. Any breach may lead to disciplinary action against you, up to and including dismissal. If you would like to record the meeting please speak to us beforehand and if we permit the recording, we will take responsibility for making the recording.

After the meeting, we will inform you of our decision in writing without unreasonable delay. We will notify you of your right to appeal against the decision if you are not satisfied with it.

## **Behaviour outside work**

Normally we have no jurisdiction over employees outside working hours. However, if your activities outside work adversely affect our business then this will need to be addressed.

Such activities may include your conduct outside work while attending a work function outside working hours, or activities in your leisure time, for example online social networking sites, blogs or chat rooms.

The following will result in disciplinary action:

- bringing the name of the Company into disrepute
- actions that may result in loss of faith in the Company by third parties
- actions that result in loss of faith of your integrity as an individual (this includes harassment, bullying and any other inappropriate or criminal behaviour)

Disciplinary action will only be taken after we have fully investigated the facts. If necessary, we will suspend you with pay while investigating. The detriment suffered by the Company will determine the most suitable disciplinary sanction. Your employment could be terminated if your actions cause extreme embarrassment or serious damage to the reputation or image of the Company.

recording.