

This procedure applies to all employees of the organisation. It sets out the process that will be followed when dealing with issues relating to employee conduct, behaviour, or breaches of company policies. The procedure is intended to ensure that disciplinary matters are handled fairly, consistently, and in accordance with relevant employment legislation.

This disciplinary code is operated at the sole discretion of the management.

A disciplinary procedure is a formal way for an employer to deal with an employee's:

- 'misconduct' – this is unacceptable or inappropriate behaviour
- 'capability' – this is the ability to perform the job properly

Before starting a disciplinary procedure, the company will first see whether the problem can be resolved in an informal way. The company will always consider trying to resolve issues with our employees:

- privately talking with them and any other staff involved
- listening to their point of view
- agreeing improvements to be made
- setting up a training or development plan, if it's a performance issue

Capability:

Capability or performance is related to an employee's ability to complete work as required.

Before having a disciplinary meeting with an employee for reason of capability the manager will first have an informal discussion to discuss mentoring or extra training.

The company also has a system for monitoring staff absence. See [4.1.38 Attendance and Absence Review procedure](#).

Misconduct:

Misconduct is when an employee's inappropriate behaviour or action breaks the organisation's rules. Some misconduct examples include (But are not limited to):

- bullying
- harassment
- 'insubordination' – for example, refusing to do work
- being absent without permission – also called 'absent without leave' or 'awol'

Actions outside of the workplace can also be considered as misconduct if the actions put the company into disrepute. Examples of this could include (But are not limited to):

- Misconduct when representing the business at meetings.
- When you are wearing company branded clothing
- Social media posts that are related to or put the company into disrepute.

Gross Misconduct

Some acts count as 'gross misconduct' because they are very serious or have very serious effects.

If the company finds there has been gross misconduct, an investigation and a fair disciplinary procedure will still be followed. A list of potential gross misconduct applies below (*Appendix 1*)

The company may suspend a person who is suspected of gross misconduct. This will depend on the action and its effect on the business and other staff members.

If a period of suspension is considered necessary, this period will be in most circumstances be with pay, however the company reserve the right to suspend without pay for cases where gross misconduct is

suspected. However, should gross misconduct not be proven then the person will be reimbursed all monies that would otherwise be accrued during the suspension.

Disciplinary procedure

During the process, confidentiality must be always observed. Anybody interviewed should be told not to discuss or disclose any information.

The investigator should be impartial and not express an opinion prior to any decision being made.

1. Identify misconduct

Recognising and identifying misconduct by managers or supervisors detailing the alleged misconduct. This includes gathering evidence and understanding of the alleged misconduct.

2. Investigate misconduct

Investigating the alleged misconduct. CCTV, witness statements and interviews, email, work records are examples of evidence that can be researched and held.

3. Notify the employee.

The employee must be informed in a timely manner so they are aware that they are under disciplinary review.

4. Conduct a disciplinary hearing

A formal hearing gives the employee a chance to discuss and respond to the allegations of misconduct. The employee can bring representation if required to ensure a fair and transparent process. It is also recommended to have a note taker available.

A list of approved in-house translators is held by the HR Manager.

5. Make a decision

After considering the evidence and the employee's response, a decision is made regarding the misconduct. Possible outcomes include warnings, suspension, or dismissal, depending on the severity of the offense. If further investigations need to be made then the employee should be informed of these as further investigations will delay any result.

6. Confirm and communicate.

After making a decision, it must be explained to the employee. This should be done both in person and in writing; informing them of the decision, the level of disciplinary warning (if any) and explaining what the company expectations are for improvement.

Clear communication is key to ensuring a fair and transparent process and to ensure understanding of the employee receiving a disciplinary warning

7. Right to appeal

All staff have the right to appeal. Any formal disciplinary warning must also include all details related to making an appeal against the decision.

1. Identify the misconduct

When misconduct is identified the manager/supervisor must first consider the following

- Planning the investigation
Determine the type of investigation and the type of evidence required – emails, CCTV, meeting minutes or interviews, etc
Consider the logistics of the investigation. Timescales, witness availability, etc
Also consider whether extra information is required before committing to a formal investigation and disciplinary procedure.
- Define the scope of the investigation

Consider the boundaries of the investigation so it will make it easier to formulate questions and understand the answers you need to investigate the misconduct properly.

- Decide whether immediate action is needed.
Some matters are so serious that immediate action may be necessary. An example may be the need to suspend or redeploy someone accused of sexual harassment or theft.
Any decision for immediate action must be made in conjunction with a manager who can approve such action.
- Review internal procedure
Check if there is a specific procedure or policy and whether there is a different requirement for investigation. Always consult guidance such as ACAS to determine whether the procedures being followed are appropriate. The misconduct should be compared to acceptable behaviour or conduct in line with company policy.
- Determine who is best suited to investigate.
Normally it would be the line manager who would need to investigate misconduct however there may be times when another manager is more suitable. In cases of harassment for instance, a female investigator may be more appropriate.
- Conduct initial investigations to see whether there is a need to conduct a full investigation.

2. Investigate the misconduct

- Keep all records of evidence.
- Ensure the investigation is fair and all evidence is considered.
- If conducting interviews ensure that the employee being interviewed is aware that they have the right to be accompanied. This is to ensure that they are comfortable and confident.
- All staff in interviews should respect confidentiality
- Keep all records of interviews.
- Ensure all interviews are signed.
- Understand the requirements of data protection law and respect an employee's privacy.

3. The employee should be informed in writing:

- A letter should be provided to the employee (English and, if necessary in a language they understand)
- The letter must include:
The nature of the alleged misconduct
An invitation to a disciplinary hearing (Date, time and location)
The right to be accompanied by a union representative or member of staff.
Whether an interpreter is required.
Instruction to respond confirming invitation details and requirement of an interpreter.

4. Conduct a disciplinary hearing

- The employee is allowed to have a representative with them during the hearing but should not contribute to the discussion and cannot talk for the employee.
- If an interpreter is required then they can also be their representative.
- A scribe should also be used to ensure that records of the meeting are accurate. If the interview is recorded it must be transcribed, checked and signed before moving on to the next stage of the disciplinary process.
- The interviewer must ensure fairness during the interview:
 - Introduction: Introduce everyone, explain the purpose of the hearing, and confirm the employee understands the allegations.
 - Presentation: Clearly outline the allegations and present the evidence gathered.

- Employee Response: Allow the employee to present their side, ask questions, and call relevant witnesses.
- Discussion: Review all evidence and discuss points raised.
- If further investigation is required then the meeting must be adjourned and, if required, a new date and time set to allow for this further investigation.

5. Make a decision

The interviewer should take time to decide whether there is sufficient evidence to justify a disciplinary warning.

All evidence gathered during the investigation and notes from the interview should be considered before making a decision on the level of disciplinary sanction. Advice can be sought from HR or other managers but not from a manager that may be involved in an appeal. After following a fair disciplinary procedure, the employer should decide on the best outcome based on:

- the findings from the investigation and meetings
- what is fair and reasonable
- what their organisation has done in any similar cases before

For a disciplinary outcome that is not a dismissal, the employer should give the employee specific goals and timeframes for improvements.

If the investigation is simple, then a delay in the meeting can be confirmed whilst a decision is made. The decision can be made and communicated to the employee when the meeting is reconvened.

If the decision is more complex or involved further investigation, then the meeting can be stopped and convened later once further investigation has been completed. In this instance, another letter as per point 3 should be sent to the employee confirming the date and time of the next meeting.

6. Confirm and communicate

The employer should tell the employee of the outcome as soon as possible and in writing and in person. If the employee's conduct or performance has not improved in the timeframe set, the employer should repeat the disciplinary procedure.

The employer should repeat the procedure until either:

- improvements are made
- dismissal is the only fair and reasonable option

When the decision is for no further action being required, the employer should end the disciplinary procedure. To keep good working relationships, the employer should talk to the employee in private and with anyone involved in the disciplinary process. During these meetings it can be disclosed to individuals that no further action is taken but not to disclose the reason why a disciplinary was started.

The letter must include

The date that the disciplinary notice was issued.

The reason for the disciplinary action

The level of disciplinary action

The date of expiry of the disciplinary action

The right to appeal, process for appeal and the person to whom the appeal should be made.

In the event of the employee being absent when the process is completed, the letter should be sent to their last known address.

7. Appeal.

Everyone has the right to appeal regardless of the level of disciplinary action.

The right to appeal and the process for an appeal must be provided in the letter sent to the employee confirming that a disciplinary warning has been issued. The letter must include

- An appeal can be made in writing.
- Who the appeal must be made to (Someone not previously involved in the disciplinary process)
- That the appeal must be made within 5 working days of receiving confirmation of a disciplinary warning.

An employee can appeal a disciplinary action for the following reasons:

- The disciplinary outcome is too severe
- The grievance outcome is wrong
- Any part of the disciplinary or grievance procedure was carried out incorrectly or was unfair
- Dismissed for an unfair reason
- There is new evidence to show that is materially important.

As detailed in the letter confirming their disciplinary warning, this appeal must be made in writing, detailing the reasons why an appeal is being made and given to the relevant manager. This must be received within seven calendar days of the disciplinary warning being issued.

Following an appeal the company must consider the reasons for the appeal as listed above

After an appeal request is received, the company will reply via letter and email.

An invitation to an appeal hearing (Date, time and location)

The right to be accompanied by a union representative or member of staff.

To ask whether an interpreter is required.

Instruction to respond confirming invitation details and requirement of an interpreter.

If a companion accompanies an employee during the appeal hearing they can

- set out your case
- respond on your behalf to any comments or points made at the hearing
- talk with you during the hearing, when needed
- take notes
- sum up your case at the end of the hearing

A companion cannot answer questions for the employee.

During an appeal hearing the person chairing the appeal process will

- introduce everyone, explaining why they are there if it is unclear.
- explain the purpose of the hearing, how it will be conducted and what powers the person hearing the appeal has
- ask the employee the reason for the appeal.
- look at new evidence, if there is any
- summarise the points after discussing them and end the hearing.
- They will **not** confirm the outcome of the appeal hearing.

Investigation and conclusion

The person conducting the appeal hearing should consider the reasoning for the appeal, make any further investigation as required and interview people where appropriate. As part of this process, it

might be necessary to consider previous cases of similar disciplinary warnings to ensure the process has been consistent and any sanction issued is fair

Once any further investigation has been completed and a decision has been made regarding the appeal a letter must be sent to the employee confirming:

- The outcome of the appeal
- The reason for the decision
- Whether this is the final decision and, if not, the appeal procedure.

If the appeal against the disciplinary sanction is not successful, the sanction remains in place.

If the appeal against the disciplinary sanction is successful, it will be removed immediately from the employee's records.

Levels of disciplinary sanction

Internal policies will be reviewed as there may be a different process for levels of disciplinary. In certain cases, an informal discussion may not be possible and a higher level of warning may be issued.

When deciding on the level of disciplinary, it is normal to follow the process as listed below from verbal warning through to dismissal, the company retains the right to act differently in the event of a serious breach of company policy or in the case of gross misconduct.

Any disciplinary sanction previously applied to an employee will be considered "spent" if the expiry date has passed.

Process	Capability and misconduct	Time limit
First meeting	Informal discussion	12 months
Disciplinary 1	Verbal warning	12 months
Disciplinary 2	Written warning	12 months
Disciplinary 3	Final written warning	12 months
Disciplinary 4	Dismissal / Demotion	NA

Where disciplinary action is at level 4, the Company retains the right to offer demotion instead of dismissal, together with any associated reduction in salary and/or other benefits. If this right is exercised, the Company also retains the right to alter the employees pay and benefits accordingly. Where this is the outcome, the employee will be advised in writing. If demotion takes place, the employee contract of employment with the Company remains unbroken.

Retention of information

All evidence, documents, letters, invitation letters, meeting notes, summary reports and confirmation of the disciplinary result must be retained and kept together for future reference.

Right to confidentiality

The employee being investigated has the right to confidentiality at every step of the process. The process can be discussed with other managers but must not be discussed with other employees or especially the manager that would manage any appeal process.

When interviewing people during the process, it must be explained that what is discussed must remain confidential and breaches in confidentiality could be considered breaches in data protection.

Suspension

If a period of suspension is considered necessary, this period will, most circumstances be with pay, however the company reserve the right to suspend without pay for cases where gross misconduct is suspected. However, should gross misconduct not be proven then the person will be reimbursed all monies that would otherwise be accrued during the suspension.

Associated documents

Disciplinary

5.5.9 Disciplinary form

5.5.20 Disciplinary hearing summary

5.5.60 Disciplinary meeting invitation

Appeal

5.5.23 Appeal hearing notification

5.5.24 Appeal hearing summary

Attendance

4.1.38 Absence & absence review procedure

Appendix 1

Circumstances that the company consider gross misconduct. Other examples not listed may also apply. The company reserves the right to consider any other misconduct or misbehaviour which a reasonable person would deem as gross misconduct, not here listed, as grounds for Summary dismissal without notice or pay in lieu of notice.

- Participation in a crime which relates to or affects the ability' to perform employment duties or participation in any criminal offence (excluding minor traffic offences) on the company's premises during employment.
The aiding or abetting of such a criminal offence.
- Grossly insulting or discourteous behaviour or physical or verbal abuse towards the company's management, its customers, other employees, people visiting the Farm, or any other people on or off the Farm while carrying out duties that other people could relate to them being employed by the Company. "Serious abuse" as above, can also be used to describe malicious, slanderous, libellous gossip, bullying, discrimination or sexual harassment
- Bringing the company or company name into disrepute through actions inside or outside of work where the employee can be associated to the company.
- The divulgence to outside parties of confidential information regarding the affairs of the company which could be damaging to the company.
- The unauthorised copying of Company papers or Intellectual Property or electronic files onto media not owned by the Company and/or causing them to be copied or moved to locations not physically under the control of the Company. This includes, but is not limited to, the emailing or copying of such items to external email, cloud or ftp/internet locations or postal addresses and/or requesting others to do so.
- Deliberate falsification of accounts, expenses or other information of a financial or statistical nature or gross negligence in compiling the same. The acceptance of benefits, cash over £10, gifts or other items from a supplier or other party doing business with the company without having first obtained the company's consent or, where this is not practical, informing the Company within 24 hours of receiving such a gift.
- The giving away of company property without payment or at an unauthorised discount.
Deliberately giving potential clients or contacts of the Company false or misleading information that is likely to cause the Company's reputation to suffer.
- Repeated actions of a negligent or extremely careless nature that has, or is likely to cause,

financial loss, or damage of reputation, to the Company. (Note that this can also include any action that could cause loss of contracts with our customers e.g. poor personal hygiene practices could lead a customer to take orders away from the Company)

- Negligent behaviour endangering the health and safety' of employees, customers or other persons or their property. (Including but not limited to, not washing hands after visiting the toilet, knowingly bringing in a communicable disease or other contagion into, or spreading in, the workplace.
- Driving a company vehicle or operating company equipment / machinery whilst under the influence of alcohol or drugs.
- Lying about your state of health in order to obtain time off or obtain sick pay.
- Unauthorised time off work or regularly taking unauthorised or extended breaks.

If at any time an employee is unable to come to work when expected/agreed, the employee MUST ring the Company. This must ideally be done before the time they are due to start or as soon as practical thereafter. The Company WFA makes it clear that unauthorised absence can lead to dismissal. Where dismissal is not deemed appropriate, the management can, at its own discretion, implement other disciplinary measures.

Employees returning to work after illness must abide by the conditions laid down in the Illness procedure.

- Not permitting the company (or an agreed independent person should the employee so request) to make reasonable inspection, within the time requested, of the employee's person or property, including bags and vehicles, should circumstances so warrant.
- The unauthorised physical removal, copying or passing to third parties any Company papers, electronic files or other company Intellectual Property. This includes copying onto media not owned by the Company and/or causing them to be copied or moved to locations not physically under the control of the Company, e.g., forwarding to employee's private email addresses and/or to a location that can be viewed by third parties. This also includes, but is not limited to, the emailing or copying of such items to external email, cloud or ftp/internet locations or postal addresses and/or requesting/causing others to do so.
- Unauthorised copying, removing or transferring personal or sensitive data (as defined by the DPA) from the company premises or destroying or altering that data.

The company reserves the right to consider any other misconduct or misbehaviour which a reasonable person would deem as gross misconduct, not here listed, as grounds for Summary dismissal without notice or pay in lieu of notice.