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## **1 Purpose and scope of the procedure**

1.1 The purpose of the disciplinary procedure is to ensure that unacceptable conduct is addressed promptly and appropriately.

1.2 The disciplinary procedure applies to all Alpha employees.

1.3 The procedure takes account of the ACAS code of practice on disciplinary procedures and will be reviewed periodically in line with developments in good practice.

## **2 Principles of the procedure**

2.1 The procedure is based on the following principles.

Except for gross misconduct, no employee will be dismissed for a first breach of discipline.

The level of any formal action outlined in paragraph 7 will be dependent on the seriousness of the offence, the consequence to Alpha of the offence and any mitigating circumstances presented by the employee, having regard to the need for fairness and natural justice.

The employee has a right to be accompanied by a representative or a work colleague at every stage of the formal procedure. The procedure is internal to Alpha and apart from representatives, does not allow for any external representation.

2.2 The procedure may be invoked where:

previous support, advice or warnings have been ineffective

a number of minor complaints are made which, taken together, constitute a breach of discipline

2.3 In all cases where disciplinary action is contemplated, reference to the Quality Assurance Manager is recommended.

2.4 All proceedings, whether informal or formal, should as far as is practicable remain confidential.

2.5 A formal record of a hearing will be given to the employee.

2.6 The timescales may be extended with the agreement of both parties.



### **3 General requirements**

3.1 Employees are expected to:

- comply with their contract and terms and conditions of employment
- fulfil the duties of their post as reasonably required by the manager.
- observe relevant Alpha rules, regulations and policies
- comply with health, safety and data protection requirements.

### **4 Advice, support and informal warnings**

4.1 It is the manager's responsibility to communicate, develop and motivate staff and to ensure that relevant training is provided. In cases of minor infringements of conduct the manager should initially seek to advise and support the employee concerned on an informal basis with a view to effecting an improvement and thus to avoid using the formal procedure.

4.2 The employee should be advised of the conduct expected of them in the future and of the possible consequences of further problems. Where necessary an informal warning given by the manager will reinforce the advice. Informal advice and support are not part of the formal disciplinary procedure and the employee should be informed of this. However, a record of an informal warning needs to be kept on the employee's personal file held in the Quality Assurance file and may be used in future proceedings.

### **5 Suspension**

5.1 In serious cases the employee may be suspended from work on full pay if their continuing presence at work could be prejudicial to the satisfactory operation of Alpha business. In some cases of alleged serious or gross misconduct a Director may consider the employee should not be present at work while an investigation is being carried out. Such a suspension should only be imposed after careful consideration and should be reviewed to ensure it is not unnecessarily protracted. A suspension will be authorised by the manager in consultation with the Quality Assurance manager.

5.2 In some cases a 'cooling off' period may be advisable by sending the employee home, normally until the following day. This will be authorised by the manager in consultation with the Quality Assurance manager.

5.3 Suspension is not a form of disciplinary action nor does it automatically follow that a disciplinary hearing will be called as a consequence of a suspension.

5.4 Employees should be told clearly that they are suspended; that the suspension will be for as short a period as possible and that they will be called back for an investigatory interview. The suspension will be reviewed periodically.

5.5 Employees on suspension will not be entitled to access any of Alpha's premises or documents, including remotely, without the prior consent of the Head of Alpha. However, Alpha will take account of the need for an employee to prepare any defence and make contact with any witnesses.



6.1 If an investigation is necessary it will normally be carried out by the manager. Where this would not be appropriate, the Quality Assurance Manager, in consultation with the Head of Alpha, will appoint another manager to carry it out. The investigation will include an interview with the employee, any witnesses and others as necessary, as well as the examination of any documentation. The investigation will include reference to previous relevant history. The investigator will write a report detailing the findings and, should they consider that there is a case to answer, a formal hearing will be arranged.

## **7 Formal hearing**

7.1 Where the facts of a case appear to call for formal action a hearing will be called as soon as possible. The hearing should comprise a panel of at least two people advised by the manager. Where possible there should be a gender balance. The investigator will attend to present their findings.

7.2 The employee shall be informed by letter giving notice that a hearing is to be held. The employee may request an alternative date to allow up to an additional five working days to prepare their case or if the representative is unavailable. and shall constitute an instruction to the employee to attend the hearing. It is the responsibility of each party to arrange for the attendance of any witnesses. The panel must be informed in advance of who will be attending.

7.3 The letter shall inform the employee of:

- the reasons for the hearing
- the date, time and location of the hearing their right to be represented or accompanied
- that the hearing provides an opportunity for the employee to respond to the allegations but that it will be held in their absence unless a reasonable explanation of failure to attend is given
- the possible consequences of the hearing

## **8 Formal action**

8.1 Formal action may only be taken after a hearing 8.2 Warnings will remain in force for six months for an oral warning and up to 12 months for written and final written warnings, but will remain part of the formal record.

8.3 Warnings will cease to be 'live' following the specified period of satisfactory conduct purposes. There may, however, be occasions where an employee's conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse, the employee's record should be borne in mind in deciding how long any current warning should last. Exceptionally there may be circumstances where the misconduct is so serious – verging on gross misconduct – that it cannot realistically be disregarded for future disciplinary purposes. In such circumstances it should be made very clear that the final written warning will remain in force indefinitely and that any recurrence will lead to dismissal.



8.4 Where, as the result of the formal hearing, the panel consider that the offence warrants formal action, the contents of this warning shall:

- set out the particulars of the shortcomings of the employee
- give the nature of the formal action and state that the facts will be entered on their personal record
- set out any support to be made available to the employee to assist them in improving their conduct
- outline the nature of further action if there is no improvement on the part of the employee so that the employee will be in no doubt that if their shortcomings are not corrected, further action, which could be dismissal, may follow
- give details of their right to appeal
- be handed to the employee whenever possible or posted directly by recorded delivery to the employee within three working days of the hearing and to the employee's representative, where applicable.

8.5 Following a hearing Alpha has the right to dismiss without notice, an employee who has been found guilty of gross misconduct. Examples of the kind of behaviour which could constitute gross misconduct include:

- theft, misappropriation, misuse or unauthorised use of Alpha premises or property
- fraud, deceit, deception or dishonesty including falsification of Alpha records
- a serious breach of agreed Alpha policy/procedures
- violent, offensive or other intimidating conduct or language
- sexual, racial or other unlawful harassment, for example, on grounds of sexual orientation, religious belief or disability
- incapacity at work through the use of alcohol or drugs
- conduct that constitutes a criminal offence, whether committed on Alpha premises or elsewhere
- inappropriate use of the internet, telephone or email, for example access to pornography (see Communications policy)
- action likely to cause injury or impair safety
- failure to respect confidentiality of information
- undertaking work detrimental to or in conflict with Alpha interests
- failure to comply with a reasonable instruction
- misconduct so incompatible with the employee's duties and responsibilities that their continued presence within the organisation is insupportable.
- This list is not exhaustive.

## **9 Right of appeal**

9.1 An employee has the right of appeal against formal action, including dismissal.

9.2 Should an employee wish to appeal they must do so, in writing, to the appropriate manager within five working days of being informed in writing of the formal action.

9.3 A request for an appeal must specify the grounds of the appeal, preferably under one or more of the following headings:

- the severity of the action.
- the finding of the hearing on a point of fact which is pertinent to the decision of the hearing.



- a failure to adhere to the published procedure.

9.4 A member of the original panel will attend to present their findings and reasons for their decision.

9.5 Witnesses may be called by either party.

9.6 The panel will consist of a manager as detailed in paragraph 8.1 and another manager, and be advised by a member of HR. The format of the appeal hearing will depend upon the nature of the appeal. 9.7 The panel will hear all or part of the previous hearing depending upon the nature of the appeal. The panel has the scope to:

- uphold all or part of the previous decision
- substitute previous action for some other within the scope of the procedure
- not uphold the previous decision.

9.8 Within three working days of the appeal the panel will record the decision and hand it to the employee whenever possible or post it directly by recorded delivery to the employee with a copy to the employee's representative, where applicable.

9.9 The decision of the appeal panel is final.

### **Format of the disciplinary hearing**

1 The panel shall be responsible for the proper conduct of the hearing, which shall be conducted on a formal basis.

2 The Chair of the panel will conduct the introductions of those present and clarify any witnesses that may be called by either party or the panel. The Chair of the panel will state the reasons for the hearing and ask the employee whether he or she wishes to contest to the allegations as presented in the letter calling the hearing.

### **Admission of allegation**

3 Should the employee not wish to contest the allegations then the employee or their representative may present any mitigating circumstances to be considered by the panel. The investigator shall have the opportunity to comment upon the mitigating circumstances on points of fact.

4 The panel shall then consider the allegation(s), any mitigating circumstances and any previous warnings before making a decision.

### **Dispute of allegation**

5 Should, the employee wish to contest the allegations the panel shall order the proceedings as follows:

- present their findings, allowing the employee and/or representative to ask questions after the presentation has been completed. The investigator may call witnesses or refer to documents previously circulated and necessary for the hearing. Witnesses may be questioned by all parties.



- ask the employee and/or representative to respond to the findings of the investigator, giving the investigator similar opportunity for questions. The employee may call witnesses or refer to documents previously circulated and necessary for the hearing.
- the panel may ask questions on points of clarification at any time. Otherwise questions shall be put to each party after it has presented its case.
- if either party wishes to present evidence not previously circulated the hearing may be adjourned to allow the other side to consider it.
- allow the investigator and then the employee the opportunity to sum up their findings/cases. Neither party may introduce new matters in their summing up.

6 The panel adjourns to consider their decision including any mitigating circumstances. The decision shall be given as soon as possible after the hearing but, in any case, within three working days of the hearing.

7 The precise nature of any action shall be clearly stated as well as the likely consequences of a further occurrence or failure to improve.

8 At the same time the employee shall be advised of their right to appeal against the decision.

**Annex 2: Guidance for appeal documentation**

<b>Employee</b>	<b>Management</b>
<p>1 Grounds of appeal</p> <p>2 Case statement which should include as appropriate:</p> <ul style="list-style-type: none"> <li>• introduction explaining the reasons for appealing and why they consider the action harsh or unwarranted</li> <li>• summary of case</li> <li>• outcome sought</li> <li>• appendices.</li> </ul>	<p>1 Response to grounds of appeal</p> <p>2 Case statement which should include as appropriate:</p> <ul style="list-style-type: none"> <li>• introduction, background to the case, processes followed on calling the original hearing, how the decision was arrived at, any other warnings taken into account, rationale for the decision and any mitigation taken into account</li> <li>• summary of case</li> <li>• recommendations</li> </ul>