

VIAMED Ltd

Company Personnel Manual

Section 15. Disciplinary Procedures

In any organisation, it is essential that certain standards and performance must be maintained to protect the smooth running of the company, and the well being of its employees.

The disciplinary procedure is designed to ensure fair treatment for those whose job performance is below requirement, and those involved in breaches of discipline.

Depending upon the seriousness of the case, the disciplinary procedure may be entered into at any of the stages outlined below. Except for instances of gross misconduct, dismissal will not be the first step.

In general, particular shortcomings on the part of an employee in meeting job requirements or standards, will be initially brought to his / her attention by the immediate supervisor in informal conversations accompanied by the offer of assistance in achieving improvement.

Guidelines for the conduct of Disciplinary Meetings:

- a) Employees have the right to be accompanied by a trade union representative or a colleague, as per UK law, if they so wish, at any meeting held under the disciplinary procedure.
- b) The manager will state the reasons for invoking the disciplinary procedure, the disciplinary action to be taken and the corrective action required from the employee, together with a specified date by which acceptable improvement should be made.
- c) Full opportunity will be given for the employee to state his / her case.
- d) The employee will be advised of the full disciplinary procedure, including the provisions for appealing against disciplinary action, and the consequences that will follow if acceptable improvement is not made.

Stages of the Disciplinary Procedure:

Stage 1 – Oral Warning

Should an employee's conduct or performance remain less than satisfactory after an informal warning, the situation will be formally reviewed with his / her immediate supervisor, who will talk to him / her about his / her shortcomings, and suggest ways in which he / she might put these right. The supervisor will keep a written record of this meeting.

Stage 2 – Written Warning

If the employee's conduct or performance remains less than satisfactory in relation to the agreed improvement plan made at stage 1, or more serious cases, the situation will be formally reviewed with him / her by his/ her manager.

Following this meeting, the employee will receive from his / her manager a letter recoding the nature, and outcome of the disciplinary meeting. The employee will be asked to sign a copy of the warning letter to confirm understanding of the terms of the letter. The letter will clearly state

a plan of improvement and the deadline dates for achievement, and a copy will be held on the employees personnel file.

Stage 3 – Final Written Warning

If the employees conduct or performance fails to meet the standards established at stage 2, or in more serious cases, the situation will be reviewed with the employee by his / her manager.

Following this meeting, the employee will receive a letter from his / her manager recording the nature, and outcome of the disciplinary meeting. The employee will be asked to sign a copy of the warning letter to confirm understanding of the terms of the letter. The letter will clearly state a plan of improvement and the deadline dates for achievement and indicate that if no improvement is forthcoming, the company will take steps to dismiss the employee concerned.

Stage 4 – Dismissal

In cases of gross misconduct, summary dismissal may be the only reasonable course of action for the company. Examples of actions, which are likely to be treated as gross misconduct include:

- Fighting at work, or striking a colleague or supervisor;
- Drunkenness on duty;
- Theft.

When gross misconduct is suspected, the employee will normally be suspended on full pay for up to five working days, to allow for an appropriate investigation of the case. This investigation will be conducted by a nominated senior manager (normally neither directly responsible for the individual, nor necessarily within the employee's function) to assure impartiality. This investigation will include a meeting with the employee. Following the investigation, the employee will be asked to attend a meeting with the responsible senior manager. If the investigation has upheld the case of gross misconduct, the employee will be summarily dismissed without notice, or pay in lieu. The decision will be confirmed to the employee in writing, and this letter will also confirm details of the appeal procedure.

Written Records: We will keep written records of all stages of the disciplinary process which is essential for transparency, accountability, and legal compliance. We will ensure these records are detailed, including dates, specifics of the misconduct, and the employee's response.

Appeals Process

Purpose: The appeals process is designed to provide employees with a fair and equitable means to contest disciplinary actions or decisions they believe to be unjust or wrongly applied. This process ensures that all disciplinary actions are subject to review, maintaining the integrity and fairness of our disciplinary procedures.

Procedure:

Initiating an Appeal:

An employee wishing to appeal a disciplinary decision must submit their appeal in writing to the designated appeals officer (or committee) within five working days of receiving the disciplinary decision. The appeal letter should clearly state the grounds for appeal, including any new

evidence, discrepancies in the decision-making process, or arguments against the severity of the disciplinary action.

Acknowledgment of Appeal:

Upon receiving an appeal, the appeals officer will acknowledge receipt in writing within two working days, informing the employee of the steps involved in the appeals process and the expected time frame.

Appeals Hearing:

An appeals hearing will be scheduled within ten working days of the receipt of the appeal. The employee has the right to be accompanied by a fellow employee or a trade union representative, who may speak on behalf of the employee.

The appeals officer (or committee) will review the original decision, the employee's grounds for appeal, and any new evidence presented. Both the management and the employee will have the opportunity to present their case.

Decision:

The decision of the appeals officer (or committee) will be communicated to the employee in writing within five working days of the appeals hearing. This decision is final and will set out the reasons for either upholding, overturning, or modifying the original disciplinary decision.

If the appeal is upheld, the necessary actions to reverse or modify the disciplinary action will be outlined. If the appeal is not upheld, the original disciplinary action will stand.

Records:

A record of the appeal and its outcome will be kept on the employee's personnel file but will be considered confidential and handled in accordance with data protection regulations.

Points to Note:

The company is committed to ensuring that the appeals process is conducted with impartiality and fairness. The appeals officer (or committee) will not have been involved in the original disciplinary decision.

Employees will not suffer any detriment for lodging an appeal in good faith, even if the appeal is ultimately not upheld.

Contact Information:

For initiating an appeal, please submit your written appeal to your direct supervisor.

Examples of misconduct and gross misconduct

These instances are not intended to be exhaustive, merely illustrative and other actions could also be considered under these categories.

Context and impact of the misconduct will be considered in determining the severity.

Categories of misconduct:

Misconduct:

- a) Minor breaches of safety regulations.
- b) Drunkenness or disorderly conduct on duty where consequences are not serious.
- c) Poor timekeeping.
- d) Absence without leave.
- e) Bad personal Hygiene.
- f) Poor work performance or job capability.
- g) Under performance that has gone on longer than 3 months.
- h) Refusal to carry out the instructions of a supervisor.
- i) Breaking statutory regulations relating to industry.
- j) Failure to meet with the required dress code.
- k) Mistakes and repeated errors.
- l) Breaking ISO systems.
- m) Endangering customer equipment through miss handling or miss use.
- n) Online bullying of a colleague or customer by a member of staff.
- o) Breaking GDPR – Minor breach.

Gross Misconduct:

- a) Pilferage or theft.
- b) Fraud or deliberate falsification of records for personal gain, including falsification of time card use.
- c) Arson.
- d) Espionage.
- e) Malicious damage to equipment or colleagues' property.
- f) Negligent behaviour endangering a colleagues' life.
- g) Malicious damage to equipment or customer' property.
- h) Submission of false references.
- i) Breaking statutory regulations that would render the company, or its employees, liable to prosecution.
- j) Fighting or violence towards others.
- k) Gross insubordination.
- l) Serious breaches of confidence.
- m) Gross negligence, or dereliction of duties.
- n) Serious breaches in ISO systems or standards that could potentially put patients at risk.
- o) Job Abandonment.
- p) Breaking GDPR – Major breach.

Note: Whether a particular act or omission is gross misconduct, or misconduct, will depend on the circumstances.

Short-Service Dismissal

What is meant by 'short service'?

An employee requires a minimum of two years' service to bring a claim for unfair dismissal, so an employee with fewer than two years' service is classed as having short service.

Most contracts and handbooks will state that there is a right to take into account someone's short service when deciding the outcome of disciplinary or capability procedures.

This means:

- An employee with short service could be dismissed for a first disciplinary offence, even if it is not gross misconduct.
- If they are within a probationary period, they could face dismissal if they are not deemed to be suitable for the role.
- If not within a probation period or outside their probation period but still underperforming, they could be dismissed on the grounds of capability

Exceptions to this

Automatically unfair dismissals do not require the minimum qualifying service of 2 years to bring a claim.

Examples include:

- Acting as a trade union representative
- Acting as an occupational pension scheme trustee
- Joining or not joining a trade union
- Being a part-time or fixed-term employee
- Pay and working hours, including the Working Time Regulations, annual leave, and the National Minimum Wage.
- Whistleblowing
- Pregnancy, including all reasons relating to maternity.
- Family, including parental leave, paternity leave (birth and adoption), adoption leave, or time off for dependants.
- Acting as an employee representative

Equality and Diversity Considerations

We will ensure your disciplinary procedures are applied consistently and fairly to all employees, regardless of their background, to comply with equality legislation.

Appendix 1

List of supervisors / managers in relation to disciplinary procedures:

Managing Director - Mr D. Lamb

Mrs G. Lamb, Mr S. Nixon, Mrs H Lamb.

Note: The above is for general guideline purposes only and, as and when necessary, any of the above managers may invoke any necessary disciplinary procedures.