



## DISCIPLINARY POLICY AND PROCEDURE

### 1. Introduction

The aim of the Company Disciplinary Policy is to help and encourage employees to improve, achieve and maintain standards of conduct, attendance and job performance. It also enables management to deal effectively with those employees who do not comply with the Company standards of conduct, attendance and performance in the workplace. Equally, the policy and procedure are designed in a manner which is non-discriminatory and which is fair, consistent and effective. It must also be applied in a timely manner and without undue delay.

All Managers have a responsibility for ensuring that employees are made aware of the Disciplinary Policy and Procedure. All employees are to be informed of the standards of conduct and work performance expected of them and Managers should ensure that these standards are fully understood by those who work to them. Action taken under this policy must reflect fully the process detailed in the Procedural Appendix attached to this policy.

Matters relating to or arising under the Disciplinary Policy and Procedure must be treated as confidential at all times. Failure to do so may itself constitute grounds for initiating disciplinary action.

The Company Disciplinary Procedure will be used only when necessary and as a last resort. Where possible, informal and/or formal counselling or other good management practice will be used to resolve matters prior to any disciplinary action being taken. The procedure is intended to be positive rather than punitive but takes cognisance of the fact that sanctions may have to be applied in some circumstances.

The Disciplinary Procedure will apply when David Einig Contracting Ltd contemplates dismissing or taking disciplinary action against an employee and, while it does not confer any contractual rights, the Policy will apply to all employees.

A copy of the employee's disciplinary record will be supplied to the employee on request.

This Policy and the associated Procedure apply to all employees who have successfully completed a probationary period, if any. All such employees should, therefore, familiarise themselves with its provisions.

If you have any questions relating to this policy please ask your Line Manager or HR.

### 2. Key Principles

- 2.1 At each stage of the Disciplinary Procedure attached to this policy, the employee has a right to be accompanied by an accredited Trade Union representative or work colleague. The employee will also be informed in writing of:-
  - The nature of the complaint or allegation against them; and
  - The stage at which the matter is being considered.
- 2.2 Managers whose responsibilities require them to participate in or hold disciplinary meetings will be given appropriate training to enable them to undertake their role effectively and dispassionately.
- 2.3 Managers and employees should make every effort to attend meetings or interviews relating to the application of the Disciplinary Procedure. If an individual is unable to attend, they will need to give notice and the reasons why they are unable to attend. The meeting will then be re-scheduled to a mutually convenient time. Unless the reasons are exceptional, the re-arranged meeting must take place within 10 working days. However, where an employee fails to attend such meetings more than once without compelling reasons, then meetings may be held in the employee's absence. Where this measure is invoked, the employee will be informed of this in writing.
- 2.4 Those responsible for making arrangements under the Disciplinary Policy and Procedure must ensure that any necessary, reasonable adjustments required by the employer or other attending have been addressed. This may relate to disability or to the requirements of religious beliefs.

- 2.5 Should an employee have an objection to the person or persons appointed to investigate or hold meetings in connection with the disciplinary matter they must raise this objection in writing, clearly stating the reasons to HR. Such objection must be made within two working days of the notification about the matter under investigation being brought to their attention.
- 2.6 Should an employee raise a complaint under the Company's Grievance Policy, or any other related policy, whilst the subject of action under the Disciplinary Policy and Procedure and the complaint relates directly or indirectly to the matter under investigation, then action under the Disciplinary Policy will be adjourned whilst an urgent enquiry into the complaint is carried out. If the grievance or complaint is rejected or found to have no bearing on the matter being investigated under the Disciplinary Policy, then the disciplinary proceedings will continue from the point at which they were adjourned.
- 2.7 Data relating to the application of this Policy and Procedure will be held and destroyed in accordance with the provisions of the Data Protection Act 1998 and any Company policy which derives from that Act.
- 2.8 In accordance with the Company Equality Policy, this procedure will not discriminate, either directly or indirectly, on the grounds of gender, race, colour, ethnic or national origin, sexual orientation, marital status, religion or belief, age, trade union membership, disability, offending background or any other personal characteristics.
- 2.9 This policy and procedure will be reviewed periodically giving due consideration to any legislative changes.

### **3. Informal Counselling**

Counselling is an attempt to correct a situation and prevent it from getting worse without having to use the disciplinary procedure. Where improvement is required, the employee must be given clear guidelines as to:

- What is expected in terms of improving shortcomings in conduct or performance.
- The time scales for improvement.
- When this will be reviewed.
- The employee must also be told, where appropriate, that failure to improve may result in formal disciplinary action.

A record of the counselling should be given to the employee and a copy retained in their personnel file. It is imperative that any counselling should be followed up and improvements recognised and recorded. Once the counselling objectives have been met, any record of the counselling will be removed from the employees file.

If during counselling it becomes clear that the matter is more serious, then the discussion should be adjourned, and pursued under the formal disciplinary procedure.

### **4. Performance Issues covered by the Disciplinary Policy**

Issues that should be dealt with under this Disciplinary Policy fall into three categories, namely:

- Poor performance
- Misconduct
- Gross Misconduct

All cases of disciplinary action under these headings will be dealt with in accordance with the Disciplinary Procedure outlined below.

At all stages of the formal disciplinary process, minutes will be taken and provided to the employee. It is the employee's responsibility to inform HR if he/she considers the written record of the meeting to be incorrect or inaccurate in any way.

### **5. Poor Performance**

In the event that it is believed that the employee is not performing with sufficient skill, speed or quality, then an informal discussion will take place between the Line Manager, HR and the employee.

If the Line Manager and HR are not satisfied that matters have improved, then the employee will be subject to a disciplinary hearing when the Line Manager and HR will investigate and attempt to agree the following:-

- The performance that is expected;
- The performance that has been achieved;
- The improvement that is required;

- That improvement and the time frame in which it should be achieved; and
- Discuss and agree any training or assistance that is required in meeting those targets. This will include the provision of additional training if necessary.

A disciplinary hearing in relation to performance, if poor performance is proved, will normally result in a verbal warning.

In the event that the agreed targets following a disciplinary process for poor performance are not achieved, a further meeting will take place where the same steps will be undertaken by the Line Manager and HR in identifying the performance required and the timeframe for improvement. The warning will normally be increased to a first written warning.

In the event that further repetition occurs, the same process will be undertaken, and this process may lead to a final warning.

In the event that no acceptable improvement is made then the employee may be dismissed on notice.

Only in exceptional circumstances will the level of warning first used be above “verbal”.

## **6. Misconduct**

Issues of discipline will fall under two general headings, being “Misconduct” and “Gross, or Serious Misconduct”. There may be occasions when it is not possible to determine at the outset of an investigation whether an offence constitutes normal or gross misconduct. It is important to note, however, that events that occur outside of the workplace may on some occasions give rise to disciplinary proceedings according to this Policy. This will be where the nature of the offence risks bringing David Einig Contracting Ltd’ reputation into disrepute or the nature of the occurrence casts doubt on whether David Einig Contracting Ltd can continue to trust the employee.

Like poor performance, there is a range of disciplinary sanctions available which consist of:

- Verbal warning
- First Written warning
- Final warning
- Dismissal

Unlike poor performance, when only in exceptional circumstances will the level of warning first used be above “verbal”, in cases of misconduct, the Line Manager, with advice from HR, may apply any one of the sanctions listed depending on the circumstances of the case.

The considerations for the Line Manager and HR, when assessing what level of disciplinary sanction is appropriate, are:

- The seriousness of the offence
- The impact on David Einig Contracting Ltd
- The length of service of the employee
- The employee’s honesty in confronting the issue
- Any remorse
- Previous occurrences
- Any other mitigating factors put forward by the employee

Examples of conduct issues that will warrant disciplinary action are:

- Poor timekeeping
- Absence without authorisation or reasonable cause
- Unauthorised activities during working hours or on David Einig Contracting Ltd premises
- Negligence
- Failure to follow set down procedures

Where warnings are given, they will be given with a time limit during which the warning will remain current on the employee’s record. Expired warnings will not normally be taken into account when deciding on the appropriate level of sanction in relation to an offence, except in as much as the expired warning demonstrates that the employee was aware that the particular course of conduct was inappropriate.

## 7. Gross Misconduct

Gross misconduct describes conduct on the part of the employee that is so serious that David Einig Contracting Ltd may terminate the employee's employment without notice.

Examples of gross misconduct are as follows:-

- Falsification of Firm documents or records, whether or not there is an intention to deceive or defraud
- Fraud
- Serious breach of security
- Failure to attend work without reasonable cause
- Refusal to comply with lawful and reasonable instructions
- Failure to adhere to security or other company rules or procedures
- Removal/disqualification from relevant professional body
- Failure to disclose information or giving inaccurate information to David Einig Contracting Ltd when applying for employment
- Misappropriation or embezzlement of funds or property of David Einig Contracting Ltd or its employees (whether attempted or actual)
- Unauthorised viewing and/or disclosure of any information of the business of David Einig Contracting Ltd or its employees, including security information
- Wilful damage to property
- Assault or other indecent behaviour
- Gross negligence in the performance of duties including infringement of health and safety rules
- Engaging in the practices of Bribery or non-adherence to legal, ethical or professional standards
- Disorderly conduct including violence or incapability at work brought on by alcohol or non-prescribed drugs
- Any act which is deemed to be detrimental to the conduct of David Einig Contracting Ltd' business or to the employees of the Firm
- Any serious breach of confidentiality
- Harassment, bullying or discrimination of any kind
- Criminal offences outside employment which affect the employee's work
- Conduct bringing the company into disrepute such as unacceptable behaviour towards clients, customers or visitors
- Any conduct which undermines the trust that exists between the Firm and the employee

This is a non-exhaustive list.

In exceptional circumstances, David Einig Contracting Ltd may see fit to terminate the employee's employment immediately following extreme cases of misconduct. In the rare circumstances when such immediate dismissal may apply, without prior investigation, a Modified Disciplinary Procedure will apply and the employee can expect to receive written confirmation as to the reasons for his/her dismissal, as well as being provided with the opportunity to appeal should he/she so wish.

In the event an employee is suspected of gross misconduct, he or she may be suspended on full pay while an investigation is carried out. During this time, the employee will remain covered by the terms of this Policy. Gross misconduct may result in immediate dismissal without notice or pay in lieu of notice. Such dismissal will be notified to the employee in writing.

## **DISCIPLINARY PROCEDURE**

### **1. Introduction**

This procedure should be read in conjunction with the Disciplinary Policy.

Employees should be aware that this procedure is not intended to replace day-to-day informal counselling and discipline, which would normally be expected in an employment relationship. However, when the Line Manager, with advice from HR, feel that more formal action is necessary, the following procedure will apply.

### **2. Standard Procedure**

#### **2.1 Stage 1**

If the Line Manager and HR believe that there are grounds for disciplinary investigation, he or she will take the following steps:-

- Write to the employee (by either pre-paid or recorded delivery) setting out in the letter the following:-
  - That the employee is to be investigated as part of the Disciplinary Procedure;
  - The grounds on which disciplinary process is being contemplated;
  - The evidence currently suggesting those grounds apply;
  - The date, time and location for the meeting, in addition to who will be present to investigate the allegation;
  - That the employee may be accompanied by either a work colleague or a representative of an independent trade union; and
  - That the process may lead to dismissal.
- Provide the employee, whenever possible, with copies of whatever evidence there is against the employee.

#### **2.2 Stage 2**

At the meeting, the Line Manager and HR will explain the allegations against the employee and review whatever evidence is available with the employee.

The employee will be provided with an opportunity to explain his/her actions or performance in full.

If necessary, the meeting will be adjourned to allow the Line Manager and HR time to carry out further investigations based on the employee's explanation. This adjournment should last no longer than 7 days in normal circumstances.

After the meeting and following a full investigation of all of the facts put forward by the employee, the employee will be informed of the decision in writing and the reasons for that decision. The employee will be notified of his/her right of appeal, to whom it should be addressed, where and by when.

#### **2.3 Stage 3**

Should the employee wish to avail him/herself of the right to appeal, he/she should inform the Line Manager and HR in writing within 14 days. The appeal notice should set out the grounds on which the employee wishes to appeal. An independent person will undertake the appeal hearing. The decision on appeal will be final

#### **2.4 Suspension**

In some circumstances, it may be necessary to suspend an employee while an investigation is being carried out pending the result of that investigation. In these circumstances, the following procedure will apply:

The Line Manager and HR will meet the employee (in as private a location as possible) to inform the employee of his/her suspension. The Line Manager and HR will outline:-

- Why the suspension is necessary;
- How long the suspension will last; and
- Who will be the employee's point of contact at work while the employee is on suspension.

An employee, while suspended from work, is not permitted to contact colleagues at work.

To avoid unnecessary embarrassment and difficulty for the employee in returning to work after any suspension, the Line Manager and HR will attempt to agree with the employee what explanation will be given to staff for the employee's absence.

During suspension, the employee must give up all passwords, keys, access codes and items belonging to David Einig Contracting Ltd to the Line Manager and HR, in addition to mobile phones where appropriate.

### 3. Role of employee's colleague or representative

Employees have a complete right to choose any colleague or trade union representative they want to accompany them at a hearing. Employees must however, as a matter of good practice, think about the practicalities of who they choose. For instance, choosing somebody at a different location will make it tricky to arrange. Employees can change their mind at any time and the request doesn't have to be in writing. The employee will have to give the employer enough time to make any necessary arrangements to allow the chosen companion to attend the hearing.

The role of this colleague or representative is to support the employee. This support may take the form of simply moral support. The representative cannot answer questions on behalf of the employee.

The colleague or representative will be expected to act in a professional manner at all times and if, in the view of the Line Manager and HR, the colleague or representative's behaviour is such that it is disruptive or not conducive with the conduct of a balanced process, the colleague or representative will first be warned and ultimately may be removed from the meeting.

### 4. Modified Procedure

In exceptional circumstances, an employee may be dismissed instantly without the use of the standard dismissal procedure outlined above. In these circumstances, the employee will receive a letter from the Line Manager, with advice from HR, setting out the fact that the employee has been dismissed and the grounds for that dismissal. The letter will also set out why the Manager believes those grounds apply in terms of proof, and the letter should contain any copies of that proof where available.

The employee will be informed in a letter that he/she has the right to appeal within 14 days of the decision and it will inform the employee as to whom they should write in order to avail him/herself of the process.

Any letter of appeal from the employee must set out clearly the grounds on which the employee wishes to appeal, in addition to details of any supporting evidence that may be available to show that those grounds apply.

In the event of dismissal, the employee will be provided with a copy of this procedure.

.......... Date .....31/11/2017.....  
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