



Disciplinary Procedure Policy

For Staff Who Have Successfully Completed Their Probationary
Period

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Purpose

The maintenance of satisfactory standards of work and conduct are essential if Fair Deal is to maintain good standards of service provision and ensure the wellbeing of staff and people who use Fair Deal' services. The purpose of the disciplinary procedure is to provide a framework within which fair disciplinary action can be taken by Fair Deal.

We want you to maintain the highest possible standards of attendance, conduct and performance and our disciplinary processes are here to help you do this. This procedure is applicable to all employees who have successfully completed their 6-month probationary period.

Principles

The following principles will apply in the operation of the Disciplinary Procedure:

- a) The most important objective of the disciplinary procedure is to encourage an employee whose conduct or standard of work performance is unsatisfactory to raise his/her standards of work to a satisfactory level, as per standards required by Fair Deal. Further Information can be found in Fair Deal's Conditions of Service.
- b) No decision on disciplinary action will be taken until there has been a full investigation of the facts, including giving the individual the opportunity to state his/her point of view.
- c) At each formal stage of the disciplinary procedure a staff member will have the right to be accompanied by a fellow employee or trade union representative.

Offences

Fair Deal accepts that no set of rules can cover all the circumstances concerning discipline or performance of duties. However, as a general guide breach of rules are divided into two categories:

Offences:

Examples of an offence are:

- Insubordination
- Regular late coming
- Pattern of absenteeism without justifiable reason
- Incompetence
- Culpable negligence

Serious offences which could result in instant dismissal:

- Gross Insubordination
- Theft or unauthorised removal of property from Fair Deal's premises
- Violence at work
- Possessing or taking alcohol or drugs at workplace or reporting for work under the influence of alcohol or drugs
- Gross negligence or malpractice
- Gross insubordination, refusing to obey reasonable instruction, leaving the workplace during work hours without authority.

The examples given above should not be regarded as exhaustive but are only intended to act as a guide for staff.

Informal Action

Most often you should expect us to try and deal with any minor difficulties in an informal manner first. Your line manager will speak to you and confirm any improvements sought/help on offer by way of a letter. This is not a formal “warning letter” – it is merely a simple confirmation of required action.

Formal Process

We will follow our formal process when attempts to have improvements dealt with under the informal process have not been successful. We will also use our formal process straight away for more serious matters. In our formal disciplinary process, we will follow these principles:

- We will not take any action without giving you the chance to state your case, and a reasonable investigation has taken place.
- If we feel you may have committed a very serious breach of discipline, we may suspend you on full pay whilst the matter is being investigated.
- We do not normally dismiss anyone for a first offence – unless it is a very serious one.
- If we ask you to attend a formal disciplinary hearing, you can be accompanied by either a trade union representative or a workplace colleague.
- We will give you as much information / documents relating to the matter as is possible for you to prepare for any formal meeting.
- If we take action against you (other than to dismiss you) we will be clear on the improvement we are seeking, and the timescale within which we want this to be achieved.
- You will have a right of appeal if we take any action.

Investigation

This procedure is designed to establish the facts of each case quickly, and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated. Written records of all investigations will be kept including notes of any investigatory meetings held to establish the facts of the case and you will not have the right to be accompanied to an investigatory meeting. At the investigatory stage it will be made clear to the employee that it is not a disciplinary meeting and that the decision at the end of the investigation will be to:

- Drop the matter
- Use the informal process
- Use the formal disciplinary process

The Right To Be Accompanied

At all stages of the formal disciplinary procedure employees have the right to be accompanied by a work colleague or trade union representative. Before any meetings take place, the employee should tell the employer whom they have chosen as a companion, the companion will be allowed to address the hearing in order to:

- Put the employee’s case
- Summarise the employee’s case
- Respond on the employee’s behalf to any views expressed at the hearing
- Confer with the employee
- Ask witnesses questions if required

The companion will not be allowed to address the hearing in order to:

- Answer questions on the employee's behalf
- Address the hearing against the wishes of the employee
- Prevent the organisation from explaining their case

Should the companion attempt to act out with their remit or display signs of aggressive and/or disruptive behaviour the meeting will be adjourned until the companion agrees to comply with their remit or a replacement companion can be found.

Interpreter

In addition, where the employees' first language is not English and an interpreter is needed, the companion may interpret for the employee, or an interpreter may attend in addition to the companion. Before any meetings take place, the employee should tell the employer whom they have chosen as a companion and if the companion is able to interpret for the employee or if there is the need to appoint an interpreter. Where it is necessary to appoint an interpreter, the costs will be met by the organisation.

Disability

At all times during any informal or formal proceedings the organisation will ensure, where they know an employee has a disability, to make any possible reasonable adjustments to ensure the procedure is fully accessible and understandable to all employees. These adjustments may include but are not limited to:

- Location and timing of meetings
- Alternative formats of all written disciplinary information
- Equipment such as an induction loop, sign language interpreter
- Appropriate adjustments for people with a learning disability

Suspension

In serious cases, the investigatory officer will have the power to suspend the worker, with full pay, pending an investigation of the allegations. Suspension in these circumstances does not constitute disciplinary action. The employee will be informed in writing of the reasons for the suspension. Any suspension will be to allow a full investigation to be completed and will be conducted as efficiently as possible, the employee will be suspended for as short a period as possible to allow the investigation to be completed.

Disciplinary Hearing

Following the investigation if a disciplinary hearing is warranted, the employee should, within 5 working days, be given a written statement of the allegation and advised of the intention to hold a disciplinary hearing. The statement will detail the date, time and location of the disciplinary hearing and who will be present. The statement will state her/his rights under this procedure, including the right to be accompanied by a trade union representative or work colleague and the right to an appeal. The statement will outline the opportunity for the employee to provide the employer with copies of his/her supporting evidence and details of any witnesses or witness statements prior to the hearing, as appropriate. The employee will be provided with copies of all documentation and supporting evidence to be presented by the employer at the hearing, including details of any witnesses or witness statements prior to the hearing, as appropriate. On conclusion of the disciplinary hearing the employee will be advised in writing, within 5 working days, of the outcome of the hearing and any disciplinary sanctions to be applied.

Disciplinary Sanctions

Any recorded disciplinary sanction must contain details of actions to be taken to enable the employee to achieve improvement; a set timescale within which improvement is expected to take place; and a plan for review to monitor and discuss progress with the employee.

Actions may involve training, counselling or some other form of assistance that the line manager/others will provide. Depending on the circumstances, the following range of formal warnings may be applied:

Formal Warnings

The procedure may be implemented at Stage 1, 2 or 3 if the alleged misconduct warrants such action. For example, where there is evidence of gross misconduct the employee may be dismissed.

First Stage – Written Warning

If you cannot meet our standards after these having been discussed in our Informal Process, or if the matter is new but serious, your line manager will interview you at a formal meeting and you will be given the chance to offer an explanation. If this is not satisfactory, we will give you a First Written Warning. You will have a right of appeal to a more senior person above the level of the line manager who issued the warning. A First Written Warning will remain in force for 6 months.

The sort of things we might issue this type of warning for, but not limited, to include:

- Poor timekeeping and/or attendance
- Minor breaches of our policies
- Below expected performance of your duties

Second Stage – Final Written Warning

If you have a live Written Warning and continue to remain below our expected standards; or if the matter is new but serious, your line manager/senior manager will interview you at a formal meeting and give you the chance to offer an explanation. If this is not satisfactory, we will give you a Final Written Warning. You will have a right of appeal to a more senior person above the level of the manager who issued the warning. A Final Written Warning will remain in force for 12 months and is a very serious stage. The sort of things we might issue this type of warning for, but not limited to, include:

- Deliberate misuse or damage of our property
- Intentional absence without our permission
- Not following our health and safety instructions
- Refusal to follow reasonable instructions
- Continuous misconduct or under-performance

Third Stage – Dismissal

If you have a live Final Written Warning and do not show a sustained improvement, or if we feel you may have committed an act of gross misconduct a senior manager will interview you at a formal meeting and give you the chance to offer an explanation. If this is not satisfactory, we will normally dismiss you. If we do this, we may dismiss with or without notice or payment in lieu of notice. Appeals against dismissal are heard by a panel comprising of members of the senior management team and/ or Fair Deal Board members. The sort of things we might consider to be gross misconduct, but not limited to include:

- Theft from us, your work colleagues or anyone we work with
- Fighting with or harassing a colleague or others we work with
- If you are under the influence of drink or drugs at work
- Any fraudulent act or misrepresentation of work records/information
- Serious misuse or damage of our property

Appeals

All letters we write you confirming any of the above formal actions will clearly set out your right of appeal and how to access this. If you are not happy with the action we have taken, you need to raise an appeal in writing within one week of receiving our letter. You should make clear the reasons for your appeal.

In turn we will ensure that an appeal meeting is arranged within a further two weeks. If possible, a person or persons who have had no direct involvement in the disciplinary action being appealed will hear the appeal.

We will write to you after the hearing confirming our decision on your appeal.

Employees should note that an appeal hearing is not intended to repeat the detailed investigation of the disciplinary hearing, but to focus on specific factors which the employee feels have been dealt with unfairly or which have received insufficient consideration, such as:

- an inconsistent, inappropriate or excessively harsh penalty
- extenuating circumstances
- bias of the disciplining manager
- unfairness in the conduct of the hearing
- new evidence subsequently coming to light

Where an appeal against dismissal fails, the effective date of termination will be the date on which the employee was originally dismissed.

End of Policy

Document Information

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18/08/2023	4	Liz Connor	Purpose and Principles added. Grammar revised. Formatted to new template.