



PrivateEdge

Disciplinary and poor performance policy

All businesses should have a disciplinary and poor performance policy to help reduce legal risk by ensuring disciplinary matters are dealt with fairly and in accordance with the ACAS Code of Practice. This template policy can be adapted for your organisation and is designed to be compliant with the ACAS Code.

About this policy

This policy is designed to help and encourage employees to achieve and maintain good standards of conduct and job performance. The aim is to ensure consistent and fair treatment for employees.

This policy applies to all employees. It does not apply to agency workers, consultants or self-employed contractors.

This policy will be reviewed from time to time to ensure that it reflects our legal obligations and our business needs.

This policy does not form part of any employee's contract of employment and we may amend it at any time.

Procedure

INFORMAL ACTION

For minor conduct or performance issues, informal action may be considered, where appropriate, to resolve problems. Where the matter cannot be resolved informally or an informal approach is not appropriate (for example, for more serious allegations), formal action will be taken.

FORMAL ACTION

No disciplinary or poor performance action will be taken against an employee until the case has been fully investigated.

The employee will be advised of the nature of the allegation of misconduct or poor performance against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary or poor performance hearing.

The employee (and their companion) must make every effort to attend the hearing. If the employee fails to attend the hearing without good reason, or is persistently unavailable (for example, due to ill health), we may make a decision based on the evidence available.

Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of any disciplinary or poor performance hearing.

The employee will have the right to be accompanied by a trade union representative or work colleague to any hearing under this procedure. The companion may address the hearing to put the employee's case and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent us from explaining our case.

No employee will be dismissed for a first breach of discipline or poor performance except in the case of gross misconduct or gross negligence, when the outcome may be dismissal without notice or payment in lieu of notice.



An employee will have the right to appeal against any disciplinary or poor performance action. The procedure may be implemented at any stage if the employee's alleged misconduct or poor performance is sufficiently serious to warrant it.

The Sanctions

FIRST WRITTEN WARNING

If conduct or performance is unsatisfactory, the employee will be given a written warning or performance improvement note. This will give details of the misconduct or poor performance, the improvement required and the timescale for improvement. Such warnings will be recorded, but disregarded after 6 months of satisfactory service. The employee will also be informed that a final written warning may be considered if there is no sustained satisfactory improvement in conduct or performance.

FINAL WRITTEN WARNING

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning or improvement note may be given to the employee. This will give details of the misconduct or poor performance, the improvement required and the timescale for improvement. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will be kept by the supervisor but will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance.

DISMISSAL OR OTHER SANCTION

If there is still further misconduct or failure to improve performance (or if the employee is alleged to have committed gross misconduct or gross negligence) the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or disciplinary suspension or transfer (as allowed in the contract of employment).

The employee will be provided, ideally within 7 days but otherwise as soon as reasonably practicable following the hearing, with written reasons for dismissal or any action short of dismissal, and details of the date on which employment will terminate (if relevant) and the right of appeal.

Gross misconduct

The following list provides some examples of offences which are normally regarded as gross misconduct:

- theft or fraud
- physical violence or sexual assault
- deliberate and serious damage to property
- serious misuse of our property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- unlawful discrimination or harassment, or bullying
- bringing us into serious disrepute
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- a serious breach of confidence.



If an employee is accused of an act of gross misconduct, he or she may be suspended from work on full pay for a reasonable period if it is necessary to do so while the alleged offence is investigated. Employees on suspension will be paid at their basic rate of pay. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made.

If, on completion of the investigation and the full disciplinary procedure, we are satisfied that gross misconduct has occurred, the result may be summary dismissal without notice or payment in lieu of notice.

Appeals

An employee who wishes to appeal against a disciplinary decision or improvement note must do so within five working days. Where possible, the appeal will be dealt with by a more senior manager who has not previously been involved in the case.

We will inform the employee in writing of the outcome of the appeal, ideally within 7 days or otherwise as soon as reasonably practicable. The appeal decision will be final.



Legal advice in black and white



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