

## Introduction

This procedure applies to all employees of ABCA Systems.

ABCA Systems expects satisfactory standards of behaviour, conduct and attendance from all its employees. The disciplinary procedure provides a framework for dealing with instances where employees are alleged not to have met the required standards of conduct. The aim is to ensure prompt, consistent and fair treatment for all employees and to assist in enabling both the employee and the Company to be clear about the expectations of both parties.

## Procedure

The following principles will apply to the application of this procedure:

- **Informal Resolution** – Line managers are responsible for addressing conduct and behaviour issues as early as possible and for taking appropriate action. Where appropriate, steps will be taken to resolve issues on an informal basis without recourse to the formal procedure.
- **Nature of allegations** – The employee against whom an allegation has been made shall be advised in writing of the nature of the allegations made against him/her and will be given the opportunity to state his/her case before any decision is made to take disciplinary action.
- **Suspension** - At any stage in the procedure, if appropriate, an employee may be suspended. Suspension is not a penalty and is not an indication of culpability, there is therefore a presumption that suspension will be on full pay. The decision to suspend will be taken by a Manager after consultation with HR.
- **Right to be accompanied** - All employees who are the subject of this procedure have the right to be accompanied at any formal meeting or disciplinary hearing held under the procedure by a trade union representative or work colleague.
- **Confidentiality** – All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process.
- **Involvement of Human Resources** – Human Resources will be consulted and will advise on suspension, investigation and the formal procedure.
- **Appeals against Sanctions including dismissal** - Sanctions or warnings issued as a result of procedures will remain in force pending the outcome of any appeal.
- **Timescales** - Whilst every endeavour will be made to comply with timescales, due to the complexity and or specific circumstances of cases, timescales may be extended. In such circumstances the employee will be advised of the reasons for any delay.

## INFORMAL PROCEDURE

It is part of the normal supervisory process that managers bring to the attention of the employees the standards required and any failure to meet those standards.

Cases of minor misconduct, (e.g. recurrent lateness) should be dealt with by the employee's line manager/immediate supervisor informally and without delay. The manager must speak to the employee, in private and should encourage them to conduct themselves in accordance with the required standards.

The purpose of these discussions is to ensure that the employee understands the nature of the concerns, expectations of improvements in conduct and where appropriate timescales and the nature of any support available.

The line manager should retain any note of these informal discussions or meetings ensuring that they are also shared with the employee, either by email or having the employee sign the notes. Following a satisfactory outcome to the use of the informal procedure, the matter will be considered resolved.

However, where an issue has been discussed with an employee informally and if:

- the issue has not been resolved and the problem persists
- the required improvements in conduct are not achieved
- further information becomes available during discussions which make the matter sufficiently serious the formal procedure should be invoked.

## **FORMAL PROCEDURE**

Where the informal process has not led to improved conduct, or where the alleged misconduct is of such seriousness that the manager considers informal action to be inappropriate, formal action will be initiated. Examples of misconduct are shown in Appendix A.

An investigation of the facts will be conducted to determine whether there is a disciplinary case to answer.

In some circumstances and Investigatory and disciplinary hearing may take place as one meeting, if it is deemed that all of the facts have already been gathered, if during the meeting this is not the case then the meeting can be adjourned until all of the facts are gathered.

Where an investigation indicates that there may have been an act of misconduct the employee will be required to attend a formal disciplinary hearing at which they shall be given the opportunity to respond and state their case.

## **INVESTIGATION**

Before a disciplinary hearing is convened there will normally be an investigation into the circumstances of the alleged misconduct. The purpose of the investigation is to:

- establish the nature of the allegations
- gather evidence to enable a decision to be taken on whether there is a disciplinary case to answer
- consider if the matter should proceed to a formal hearing

The employee will be informed promptly of any allegation and that an investigation to establish the facts will be undertaken. The investigation must be concluded as soon as reasonably possible whilst allowing sufficient time to interview relevant parties. Employees must be kept informed if there is any unexpected delay in the process.

Investigatory Interviews are part of the process to establish whether disciplinary action is warranted. As part of the investigation the employee who is the subject of the allegation will be asked to attend an investigatory interview at which they may be accompanied. The employee must inform the investigating manager of any facts or witnesses that they feel are relevant to the case. Where appropriate, witnesses will also be interviewed.

The outcomes of an investigation may be:

- There is no case to answer and therefore no disciplinary action is taken
- The matter is dealt with informally, if appropriate with support and or training to resolve the matter.
- Recommendation that there is a disciplinary case to answer and a disciplinary hearing should be arranged

## **DISCIPLINARY HEARING**

If following an investigation there is a recommendation that there is a disciplinary case to answer the employee will be given at least 48 hours' notice to attend a disciplinary hearing. The employee will be provided with details of the allegation(s) and an indication as to whether the alleged misconduct is considered as potentially a serious/gross misconduct case and therefore whether a sanction less than or up to, and including, dismissal may be considered. Prior to the hearing, any documentation that will be referred to in the hearing will be made available to the employee.

The manager conducting and hearing the case will consider all representations then decide if on the balance of probabilities, the allegation(s) are proven and if so what level of disciplinary sanction is appropriate.

The decision may be given verbally after adjourning the hearing and will in any event be conveyed or confirmed in writing as soon as practicable after the hearing. The correspondence shall also notify the employee of their right to appeal against any sanction. In the event that the decision is taken to dismiss the employee, the letter will include the reasons for dismissal and the date that their employment will terminate, together with details of any notice arrangements.

## **LEVELS OF WARNINGS**

There are three levels in the formal disciplinary procedure with sanctions dependent upon the gravity of the case and/or the on-going nature of the misconduct.

### ***Verbal Warning***

- This is usually given if there has been either a minor breach in conduct which remains unresolved by informal action, or a first more serious breach of discipline.
- The disciplinary sanction of a verbal warning will be retained on the employee's personal file, subject to satisfactory conduct and/or improvements for six months from the date the decision is confirmed.

### ***First Written Warning***

- If the employee does not meet the required standard of conduct following a verbal warning or commits any other act of misconduct during the timescale of an existing warning, a further formal disciplinary hearing may be convened.
- In some circumstances, where an alleged misconduct is sufficiently serious, it may be appropriate to progress straight to First Written Warning.
- The disciplinary hearing will be conducted following an investigation if appropriate
- The disciplinary sanction of a first written warning will be retained on the employee's personal file, subject to satisfactory conduct and or improvements for twelve months from the date the decision is confirmed.

### ***Final Written Warning***

If the employee does not meet the required standard of conduct following a verbal warning or commits any other act of misconduct during the timescale of an existing warning, a further formal disciplinary hearing may be convened.

- In some circumstances, where an alleged misconduct is sufficiently serious, it may be appropriate to progress straight to Final Written Warning.
- The disciplinary hearing will be conducted following an investigation if appropriate
- The disciplinary sanction of a final written warning will be retained on the employee's personal file, subject to satisfactory conduct and or improvements for twelve months from the date the decision is confirmed.

### ***Dismissal***

If allegations are raised which are so serious as to constitute gross misconduct, such as those in Appendix A, it will be appropriate to consider taking formal action which may result in dismissal.

It may also be appropriate to move to dismissal if an employee does not meet the required standard of conduct set out in the final written warning previously given that is still live on an employee's record's, or commits any other act of misconduct during the timescale of an existing warning.

If an investigation indicates that an act of further or gross misconduct may have occurred, the employee will be required to attend a formal disciplinary hearing.

The letter requiring attendance at the formal disciplinary hearing shall include a statement of the alleged misconduct and warn the employee that one consequence of the hearing may be the termination of their employment with or without notice.

The manager conducting and hearing case will consider all representations then decide if on the balance of probabilities, the allegation(s) are proved and if so what level of disciplinary sanction, including and up to dismissal, is appropriate. On the basis of the information presented that manager may decide:

- To dismiss the employee (without notice in the case of gross misconduct, \*summary dismissal)
- That there are insufficient grounds to dismiss the employee under this procedure;
- On the imposition, extension or renewal of a warning or final written warning issued under this procedure;
- To withhold an increment of salary
- To demote/downgrade an employee, which also result in a change in salary for that new role/position
- That matters should be considered under an alternative procedure.
- The above list is not exhaustive and the outcome may be varied according to the circumstances of the case.

## **Appeals**

### ***Appeals against warnings, sanctions or action less than dismissal***

The employee has the right to appeal against a decision to issue a warning or sanction, less than dismissal, under this procedure. Any appeal should be sent to the Director named on disciplinary letter within seven calendar days of the employee receiving the written decision. The appeal must state the grounds for appeal.

The appeal will be heard by a manager that is senior, where possible, to the manager who has made the decision to issue a sanction and who has had no prior involvement in the case. The appeal hearing will be a review of the decision to issue a sanction under the disciplinary procedure. The person conducting and hearing the appeal may decide to revoke the original decision, reduce the sanction, or uphold the sanction. The appeal decision is final and the employee will not have any further right to appeal. The decision may be given verbally at the appeal hearing and will in any event be conveyed or confirmed in writing as soon as practicable after the hearing.

### ***Appeals against Dismissal***

The employee has the right of appeal against a decision to terminate their employment under this procedure. Any appeal should be sent to the Director detailed on the dismissal letter within seven days of the employee receiving the written decision to dismiss. The appeal must state the grounds for appeal.

The appeal will be heard by a Director of the business alongside the HR Manager.

The decision may be given verbally at the appeal hearing and will in any event be conveyed or confirmed in writing as soon as practicable after the hearing.

The decision following the appeal shall be final and there will be no further right of appeal.

This procedure will be reviewed periodically to ensure compliance with changes in employment law and equality

and diversity legislation.

## **Appendix A: Examples of misconduct/gross misconduct**

### **Examples of misconduct**

Unsatisfactory attendance at work e.g. unauthorised, unreported absence or persistent lateness

Misuse of internet, email and other company equipment and property

Refusing or failure to carry out a reasonable management instruction

Failure to comply with agreed working practices or rules.

Failure to take reasonable care of ABCA property or using it for personal use without necessary authorisation

Conduct likely to give offence to colleagues, customers or clients.

Persistent offences of misconduct may lead to the termination of employment.

Any misconduct of a sufficiently serious nature may be deemed to be gross misconduct and dealt with accordingly.

Examples of behaviour that may constitute gross misconduct are shown below. Again these examples are not exhaustive.

### **Examples of gross misconduct**

Disorderly or indecent conduct, fighting or threatening behaviour/language

Refusing or failure to carry out a reasonable management instruction

Breach of Confidence – serious and/or persistent breaches of confidence

Persistent or prolonged unauthorised absence

Dishonesty – Theft, fraud or falsification of records

Unlawful Discrimination – intentional unlawful discrimination or serious bullying and harassment of an employee

Neglect or, deliberate damage to, company/customer/colleague's property.

Attending work under the influence of alcohol or drugs

Unauthorised use, or disclosure of confidential information

Disregarding company and/or site health and safety regulations

**\*Summary dismissal** is dismissal for gross misconduct which takes immediate effect and there is no notice period or pay in lieu of notice given as a result of the dismissal.