**Introduction**

It is the expectation of **COMPANY** to provide a work environment that is respectful, ethical and in adherence to the normal behaviours expected in a professional environment. Unfortunately the company is required to formally address breaches of these principles and this policy outlines the process for formally resolving such matters.

**Purpose**

The purpose of this policy is to outline the company’s process for addressing disciplinary matters in a fair and consistent manner.

**Scope**

This policy applies to all employees of **COMPANY** who has completed the contractual probation period**.**

**Principles of Natural Justice**

The Principles of Natural Justice are guidelines for conducting a formal Disciplinary procedure.

* Employees are entitled to a fair examination of the matter at hand.
* No Disciplinary process will be initiated until the completion of an investigation process.
* Before the start of the Disciplinary process the employee will be notified of the nature of the allegation(s) in writing.
* The employee will be given the opportunity to respond to the details of the allegation.
* Employees will be provided with the right to representation at all stages.
* A fair decision will be made with regards to the issues at hand and any sanction will be proportionate
* The employee will have the right to appeal any sanction that is issued against them

**Representation**

The company recognise the employees’ right to be represented and may be accompanied by **a colleague, Trade Union representative or member of the Citizens Information Bureau**.

**Delete as Required.**

**Requests for representation cannot be overridden by company policy and a failure to allow external representation could result in a Unfair Dismissal complaint on the grounds of a breach of the Principles of Natural Justice)**

**In the event that the allegations under review relate to potential criminal activity that may result in the matter being presented at a judicial hearing at a later date, the employee may be accompanied by a legal representative; however, they will be in an advisory capacity to the recognised representative only.**

**The process is not a judicial one, and all parties are expected to remain respectful of the company process.**

**(Delete as required. This has been included to recognise recent changes in case law and it is advised that full representation is offered to the individual under the strict guidelines set out in this policy)**

As per the Principles of Natural Justice the employee is required to issue responses to the Investigation/Disciplinary chairperson in their own words.

In the event that a representative becomes disruptive to the process they will be asked in the first instance to refrain from disrupting the meeting. If there is further disruption to the meeting the Investigation/Disciplinary Chairperson will call a five minute recess to allow the parties convene with the understanding that any further disruption upon resumption of the meeting will result in the representative being asked to leave the process and the employee asked to find alternative representation.

**Official Records**

At any stage of the process, the relevant Chairperson will assign a member of the team to record the meeting in written format. A copy of these minutes will be issued to the employee once they have been typed up. If the employee disputes any aspect of the minutes they must do so within 24 hours of receipt and the Chairperson will review the submission. If it is not agreed, the employee’s submission will be noted at the foot of the final document.

This will be the official record of the meeting and audio recordings are not permitted.

**Disciplinary Breaches**

Disciplinary Breaches are categorised in three ways, Misconduct, Serious Misconduct and Gross Misconduct.

Misconduct

Normal Misconduct relates to activity that is unacceptable but as an isolated instance is less serious and will not offer a significant impediment to the operation of the company.

* Absenteeism or failure to comply with the company absence policy
* Poor timekeeping or failure to comply with the company absence policy
* Incompetence
* Failure to reach the stated standards of performance following further support, advice and retraining
* Failure to abide by any rule or notice by the company to both staff and customers
* Not recording activity as required
* A breach of procedure is established following a grievance investigation
* General breach of company’s policies and procedures
* Sleeping whilst on duty
* Attending work while intoxicated – non safety critical role
* Failure to carry out a reasonable instruction from a superior
* Refusing to co-operate with a reasonable request regarding health & safety
* Harassment of others
* Refusal to comply with a reasonable request
* Acting in any way which would jeopardise the company's interests in dealings with its customers, suppliers or other outside contacts
* Flagrant disregard of safety precautions
* Breaches of data protection and company IT regulations

*Please note that this list is by no means exhaustive*

Gross Misconduct

Gross Misconduct is activity that fundamentally damages the relationship between the employee and the employer to a point where the company needs to consider if it is possible to maintain a working relationship with the employee.

* Attending work while intoxicated – safety critical role
* Possession, using, selling or consuming illegal drugs on company premises
* Theft or pilfering
* Unethical or criminal conduct, threats, assaults or fighting
* Wilfully, or with gross negligence, causing, or potentially causing, the loss or destruction of company or other’s property
* Damaging, untrue, exaggerated or defamatory remarks or claims on social media sites relating to the company, our clients or other employees whether posted during or outside of work hours.
* Divulging confidential information to a third party
* Failure to disclose information relevant to the employment relationship, including matters relating to criminal activity
* Making false or inaccurate statements to achieve employment or promotion
* Behaviour identified as bullying and /or harassment
* Behaviour identified as sexual harassment
* Any act in contravention of company standards of business ethics

*Please note that this list is by no means exhaustive*

Repeated instances of Misconduct or Serious Misconduct may be regarded as an Act of Gross Misconduct.

**Counselling**

In the event of a minor breach of misconduct in the first instance, the employee’s Line Manager may address the matter through an informal counselling meeting.

This will consist of the manager highlighting the breach in performance / behaviour /attitude, notifying the employee of the company’s expectations and offering the employee the opportunity to state their case.

The Line Manager will offer the necessary support and the meeting will be recorded in an email that will outline the details of the counselling session.

This will be placed on file as being active for a period of no more than 12 months.

**Investigation**

A member of the supervisory/management team (normally the employees Line Manager) will be assigned to complete the investigation as the Investigation Chairperson.

The investigation will review all of the details relating to the matter under review. The Investigation Chairperson will establish if there are allegations that should be reviewed at a Disciplinary Review.

The employee may be invited to an Investigation meeting to verify necessary details under review and they will have the right to respond to these in line with the Principles of Natural Justice. The employee will have the right to be represented in line with company policy at the meeting.

Employees will receive at least 48 hours’ notice of the requirement to attend an Investigation meeting.

If the employee is unable to attend the investigation meeting, they will be facilitated with one opportunity to reschedule. If the employee does not attend the rescheduled meeting the Investigation may proceed in their absence.

At the investigation the employee will receive copies of the information under review, where possible. Certain information such as CCTV footage and third party reports will be made available by request but may not be issued to the employee in line with Data Protection (GDPR) restrictions.

If necessary, the witness statements may be requested by the Investigation Chairperson. The employee will have the right to counter any statements made by witnesses; however this will be conducted by correspondence with the investigating chair acting as the facilitator. The employee will be permitted to ask an initial set of questions in relation to the witness statement and will be permitted to follow up on one more occasion to the subsequent response.

At that point the Investigation chair will consider further requests for additional questioning on its own merit if the employee can identify a justification for further review.

Upon completion of the investigatory process, the Investigation Chairperson will issue a findings report and notify the employee whether the matter will be referred to Disciplinary Review.

The Investigation report will confirm the allegations that are to be reviewed at the Disciplinary Hearing along with a formal invitation to the Disciplinary Review meeting.

This will conclude the Investigating Chairpersons involvement in the matter, unless they are required to clarify matters relating to their findings at a later point.

**Suspension**

An employee may be placed on paid suspension under the following circumstances:

* An Investigation has ascertained that there is an allegation to be reviewed at the Disciplinary stage that could potentially result in a finding of Serious or Gross Misconduct
* A breach of company policy that gives rise to a genuine Health & Safety risk to the employee, the employees of the company, the company customers or the public at large

Suspension will be applied until the conclusion of the relevant stage and is applied to facilitate the Investigatory / Disciplinary process.

Suspension is not an indication that a determination has been reached with a regards to the matter; it is a means to facilitate the Disciplinary process with minimal disruption to the company’s operation.

**Disciplinary**

Once the investigation has ascertained that there are allegations to be reviewed, a member of the supervisory/management team will be assigned to complete the disciplinary review as the Disciplinary Chairperson.

The Disciplinary Review will review all of the details relating to the allegations that were established during the Investigation to confirm if the allegations should be upheld. The employee will have the opportunity to state their position with regards to the findings of the Investigation process as they relate to the allegations at hand.

If the allegations are upheld the Disciplinary chairperson will identify a proportionate level of Disciplinary sanction.

The employee will have the right to be represented at the Disciplinary Review, in line with the Principles of Natural Justice and company policy.

Employees will receive at least 48 hours’ notice of the requirement to attend any formal meeting.

If the employee is unable to attend at the Disciplinary Review meeting, they will be facilitated with one opportunity to reschedule. If the employee does not attend the rescheduled meeting the Disciplinary Review may proceed in their absence.

At the Disciplinary Review the employee will receive copies of the information under review that they request, where possible. Certain information such as CCTV footage and third party reports will be made available by request but may not be issued to the employee in line with Data Protection (GDPR) restrictions.

If necessary, the witness statements may again be reviewed by the Disciplinary Chairperson. The employee will have the right to counter any statements made by witnesses; however representations will be made to the Investigation Chairperson prior to engaging witnesses any further. The Disciplinary Chairperson will then ascertain if there is any further value to be gained by engaging the witnesses again. Only new lines of enquiry will be entertained when reverting to witnesses at the Disciplinary stage.

The employee will be permitted to ask an initial set of questions in relation to the witness statement and will be permitted to follow up on one more occasion to the subsequent response.

At that point the Investigation chair will consider further requests for additional questioning on its own merit if the employee can identify a justification for further review.

Upon completion of the Disciplinary Review, the Disciplinary Chairperson will issue an outcome report and notify the employee of their findings in writing.

The report will clarify if the allegation(s) will be upheld or not and a reason for this finding.

The report will also advise on the level of sanction being issued to the employee.

**Sanction**

The company reserves the issue a level of sanction that at any stage, taking into account the seriousness of the allegation

Verbal Warning

This sanction is usually given for relatively minor offences such as Misconduct or Poor Performance.

There will be a written acknowledgement filed on the employee’s official employment record.

A record of a Verbal Warning will be regarded as being active on file for a period of six months.

If there is repetition of the offence, or there is no satisfactory improvement this could lead to further more serious sanctions.

First Written Warning

A First Written Warning may be issued in the event that an allegation(s) of Misconduct is upheld or in the event of persistent poor performance.

A record of a First Written Warning will be regarded as being active on file for a period of twelve months.

If there is repetition of the offence, or there is no satisfactory improvement this could lead to further more serious sanctions.

Final Written Warning

A Final Written Warning may be issued in the event that an allegation or Gross Misconduct is upheld or in the event of persistent poor performance.

It may also be issued in the event of Misconduct that has repeated persistently following Disciplinary intervention and sanction being issued.

A record of a Final Written Warning will be regarded as being active on file for a period of twelve months.

In the event that there is subsequently Misconduct of any level or there is no satisfactory improvement of performance confirmed while a Final Written Warning is active on file, the matter may escalate to the next sanction level; Dismissal.

Dismissal

Dismissal from employment will only be issued in the event that an allegation of Gross Misconduct has been upheld or that a sanction has been issued to an employee with an active sanction of Final Written Warning on File.

In the event that an employee is dismissed, their employment will terminate with immediate effect.

Notice of Dismissal will be issued at an outcome meeting with the Disciplinary Chairperson.

In the event that an individual is dismissed they are excluded from all future employment opportunities with the company.

**Appeal**

As per the guidelines set down in the Principles of Natural Justice, the employee will have the right to appeal any sanction issued against them.

As part of the Disciplinary outcome they will be advised of the appropriate contact to lodge their appeal.

The employee must lodge the appeal in writing within 7 calendar days of having received the Outcome.

In the written submission, the employee must outline the grounds for the appeal in the following format:

* Decision being appealed
* Reason for the appeal
* Details of new information not available during the preceding processes (where applicable)

If the employee is appealing more than one aspect of the Disciplinary findings each point should follow this format.

The Appeal Chairperson will meet with the employee and review all of the details relating to the employees submission.

The employee will have the opportunity to state their position with regards to the findings of the Disciplinary review in line with the submission of their appeal.

The Appeal Chairperson will undertake a review of the information provided and ascertain if there is merit in the submission of the employee.

Where the information reviewed during the appeal process ascertains that there was justification in upholding the allegations, the proportionality of the level of Disciplinary sanction will be reviewed.

In the event that the Appeal Chairperson finds that the sanction was disproportionate, they may find that it needs to be revised. This could result in the sanction being reduced to a lower level or, in the event that the Appeal Chairperson ascertains that it was too lenient in accordance with the seriousness of the breach of policy, it may be escalated to a more serious level of outcome.