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## **TEMPLATE DISCIPLINARY PROCEDURES**

### **Disciplinary Procedure**

The aim of our Disciplinary Procedure is to ensure adherence to the Firm's rules, policies and procedures and to aid employees whose performance, attitude or conduct falls below Firm's standards. The intention is that potential disciplinary cases be dealt with at an early stage with a view to resolving problems as quickly and fairly as possible.

Issues will always be discussed before any decision concerning disciplinary action or dismissal is taken. The principles of natural justice and fair procedures will be upheld at all times. **These include the right to know the details of the misconduct of which one is accused; the right to be heard in answer to the charges; the right to an impartial hearing; the right to be appropriately represented and (where appropriate) the right to ask questions of one's accusers.**

An employee may be suspended on full pay at any time or re-assigned or relocated to another business unit or work location in the course of the Disciplinary Procedure. At the discretion of the Firm, the Disciplinary Procedure may only apply to an employee who has completed his/her probationary period.

At each stage, the complaint(s) against an employee shall be notified to the employee and they shall be given the opportunity to state their case accompanied by a Firm colleague of their choice **[or a legal representative from outside the Firm]**<sup>1</sup>.

Where relevant, where a sanction is applied short of dismissal, the employee shall be informed of the alleged shortcoming, what needs to be done by way of improvement, the period during which such improvement is to be shown and the consequences of non-improvement. If any assistance or training is to be provided, this will also be detailed in writing after the relevant stage of the procedure.

The procedural steps set out below are a guide. The Firm may skip some steps in appropriate cases. The point at which the procedure is entered, or the omission of any of the steps, will depend entirely on the seriousness of the alleged offence from the Firm's perspective.

#### **(i) Verbal Warning**

In cases of minor infringements, the employee will be requested to attend a meeting with his/her manager or another member of management. If the manager feels that aspects of the

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<sup>1</sup> **FOR INFORMATION, NOT FOR INCLUSION IN TEMPLATE POLICY:** Many employers operate policies whereby legal representatives are not permitted to represent employees. Some decisions of the courts indicate that employees have a right to legal representation in disciplinary hearings; other decisions are less clear. Any firm wishing to exclude an employee's right to legal representation in internal proceedings should consider the relevant case-law, including the decision of the Supreme Court in *Burns and Hartigan v Governor of Castlereagh Prison* [2009] ELR 109 and the decision of the High Court in *Lyons v Longford Westmeath Education and Training Board* [2017] IEHC 272.

employee's performance or conduct are below standard he/she will receive a verbal warning. This warning will outline the improvements that must be made and that if those improvements are not made within a [3] month period then the next step of the procedure will be implemented.

This warning will remain active for [3] months.

If there is a further infringement relating to conduct or performance within the [3] month period or if conduct or performance is not improved after the formal verbal warning the next step of this procedure will be implemented.

#### **(ii) First Written Warning**

Where an employee's performance or conduct does not improve within the required timeframe, or if a second or subsequent minor infringement occurs after a formal verbal warning, the employee will be requested to attend a meeting with a member of management. At the meeting the employee will be informed of the allegation relating to the performance or conduct which is below standard. If it is felt that further action is required, the employee will receive a first written warning.

The warning will advise of the improvements that are required and that if these are not made that the next step in the procedure will be implemented.

This warning will remain active for [6] months.

If there is a further allegation relating to conduct or performance within the [6]-month period or if conduct or performance is not improved after the first written warning the next step of this procedure will be implemented.

Depending on the nature and seriousness of the offence, a first written warning may be given where no previous verbal warning has been given.

#### **(iii) Final Written Warning**

Where the employee's performance does not improve within the required time frame, or where a second or subsequent minor infringement occurs after a first written warning, the employee will be requested to attend a meeting with a senior manager or another member of management. At the meeting the employee will again be informed of the allegation relating to the performance or conduct which is below standard. If it is felt that further action is required, the employee will receive a final written warning.

The warning will advise of the improvements that are required and that if these are not made that the next stage in the procedure may lead to dismissal.

This warning will remain active for [12] months.

If there is a further allegation relating to conduct or performance within the [12]-month period or if conduct or performance is not improved after the final written warning the next step of this procedure will be implemented.

Consideration may be given to imposing alternative penalties to a final written warning, such as suspension with or without pay for a specified period.

In more serious cases, even where no verbal or written warning has previously been given, a final written warning may be issued.

#### **(iv) Dismissal**

Dismissal will normally arise after the completion of the first three stages, if the employee's conduct or performance is still not acceptable to the Firm or if further minor infringement(s) occur after a final written warning.

This stage may also be implemented in certain circumstances involving serious misconduct even where no previous warnings have been issued to the employee.

The employee will be requested to attend a meeting with a senior manager. The employee may have **an appropriate representative present at this meeting if he/she chooses**. Action will only be taken after a full investigation and once the employee has had an opportunity to answer the allegations. If it is felt that dismissal is justified, the employee will then be dismissed.

Where a decision to dismiss has been taken, the employee will receive a formal written notice of the decision, together with a clear statement of the reasons for dismissal.

#### **Appeal**

An employee may appeal against any disciplinary action taken. Any appeal should be made in writing addressed to **[insert name of relevant individual within the Firm]** within 5 working days after notification of the decision. The appeal should set out the grounds on which the employee is appealing and whether or not the employee wishes to be represented and whether the employee intends to call any witnesses.

The appeal will be conducted, where possible, by someone of appropriate seniority who has not been involved in the matter under appeal.

The employee will be informed of the findings of the appeal hearing, which will either confirm the disciplinary action already advised, alter it to more appropriate action, or reverse it, thereby cancelling the disciplinary action.

The decision is final, and no further appeal may be made.

**No disciplinary sanction shall take effect until after the time for lodging an appeal has expired, or until after the appeal has been determined, as the case may be.**

#### **Serious Misconduct**

The Firm may summarily dismiss any employee who is guilty of serious misconduct.

There are certain actions, constituting serious misconduct, which might impair the Firm's operations or jeopardise employee safety or the Firm's reputation. The following are examples of such actions, which could be serious enough to warrant summary dismissal:

- Violent, abusive or threatening behaviour
- Theft or in any way misappropriating Firm property or money
- Malicious or wilful damage to Firm property
- Reporting to work under the influence of drugs or alcohol
- Sexual Harassment.

This list is not exhaustive.

Before any disciplinary action is taken, the employee shall be informed of the allegations against him/her. The employee is to be given ample opportunity to state his/her case with the opportunity to be accompanied by an appropriate representative. The matter will be fully investigated.

When a decision in respect of the matter has been made, the employee will be informed in writing of the decision.

Where the Firm is satisfied that serious misconduct has occurred, the Firm may (instead of dismissing the employee) impose one or more penalties short of dismissal, including demotion, suspension without pay or other similar sanctions.

### **Suspension with pay pending investigation or disciplinary outcome**

In certain circumstances arise or if it is necessary to conduct an investigation into alleged or suspected misconduct, the Firm reserves the right to suspend an employee with pay pending completion of the investigation or, if appropriate, the disciplinary process. This is done with no inference of guilt or otherwise against the employee.

During a period of such suspension, the employee will not be entitled to access the Firm's premises except with the prior consent of the Firm.