

COMPLAINTS AND DISCIPLINARY POLICY AND PROCEDURE

FEBRUARY 2020



ALFRED H KNIGHT

Complaints and Disciplinary Policy and Procedure

We are committed to providing a fair, consistent and proportionate approach to the handling of complaints and disciplinary matters.

This complaints and disciplinary policy and procedure is designed to provide an open and transparent route for complaints to be made under this procedure, to be resolved fairly and within a reasonable period.

It is our intention to promote a culture where it is safe and acceptable for any person to raise any complaint or concerns including those of poor practice, bullying or harassment, neglect, abuse or other forms of misconduct. No person should be victimised for raising concerns or making a complaint.

Further information regarding complaints and our disciplinary policy and procedure is contained within the Company Handbook, which can be located on the intranet.

This policy does not form part of any employee's contract of employment and we may amend this document from time to time.

Policy Statements

1. Purpose and Scope

The Company's policy and procedure on discipline at work applies to all employees.

It is designed to ensure that all employees are dealt with fairly and consistently in disciplinary matters. Except to the extent required by the Employment Rights Act 2002, the Company's disciplinary policy and procedure does not form part of your contract of employment. It may be varied by the Company from time to time and in particular it may be varied or applied differently in the case of short-serving employees. If you act at any time in a manner which in the opinion of the Company's management is contrary to required standards of conduct or to the Company's standard terms of employment the principles set out below will be followed.

2. Responsibilities

The Company has the responsibility of ensuring that you know its rules and accepted standards of behaviour. For your part, you are expected to familiarise yourself with the relevant rules and standards, to abide by them and to carry out all instructions, duties and responsibilities required. You must at all times abide by the terms and conditions of your employment as set out in your contractual terms of employment or in any booklet or memo from time to time issued by the Company. Failure to do so will lead to disciplinary action.

3. Policy Principles

The Company will set out in writing your alleged conduct, characteristics or other circumstances which lead it to contemplate dismissing or taking disciplinary action against you.

You will be invited to attend a meeting to discuss the matter. You will be advised of the nature of the complaint against you and, where possible, be provided with relevant evidence before any hearing.

No disciplinary action will be taken against you until the case has been investigated and you have had an opportunity to state your case.

At all stages you will have the right to be accompanied by:

- a single trade union official (who has been reasonably certified in writing by their union as having experience of, or as having received training in, acting as a worker's

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companion at disciplinary or grievance hearings. Such certification may take the form of a card or letter), or;

- fellow worker. When you make a reasonable request to be so accompanied, your chosen companion will be entitled to address the hearing but not to answer questions on your behalf.

You will not be dismissed for a first breach of discipline except in the case of gross misconduct or gross negligence when the penalty will be dismissal without notice or payment in lieu of notice.

You will have the right to appeal against any disciplinary penalty imposed.

The procedure may be implemented at any stage if your alleged misconduct warrants such action

The Company will deal with the matter without undue delay.

Information relating to any disciplinary proceedings, including witness statements and records of any penalty imposed, shall be treated as confidential.

In particular, the Company will observe relevant provisions of the Data Protection Act 2018.

4. The Procedure

Minor faults may be dealt with informally with a counselling session, but where the matter is more serious the following procedure will be used:-

Stage 1 - Verbal warning

If your conduct or performance does not meet acceptable standards you will be invited by your immediate Manager to attend a disciplinary meeting, in accordance with paragraphs 5 & 6 of this policy (see below). You will be told why the interview is necessary and will be entitled to state your case. If appropriate, you will be given a verbal warning that continued or repeated misconduct may result in further disciplinary action, including, in extreme cases, dismissal. A note of the warning will be placed on your personal file but will be disregarded for disciplinary purposes after six months if your conduct or performance is satisfactory.



Stage 2 – written warning

If the offence is a serious one or if your misconduct or poor performance continues or is repeated or you commit a further offence of a different nature, you will be invited to attend a disciplinary meeting, in accordance with paragraphs 5 & 6 of this policy (see below). The exact nature of the Company's complaint against you will be explained in full. If the member of management believes it to be justified you will be given a written warning that if your performance or conduct does not improve during the period stated in the warning, the instigation of stage 3 will be considered or you may be dismissed. A copy of this warning will be placed on your personal file but will be disregarded for disciplinary purposes after twelve months if your conduct or performance is satisfactory.

Stage 3 – final written warning

If your misconduct or poor performance is sufficiently serious or if, following a written warning, there is further misconduct or poor performance (whether or not of the same nature) within the period stated, you will be invited to attend a disciplinary meeting, in accordance with paragraphs 5 & 6 of this policy (see below) by your Department Manager/General Manager/Director as appropriate, who will decide on the action to be taken. You may be given a final written warning which will give details of the complaint and will warn that you will be dismissed if there is no satisfactory improvement. A copy of this warning will be placed on your personal file but will be disregarded for disciplinary purposes after twelve months (although in exceptional cases the period may be longer) if your conduct or performance is satisfactory.

Stage 4 – dismissal

If your conduct or performance is sufficiently serious or if your conduct or performance is still unsatisfactory following a final written warning and you are still failing to reach the required standards you will be invited to attend a disciplinary meeting in accordance with paragraphs 5 & 6 of this policy (See below), however this level of misconduct or poor performance will usually result in dismissal. The decision to dismiss will be taken by your Department Manager/General Manager/Director as appropriate. If you are dismissed, you will be provided, as soon as reasonably practicable, with written reasons for the dismissal and the date on which your employment will terminate or terminated. The Company may however consider alternative disciplinary action including (but not limited to) demotion, transfer or suspension with or without pay.

Statement of Grounds for Action and Invitation to Disciplinary Meeting:-

When inviting you to attend a disciplinary meeting, the Company will provide you with a written account of your alleged conduct or characteristics, or other circumstances which leads the Company to contemplate dismissing or taking disciplinary action against you. A meeting will then be arranged to discuss the matter further.

5. Disciplinary Meeting

The meeting will take place before action is taken, except in the case where the disciplinary action consists of suspension.

The meeting must not take place until the Company has informed you of the grounds why disciplinary action is being contemplated and until you have had a reasonable opportunity to consider your response to that information.

You must take all reasonable steps to attend the meeting. In the event that you unreasonably fail to attend the meeting, the meeting may proceed in your absence.

At the meeting, you will have an opportunity to comment on the complaints against you.

You may be accompanied by another employee of the Company or a trade union official as discussed in paragraph 3.4 of this policy.

After the meeting, the Company must inform you of its decision and notify you of your right to appeal against the decision, if you are not satisfied with it

6. Suspension

At any time during the procedure you may be suspended from work on full pay while further investigations are made. Such suspension is a precautionary measure only and does not constitute a disciplinary sanction. The suspension will last for no more than five working days initially but may be renewed or extended at the discretion of the Company. Only a Director or Senior Manager may take the decision to suspend you.

7. Appeals

If you feel that you have been unjustly disciplined you may appeal at and after any stage of the disciplinary procedure to David Knight, the Managing Director in writing setting out your grounds of appeal within five working days of the dismissal or other disciplinary action



complained of. All appeals will be heard usually within ten working days of receiving your grounds for appeal and the decision will be final. An appeal against any disciplinary penalty will always involve a further hearing to be attended by you and by the person hearing the appeal to discuss the matter further. At the appeal any disciplinary penalty made will be reviewed but it cannot be increased.

You must take all reasonable steps to attend the appeal meeting. In the event that you unreasonably fail to attend the meeting, the meeting may proceed in your absence.

The appeal meeting need not take place before the dismissal or disciplinary action takes place.

The outcome of the appeal will be set out in writing and sent to you as soon as possible after the appeal has been held. Any decision on the appeal will be final.

8. General Misconduct

General misconduct includes (but is not limited to):

- Unsatisfactory record of attendance or reliability;
- persistent lateness;
- failure to maintain an acceptable standard of dress;
- poor work performance; and
- poor standard of personal hygiene.

In the case of general misconduct you will normally be provided with a verbal warning for a first offence unless the matter is sufficiently serious to justify invoking the procedure at a higher stage. From then on the procedure will usually be followed from Stage 2 for further or repeated offences.

9. Gross misconduct

Gross misconduct includes (but is not limited to):

- breach of confidentiality (subject to the Public Interest Disclosure Act 1998);
- theft, fraud or deliberate falsification of records;
- fighting, assault or attempted assault on another person, or any violence or threats of violence;
- deliberate damage to the Company's property;
- unauthorised possession, use, wastage, damage or removal of any property belonging to the Company, its employees or customers;



- misuse of the Company's name;
- working under the influence of alcoholic drink or illegal drugs or other prescribed substances;
- sexual, racial or disability discrimination (including harassment) in relation to another employee, agency or contract worker, any customer of the Company, visitor to the Company's premises or any other third party to whom the Company may owe a duty to prevent such discrimination;
- serious negligence which causes unacceptable loss, damage or injury;
- serious act of insubordination;
- being charged with and/or convicted of a criminal offence which in the opinion of the Company demonstrates unsuitability for further employment with the Company;
- indecent or immoral behaviour;
- serious infringement of the Company's Health and Safety Rules • serious infringement of the Company's E-mail, Fax and Internet Policy;
- serious infringement of the Company's Equal Opportunities Policy;
- refusal to carry out a reasonable instruction;
- unauthorised absence from work or from the Company's premises.

If you are accused or suspected of gross misconduct, you will normally be suspended from work on full pay while the Company investigates the alleged offence. If the Company is satisfied that gross misconduct has taken place, the result will normally be summary (i.e. instant) dismissal.

Additional – Your right to be accompanied

What rights does the worker have to be accompanied at a disciplinary/grievance hearing? Under the law, a worker invited to attend a disciplinary or grievance hearing who "reasonably requests" to be accompanied, must be allowed to bring a "single companion" i.e. a colleague or trade union representative. It is the sole right of the worker concerned to choose who the "companion" should be. The law does not place a duty on fellow workers to perform the role as the "companion". Nor does it place any additional requirements on employers to establish disciplinary or grievance procedures where none currently exist.

1. What rights does the chosen 'companion' have?

- Legislation does not place a duty on fellow employees to take on the role of accompanying an individual.
- Where the 'companion' is a fellow worker, that person has the right to paid time off during working hours to attend the meeting.

2. What is the 'companions' role at the hearing?

The 'companion' is allowed to make a statement at the hearing, discuss matters with the worker but not answer questions on the worker's behalf

3. What happens if the 'companion' is not available to attend the hearing?

The employer has to postpone the hearing to a time proposed by the worker which has to be:

- Reasonable, and;
- Fall within a period of 5 working days beginning with the first working day after the day originally proposed by the employer.

4. What amount of time off is the 'companion' allowed?

This is the amount of time which is "reasonable in the circumstances of the case".

Performance standards

1. Failure to meet performance standards

It is the responsibility of all employees to ensure that they carry out their duties and responsibilities to the standards set and expected by AHK. In the event that your ability to perform your duties is called into question this procedure is aimed at assisting you to correct and improve your work. The emphasis is to provide the opportunity to discuss problems and wherever possible you will be given reasonable assistance and time to help you improve. In many cases minor problems will be solved through the normal processes of counselling, coaching and supervision during daily contact with your immediate supervisor or manager. Where it is apparent that your performance is in some way deficient and it is a persistent problem the following procedure will apply.

1.1 Stage 1

- Your Line Manager or the person to whom you are normally responsible will arrange to meet you to discuss the problems with a view to identifying the cause and agreeing a solution. The meeting will identify the standards of performance expected and explain the ways in which your performance has been considered inadequate.



- If through discussion it is decided that you have been negligent or your conduct is identified as contributing towards unsatisfactory performance the matter should be dealt with further in accordance with the disciplinary procedures.
- If it is suspected that your health may be a contributing factor to your poor performance, you may be required to attend a medical examination.
- Where the inadequate performance is identified as arising from a lack of skill, ability or qualification, consideration will be given to providing further training having regard to your length of service, existing qualifications and training already provided by AHK.
- Having identified the cause and necessary action to bring about the required improvement an appropriate timescale will be agreed to allow time for action to be taken and for your performance to improve. During this time your performance will be kept under review.
- If the desired improvement is achieved no further action will be taken

1.2 Stage 2

- If no significant improvement is forthcoming within the agreed timescale the matter will be discussed in full with you by your Line Manager or HR contact and you will be given a written warning in accordance with the disciplinary procedure. However, failure to meet the required standards may ultimately lead to your dismissal.
- A further period will be agreed during which you must achieve the required standards. You may if you wish be accompanied by a colleague of AHK.
- If the improvement required is achieved in full, no further action will be taken but the improvement must be maintained for at least one year.

1.3 Stage 3

- If there is little or no improvement, there will be a further meeting with your Line Manager or HR contact at which consideration will be given to the issue of a final written warning, in accordance with the disciplinary procedure and further time allowed. Again, you may be accompanied by a colleague from AHK.
- If, however, it is genuinely believed at this stage that the improvements and the required standards of performance are beyond your ability and that a further warning or further time would serve no useful purpose, consideration may be given to finding you a suitable alternative job, or where no suitable alternative exists, or is available but unreasonably refused, you will be advised that your employment will be terminated with notice. A decision to dismiss will generally be taken after the

procedure has been followed and the case has been completely reviewed with you and your explanation considered.

- At any stage of the procedure, if you feel that the criticism of your performance is unfounded or a course of action, timescale or decision is unreasonable you may, if you wish, use the corresponding stage of the grievance procedure to make an appeal.