### **EXAMPLE**

### **Disciplinary and Formal Proceedings Policy**

#### **Purpose**

This policy outlines the procedures the company follows to address employee misconduct, performance issues, and breaches of company policies. It provides a clear, fair, and consistent process for managing disciplinary matters while ensuring compliance with UK employment law. The objective is to uphold standards of conduct and performance and ensure all employees understand the process in the event of disciplinary action.

#### **Scope**

This policy applies to all employees within the company, covering issues related to conduct, capability, and attendance, as well as any breaches of company policies and procedures.

### **1. Legal Framework**

This policy operates in line with the following UK laws:

* **Employment Rights Act 1996**
* **Equality Act 2010**
* **Data Protection Act 2018**
* **ACAS Code of Practice on Disciplinary and Grievance Procedures**

### **2. Types of Misconduct**

* **Misconduct**: Includes actions that fall short of company standards but do not warrant dismissal. Examples include persistent lateness, failure to follow procedures, or unauthorised absence.
* **Gross Misconduct**: Refers to serious breaches of conduct that could result in dismissal without notice (summary dismissal). Examples include theft, fraud, physical violence, gross negligence, or serious breaches of health and safety.

### **3. Informal Resolution**

In cases of minor misconduct or performance issues, line managers may attempt to resolve matters informally through discussions with the employee. The objective is to provide guidance and set expectations for improvement. While informal actions are not disciplinary, the conversation may be documented for reference if future issues arise.

### **4. Formal Disciplinary Procedure**

#### **Step 1: Investigation**

* When a formal disciplinary issue arises, an impartial investigation will be conducted to gather the facts. This may involve interviewing the employee, collecting relevant documents, and obtaining witness statements where applicable.
* The employee may be suspended with full pay during the investigation if deemed necessary. Suspension is a neutral act and does not imply guilt.
* The investigation will be carried out promptly to ensure that any formal action taken is fair and based on the available evidence.

#### **Step 2: Notification of Disciplinary Hearing**

* If it is determined that formal disciplinary action may be necessary, the employee will receive written notification outlining the specific allegations, supporting evidence, and the date, time, and location of the disciplinary hearing.
* The employee will be given reasonable notice, typically at least [insert timeframe, e.g., 5 working days], to prepare for the hearing.
* The employee has the right to be accompanied by a colleague or a trade union representative, such as from **Unison**, during the hearing.

#### **Step 3: Disciplinary Hearing**

* A disciplinary hearing will be chaired by an impartial manager not involved in the investigation. The employee will have the opportunity to respond to the allegations, present evidence, and call witnesses if necessary.
* The employee’s representative, such as a colleague or trade union representative, may speak on their behalf or assist in presenting their case.
* After the hearing, the decision will be made based on the evidence provided during the investigation and hearing.

#### **Step 4: Disciplinary Outcomes**

* **No Action**: If the allegations are not upheld, no further action will be taken.
* **First Written Warning**: Issued for minor or first-time misconduct. This will remain on file for [insert timeframe, e.g., 6 months], after which it will be removed if no further issues arise.
* **Final Written Warning**: Issued for more serious or repeated misconduct. This will remain on file for [insert timeframe, e.g., 12 months].
* **Dismissal**: Dismissal may occur in cases of gross misconduct or repeated failure to improve following previous warnings. The dismissal can be:
1. **Summary Dismissal**: Immediate dismissal without notice for gross misconduct.
2. **Dismissal with Notice**: Dismissal with notice or pay in lieu of notice where the misconduct does not justify summary dismissal.

### **5. Support for Employees**

The company is committed to providing support throughout the disciplinary process to ensure employees are treated fairly. Employees have the right to be accompanied by a colleague or trade union representative, such as those from Unison, during any formal hearing or appeal. The representative may speak on behalf of the employee, advise them, and assist in presenting their case.

Where appropriate, employees will be given the opportunity to improve their performance or behaviour before formal disciplinary action is taken. This may include clear feedback, agreed improvement plans, and regular reviews to assess progress. The focus is on providing employees with a reasonable opportunity to correct issues where possible.

### **6. Appeals Process**

1. Employees have the right to appeal any disciplinary decision if they believe it was unfair or the outcome is disproportionate.
2. Appeals must be submitted in writing within [insert timeframe, e.g., 5 working days] of receiving the disciplinary outcome, stating the grounds for appeal (e.g., procedural errors, new evidence, or the severity of the decision).
3. An appeal hearing will be arranged, chaired by a senior manager or independent person not involved in the original decision. The employee has the right to be accompanied by a colleague or trade union representative at this hearing.
4. During the appeal hearing, the employee will have the opportunity to present their case, and any new evidence will be considered.
5. The outcome of the appeal will be communicated in writing. The decision made at the appeal hearing will be final.

### **7. Grievance Process**

If an employee believes they have been treated unfairly or that there has been a procedural error during the disciplinary process, they have the right to raise a grievance. The grievance procedure is separate from the disciplinary process and ensures that any concerns are thoroughly investigated.

**Grievance Procedure:**

* The employee should raise their grievance in writing to their line manager or HR, outlining the details of the issue.
* An impartial manager, not involved in the original disciplinary process, will be appointed to investigate the grievance.
* The employee will be invited to a grievance meeting where they can present their concerns and any supporting evidence.
* The outcome of the grievance will be communicated in writing. If the grievance is upheld, the appropriate corrective action will be taken.

If the employee is dissatisfied with the outcome of the grievance, they have the right to appeal the decision in writing within [insert timeframe, e.g., 5 working days]. A final review will be conducted, and the decision communicated in writing.

### **8. Confidentiality**

Confidentiality is critical throughout the disciplinary process. All information related to the investigation, hearings, and outcomes will be kept strictly confidential. Only those directly involved in the process will have access to the information. Disciplinary records will be kept securely in compliance with the **Data Protection Act 2018** and will not be shared outside the company without the employee’s consent unless legally required.

Disciplinary actions, including warnings, will be retained on the employee’s file for the specified duration (e.g., 6 or 12 months), after which they will be removed if no further misconduct occurs. Records will be accessible only by authorised personnel.

### **9. Record Keeping**

* A record of all formal disciplinary proceedings, including investigation findings, hearing minutes, and disciplinary outcomes, will be kept securely and confidentially in compliance with the **Data Protection Act 2018**.
* Disciplinary records will be retained for the duration of the warning and removed once the warning period expires, provided no further misconduct has occurred.

### **10. Equal Opportunities and Non-Discrimination**

The company is committed to ensuring that the disciplinary process is applied fairly and consistently to all employees, regardless of age, gender, race, disability, religion, sexual orientation, or any other protected characteristic under the **Equality Act 2010**. No employee will face discrimination during the disciplinary process, and all procedures will be carried out with fairness, respect, and impartiality.

*Monitoring and review: This policy will be monitored periodically to ensure compliance with current UK employment law and internal company procedures.*