

# CHR014

# Disciplinary Procedure

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## Introduction

It is necessary for the proper operation of the business and the health and safety of employees that the organisation operates a disciplinary procedure.

The aim is to encourage improvement in individual conduct or performance.

The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary by management.

Management will seek to address issues informally with the employee where this is considered the most appropriate course of action (eg minor misconduct and first offences). However, where formal action is deemed necessary, the organisation reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee.

The procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated.

Where time limits are referred to in the course of this procedure they may be varied by agreement between the employee and the organisation.

Employees have the right to be accompanied at a formal disciplinary hearing by a fellow worker or trade union representative of their choice. There is no right to be accompanied during informal stages or the investigation process.

This policy is not contractual.

## Disciplinary offences

### *General or minor misconduct*

Matters that the organisation views as amounting to minor misconduct include (but are not limited to):

- persistent lateness and poor timekeeping;
- unauthorised absence;
- poor attendance;
- minor damage to the organisation's property;
- failure to observe and work in accordance with the organisation's regulations and procedures;
- sub-standard performance and incompetence;
- un reasonable standards of dress or personal hygiene including failure or refusal to wear company uniform;
- misuse of company facilities including computer facilities (eg e-mail and the internet);
- unreasonable refusal to follow an instruction issued by a manager or supervisor;

### *Gross misconduct*

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the organisation. In the event that an employee commits an act of gross misconduct, the organisation will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the organisation views as amounting to gross misconduct include (but are not limited to):

- theft including unauthorised possession of company property;
- falsification of records, reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- information relating to your suitability of employment by the organisation, or provided in the course of applying for employment, which is found to be untrue or misleading;
- other offences of dishonesty;
- abusive or violent behaviour, including but not limited to, physical assault, breach of the peace or verbal abuse;
- deliberate damage to or misuse of the organisation's property;
- smoking (or use of an e-cigarette) in non-designated areas of the organisation's premises (including company cars); and
- being unfit for duty due to the misuse/consumption of alcohol or illegal drugs;
- possession, custody or control of illegal drugs on the organisation's premises;
- serious breach of the organisation's rules, including, but not restricted to, health and safety rules and rules on computer use;
- Significant or deliberate breaches of data, such as accessing employee or customer data without authorisation or a legitimate reason to do so;
- gross negligence;
- conduct that brings the organisation's name into disrepute;
- bullying of a fellow worker;
- discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, disability, age or religion or belief;
- serious insubordination;
- breaches of confidentiality, prejudicial to the interest of the company (subject to the Public Interest (Disclosure) Act 1998)
- committing a criminal offence, whether during the performance of your duties or otherwise, which in the opinion of the organisation renders you unfit to continue as an employee or which would be likely to adversely prejudice the reputation or interests of the business;
- bribery offences, including bribing or attempting to bribe another individual, or personally taking or knowingly allowing another person to take a bribe;

Other acts of misconduct may come within the general definition of gross misconduct.

### **Informal management**

Disciplinary offences may be dealt with informally at the discretion of the manager. In these cases, the manager will explain the nature of the alleged offence and the employee will have the opportunity to respond and discuss with the manager. As appropriate, expectations for future conduct should be set out clearly by the manager and the employee advised that any further offences could lead to formal action. This may be followed up in writing to confirm the details of the conversation and expectations, but does not constitute a warning.

As this is an informal process, there are no rights to be accompanied at this stage.

### **Suspension**

There may be instances where suspension is necessary while investigations are carried out. The organisation has the right to suspend where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before the disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing the employee to remain at work.

### **Investigation**

An employee's manager will promptly and thoroughly investigate any matter that is reasonably suspected or believed to be a disciplinary matter. The employee will be informed as soon as possible as to the fact of an investigation and when it has been concluded.

Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. If such an interview is held prior to a disciplinary hearing, the employee will be informed at the outset that the interview is an investigatory interview. There is no right for employees to be accompanied at an investigatory interview.

The organisation reserves the right to dispense with an investigatory interview and to proceed directly to a formal disciplinary hearing.

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

Where, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the employee will be invited to attend a disciplinary hearing before the employee's manager and the Director.

In the event of a disciplinary hearing taking place the organisation will:

- a. give the employee a minimum of two working days' advance notice of the hearing
- b. tell the employee the purpose of the hearing and that it will be held in accordance with the organisations disciplinary procedure
- c. explain the employee's right to be accompanied at the hearing by a fellow worker or trade union representative
- d. give the employee written details of the nature of his/her alleged misconduct, and

- e. provide to the employee all relevant information (which should include statements taken from any fellow employees or other persons that the organisation intends to rely upon against the employee) not less than two working days in advance of the hearing.

Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day. The organisation will comply with (a) above in respect of giving notice of the rearranged hearing. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in the employee's absence. The employee will also be allowed to make written submissions in such a situation.

Where the chosen companion is unavailable on the day scheduled for the meeting, it will be rescheduled, provided that the employee proposes an alternative time within five working days of the scheduled date.

### **Right to be accompanied**

You have the right to be accompanied by a fellow worker or trade union representative at a formal disciplinary meeting or subsequent appeal, subject to a reasonable request.

The choice of companion is a matter for you. Please note that individual workers are not obliged to agree to accompany you. Companions will be given appropriate paid time off to allow them to accompany colleagues at a disciplinary hearing or appeal hearing.

At any hearing or appeal hearing, your chosen companion will be allowed to address the meeting, respond on your behalf to any view expressed in the hearing, and sum up the case on your behalf. However, both the hearing and appeal hearing are essentially meetings between Catena and you, so any questions put directly to you should be dealt with by you and not your companion.

### **The disciplinary hearing**

A disciplinary hearing will be conducted by the employee's manager and the Director. Where the Director is the employee's manager, then another relevant manager will attend.

Management will present any supporting facts and material to the disciplinary hearing. The employee will be entitled to be given a full explanation of the case against him/her and be informed of the content of any statements provided by witnesses. The employee will be able to call his/her own witnesses. He/she will be permitted to set out his/her case and answer any allegations. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. He/she will also be given the opportunity to raise points about any information provided by witnesses. Where the organisation intends to call relevant witnesses it will give the employee advance notice of this. The employee must also give advance notice if he/she intends to call relevant witnesses.

The organisation may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The employee will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with his/her fellow worker or trade union representative, to consider the new information prior to the reconvening of the disciplinary proceedings.

As soon as possible after the conclusion of the disciplinary proceedings, management will convey the decision to the employee and will also inform the employee what disciplinary

action, if any, is to be taken. The decision will be confirmed in writing. The employee will be notified of his/her right of appeal under this procedure.

### **Disciplinary outcomes**

Where, following a disciplinary hearing, the organisation establishes that the employee has committed a disciplinary offence, the following disciplinary action may be taken:

- a. Where a minor offence or offences have been committed, a first written warning may be given.

The warning will be confirmed in writing and will:

- i. set out the nature of the offence committed;
- ii. specify the period for which the warning will remain "live" (this will usually be for a period of 12 months); after such period the warning will automatically lapse;
- iii. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
- iv. state that the employee may appeal against the warning.

- b. Where either a more serious disciplinary offence has been committed or further minor offences have been committed by an employee following a first written warning that remains "live", the employee will receive a final written warning (or first and final written warning).

The warning will be confirmed in writing and will:

- i. set out the nature of the offence committed;
- ii. specify the period for which the warning will remain "live" (this will usually be for a period of at least 12 months), after such period the warning will automatically lapse;
- iii. inform the employee that further misconduct is likely to result in his/her dismissal;
- iv. state that the employee may appeal against the warning.

- c. Where the employee has committed further acts of misconduct following a final written warning given under b. above, the employee may be dismissed with notice or with pay in lieu of notice.

- d. Where the organisation establishes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed.

As a means of avoiding dismissal, management, at their discretion, may consider and offer alternative sanctions, in conjunction with other forms of disciplinary action, where feasible and as appropriate. This could include demotion/alternative employment, stoppage of pay / time out for a specified period.

### **Appeal**

An employee may appeal against any formal disciplinary sanction imposed against him/her.

When lodging an appeal, the employee should state:

- a. the grounds of appeal; and
- b. whether he/she is appealing against the finding that he/she has committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

The employee must provide written notice of the appeal within five working days of being informed of the disciplinary sanction being imposed against him/her.

Appeal hearings will normally take place within 14 days of receipt of the employee's written notice of appeal.

The appeal will be heard by the Director and a manager who was not involved in the hearing. The Director must decide on the basis of representations, together with any subsequent facts that may have come to light, whether or not to uphold the disciplinary sanction. The Director will decide the case as impartially as possible.

Upon completion of the appeal, the manager conducting the hearing will convey his/her decision to the employee. The decision will be confirmed in writing within one week. The organisation's decision at the appeal is final.

In the event that the manager finds for the employee, the manager shall allow the appeal and shall remove all records of the disciplinary sanction from the employee's record. In the event that the manager does not accept the representations made by or on behalf of the employee, the manager must uphold the disciplinary sanction.

### **Miscellaneous**

The organisation recognises the importance of independence during disciplinary processes. However, as a small business, there are limited managers available to participate in this process, therefore making this impractical. The business owner is committed to acting fairly and consistently and at his discretion, reserves the right to appoint an independent HR advisor to implement any stage of the process, where this is feasible.

### **Review**

This procedure will be periodically reviewed and made available to all staff (on the Works Canteen Noticeboard and on the company's document store). Any amendment to it will be notified to employees by memo / noticeboards.