



# **Dove Nest Group**

# **Disciplinary Procedures and**

# **Rules**


## DOVE NEST GROUP POLICIES AND PROCEDURES

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Approved at full Board Meeting on

Signed: 

**Managing Director Jenny Jones**

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## 1. Disciplinary Procedures

When a disciplinary matter arises, the relevant supervisor or manager should first establish the facts, and where appropriate obtain any necessary statements from any available witnesses. It is important to keep a record for later reference. Having investigated all the facts, the manager or supervisor should decide whether to: drop the matter; arrange informal coaching or counselling or arrange for the matter to be dealt with under the disciplinary procedure.

Minor cases of misconduct and most cases of poor performance may best be dealt with by informal advice, coaching and counselling, rather than through the disciplinary procedure. It is possible for the manager to issue an informal verbal warning - but they need to ensure that problems are discussed with the objective of encouraging and helping the employee to improve. It is important that the employee understands what needs to be done, how performance or conduct will be reviewed and over what period. Employees should also be made aware of what action will be taken if they fail to improve either their performance or conduct. Informal warnings and/or counselling are not part of the formal disciplinary procedure and the employee should be informed of this.

In certain circumstances, for example in cases involving gross misconduct, where relationships have broken down or where it is considered there are risks to the Company's property or responsibilities to other parties, consideration should be given to a brief period of suspension with pay whilst an unhindered investigation is conducted. Such a suspension should only be imposed after careful consideration and should be reviewed to ensure it is not unnecessarily protracted. It should be made clear that the suspension is not considered as disciplinary action.

Before a decision is reached or any disciplinary action taken there should be a disciplinary hearing at which the employee has the opportunity to state their case and to answer the allegations that have been made. Wherever possible the hearing should be arranged at a mutually convenient time and in advance of the hearing the employee should be advised of any rights under the disciplinary procedure including the statutory right to be accompanied. Prior to this stage, where matters remain informal, the statutory right of accompaniment does not arise.

Where the facts of a case appear to call for formal disciplinary action, the following formal procedure will be followed:

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### *First Warning: Verbal*

Listed below are examples of offences that may constitute misdemeanours. The list is neither exhaustive nor exclusive:

- Persistent absenteeism.
- Poor timekeeping.
- Unauthorised absence from a work place.
- Poor work performance.
- Disregard of safety precautions.
- Negligence.

In the case of minor infringements or misdemeanours, the employee should be given a formal verbal warning. The employee should be advised of the reason for the warning that it constitutes the first step of the disciplinary procedure and of their right of appeal. A note of the verbal warning must be kept but should be disregarded for disciplinary purposes after a period of six months.

### *Second Warning: (Written)*

If the infringement is regarded as more serious the employee will be given a formal written warning giving details of the complaint, the improvement or change in behaviour required, the timescale allowed for this and the right of appeal. The warning should also inform the employee that a final written warning will be considered if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file and will be disregarded for disciplinary purposes after a period of 12 months.

### *Final Warning/Dismissal (Often due to Gross Misconduct)*

Listed below are examples of offences that may substantiate Gross Misconduct. The list is neither exhaustive nor exclusive.

- Unauthorised use, abuse or theft of property of the Company or that of another employee.
- Physical or verbal assault upon another employee
- Indecent behaviour.
- Refusal to obey reasonable instructions from a superior
- Flagrant disregard of safety precautions either laid down by the Dove Nest Group or by statutory regulations.
- Falsification of records.
- Divulgence of information to the detriment of the Company
- Racial or sexual abuse or harassment
- Engaging in sexual relationships with any delegate attending courses run by the Dove Nest Group.
- Being under the influence of alcohol or drugs whilst on duty or being guilty of drunkenness or drug abuse at any time as to bring the name of the company into disrepute.
- Being guilty of behaviour likely to bring the Employer or its business into disrepute.
- Circumstances of harassment or bullying.
- Failing to report an accident or being guilty of dangerous or reckless driving or reasonable suspicion thereof following investigation by the employer involving a vehicle belonging to the employer.

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Dismissal or other sanction - If the employee's conduct or performance still fails to improve the Company reserve the right to administer a final step, which might be disciplinary suspension without pay, demotion, loss of seniority, loss of increment, or dismissal. The decision to dismiss should be taken only by the appropriate director, with the approval of the managing director, and the employee should be informed as soon as reasonably practicable of the reasons for the dismissal, the date on which the employment contract will terminate, the appropriate period of notice (or pay in lieu of notice) and information on the right of appeal including how to make the appeal and to whom. The decision to dismiss should be confirmed in writing. An employee with one year's continuous service or more has the right, on request, to have a "written statement of particulars of reasons for dismissal".

When deciding whether a disciplinary penalty is appropriate the Company will bear in mind the need to act reasonably in all the circumstances. Factors which might be relevant include, the extent to which standards have been breached, precedent, the employee's general record, position, length of service and special circumstances which might make it appropriate to adjust the severity of the penalty.

When operating disciplinary procedures, the company will not discriminate on the grounds of race, gender, age, sexual orientation, religious belief, or disability.

If the employee raises a grievance about the behaviour of the manager handling the disciplinary case, then, depending upon the circumstances, the company may suspend the disciplinary procedure for a short period until the grievance can be considered. The company might also bring in another manager to deal with the disciplinary case, where appropriate.

### 2. Dealing with absence

When dealing with absence the company will ensure that a distinction is made between absences on grounds of medically certificated illness, both physical and mental, and those that may call for disciplinary action. All unexpected absences will be investigated promptly and the employee asked to give an explanation. If, after investigation, it appears that there were no acceptable reasons for the absence the matter should be treated as a conduct issue and be dealt with under the disciplinary procedure. It is important that the employee is told what improvement in attendance is expected and warned of the likely consequences if this does not happen.

When considering the reasons for absence or sub-standard performance the Company will bear in mind the provisions of the Disability Discrimination Act 1995. In particular the Company will note the obligations placed on them by the Act to make reasonable adjustments when dealing with sickness related absences.

Where the absence is due to medically certificated illness the issue becomes one of capability and the Company will take a sympathetic and considerate approach to this kind of absence. In deciding what action to take in these cases the company will need to take into account, the likelihood of an improvement in health and subsequent attendance (based where appropriate on professional

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medical advice), the availability of suitable alternative work, the effect of past and likely future absences on the organisation, how similar situations have been handled in the past and whether the illness is a result of a disability as defined in the Disability Discrimination Act 1995. Any hearing that could result in a formal warning or some other action will attract the statutory right of accompaniment.

In cases of extended sick leave both statutory and contractual issues will need to be addressed and specialist advice may be necessary.

### 3. Dealing with poor performance

Individuals have a contractual responsibility to perform to a satisfactory level and should be given every help and encouragement to do so. The Dove Nest Group has a responsibility for setting realistic and measurable standards of performance and for explaining these standards carefully to the employee.

Where an employee is found to be failing to perform to the required standard the matter should be investigated before any action is taken. Where the reason for the sub-standard performance is found to be a lack of the required skills the employee should, wherever practicable, be assisted through training or coaching and given reasonable time to reach the required standard. Where the sub-standard performance is due to negligence or lack of application on the part of the employee then some form of disciplinary action will normally be appropriate. Failures to perform to the required standard can either be dealt with through the normal disciplinary procedure or through a separate capability procedure. An employee should not normally be dismissed because of a failure to perform to the required standard unless warnings and an opportunity to improve (with reasonable targets and timescales) have been given. However, where an employee commits a single error due to negligence and the actual or potential consequences of that error are, or could be, extremely serious, warnings may not be appropriate and summary dismissal action may be taken in such circumstances.

### 4. Dealing with special situations

#### Driving Ban

Whereby an employee has been driving unlawfully, and subsequently banned, the employee must inform the company who will then undertake a formal investigation and establish the following factors:

- Length of the driving ban.
- Nature of the employee's role and whether or not their duties can be carried out without the requirement to drive.

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- Status, (and business need), regarding the availability of another role within the company suitable for the employee's skill-set, which does not require the employee to drive, until their licence is re-instated.

Depending upon the results of the investigation, the company may deem it necessary to terminate the employment contract through the company disciplinary procedures.

### Criminal charges or convictions outside employment

These should not be treated as automatic reasons for dismissal. The main consideration should be whether the offence is one that makes employees unsuitable for their type of work. In all cases, having considered the facts, Dove Nest Group will need to consider whether the conduct is sufficiently serious to warrant instituting the disciplinary procedure. For instance, employees should not be dismissed solely because a charge against them is pending or because they are absent as a result of being remanded in custody.

## 5. Appeals

The opportunity to appeal against a disciplinary decision is essential to natural justice. Employees may choose to raise appeals on a number of grounds which could include the perceived unfairness of the judgment, the severity of the penalty, new evidence coming to light or procedural irregularities. These grounds need to be considered when deciding the extent of any new investigation or re-hearing in order to remedy previous defects in the disciplinary process. Dove Nest Group will aim to deal with appeals as promptly as possible. The time limit for lodging an appeal is five working days. A time limit should also be set for hearing the appeal. Wherever possible, the appeal should be heard by an appropriate individual, usually a senior manager who has not previously been involved in the disciplinary procedure.

Individuals should be informed of the arrangements for appeal hearings and also of their statutory or other right to be accompanied at these hearings. Where new evidence arises during the appeal the employee, or their representative, should be given the opportunity to comment before any action is taken. It may be more appropriate to adjourn the appeal to investigate or consider such points.

The employee should be informed of the results of the appeal and the reasons for the decision as soon as possible and this should be confirmed in writing. If the decision constitutes the final stage of the organisations appeals procedure this should be made clear to the employee.

## 6. Records

Records will be kept detailing the nature of any breach of disciplinary rules or unsatisfactory performance, the employee's defense or mitigating circumstances, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records will be kept confidential and retained in accordance with the disciplinary procedure and the General Data Protection Regulation (GDPR), in force as of 25th May 2018, which requires the release of

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certain data to individuals on their request. Copies of any meeting records should be given to the individual concerned although in certain circumstances some information may be withheld, for example to protect a witness.