

DISCIPLINARY (CONDUCT) POLICY

Purpose

The purpose of the disciplinary procedure is to support and encourage employees to achieve standards of conduct that are in line with the values and expectations of Pay4Property Ltd.

Pay4Property Ltd Guiding Principles is a useful reference document in this regard. It is also to ensure that there is a fair and systematic approach to any investigation and subsequent application of disciplinary sanctions. Such action must be carried out in a balanced and transparent manner which conforms to legislative requirements and best practice.

It is Pay4Property Ltd policy to ensure that any concerns regarding employees' capability and/or performance are dealt with without delay and fairly and employees are given an opportunity to respond, including explaining any reasons or mitigating circumstances that may be relevant. The aim of any initial intervention is where appropriate provide the employee with an opportunity, with guidance, to meet prescribed or redefined requirements and standards.

This procedure is for guidance only and does not form part of any employee's contract of employment.

Scope

This procedure applies to all direct employees of Pay4Property Ltd hereafter refer to as "the Company".

This procedure does not apply to employees who are still within their probationary period as defined by their terms and conditions of employment and/or within their first 12 months of employment. Issues with standards of conduct during this time will be addressed via probationary reviews which may allow for probation to be extended and/or employment terminated if conduct is not up to the required standards.

However, where employees are governed by working rule agreements then the procedure contained in the appropriate working rule agreement will be regarded as the primary procedure, as long as it reflects the principles of best practice.

Whilst this procedure does not cover agency personnel, client personnel or subcontractors, if any non-direct workers are involved in a serious disciplinary issue The Company reserves the right to request the removal of the individual from the workplace until such a time as the matter is resolved. Managers should ensure this is explicitly covered in any contract for services.

Many of our employees are working at Tenanted properties, employees should be aware that conduct issues may be raised by Tenants as well as other employees. The Tenant's view will always be taken into account, however, they should not dictate the outcome.

Responsibilities

Senior Managers/Line Managers/Supervisors: Dependent on the circumstances Supervisors and line Managers will be responsible for conducting investigations into alleged instances of misconduct and for assessing the facts that are available.

The detail of the investigation will depend on the circumstances and the complexities of the issue at hand. Incidents of alleged gross misconduct will require an investigation which should be overseen by a Senior Manager or their delegated authority. Where the outcome of an investigation is that the disciplinary procedure should be invoked wherever possible the Manager chairing any subsequent disciplinary hearing should not have been involved in the investigation.

Background

Capability versus Conduct

As there are separate procedures in place to deal with issues of Capability and Conduct, it is important for all to understand how Pay4Property Ltd distinguishes between the two.

Conduct presents itself often in relation to an event or series of events. Judgements are normally made about conduct after an investigation has been carried into the circumstances surrounding the event.

Capability is something that becomes apparent over a period of time and judgements are generally based on assessments and opinions of performance, outcomes and achievements or the lack of them.

This procedure focuses on conduct issues and how instances of misconduct and/or breaches of Company standards or expectations on behaviour will be handled.

It does not apply to cases involving poor performance, proposed redundancies or retirement. In those cases you should refer to the separate procedures dealing specifically with these issues.

Misconduct may result in dismissal in two circumstances:

The first is where an employee has been given a series of warnings about particular conduct under the Company's disciplinary procedure and dismissal is the final stage of that procedure. Instances of misconduct can cover a variety of areas.

Examples of Misconduct

The following are examples of behaviours and actions that are classed as Misconduct and are not limited to:

- Breaches of Health and Safety procedures (yellow card offences)
- Unsatisfactory timekeeping.
- Unsatisfactory attendance record (where there is considered to be no just cause) or un-authorised absence from place of work during working hours

- Neglect of duties which are agreed as part of the employee's normal work
- Disruption of work colleagues
- Minor instances of unsatisfactory conduct
- Unacceptable attitude to work and colleagues
- Minor instances of insubordination
- Minor failures to meet the expectations on behavioural terms of Pay4Property Ltd's Guiding Principles

The second is where the employee commits an act of gross misconduct, i.e. conduct which is so serious that it justifies summary dismissal. In cases of gross misconduct it is irrelevant that an employee has been given previous warnings as the instance is sufficiently serious on its own to justify dismissal.

Examples of Gross Misconduct

Examples of gross misconduct (usually one off very serious incidents) include but are not limited to:-

- Serious negligence or breach of Health and Safety regulations that could or does result in unacceptable loss, damage or injury (red card offences)
- Serious breach of the Drugs and Alcohol Policy (zero tolerance to abuse)
- Any fraudulent practice for example falsifying records or documents
- Actual or threatened violence
- Theft, unauthorised use or removal, or malicious damage of property
- Major breaches of company policies, rules or procedures
- Unauthorised disclosure of confidential information
- Serious insubordination
- Discrimination, bullying, harassment, victimisation or intimidation
- Participating in, supporting or condoning industrial action that is illegal in so far as the legal requirements of calling such action have not been complied with
- Conduct which may seriously offend a client or adversely affect the Company's reputation
- Serious instances of conflicts of interest, bribes or influential favours to 3rd parties

Disciplinary Procedure

This covers the way in which the Company deals with the above types of misconduct and the principles that apply in handling such issues.

Overall Principles

The procedure below reflects the principles of the ACAS code (April 2009 Code 1) so that the Company is fair and consistent in the treatment of its employees and, also, so that there is a structured framework for Managers handling such issues to work within. This policy is designed to reflect the following overarching principles:-

- That all issues are dealt with promptly and there is no unreasonable delay in holding meetings, making decisions or communicating decisions
- Treatment of employees should be consistent

- Facts should be established by way of investigation
- Employees should be informed of the issues and be given an opportunity to state their case
- Employees have a right to be accompanied at formal disciplinary hearings
- Employees should be given a right to appeal against any formal decision made
- Employees will not normally be dismissed for a first act of misconduct unless the Company decides it amounts to an act of gross misconduct (or if an employee has not completed their probationary period), or if such action has a material detrimental effect on Client or Supply Chain relationships.

If employees have any difficulties at any stage of the procedure because of a disability, they should discuss the situation with their manager as soon as possible.

Informal Resolution

Minor conduct issues may be resolved informally between an employee and their manager. Discussions should be held in private and without undue delay wherever there is cause for concern. Where appropriate a note of any such informal discussions should be placed on an employee's personnel file, or better still retained by the Manager. Formal steps will be taken under this procedure if the matter is not resolved, or there is a repetition or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

Formal Resolution – Investigation Stage

When a potential disciplinary issue arises and formal disciplinary action is being contemplated, an investigation is required.

The purpose of an investigation is to allow the Company to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, before deciding whether or not to proceed with a disciplinary hearing. The amount of investigation will vary from case to case. It may involve interviewing or taking statements from the employee concerned and/or reviewing documents.

The key points for any investigation will be as follows:-

- To establish the facts as soon as possible
- A supervisor or line manager will normally carry out the investigation

Pointers on what to investigate:

- *Is it a specific event – if so what happened, when and where*
- *If a recurring issue – what is the issue, how long has it been going on and are any examples available for discussion with employee, is feedback available from clients/colleagues*
- *What instructions have been given to the employee*
- *Any witnesses (where appropriate) if yes take statements**
- *Are there records or other written documentation to support, or otherwise, the allegation*

*If a witness does not want their identity to be disclosed to the employee then the Manager will need to weigh up the detriment it may cause to the employee's case by non-disclosure. This decision will be at the discretion of the Manager holding the hearing. If the Manager chooses to allow a witness to remain anonymous the manager should produce a note as to why the decision has been made. This note should cover (1) why the manager believes the witness has a genuine and reasonable concern to conceal their identity; and (2) why the Manager believes that allowing the evidence of the witness to be presented anonymously will not unfairly prejudice the employee.

Following any investigation, the investigating officer will review facts and decide whether it is appropriate to initiate the disciplinary procedure.

Please note that investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

Employees will not be permitted to bring a companion to an investigative interview, unless it is necessary to overcome any disability or difficulty in understanding English.

Employees must co-operate fully and promptly in any investigation. This will include informing the Company of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required to do so.

Suspension

In certain circumstances it will be appropriate for the Company to consider suspending an employee on full pay whilst the case is being investigated. Suspension is not a punitive measure, nor should it be considered to be indicative of any outcome.

There are a number of scenarios where the Company may decide to suspend an employee whilst an investigation takes place. For example:-

- In potential cases of gross misconduct suspension will normally be appropriate to keep the employee away from the workplace whilst an incident is being investigated. This is particularly relevant where 3rd parties are involved and embarrassment or discomfort may be imposed on others.
- In certain cases where the issue is one of potential harassment the suspension does not have to be limited to the employee who has been accused of harassment. In certain circumstances it may be relevant to suspend the employee who made the complaint, as it could be considered, in the best interests of both parties, to keep them away from the workplace until the issues have been resolved.

Any employee should be advised very clearly that they are being suspended and the reason(s) why. This will be confirmed to them in writing and will set out the basis and terms applicable during any period of suspension and that they may be required to attend a disciplinary hearing once an investigation has been completed.

Any period of suspension will be for no longer than is necessary to investigate the allegations.

Suspended employees should not visit the Company's premises or contact any of its clients, suppliers, contractors or employees unless they have been authorised to do so by their line manager and this may be arranged under supervision.

Notification of a Hearing

- Where it is decided that there is a disciplinary case to answer as a result of the investigation process, the employee will be notified in writing by email and/or letter that they are required to attend a disciplinary hearing.
- The Company will inform the employee of the allegations against them, the basis for these allegations and the potential outcome(s) if the Company decides after the hearing that the allegations are true.
- It would normally be appropriate to provide employees with a summary of the relevant information gathered during the investigation, a copy of any relevant documents which will be used at the disciplinary hearing and copies of any witness statements taken during the investigation. If a witness's identity is to be kept confidential, the Company will give the employee as much information as possible while maintaining confidentiality.
- The Company will give the employee notice of the date, time and place of the disciplinary hearing. Reasonable notice of any disciplinary hearing should be given and a minimum guide would be 3 working days. However, it may vary dependant on the complexity of the case in question.

The Company will also advise the employee of their right to be accompanied, by a work colleague only. It is Company policy not to allow employees to be accompanied by a solicitor or members of their family.

- If the choice of companion is unreasonable the Company may ask you to choose someone else, for example:-
 - If the Company thinks an employee's companion may have a conflict of interest or may prejudice the hearing;
 - If the employee's companion works at another site and someone reasonably suitable is available at the site where the employee works; or
 - If the chosen companion is unavailable at the time when the hearing is scheduled and will not be available for more than 5 working days.
- Anyone who is requested to attend as a representative can turn down the request.
- Employees will be allowed reasonable time off from their duties without loss of pay to act as a companion.
- Representatives are there to take their own notes, observe and support the employee but should not answer questions on behalf of the employee. A representative is not generally expected to participate in discussions, which will be directly with the employee. If, however, the Representative has something relevant to add or believes an important point has been missed they should indicate to the person chairing the hearing that they would like to contribute.

- The representative should also keep notes and agree a written record of the meeting with all those in attendance.
- If an employee or their companion is unable to attend the hearing, they should inform the Company immediately so that an alternative time can be arranged. Employees should make every effort to attend any hearings and a failure to attend without good reason may be treated as misconduct in itself.
- If an employee fails to attend a hearing without good reason or is persistently unable to attend a hearing (for example, due to health reasons), the Company will have to take a decision based on the available evidence.

The Disciplinary Hearing

This section sets out some tips and guidance as to how disciplinary hearings should be handled.

- The hearing will normally be chaired by a Manager senior to the one who carried out the investigation. This is essential in potential gross misconduct cases.
- The individual chairing should ensure that they start the meeting by making introductions and explaining everyone's roles. They should then outline the nature of the issue, go over the evidence and go through any witness statements taken during the investigation as appropriate. They should also check at an early stage whether the employee has any documentation they wish to submit or any other evidence they wish to raise
- The employee will then be given the opportunity to set out their case, answer any allegations, present evidence and, ask questions. The companion may make representations on an employee's behalf and ask questions of the Company but should not answer questions for the employee.
- Employees may call relevant witnesses at the hearing, if appropriate (and this must be with advance notice).
- Employees will be given the opportunity to respond to any information given by a witness, but will not be permitted to cross-examine them.
- The hearing should be adjourned if further investigation is required.

After the Hearing

After the hearing has been held in its entirety the Manager chairing the hearing should decide whether or not disciplinary action is justified.

The Company will inform the employee of its decision as soon after the hearing as possible, where possible in person. This will also be confirmed in writing as soon as possible after the disciplinary hearing.

Where the outcome is that misconduct is confirmed then consideration should be given as to the appropriate disciplinary sanction, as described below.

Types of Disciplinary Sanction

Informal: Verbal Warnings

Verbal warnings can be issued as part of an informal process and as a result of minor issues of misconduct. This will normally be confirmed by the manager and a file note kept for future reference if necessary. If there is a repetition of behavior or no improvement made, dependant on the issue then the formal process will be invoked with formal sanctions as covered below. Any verbal warning issued on an informal basis as described does not have to be issued as a result of a formal hearing.

Written Warnings

There are 2 levels of written warnings as described below. However, the Company reserves the right to go straight to the level it believes is appropriate in the circumstances. Where serious misconduct has occurred this may mean going straight to a final written warning, or, in cases of gross misconduct, to dismissal.

The Company aims to treat all employees fairly and consistently and will take into account penalties imposed on any other employee for similar misconduct when deciding what sanction to impose. However, each case will ultimately be judged on its own merits. Level of seniority and responsibility within the Company will be taken in to account when determining the level of disciplinary sanction, as the impact of the misconduct may have wider reaching implications when compared to a level less senior in this respect.

Level 1 - First Written Warning

Where an issue is deemed too serious to be dealt with using informal means, or there is repetition of misconduct addressed with informal verbal warning the employee may be issued with a 1st written warning. The warning will remain live on an employee's file for a period of 12 months.

Level 2– Final Written Warning

If a matter is considered too serious to be addressed via informal means or through level 1 as described above or there is a further offence within the time limit of a first written warning, the employee will be issued with a Final Written Warning. The Final Written Warning will remain on file for a period of twelve months. (However, in exceptional cases verging on gross misconduct, the Company may issue a final written warning which remains active indefinitely.) Any further acts of misconduct within the time frame of the final written warning may result in dismissal with notice.

Dismissal

Dismissal will be the appropriate sanction where employees have committed an act of misconduct during their probationary period, or where there is a further offence within the time limit of a final written warning, or where employees have committed an act of gross misconduct (regardless of whether the employee has any active warnings on their record).

Dismissal for gross misconduct will usually result in summary dismissal without notice or payment in lieu of notice.

NB all warnings will detail the expectation or action necessary to avoid further disciplinary action and the timescales in which to achieve this clearly detailed.

What happens when disciplinary action is inappropriate?

Where it is deemed that a disciplinary warning is not appropriate then other outcomes may be appropriate such as:

- further training
- counselling
- performance improvement plan, which may still be part of a formal warning letter (see policy dealing with performance and capability issues)

There will also be cases where the detail of a disciplinary warning may be reinforced by referral to the support mechanisms as detailed above.

Expiry of warnings

On the expiry of the stated validity period of a formal warning, subject to there being a satisfactory improvement in conduct, the warning will cease to have effect. Where conduct has still not reached the required level the Company reserves the right to extend a disciplinary warning as an alternative to progressing to the next stage of the disciplinary process. This will be done by way of a review meeting with the employee so the reasons can be explained and required actions advised. This will be confirmed in writing to the employee.

After the active period of any warning has expired, the warning will remain on employees' personnel files but will be disregarded in deciding the outcome of future disciplinary hearings.

All disciplinary sanctions should only be applied following consultation with The Human Resources Department, who will normally be responsible for issuing the sanction in writing.

The Right of Appeal

Any employee who is dissatisfied with a disciplinary decision imposed upon them has the right of appeal.

If an employee feels that the disciplinary action taken against them is wrong or unjust, they must appeal in writing against the decision stating in full their grounds of appeal, within 7 days of the date they were notified of the outcome of the disciplinary proceedings.

If an employee is appealing against a decision to dismiss them, the date on which their dismissal takes effect will not be delayed pending the outcome of the appeal. However, if their appeal is successful they will be reinstated with no loss of continuity or pay.

The appeal hearing will normally be held by the next level of management where possible.

The same principles will apply to an appeal hearing as those at the disciplinary hearing.

Following the appeal hearing, the Company may:

- confirm the original decision;
- revoke the original decision; or
- substitute a different penalty
- or go back to square one if there is a view that meetings to date are in some way flawed or insufficient

The decision made at the appeal hearing is final and will be confirmed in writing to the employee. There will be no further right of appeal against this decision,

Other Information

Live Warnings and Pay Reviews

Any employee who has a live formal warning on file at the time of the pay review process within Pay4Property Ltd will not be entitled to receive any uplift in pay.

Overlapping disputes/grievances

In the course of a disciplinary case an employee may raise a grievance which is related to the case. If this happens it may be appropriate to suspend the disciplinary process for a short period until the grievance can be considered. Depending on the nature of the case the Company will consider whether it is appropriate to bring in a different manager to deal with the disciplinary case.

It may be preferable to keep the two procedures separate, however, where there is a definite link and it is considered appropriate, then it is acceptable that both the letters and meetings under the Disciplinary and Grievance procedures may be multi-purpose, where this saves unnecessary duplication of process.