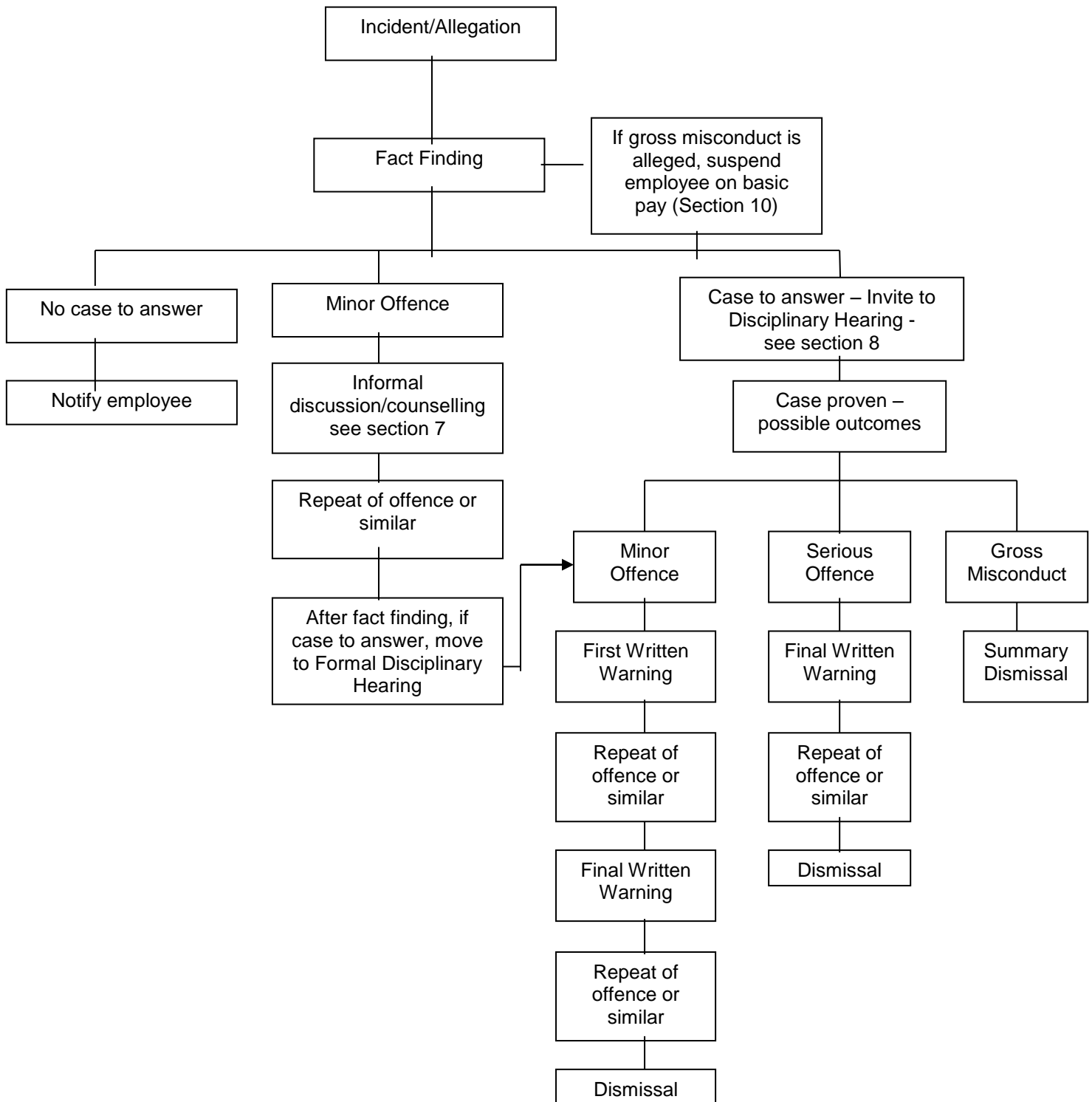


DISCIPLINE

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1. Discipline Procedure



2. PURPOSE

To establish a clear procedure, in compliance with current legislation and ACAS Codes of Practice, that will ensure fair and consistent treatment of employees when formal action, which is reasonable in all the circumstances, becomes necessary.

If an employee breaks the rules this may be termed as misconduct and the procedures within this should be followed.

If an employee does not meet expectations in the way they perform their job this will usually be termed as poor performance/capability and the Capability (Performance) policy should be referred to.

In cases of poor attendance refer to the Attendance at Work Policy.

3. SCOPE

All established and temporary employees working under a contract of employment with the Company.

4. POLICY STATEMENT

The Company believes that most employees are motivated more by their responsibilities and involvement than by any fear of formal action. We also believe that the majority of employees fully accept the need for our standards and Code of Conduct and do not find any difficulty in abiding by them. However, there are some employees who do fail to achieve the required standards of work or conduct. In these cases appropriate informal and/or formal action will be taken in a fair, consistent and reasonable manner through the use of the Company's Formal Disciplinary Procedure.

The maintenance of discipline is the responsibility of managerial staff at all levels. If minor disciplinary offences are overlooked, an opportunity to redirect an employee's attitude or behaviour may be lost. Additionally, overlooking an opportunity at an early stage may result in the situation escalating, leading to the need for more serious action later.

For minor incidents/irregularities the company supports managers giving suitable advice to employees regarding future conduct or behaviour prior to any informal or formal action.

5. DISCIPLINE STANDARD

Our customers are entitled to expect the highest standards of conduct from employees, and the Company has an obligation to inform its employees of the standards of conduct which are expected of them.

The Company's Code of Conduct contains a number of rules and provisions that are an indication of the standards of behaviour that the Company expects of its employees. Employees are required to observe the rules and provisions set out in the Code of Conduct, and anyone who fails to observe these may be liable to disciplinary action.

Breaches of these rules might be regarded as gross misconduct, as the seriousness of the disciplinary offence determines whether the misconduct is gross and depends on the facts. In cases of gross misconduct, the formal disciplinary procedure will be used immediately and may, following a full investigation, lead to dismissal without notice.

The Code of Conduct will be provided to all new Employee's at their Induction and is available to all employee's on the Company's Intranet, or from their Manager upon request.

Examples of what actions may constitute gross misconduct can be found on page 18 of the Code of Conduct.

6. FACT FINDING

Prior to a disciplinary hearing being held, a fact finding investigation into the circumstances of the incident and/or allegations(s) should be conducted by a suitable manager. In cases of harassment please refer to the Harassment Policy.

The purpose of the fact finding will be to establish all of the facts surrounding the incident and/or allegation.

All witnesses to the facts of the case should be interviewed and notes taken. They must be informed that any signed statement they make may be provided to the employee accused of the offence if disciplinary action is taken.

The employee concerned should also be interviewed in order that the facts, from their point of view, can be considered. They should be informed that the purpose of the meeting is to gather the facts and then make a decision as to whether any action is necessary. Any employee who refuses to co-operate, will be informed that the Company has no other option than to proceed with the fact finding and, if necessary, any disciplinary action, having taken a decision based on such facts that are available to the managers concerned.

Provided the fact finding meeting is confined solely to ascertaining facts there is NO statutory right to be accompanied. However, where an employee has been suspended prior to fact finding or where it becomes clear during fact finding that there appears to be an incident of gross misconduct the employee may be accompanied at any meetings to establish the facts. The companion cannot, however, speak on behalf of the employee. In cases of misconduct the employee may request to be accompanied and managers will consider this request with the APM/APO. This may only be granted where there is a local representative or colleague available to attend the scheduled meeting.

The manager establishing the facts may be advised by a member of Human Resources or by an appropriate specialist from within the Company.

The manager will collect all of the facts based on the witness statements/interviews, the employee's statement/interview and any supporting documentary evidence and then will decide how to proceed. The manager's decision at this point is concerned

solely with whether or not there is a case to answer which is sufficient in seriousness to warrant a disciplinary hearing to be held.

Where a disciplinary hearing is considered necessary the manager must decide whether the offence committed is one of gross misconduct or misconduct and follow the Formal Disciplinary Procedure detailed in section 8 below.

The manager should notify the Area Personnel Manager, who may assist in finding a suitable manager, where possible from a different location and/or department, to chair the formal disciplinary hearing.

Where there is insufficient evidence the manager will:

Either

- ◆ Discuss the matter with the employee informally as detailed in Section 7, or
- ◆ Advise the employee that no further action will be taken.

Where an employee, charged with or convicted of a criminal offence, refuses or is unable to cooperate with the Company's disciplinary procedures, the manager should continue to proceed with the fact finding. The employee should be advised in writing that unless further information is provided, a disciplinary decision will be taken on the basis of the information available and could result in dismissal.

7. COUNSELLING AND INFORMAL DISCUSSIONS

The maintenance of discipline and good working practices does not necessarily require the use of formal procedures, provided the local manager does not delay in speaking to the employee.

Counselling or informal discussions may be a more satisfactory method of resolving problems than formal action. The objective of any such informal discussion is to help the employee improve. Therefore, it is important to cover the following points at the informal meeting:

- ◆ make the employee aware of how and why their conduct is causing a problem, or the precise way in which the employee's behaviour has fallen short of what is required; and
- ◆ establish the reason for the particular conduct or behaviour; and
- ◆ seek agreement on how to ensure that the misconduct or inappropriate behaviour does not continue or recur; and
- ◆ consider whether any training or coaching may be necessary.

Managers should retain a note of the informal discussions and any agreed actions on the employee's personal file and give a copy to the employee.

Any informal meeting must be conducted in an appropriate place and manner. The meeting should be held in either an office or in an area that will allow discussions to take place confidentially.

As this meeting is of a purely informal nature, there is NO statutory right to be accompanied.

Counselling or informal discussions should normally be given unless the offence is repeated or serious enough to warrant use of the Formal Disciplinary Procedure.

8. FORMAL DISCIPLINARY PROCEDURE

If there is a further incident of a similar nature following the informal advice or if the offence warrants more serious action then the formal disciplinary procedures should be immediately invoked following fact finding.

8.1 Employees Attending a Formal Disciplinary Hearing

The employee will be instructed to attend a disciplinary hearing arranged by the fact finding manager. The instruction to attend the hearing will be confirmed in writing. (Appendix I may be utilised for this purpose). Whenever practicable at least 7 calendar days notice of the hearing will be given. When organising the hearing every effort should be made to arrange a date and time that is suitable for all those concerned.

The employee will have the right to be represented at the hearing as detailed in section 14. If the employee is being represented, they must give prior notification of who their companion/representative will be, so that the Company can arrange their release from work. The employee may request a postponement of the hearing of up to five working days to enable their companion/representative to attend the hearing.

The chosen companion/representative may contact the manager direct to request a copy of the disciplinary pack and agree where the pack should be sent or collected from.

The manager chairing the hearing will be accompanied by a note taker.

Full details of the alleged offence or issue which is the subject of the hearing and any witness statements being relied upon should, where possible, be sent to the employee with the instruction to attend the hearing. Any documentation not sent should follow at least 48 hours in advance of the hearing.

Copies of any statements or evidence, which will be used by the employee, should be sent to the manager chairing the hearing, at least 24 hours prior to the hearing taking place.

No formal disciplinary action will normally be taken against an employee who is 'an accredited trades union representative', until the circumstances of the case have been discussed with a full-time official of the union. If no full-time official is available for discussion, a written notification will be sent to the

headquarters of the union at least seven days before the disciplinary hearing takes place.

8.2 Employees Attending a Formal Disciplinary Hearing - Gross Misconduct

Where gross misconduct is alleged or where an employee has received a Final Written Warning and there has now been a further similar instance, the employee must be informed that any future employment with the Company will be subject to the outcome of the hearing.

The arrangements for a gross misconduct hearing will be the same as detailed in 8.1 except for the following:

- ◆ The employee must be informed that any future employment with the company will be subject to the outcome of the hearing.
- ◆ Appendix II may be utilised for instructing the employee to attend the disciplinary hearing.
- ◆ At least 5 working days notice of the hearing will be given.
- ◆ A Human Resources Manager may also attend the hearing in an advisory capacity.
- ◆ Any documentation not sent with the instruction to attend the hearing should follow at least 48 hours in advance of the hearing.

8.3 Formal Disciplinary Hearing

At the hearing the procedure will be as follows:

- ◆ the manager chairing the hearing will open the hearing by explaining the reasons why the hearing has been arranged and detailing the incident, allegation or alleged failure to meet the required standards;
- ◆ the employee/companion/representative will then be given the opportunity to respond to the allegations;
- ◆ the detail of the employee's/companion's/representative's response will then be discussed, the manager will ask questions to ensure that they have a full understanding of the employee's case or until the full content of their response has been clarified;
- ◆ where the witness statement(s) are challenged to an extent which requires further questioning of the witness, the manager chairing the hearing may adjourn the hearing to enable further clarification to be obtained. The employee will be informed of the period of any adjournment and if further information is gathered, the employee will be given a reasonable period of time to consider the new information prior to reconvening the hearing;

- ◆ once all the evidence has been heard the hearing will then be adjourned for a time whilst the manager considers the evidence and decides what action is appropriate, there should be no undue delay;
- ◆ the hearing will be reconvened and the employee will be informed as to what action as detailed in Section 9, if any, is being taken and the appeals procedure will be explained;

The outcome of the hearing will be confirmed to the employee in writing using the Written Confirmation of Hearing Form (see Appendix III). This will normally be completed by the manager during the adjournment and handed to the employee at the hearing. A copy of this and notes of the discussion at the hearing will be retained on the employee's file. Normally this documentation will stay in the file but the warning will be disregarded after a period of time as detailed in Section 9.

8.4 Failure to Attend a Disciplinary Hearing

Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day. Confirmation of the rearranged hearing will be sent in writing, which should also state that a decision may be made in their absence if they do not attend.

9. DISCIPLINARY PENALTIES

The manager chairing the hearing may impose one or more of the following penalties; however dismissal should be regarded as a last resort:

- ◆ Written Warning – remain on file for 12 months
- ◆ Final Written Warning – remain on file for 24 months
- ◆ Suspension from work without pay for such period as the Company thinks fit in the circumstances subject to a maximum of 2 weeks
- ◆ Transfer to another post or place of employment which may or may not involve a reduction in grade and salary
- ◆ Removal of Driver Instructor payment
- ◆ Withdrawal/curtailment of travel facilities (only related to travel offences)
- ◆ Dismissal with due notice
- ◆ Summary dismissal

The manager chairing the hearing may consider that the above penalties are not suitable and that an informal discussion as detailed in Section 7 will be more appropriate.

A Written Warning may be necessary where:

- ◆ this is the first time the employee has been referred to a disciplinary hearing and the matter is not sufficiently serious to warrant a final written warning or dismissal, or
- ◆ there has been a repetition of an offence but it is not yet considered serious enough to warrant a final written warning

Where a Written Warning is issued it will specify that if conduct does not sufficiently improve or there is a further instance of a similar nature within the specified time scale, then a further disciplinary hearing will be arranged.

A Final Written Warning may be necessary where:

- ◆ there is a repeat of the issue for which a Written Warning was given, or
- ◆ the offence is regarded as a serious offence, but does not warrant dismissal, or
- ◆ there is a failure to respond to the previous warning

Where a Final Written Warning is issued the employee will be informed that if their conduct does not improve and/or there is a further similar instance, then a further disciplinary hearing will be arranged and they could be dismissed from the Company's employment. Conduct will be expected to improve to an acceptable standard within the specified time scale.

Dismissal may be warranted where:

- ◆ there is a failure to respond to the previous warning(s) or
- ◆ there is gross misconduct

Dismissal for gross misconduct will normally be summary (no notice period). All other dismissals will be with payment of notice.

9.1 Consistency in Imposing Disciplinary Penalties

Consistency in dealing with disciplinary matters and imposing disciplinary penalties is an important element of the fair and effective handling of discipline. However, consistency does not require the manager chairing the disciplinary hearing to automatically impose the same disciplinary penalty every time a particular rule is broken. Even if the type of misconduct is the same, there may be distinguishing features between one employee's actions and another's. Features that might make it reasonable to impose different disciplinary penalties include:

- ◆ the length of service and general record of the employees;
- ◆ any mitigating factors;
- ◆ the degree of accountability for the negligent act in question;

- ◆ how the employee responded to the allegations and interviews, for example whether they admitted the offence and apologised, or tried to deny or conceal it.

10. SUSPENSION

An employee may be suspended on basic pay where gross misconduct/negligence is alleged, whilst the fact finding takes place to establish whether any action is to be taken.

Suspension may be authorised by an employee's manager and should be for the shortest practicable time, in order for the investigation to be completed. The period of suspension should be kept under review and the employee informed of progress. An employee's suspension will always be confirmed in writing by the manager.

If during the fact finding it becomes apparent that the alleged incident is not as serious as it was first reported it may be appropriate for the employee to return to work prior to disciplinary action, if any, being taken.

Where an employee was not suspended initially and the fact finding leads the manager to believe that the incident was more serious than first alleged, the employee may be suspended at anytime whilst the fact finding is in progress.

In cases where an employee has been suspended and it is found that there is no case to answer they will be entitled to receive rostered or average earnings, whichever is the greater for the period of suspension.

Where it is practicable, subject to licences and practices, the employee may be required to work in an appropriate alternative position, as an alternative to suspension.

11. NEW ENTRANT EMPLOYEES

New entrant employees, during their first six months, may be given immediate notice of the termination of their contract by their manager, in the following circumstances:

- ◆ Failure to achieve the required standards;
- ◆ Unsatisfactory job performance despite advice/guidance;
- ◆ Poor attendance;
- ◆ Unsatisfactory references have been obtained:

Employees will, however, be entitled to representation at any interviews where termination of employment is discussed. Refer to the company's probationary arrangements for more details.

New entrant employees must be referred to a formal disciplinary hearing in cases of misrepresentation of previous experience, qualifications or other relevant information required upon application for employment or where misconduct occurs.

12. APPEAL

Any employee who is dissatisfied with the outcome at any Formal Disciplinary Hearing may appeal to the manager chairing the disciplinary hearing.

The appeal must be made in writing within seven calendar days of the decision being communicated in writing to the employee and should clearly state the basis on which the appeal is to be made.

The employee will be asked to attend a hearing to consider the appeal. This invitation will be confirmed in writing (Appendix IV).

At the hearing the employee has the right to be represented as detailed in Section 14. The meeting may be postponed by up to five working days to enable the employee's chosen companion/representative to attend.

The appeal meeting will be chaired by the appropriate senior manager and a note taker will be present. The manager will not have been previously involved with the case.

The outcome of the hearing will be confirmed to the employee in writing using the Written Confirmation of Appeal Hearing Form. This will normally be completed by the senior manager during the adjournment and handed to the employee at the hearing. A copy of this and notes of the discussion at the hearing will be retained on the employee's file and a copy sent to the employee.

The decision will be final.

Where at appeal a dismissal decision is upheld, the dismissal date will be as determined at the disciplinary hearing. In the event that the decision is revoked at the appeal hearing, reinstatement or, in exceptional circumstances, re-engagement will apply.

An HR Manager will be available, if required, to give any assistance to the Appeal Manager. The HR Manager will not have been previously involved in the case.

13. WITNESSES

Where witness statements are to be used, copies must be provided to the other party, as detailed in Section 8.

The employee may call a witness where they can demonstrate to the Manager's satisfaction, that the witness can contribute to establishing the material facts of the case that are not already contained within the statements obtained. Character witnesses are not permitted.

14. COMPANION/REPRESENTATIVE

The person chosen by the employee as their "companion/representative" may be either:

- ◆ A fellow employee; or

- ◆ A full-time official employed by a trade union; or
- ◆ a lay trade union official, as long as they are certified as having experience of, or having received training in, acting as a companion/representative at such a hearing.

Appendix VI may be provided to a companion in order to assist in explaining their role of accompanying the employee during a fact finding meeting where gross misconduct is concerned.

Appendix VII may be provided to those companions/representatives who are representing an employee at a disciplinary hearing.

The Company reserves the right to refuse to accept an individual's choice of companion/representative where their presence would prejudice the hearing.

The Human Resources department must be consulted with regard to any queries or concerns over any particular companion/representative.

15. EQUAL OPPORTUNITIES MONITORING

The Human Resources department will collate details such as the race, gender, age and disabled status of all employees receiving a formal warning, other disciplinary sanction or who are dismissed by the Company. This information will be kept confidentially by Human Resources and will be used for no other purpose than to enable the Company to fulfil its obligations for monitoring equal opportunities.

16. RESPONSIBILITY

All those persons referred to within the Scope of this policy are required to:

- ◆ carry out their duties in a professional manner at all times, acting honestly and in good faith
- ◆ be familiar with the terms of this policy, their conditions of employment and the code of conduct
- ◆ fully cooperate with investigations and disciplinary proceedings when necessary.

Individual managers are required to keep within the spirit and intent of this policy as far as possible within their own area. Any queries on the application or interpretation of this policy must be discussed with the Human Resources department prior to any action being taken.

The Human Resources department has the responsibility for ensuring the maintenance, regular review and updating of this policy. Revisions, amendments or alterations to the policy can only be implemented following consideration and agreement by the Human Resources Director and the Trades Unions and will be notified to all employees prior to implementation in accordance with agreed bargaining procedures.

APPENDIX I INSTRUCTION TO ATTEND A FORMAL DISCIPLINARY HEARING

NOTE: This letter must be sent/given to the individual so that they receive it, whenever practicable, at least seven calendar days ahead of the hearing. If handing it to the individual this should be at the end of his/her shift. Witness statements should be sent with this letter, or follow at least 48 hours' prior to the hearing.

Dear < > ,

Formal Disciplinary Hearing

Further to our conversation I confirm that you are required to attend a formal disciplinary hearing, regarding:

< **give full details of the alleged offence** >.

This has been arranged to take place in < **Manager's** > office at < **time** > hours on < **date** >.

You may ask a fellow employee or a trade union representative to represent you at the hearing. < **Name of chairperson**> will chair the hearing with a note taker in attendance.

You must notify me as soon as possible, but at least 72 hours prior to the hearing giving details as to who will be your companion/representative (who may represent you at the hearing) so that I can arrange their release from work. It is your responsibility to ensure your chosen companion/representative is willing to represent you and has a copy of all the paperwork given to you in relation to this hearing.

Copies of your evidence or witness statements that you will be using during the hearing should be sent to me 24 hours prior to the hearing.

If you have any queries regarding the above arrangements please contact me immediately.

Full details of the Disciplinary Policy and Procedure are available from your Line Manager on request.

Yours sincerely,

APPENDIX III WRITTEN CONFIRMATION OF HEARING FORM

Employee Name: _____ Department: _____

Grade: _____ Date of Hearing: _____

Those present at Hearing: _____

Reason for Hearing: (This should mirror the reasons detailed in the Instruction to Attend the Hearing)

Summary: (reasons for decision, points taken into account)

Decision: (include any action(s) that the employee should take to rectify conduct, if appropriate, how long any warning will remain in place and what will happen if there is a further instance)

Managers Signature: _____ **Date:** _____

Details of Appeal

I wish / do not wish to Appeal against the decision

The appeal should go to the manager who chaired the disciplinary hearing

Reasons for the appeal:

The appeal must be submitted within seven days from the date of the hearing.

Employees Signature: _____ **Date:** _____

A copy of this form must be given to the employee

APPENDIX IV INVITATION TO ATTEND AN APPEAL HEARING

NOTE: This letter must be sent/given to the individual so that they receive it at least three working days ahead of the hearing.

Dear < > ,

Appeal Hearing

Further to your letter of appeal of < **date of appeal letter** > I am writing to invite you to attend an appeal hearing. This has been arranged to take place in < **Manager's** > office at < **time** > hours on < **date** >.

You may ask a fellow employee or a trade union representative to represent you at the hearing. I will chair the hearing with a note taker in attendance.

You must notify me 24 hours prior to the hearing giving details as to who will be your companion/representative so that I can arrange their release from work.

Copies of any evidence or additional witness statements that you will be using during the hearing must be sent to me 24 hours prior to the hearing.

If you have any queries regarding the above arrangements please contact me immediately.

Yours sincerely,

APPENDIX V WRITTEN CONFIRMATION OF APPEAL HEARING

Employee Name: _____ Department: _____

Grade: _____ Date of Hearing: _____

Those present at Hearing: _____

Reason for Appeal:

Outcome of Appeal:

Managers Signature: _____ **Date:** _____

APPENDIX VI**THE ROLE OF THE COMPANION/REPRESENTATIVE AT A FACT FINDING MEETING IS TO 'ACCOMPANY' THE EMPLOYEE**

This document is to help you if you have been asked to act as a companion at a fact finding meeting. It sets out what you can and cannot do and what your overall role is. If you have any more questions please contact Human Resources.

Do I have a duty to accept a request to act as a companion?

No, you do not have to accept a request to accompany a colleague. No pressure should be placed on you to attend and you do not have to give a reason for your decision not to attend. You should think carefully before accepting any request to act as a companion as it is an important role and must be taken seriously.

However, do not be put off from acting as a companion through any fear of the perception the Company may have of you as a result of your acceptance of this role. Acceptance or refusal of any request will not reflect personally on you.

What is my role as a companion?

Your main role as a companion is to support the employee whom you are accompanying. Employees should answer any questions asked by the manager holding the meeting.

Will I get paid for the time off?

If you choose to accept the request to act as a companion you are entitled to ask for a reasonable amount of paid time off in order to complete these duties. Please refer to Human Resources if you have any queries.

APPENDIX VII**THE ROLE OF THE COMPANION/REPRESENTATIVE AT A FORMAL DISCIPLINARY HEARING IS TO 'REPRESENT' THE EMPLOYEE**

This document is to help you if you have been asked to act as a representative at a formal disciplinary hearing. It sets out what you can and cannot do and what your overall role is. If you have any more questions please contact Human Resources.

Do I have a duty to accept a request to act as a companion/representative?

No, you do not have to accept a request to represent a colleague at one of these hearings. No pressure should be placed on you to attend and you do not have to give a reason for your decision not to attend. You should think carefully before accepting any request to act as a representative as it is an important role and must be taken seriously.

However, do not be put off from acting as a representative through any fear of the perception the Company may have of you as a result of your acceptance of this role. Acceptance or refusal of any request will not reflect personally on you.

What is my role as a companion/representative?

Your main role is to help put forward the case on behalf of the employee whom you are representing. You can ask and answer questions on behalf of the employee, although should not put words in the employee's mouth. The employee still has the right to speak for him/herself during the meeting in addition to the representations you may make on his/her behalf. If witnesses attend the hearing you can ask them questions in connection with their evidence. You can also ask questions to increase your knowledge and understanding of the issues being discussed. During the hearing you are allowed to ask for a short adjournment to confer with the employee to discuss any particular aspects of the case being considered. You may also ask to address the hearing if you so wish.

Do I have to have legal knowledge and expertise?

You do not have to know the law but you should be familiar with the facts of the particular case. You should get together with your colleague before the hearing to discuss the issues being considered at the hearing so that you are fully informed and to agree what you are going to say on his/her behalf. If you want any additional information before the hearing please contact Human Resources.

Will I get paid for the time off?

You will be given the time not only to attend the hearing, but also reasonable time to familiarise yourself with the case, to prepare for it and to confer with the employee before and after the hearing. If you choose to accept the request to represent an employee you are entitled to ask for a reasonable amount of paid time off in order to complete these duties. In normal circumstances, where attending a disciplinary hearing to represent an employee, you will be released for the day at full pay. Please refer to Human Resources if you have any queries.