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Dismissal, Discipline and Grievance Policy and Procedures for Learners

Dismissal, Discipline and Grievance policy and procedures



INVESTOR IN PEOPLE

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Introduction and Overview

The Discipline and Grievance Procedures are comprised of **3 basic Steps**.

Both learners and staff must follow the minimum (3 step) process in the event of a making a grievance against another learner or staff member; or a staff member when disciplining or dismissing a learner.

Step1. Put it in writing

You must put the reasons for your grievance, in writing, in broad terms to the Programme/IV Manager (Hairdressing, Barbering, Childcare or Business Administration).

Similarly the Programme/IV Manager must put their reasons for disciplinary action or dismissal in writing to you.

Step 2. Meet and Discuss

Grievance or Disciplinary Hearing Panel. This is most likely to be a face to face meeting between you and the Programme/IV Manager and another Senior Manager. Both parties must be given time to consider the facts of the other's complaint prior to the meeting and have the right to be accompanied by a person of their choice. All parties will be informed of the Panel's decision and their right to appeal in writing.

Step 3. Appeal

An appeal meeting will be granted if required. This may happen after sanctions have already been imposed. The person bringing the complaint must be informed in writing of the outcome of the appeal.

Preamble - 'Prevention is better than cure'

While it is important, to deal with discipline and grievance issues fairly and effectively, it is even more important to look at ways of preventing problems arising in the first place. Well thought out, clearly communicated and fairly applied employment policies and practices can help develop good employment relations and minimise the number of problems.

Methods by which **learners** can ensure that the need for disciplinary processes are minimised include:

- Participating fully in initial assessment, employer interviews and induction processes
- Being honest about your hopes, expectations from Apprenticeship training and needs during the Application, Interview and Induction processes
- Being punctual, reliable and presentable for interviews, induction, training, and ultimately work
- Using induction materials effectively
- Ensure that your conduct and attitude is respectful of other work colleagues, teachers, assessors, and their qualifications and experience
- Ensure that your behaviour is always professional and acceptable in the workplace and in the teaching/learning environment
- Showing respect and support for other students in the college environment.

- Ensure that you develop a respect and understanding of other people, cultures, religions, gender, sexuality, beliefs, races and origins, other than your own by participating fully in Equality & Diversity Awareness; Workbook and Training day.
- Taking responsibility and accountability to act on issues that arise for you openly and honestly; in other words not gossiping and doing nothing about it or even worse acting out prejudices and grudges in a discriminatory way.
- Ensuring that you take responsibility to know when your college days and times are and that you are on time for all teaching and tutorials / examinations.
- Ensure you are prepared and ready for work-based assessment and assessment plan review visits as agreed with your assessor.
- Inform the college when you are off sick or planning a holiday.
- Attend for examinations and or additional training as notified to you by your assessor. Your teaching and assessment staff are professional workers as are your employers and unnecessary wasted appointments cost money.

tpm management will use effective methods to support and ensure learners take responsibility and accountability for their learning and behaviour, helping you to deal with any issues as early as possible, this can 'nip in the bud' the likelihood of disciplinary action becoming necessary.

Such methods might include:

- Ensuring that you have had a thorough interview, initial assessment and induction to the college and work-based learning Apprenticeships
- Making sure that we have assessed your particular learning, social and emotional or other needs, so that we can agree with you from the outset any support and guidance that will help you perform to your best.
- Keeping in contact with you/your parents/employers on a regular basis, particularly if you are absent from work or college.
- Encouraging you to be open and honest with your assessor/trainer about what is troublesome for you and how you are getting on in your workplace (this includes being open and honest with your line manager/supervisor too).
- Taking time to look for and discuss and record any early warning signs of de-motivation or repeat absence.
- Helping you to comply with workplace or college policies & procedures and using the informal daily / weekly guidance, advice and counselling effectively.
- Formal progression reviews conducted by your assessor every six weeks with you and your line manager, will highlight if you, your manager or your assessor have any concerns. Where concerns are serious enough 'At Risk' notices will be used. Red, Amber and Green codes are used to signify how serious the risk to your progression and achievement are.
- Your personal assessor will report on your progress/conduct/attendance every week to his or her manager back at the college. Training managers who become concerned about your progress/conduct/attendance will call or write to you and or your line manager to discuss it.

In this way the use of the formal disciplinary procedures then becomes a 'last resort' rather than the first thought of an ineffective Trainer/Assessor/Manager or scared learner /employee.

This helps everyone to understand that rules are there to be kept, and that formal disciplinary action is taken seriously by the organisation and not something it is afraid to enforce to achieve acceptable conduct and performance.

1. Purpose of the Disciplinary Procedure

tpm's aim is to encourage improvement in conduct, attendance and performance/progression of learners. This procedure sets out the action which will be taken for any and all learners when Company Rules, Systems or Procedures are breached.

2. Disciplinary Rules

2.1 It is a term of the learners Apprenticeship Agreement that he/she is at all times fit, capable and competent to perform his/her work-based training and duties.

2.2 The learner must at all times work and conduct themselves in accordance with the terms and conditions of his/her Apprenticeship Agreement and all other printed policies, systems and procedures as contained or referred to within the Learner's Handbook Booklet. These policies and procedures include:

- Code of Conduct (and gross misconduct as defined later within this document)
- Timekeeping and all timekeeping/planning records
- Sickness absence reporting and holiday booking procedures
- Health and Safety policy and procedures
- Standards of work and performance
- Dress and appearance codes
- Smoking, Drugs and Alcohol
- Equality and Diversity
- Recruitment, Initial Assessment and Induction procedures
- Internal Verification and Assessment processes
- Use of Company facilities and resources e.g. training rooms and ICT equipment

2.3 Failure to comply with these policies, systems and procedures, will generate 'At Risk' notices and may lead to disciplinary action.

2.4 The learner will at all times keep such learning records (portfolio's, log books etc.) as from time to time may reasonably be required by the Training Provider/Employer.

2.5 The Training Provider may in its discretion suspend a learner from training, attendance at college or assessment visits, (for a period not exceeding three days initially), pending an investigation or longer in cases of gross misconduct.

2.6 In the event of any minor breach of discipline or the terms and conditions of the apprenticeship agreement the learner will, on the first occasion be given a verbal warning. In the event of further breach of discipline the learner will be given a first written warning. If there is a further breach of discipline the learner will be given a final written warning; in case of a further breach within this period the will be liable to dismissal.

2.7 A learner being disciplined must always have a fellow learner or representative present at such disciplinary proceedings, in accordance with their statutory rights.

2.8 Any appeal against any disciplinary action or dismissal must be made in writing to a Senior Company Manager within five working days of the formal notification letter.

2.9 A learner will in the event of disciplinary action which leads to dismissal be given a “written statement of particulars of reasons for dismissal” this will be a rare occurrence and only after a full and thorough disciplinary hearing.

3. Principles

If you are subject to disciplinary action:

The procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated

- **(Step1. Put it in writing)** At every stage you will be advised in writing of the nature of the complaint, be given the opportunity to state your case, and be represented or accompanied by a fellow learner or representative of your choice
- **(Step 2. Meet and Discuss)** You will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be dismissal without notice, following full formal hearing processes
- **(Step 3. Appeal)** You have a right to appeal against any disciplinary action taken against you and this document informs you how, later.

4. Informal Discussions/Counselling ‘At Risk’

Before taking formal disciplinary action, your Trainer/Assessor or Programme/IV Manager will make every effort to resolve the matter by informal discussions, guidance or counselling and or ‘At Risk’ notice/s with you.

Only where this fails to bring about the desired improvement should the formal disciplinary procedure be implemented.

The Company’s At Risk system is a method of measuring the risk to a learner’s ability to achieve their qualification framework by use of a traffic light coding. e.g.

Green = No problems and steady progress

Amber = New risk identified such as repeat and unexplained absence or failure to produce work

Red = Significant risk to completion including ‘Loss of employment’, failure to improve attendance/conduct/attitude to work or study despite previous action planning and support.

The Disciplinary Procedure

5. Verbal Warning

If, despite informal counselling, discussions and ‘At Risk’ notice/s, your conduct or performance does not meet acceptable standards, you will be given a formal verbal warning by your Programme/IV Manager. You will be told verbally and in writing:

- the reason for the warning
- that this warning is the first stage of the disciplinary procedure
- that you have a right of appeal and how to make that written appeal
- A copy of the warning will be kept on your personal file but it will lapse after 6 months, subject to satisfactory conduct and/or performance improvement.

6. Written Warning

If there is no improvement in standards, or if a further offence occurs, a written warning will be given. This will state:

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- the reason for the warning
- that the warning is the second stage of the disciplinary procedure and that if there is no improvement after a reasonable and stated timeframe, a final written warning will be given.
- that you have a right of appeal and how to make that written appeal
- A copy of this written warning will be kept on file but the warning will lapse after 6 months subject to satisfactory conduct and/or performance improvement.

7. Final Written Warning

If your conduct or performance remains unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning, then a final written warning will be given making clear:

- the reason for the warning
- that the warning is the third and final stage of the disciplinary procedure and that any recurrence of the offence or other serious misconduct within a period of 12 months may/will result in dismissal
- that you have a right of appeal and how to make that written appeal
- A copy of the warning will be kept on file but the warning will lapse after 6 months subject to satisfactory conduct and/or performance.

8. Dismissal

If there is no satisfactory improvement following previous verbal and written warnings within the stated timeframes or if further serious misconduct occurs, you will be dismissed.

9. Gross Misconduct

If, after investigation (by disciplinary hearing), it is deemed that you have committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal:

- theft, fraud, deliberate falsification of company / awarding body documents, plagiarism, cheating in examinations
- physical violence, fighting, or assault on another person
- serious bullying, sexual or racial harassment, or other forms of discrimination
- attempting to sell or solicit illegal drugs and substances or attending college under the influence of illegal substances or classified (non-medicinal and prescribed) drugs
- deliberate damage to or serious neglect of company property including interference with smoke detectors and fire alarm equipment
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)
- gross negligence which causes unacceptable loss, damage or injury
- serious infringement of Health and Safety rules
- gross insubordination

While the alleged gross misconduct is being investigated, you may be suspended, normally for up to three days initially. Such suspension is not to be regarded as a form of disciplinary

action and will be for as short a period as possible. Any decision to dismiss will be taken only after a full disciplinary hearing. If you are found to have committed an act of gross misconduct, you may be dismissed without notice.

10. Appeal

If you wish to appeal against any disciplinary decision, you must appeal, in writing to the Programme/IV Manager within five working days of the written decision being communicated to you. A senior manager or Company Director who was not involved in the original disciplinary action will hear the appeal and decide the case as impartially as possible.

11. Disciplinary Hearing Panel

The Disciplinary Panel will normally consist of the following members:

-
1. Programme/IV Manger (responsible for the learner being disciplined)
 2. One Senior Company Manager
 3. Learner being investigated/disciplined
 4. Learner's representative

Operating the disciplinary procedure

At the disciplinary interview, make sure that:

- you know and understand the details of the allegation
- you have the opportunity to put your side of the matter across
- any disciplinary measure or action is supportive of you reaching the level of conduct or competence required
- you have exercised or acknowledged your right to be accompanied

If a warning is given, it should tell you:

- the nature/stage of the warning and disciplinary action decided
- the level and degree of improvement required
- the date/timeframe by which the improvement is to be achieved
- what will happen if the required level of conduct or performance is not achieved
- the right to and how to appeal in writing.

Key Points to remember:

- remember that disciplinary action is intended to encourage improvements in conduct/behaviour/performance
- the matter should be dealt with promptly and gather all the relevant facts
- it is a Programme/IV Manager's responsibility to maintain satisfactory standards
- if there is a need for a brief suspension in particular cases while the investigation takes place e.g. fear of violence or physical conflict etc. that this is not in itself disciplinary action

- Be objective, honest and consistent in expressing your feelings and the facts
- each case will be considered on its merits, and snap decisions or judgements will not be made in the heat of the moment will not be made
- Follow the disciplinary procedure to the letter wherever possible
- Dismissal for gross misconduct without warnings or notice will only be for the most serious offences, examples of which are specified in the rules, and should only occur after the normal disciplinary investigation and hearing procedure and NEVER without the consent of The Directors Board
- You should be in no doubt as to the nature of the disciplinary penalty, the improvement expected, the need to sustain the improvement, and the method and timing of written appeals

Conduct required of all staff and learners to ensure procedural fairness during disciplinary procedures

- Apply strict confidentiality guidelines at all times
- Act with respect, fairness and with integrity
- Maintain a sense of natural justice
- Keep to the procedure
- Maintain equal rights for all parties
- Ensure Statutory right to accompaniment
- Right to remedy poor performance /conduct
- Impartial decision making
- Do not gossip
- Do not have unnecessary contact with other parties concerned, including members of the disciplinary panel
- Seek appropriate support within agreed authorised boundaries of confidentiality
- Right to respond and question witness statements or evidence
- If dismissal is agreed or resignation is received, to apply guidelines of confidentiality at all times
- To review progress of the hearing/process at agreed times
- Not to hold grudges and understand the need to move on
- All processes must be recorded accurately and maintained along with statements, documents of evidence or any other relevant information for processing by The HR Director.

Checklist for handling a disciplinary matter

This checklist sets out the key steps, which are considered when handling disciplinary matters. All must observe the principles of natural justice embodied below and implicit within the **acas** Code of Practice.

1. Gather all the relevant facts:

- promptly, before memories fade
- take statements, collect documents

- in serious cases consider suspension with pay for a short period while an investigation is conducted

2. Be clear about the complaint:

- is action necessary at this stage?

3. If so, decide whether the action might be:

- advice, guidance and counselling
- formal disciplinary action, following the organisation's procedures

4. If formal action is possible, arrange a disciplinary hearing:

- ensure the individual is aware of the nature of the complaint, and that the hearing is a disciplinary one
- tell the individual where and when the hearing will take place, and of their right to be accompanied (see Appendix 1, section 3 of the acas Code) Directors office.
- arrange for a second member of management to be present, (although not someone who might hear any appeal)

5. Start by introducing:

- those present and the purpose of the hearing
- the nature of the complaint
- the supporting evidence

6. Allow the individual to state his/her case (the accompanying person may also put questions and confer privately with the individual, but not answer on their behalf):

- consider and question any explanations put forward

7. If any new facts emerge:

- decide whether further investigation is necessary
- if so, adjourn the hearing and reconvene when the investigation is complete

8. Call an adjournment before making a decision: Even if only 10 minutes to have a drink and consider the matter:

- come to a clear view about the facts
- if facts are disputed, decide on the balance of probability which are true

9. Before deciding any disciplinary penalty consider:

- the seriousness of the offence, and whether the procedure gives guidance
- the penalty imposed in similar cases in the past (advice from the HR Director)
- the individual's disciplinary record and general performance/conduct
- any mitigating circumstances
- whether the proposed penalty is reasonable in all the circumstances

10. Reconvene the disciplinary hearing to:

- clearly inform the individual of the decision and the penalty, if any
- explain the right of written appeal and how it operates
- in the case of a warning, explain what improvement is expected, how long the warning will last, and what the consequences of failure to improve may be

11. Record the action taken:

- confirm the disciplinary action to the individual in writing (HR Director)
- keep a simple record of the action taken for future reference
- ask the employee to acknowledge receipt of notification of any disciplinary penalty

12. Monitor the individual's performance:

- disciplinary action should be followed up with the object of encouraging improvement

- monitor progress regularly and discuss it with the individual, via normal staff appraisal and performance monitors or using Employee Support Programme.

The Grievance Procedure

1. PURPOSE

This grievance procedure is intended to enable individual learners to raise grievances with Company management about aspects of their training and assessment experience or their relationships with staff and or other learners either by themselves or with a representative. It should be a simple and rapid operation.

Why have a grievance procedures?

This procedure provides an open and fair way for learners to make known their problems and enables grievances to be resolved quickly before they fester or escalate and become major problems.

The procedure aims to settle grievances fairly and as quickly as possible. It acknowledges and recognises that most routine complaints and grievances are resolved informally in discussions with the people concerned. This procedure outlines:

- how and with whom to raise the issue
- whom next to apply to if not satisfied
- time limits to each stage of the procedure
- the right to be represented
- the right to appeal and how to do it

The grievance procedure is every bit as important as that for dealing with discipline. For it to be used effectively, all staff are trained in how to deal with complaints honestly, professionally and promptly.

2. INFORMAL DISCUSSIONS

If you have a grievance about your training, assessment, the college environment, a member of staff or another learner or a work related problem you should first discuss it with the person/s concerned. If for any reason you cannot solve your grievance in this way you should discuss it informally with your personal assessor or Programme/IV Manager, without delay as they may be able to support/mediate the discussion for you and the person/s concerned. We anticipate that the majority of concerns will be resolved at this stage.

3. Grievance Procedure (Stage 1. Put it in writing)

If you feel that the matter has not been resolved through informal discussions, you should put your grievance in writing to your Programme/IV Manager. Any member of **tpm** staff can help you with this.

The Programme/IV Manager will inform a Senior Manager immediately on receipt of your grievance; who will ensure that your Programme/IV Manager works with you to resolve the matter quickly. This will be by means of a meeting with your Programme/IV Manager and the Senior Manager detailed in the next point:

4. Grievance Procedure (Stage 2. Meet & Discuss)

The Company Senior Manager must inform The HR Director (or a Company Director) immediately on receipt of your grievance; he/she will ensure that your Senior Manager works with you and your Programme/IV Manager to resolve the matter quickly and are given a response within 5 working days.

At this stage you will be given the opportunity to attend a formal meeting. The senior Manager will chair and decide on the outcome of the grievance hearing. You may be represented or accompanied at this meeting by a fellow learner of your choice or by an official representative.

5. Grievance Procedure (Stage 3. Appeal)

If the matter is not resolved to your satisfaction, you should put your Appeal in writing to the Company's HR Director (or a Company Director).

You will be entitled to have a formal meeting with the Company HR Director or Director's Board to discuss the matter. The Company Director or Director's Board will give his/their decision within 7 working days of the grievance appeal meeting being conducted.

Grievance Hearing Panel

The Grievance Hearing Panel will normally consist of the following members:

1. Programme/IV Manger (responsible for the learner bringing the grievance)
2. A Senior Company Manager
3. Learner bringing the grievance
4. Learner's representative

The Company HR Director's / Board's decision is final.

Checklist for handling a grievance matter

This checklist sets out the key steps which all learners and staff should consider when making/handling grievance matters.

All learners and staff must observe the principles of natural justice embodied below and implicit within the acas Code of Practice.

1. State grievance clearly and state all the relevant facts:

- promptly, before memories fade take notes and ensure that you know the correct procedures for making grievances

2. Be clear about the grievance being made:

- is action necessary at this stage? Can this be resolved by you discussing the problem with the person/s concerned? Can this honest discussion 'nip this problem in the bud?'

3. If so, decide whether the action might be:

- advice, guidance and counselling
- a meeting between you and someone else perhaps mediated by a manager?
- or formal grievance in writing, following the organisation's procedures

4. If formal grievance is possible, follow company procedures:

- ensure you aware of the procedure and what to expect
- when notified of the grievance hearing stay calm and factual and prepare for the meeting

5. hearing will address:

- the nature of the grievance
- the supporting factual evidence
- possible solutions
- consider and question any explanations put forward
- decide whether further investigation is necessary
- if so, adjourn the hearing and reconvene when the investigation is complete
- come to a clear view about the facts
- if facts are disputed, decide on the balance of probability which are true
- the seriousness of the matter, and whether the procedure gives guidance
- similar cases in the past (advice from the HR Director or senior managers)

- the work record and general performance/conduct of implicated individuals
- any mitigating circumstances
- whether the proposed outcome is reasonable in all the circumstances.

6. Reconvene the hearing to:

- clearly inform the individual of the decision and outcome
- clearly inform the individual that the decision will be given in writing
- explain the right of appeal and how it operates

7. Record the action taken:

- confirm the outcome to the individual in writing
- keep a simple record of the action taken for future reference
- ask the individual/s to acknowledge receipt of notification of any decision/outcome

8. Monitor the situation:

- grievance should be followed up with the object of encouraging improvement about the issue or matter
- monitor regularly and discuss it with the individual/s, via normal Review processes or by using Learner Support Programme.

Conduct required of all staff and learners to ensure procedural fairness during grievance procedures

- Apply strict confidentiality guidelines at all times
- Act with respect, fairness and with honesty
- Maintain a sense of natural justice
- Keep to the procedure
- Maintain equal rights for all parties
- Ensure Statutory right to accompaniment
- Right to remedy poor performance /conduct
- Impartial decision making
- Do not gossip
- Do not have unnecessary contact with other parties concerned with the grievance
- Seek appropriate support within agreed authorised boundaries of confidentiality
- Right to respond and question witness statements or evidence
- To review progress of the grievance procedure throughout
- Not to hold grudges and understand the need to move on
- All processes must be recorded accurately and maintained along with statements, documents of evidence or any other relevant information for processing by The HR Director.