

## **DISCIPLINARY POLICY**

### **INTRODUCTION**

Disciplinary rules and procedures are necessary for promoting orderly employment relations as well as ensuring fairness, consistency and transparency in the treatment of employees. They also enable Tayside Contracts to operate effectively. Rules set standards of conduct at work; procedures help to ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.

This policy is in accordance with the 2009 Acas Code of Practice on Disciplinary and Grievance procedures.

As far as reasonably practicable, Tayside Contracts will assist employees to achieve acceptable standards of conduct by bringing to their attention rules of the workplace and by providing the necessary training to assist them in undertaking their work effectively and safely. This procedure should not be viewed primarily as a means of imposing sanctions. Where possible, it aims to encourage improvement in individual conduct.

### **SCOPE OF POLICY**

The procedure applies to all Tayside Contracts employees with the exception of the Managing Director who is covered by a separate, albeit similar, procedure.

Concerns in relation capability will be dealt with in accordance with either the Performance at Work Policy or the Sickness Absence Management Policy.

### **PRINCIPLES**

The Managing Director is ultimately responsible for the management and discipline of Tayside Contracts' employees. The Managing Director, or nominated representative, has the right to warn, dismiss, withhold incremental progression, reduce grade, or apply other disciplinary sanctions, subject to an employee's right of appeal, outlined below. It is the Managing Director or nominated representative's responsibility to ensure that the following principles are complied with:

- A Disciplinary Hearing will not be convened until the case has been investigated. The supervisor/line manager nominated to conduct the investigation may request assistance to carry out the investigation from HR Services. Any decision thereafter to impose, or not to impose, a disciplinary sanction will be taken by the manager directing the investigation, after consultation with the HR Manager or nominated representative.
- There is no legal right to be accompanied at the investigation stage. However, employees will be offered the opportunity to be accompanied by a Trade Union representative or work colleague wherever practicable.
- If, after investigation and the completed investigation report has been submitted, it is considered that a Disciplinary Hearing is necessary, the employee will be advised in writing of the date, time and venue of the Hearing, the allegations being made, witnesses being called, documentary evidence being presented and of their right to be accompanied and to call their own witnesses. Every effort will be made to hold the Hearing at the earliest possible opportunity and the employee will receive at least 7 calendar days notice of the date of the Hearing. The main purpose of the Hearing is to allow the employee the opportunity to state their case before any decision is made.
- A representative from HR Services will be present at the Disciplinary Hearing.
- At the Disciplinary Hearing, employees have the right to be accompanied or represented by a trade union representative or work colleague. It is the responsibility of the employee to arrange the

attendance of their representative. There is no entitlement to be accompanied by any other representative, including family members at the Hearing.

- Normal disciplinary standards are expected of an employee who is a trade union shop steward. However, no Disciplinary Hearing will be convened against such an employee until the circumstances of the case have been discussed with a full time official of the employee's trade union.
- At the Disciplinary Hearing the employee will be given the opportunity to call and question witnesses and/or to produce documentary evidence.
- If an employee fails to attend a Disciplinary Hearing on at least two occasions without good cause, a decision will be made in their absence based on the evidence available at that time.
- Depending on the nature and seriousness of the misconduct, it is not necessary to progress from one level to the next in the scale of disciplinary sanctions. For example, it is possible for a final written warning to be issued without a written warning having previously been issued. An employee cannot be dismissed for a first offence unless gross misconduct has been established.
- Employees have the right of appeal against all formal disciplinary sanctions.

## **SUSPENSION**

If accused of misconduct, employees may, in certain circumstances, be suspended on full pay for a limited period while the alleged misconduct is being investigated. However, suspension must not be used as a punitive measure in its own right and when considering whether or not to suspend an employee, HR Services must be consulted by the manager, preferably beforehand or as soon as possible after the suspension has been carried out.

## **CRIMINAL CHARGES OR OFFENCES**

A criminal charge or offence will not necessarily be treated as an automatic reason for disciplinary action including dismissal, regardless of whether or not the charge or offence has any relevance to the duties of the individual as an employee. Each case will be thoroughly investigated, considered on its merits, and dealt with in accordance with this procedure.

## **DISCIPLINARY SANCTIONS – INFORMAL AND FORMAL**

### **INFORMAL ACTION/COUNSELLING**

A supervisor/line manager may caution an employee when a minor infringement of the established standards of conduct has been committed. It is important that all problems of this nature are fully discussed and that appropriate support is provided with the objective of encouraging improvement in individual conduct, through the use of informal advice, guidance and counselling. This will not constitute formal disciplinary action and will not be held on the employee's personal file. However, this will be recorded as an improvement note by the supervisor/line manager.

### **FORMAL ACTION**

Employees will be notified in writing when a Disciplinary Hearing is convened that either:

- 'Should any or all of the above allegations be substantiated a formal disciplinary penalty will be issued.'
- 'Should any or all of the above allegations be substantiated a formal disciplinary penalty will be issued. This may include dismissal.'

The following formal disciplinary sanctions can be issued at a Disciplinary Hearing:

## **Written Warning**

If the misconduct is sufficiently serious, the employee may be issued with a written warning at the conclusion of the Disciplinary Hearing. Written confirmation of the outcome of the Disciplinary Hearing including the reason for the decision, the likely consequences of further misconduct and the right of appeal, will be sent to the employee within 7 calendar days of the Disciplinary Hearing. Subject to satisfactory conduct, a written warning will be disregarded after a period of 9 months.

## **Final Written Warning**

More serious misconduct, or further misconduct, may warrant the issue of a final written warning. Written confirmation of the outcome of the Disciplinary Hearing including the reason for the decision, a statement that any further misconduct will lead to dismissal and the right of appeal, will be sent to the employee within 7 calendar days of the Disciplinary Hearing. Subject to satisfactory conduct, a final written warning will be disregarded after a period of 15 months.

## **Action Short of Dismissal**

It is possible to supplement a written or final written warning by applying other disciplinary sanctions including withholding incremental progression, demotion and extending the normal time limit of a written or final written warning.

## **Dismissal**

Repeated misconduct will normally result in dismissal and this will be confirmed by a letter setting out the reason for the decision to dismiss and the right of appeal. Written confirmation of the dismissal will normally be sent to the employee within 14 calendar days of the Disciplinary Hearing.

## **Summary Dismissal**

Certain offences are regarded as gross misconduct which will normally warrant dismissal without notice (or pay in lieu of notice) despite the absence of previous warnings. This is termed 'summary dismissal.'

The following list, which is not exhaustive, provides examples of offences which are normally regarded as gross misconduct: theft, fraud, deliberate falsification of records, fighting, deliberate damage to property, unlawful discrimination or harassment, physical assault/violence or bullying, accessing, downloading or circulating pornographic or other material of an offensive, obscene or discriminatory nature, serious negligence which causes unacceptable loss, damage or injury, serious act of insubordination, serious incapability through alcohol or the influence of illegal drugs, serious breach of health and safety rules, serious breach of confidence, disclosure of confidential information to an unauthorised person or use of such information to gain personal advantage, failure to disclose a personal financial interest in a contract or proposed contract with Tayside Contracts, unauthorised acceptance of any fee or reward accepted in connection with work, serious misuse of Tayside Contracts' property or name, or bringing Tayside Contracts into serious disrepute.

## **Right of Appeal**

An appeal may be lodged against the above formal disciplinary sanctions. In accordance with the principles of fairness and Natural Justice, a different panel will be involved at each stage of the Disciplinary Procedure.

When delivering the outcome of the Disciplinary Hearing, the Chair will advise the employee of the right of appeal (if appropriate) and the person to whom the appeal should be addressed. Should an employee wish to exercise this right this must be done in writing within 14 calendar days of receiving written confirmation of the outcome of the Disciplinary Hearing.

All appeals will be heard in the first instance by the Managing Director or nominated representative and the outcome of the appeal will be confirmed in writing within 14 calendar days of the date of the Hearing.

Should an appeal against dismissal not be upheld the employee may submit a final appeal by writing to the Managing Director within 14 calendar days of receipt of written confirmation of the outcome of the initial appeal. The Managing Director will arrange for this final appeal to be heard by an Appeals Sub-Committee, comprising elected members of the Tayside Contracts Joint Committee. The right of appeal to an Appeals Sub-Committee only applies to dismissals, the final right of appeal in respect of all other disciplinary sanctions will be heard by the Managing Director or a nominated representative.

At an Appeal Hearing the employee has the right to be represented or accompanied by a trade union representative or a work colleague of their choice. It is the responsibility of the employee to arrange the attendance of their representative.

A representative from HR Services will be in attendance at all Appeal Hearings and will present Tayside Contracts' case in those appeals heard by the Appeals Sub-Committee.

## **RELATED POLICIES**

The Disciplinary Policy links to the following policies, which can be found on the intranet, from your line manager and from the HR Admin Team:

- Employee Code of Conduct
- Performance at Work Policy
- Sickness Absence Management Policy

## **POLICY REVIEW**

The Disciplinary Policy will be reviewed annually.

**Should you have any queries or require further clarification regarding any aspects of this policy or related policies please contact, HR Services on 01382 812721 or [employment.policies@tayside-contracts.co.uk](mailto:employment.policies@tayside-contracts.co.uk)**