

Sutton Community Transport Disciplinary Policy and Procedure June 2015

Disciplinary Policy

Minor cases of misconduct and most cases of poor performance may be dealt with by informal advice, coaching and counselling. An informal oral warning may be given, which does not count as part of the formal (or statutory) disciplinary procedure. No formal record of this type of warning will be kept.

Matters which may be dealt with under this disciplinary and dismissal procedure include discipline and dismissal for the following reasons:

- misconduct
- sub-standard performance
- harassment or victimisation
- misuse of company facilities including computer facilities (eg e-mail and the Internet)
- poor timekeeping
- unauthorised absences

If there is no improvement or the matter is serious enough, the employee will be invited to a disciplinary meeting at which the matter can be properly discussed.

The employee will be allowed to bring a work colleague or Trade Union representative to the meeting. The outcome of the meeting will be communicated to the employee.

It is Company policy that the following procedure should be followed when an employee is being disciplined or dismissed. The procedure provides that in normal cases a series of warnings will be given before discipline or dismissal is contemplated. The stages of the procedure that apply when discipline or dismissal is being contemplated comply with the statutory dismissal and grievance procedures.

Oral warning

In the case of minor infringements, the employee may be given a formal oral warning. A note of the oral warning will be kept on file but will be disregarded for disciplinary purposes after six months. The employee has the right to appeal against a formal oral warning.

Written warning

If the infringement is more serious or there is no improvement in conduct after a formal oral warning, 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, the right of appeal and the fact that a final written warning may be given if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months.

Final written warning

Where there is a failure to improve or change behaviour during the currency of a prior formal written warning, or where the infringement is sufficiently serious, the employee may be given a final written warning. This will give details of the complaint, warn that failure to improve will lead to dismissal and refer to the right of appeal. The final written warning will be kept on file but will normally be disregarded for disciplinary purposes after 12 months.

Dismissal

If the employee's conduct or performance still fails to improve the final step will be to contemplate dismissal. If the employer is contemplating dismissing an employee, he must

follow the "Standard Disciplinary and Dismissal Procedure" which is a statutory requirement. Failure to do so will usually result in a finding of automatically unfair dismissal.

The Standard Disciplinary and Dismissal Procedure

Step 1: Employer gives employee a written statement and calls a hearing

The employer will set out in writing the employee's alleged conduct, characteristics or other circumstances which lead him/her to contemplate dismissing or taking disciplinary action against the employees. The employer will inform the employee, in the written statement of the basis on which he has made the allegations against the employee. If possible the employer will provide the employee with copies of any relevant evidence against the employee. The employer will invite the employee to a hearing to discuss the matter.

Step 2: Meeting is held and employer informs employee of the outcome

The meeting will take place before any action, other than suspension on full pay, is taken. The meeting will be held without undue delay but only when the employee has a reasonable opportunity to consider his/her response to the employer's written statement and any further verbal explanation the employer has provided. The employee must take all reasonable steps to attend the meeting.

After the meeting the employer will inform the employee of his/her decision and notify the employee of his/her right to appeal against the decision if the employee is not satisfied with it.

Step 3: Appeal against the disciplinary decision if necessary

If the employee wishes to appeal he/she must inform Chief Executive in writing within a reasonable time. If the employee does appeal, the employer will invite the employee to attend a further meeting. The employee must take all reasonable steps to attend the meeting. If practicable a more senior manager not previously involved in the disciplinary procedure will hear the appeal. The appeal hearing may take place before or after dismissal or disciplinary action has taken effect. After the appeal hearing the employer will inform the employee of his/her final decision and will confirm it in writing as soon as practicable.

Gross misconduct

If after investigation it is confirmed that the employee has committed one of the following offences (the list is not exhaustive), the employee will normally be dismissed:

- theft
- fraud and deliberate falsification of records
- physical violence
- serious bullying or harassment
- deliberate damage to property
- serious insubordination
- misuse of an organisation's property or name
- bringing the employer into serious disrepute
- serious incapability whilst on duty brought on by alcohol or illegal drugs
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998).

While the alleged gross misconduct is being investigated, the employee may be suspended on full pay. Any decision to dismiss will be taken by the employer only after a full investigation.

The Standard Disciplinary and Dismissal Procedure applies to dismissals for gross misconduct.

Modified Dismissal Procedure

In a few cases of gross misconduct the employer may be justified in dismissing immediately without conducting an investigation. In these cases a two-step "Modified Dismissal Procedure" will be followed.

Step 1: Employer gives written statement

The employer must give the employee a written statement setting out the conduct that has resulted in the dismissal and informing the employee of the right to appeal against the decision to dismiss.

Step 2: Appeal against the disciplinary decision

If the employee wishes to appeal, he/she must inform Chief Executive or the most senior manager as soon as possible. A meeting must be held (in accordance with the general principles set out above). The employer must inform the employee of his/her decision following the meeting.

General Principles

The following principles apply to the Standard Dismissal and Disciplinary Procedure and the Modified Dismissal Procedure set out above:

1. The person who has authority to discipline the employee in accordance with this procedure is Chief Executive.
2. The employee has the right to be accompanied to any meeting by a Trade Union representative or a fellow employee.
3. Each step in the procedure will be taken without unreasonable delay and hearings will be held at reasonable times and locations.
4. Meetings will be conducted in a manner that enables both employer and employee to explain their cases.
5. Records will be kept detailing the nature of any breach of disciplinary rules or unsatisfactory performance, your defence or mitigation, 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.

For further advice and guidance, please refer to ACAS Code of Practice on Disciplinary and Grievance Procedures -March 2015