

Company Name:	Mainstay Recruitment Solutions LTD
Policy Name:	Disciplinary Policy
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General principles

This procedure will only apply to agency workers engaged on a contract of employment and not those engaged on a contract for services. Each step and action will be taken without unreasonable delay. Please be aware that timelines may vary to those set out in this policy, due to (for example) the volume or complexity of the allegations being considered, or the availability of appropriate members of staff to conduct each stage of the process. Whenever you are invited by the company to attend a meeting, you must take all reasonable steps to attend. At all stages of the procedure (except any investigation meetings) you will have the right to be accompanied by a trade union representative or a Mainstay work colleague of your choice. If your choice of companion is unreasonable (e.g. because they are unavailable for a prolonged period of time or because of a conflict of interest) the company may ask you to choose someone else. If your companion is unable to attend any such meeting you may suggest an alternative date, provided it is within 5 working days of the original date. Timing and location of meetings must be reasonable and meetings will be conducted in a manner that enables both parties to explain their case. Meetings may be adjourned so that further investigation can be carried out in light of any new points raised. Any new information obtained will be provided to you for consideration before the meeting is reconvened. For appeal hearings following a decision the company will as far as reasonably practicable, be represented by a more senior manager than attended the first meeting (unless the most senior manager attended that meeting). Whenever the company or employee is required to send the other a statement, the original or a copy will suffice. If you have difficulty at any stage of the procedure because of a disability please discuss this as soon as possible with your Mainstay Representative.

Disciplinary process

A disciplinary procedure helps to set out the level of conduct and performance the company expects from its employees. Importantly, it provides a framework for dealing with circumstances when conduct or performance falls below the required level ensuring that concerns are dealt with fairly and consistently.

This is not contractual and will only apply to employees who have twelve months' continuous employment with the company. Employees with less than twelve months' service who commit an offence or whose performance falls below the standard required may be liable, at the management's discretion, to dismissal where appropriate with the agreed notice period as stipulated in the individual's contract of employment.

Principles

No disciplinary action will be taken against an employee until the case has been fully investigated. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. The company may suspend an employee with or without pay while an investigation takes place. Such a suspension will be reviewed as soon as possible and will not normally exceed 10 working days. Suspension of this kind is not a disciplinary penalty and does not imply any decision has been made about the allegations. An employee will not be dismissed for a first breach of discipline except in the case of gross misconduct (when the penalty may be dismissal without either notice or payment in lieu of notice). Misconduct will generally fall into two categories, namely "general" misconduct (in respect of which the

general disciplinary action procedure described below applies) and “gross” misconduct, which is of so serious a nature that it justifies instant dismissal for a first offence. Listed below are examples which would normally be considered to be either general misconduct or gross misconduct. However, it should be recognised that neither list can be regarded as complete to meet every case, and also that action described as general misconduct may amount to and be treated as gross misconduct if the circumstances or the manner of the misconduct are such as to warrant serious disciplinary action. These lists should be regarded therefore as being illustrative rather than exhaustive.

Examples of “gross” misconduct

Summary dismissal (i.e. dismissal without notice or pay in lieu of notice) may be necessary in cases of gross misconduct. For guidance, the following are examples of the offences which may be regarded as gross misconduct and will normally result in summary dismissal. It is emphasised that this is not an exhaustive list:

- Unauthorised use or disclosure of confidential information or business matters relating to Mainstay, its clients, temporary workers or applicants
- Engaging in any conduct or posting any comments which are detrimental to Mainstay or its clients or engaging in any conduct or posting any comments which could be derogatory to another person or third party or which could constitute unlawful discrimination or harassment
Any prohibited use of Mainstay’s or its client’s internet and / or email facilities
- Acts of violence, including physical assault, unlawful discrimination, drunkenness, taking of non-prescribed drugs in such a way as to impair the ability to carry out work or conduct of any kind which endangers the health and safety of others
- Any bullying or harassment of fellow employees, clients, candidates or any other person (including via any social networking sites) both inside and outside of working hours
- A criminal offence committed at work other than a minor road traffic offence committed in the course of the employment, or an offence committed outside work which is incompatible with the employee remaining in the company’s employment
- Falsification of information or references on appointment
- Theft or fraudulent activity
- Unauthorised absence and / or failure to follow the correct absence reporting procedure
- Gross negligence in the performance of duties
- Any breaches of health and safety policies, procedures and instructions
- Any conduct tending to bring the company, or the employee, into disrepute or which results in the loss of custom of a client, temporary worker or applicant or a loss of business
- Working for or assisting a competitor of the company or seeking to establish a business which is likely to compete with the company or divulging confidential information concerning the company and its business
- Serious insubordination or refusal to obey a lawful and / or reasonable instruction in connection with the employment
- Deliberate and serious damage to property or causing any loss, damage or injury through negligence
- Serious misuse of the company’s property or name

Examples of “general” misconduct

The following may be regarded as reasons for disciplinary action in that they deviate from accepted standards and constitute general misconduct. A first offence will usually result in a written warning. Repetition of offences following a warning could lead to a final written warning as appropriate. Thereafter any repetition will result in dismissal. It is again emphasised that this is not an exhaustive list:

- Poor job performance
- Poor attendance
- Poor time-keeping
- Failure to comply with the conditions of the employment contract
- Unseemly or disruptive conduct

Disciplinary procedure

The following is the disciplinary action that may be taken against you in cases of misconduct or unsatisfactory performance:

- Informal discussion
- Minor breaches of discipline, misconduct, attendance, poor time-keeping, etc. may result in an informal discussion with your line manager and / or your Mainstay representative.
- Although an informal warning will not be formally recorded for the purposes of any future disciplinary hearing, a note of the conversation may be kept on your personnel file.
- It is expected that in most cases an informal discussion will resolve most difficulties. Where you commit a more serious act of misconduct or you fail to improve and maintain that improvement with regard to conduct, behaviour or job performance, the formal steps detailed below may be taken.

Formal process

Step 1 - Written Statement

Mainstay will inform you in writing of the alleged conduct or characteristics, or other circumstances, which lead the company to contemplate dismissing or taking disciplinary action against you. This shall be done promptly after becoming aware of the circumstances, and you shall be invited to attend a meeting to discuss the matter, once any necessary investigations have been conducted to establish the facts of the matter. Mainstay will provide a copy of any relevant documents which will be used at the disciplinary meeting to you in advance of the meeting.

Step 2 – Meeting

The meeting will take place before any action is taken and it will not take place unless the company has informed the you of the ground or grounds for contemplating disciplinary action or dismissal; and you have had a reasonable opportunity to consider your response to that information.

You have the right to be accompanied at the meeting by a work colleague (an Mainstay employee and not an employee of the client company) or a Trade Union representative. You will not be permitted to be accompanied by a family member or friend or any other person who is not a work colleague or trade union representative.

After the meeting, the company will inform you in writing of its decision as soon as reasonably possible (but normally within one week of the meeting) and notify you of the right to appeal against the decision if you are not satisfied with it. If there are any delays in reaching a decision, you will be notified in writing.

Stage 1 – Formal Written Warning

If your conduct or performance is unsatisfactory, you will be given a formal written warning. This written warning will include the reason for the warning and a note that, if there is no improvement after a specified period, further disciplinary action will be taken which may result in a final written being given. A copy of the written warning will be given to you and a copy will be placed on your personnel file. The warning will be disregarded after 6 months' satisfactory service.

Stage 2 – Formal Final Written Warning

If following a written warning, conduct or performance remains unsatisfactory, or if a serious incident occurs, a final written warning will be given making it clear that any recurrence of the offence or other misconduct within a specified period will result further disciplinary action being taken which may result in dismissal. A copy of the final written warning will be given to you and a copy will be placed on your personnel file. The warning will then be disregarded after 12 months' satisfactory service.

Stage 3 – Dismissal or other sanction

If there is no satisfactory improvement in conduct or performance, or if further serious misconduct occurs within 12 months, the final step in the procedure may be dismissal, either with or without notice or payment in lieu of notice, or some other action short of dismissal such as disciplinary suspension or transfer to another department or job. Stage 3 may also apply to any gross misconduct (even if there are no active warnings on file) or any misconduct during your probationary period.

Step 4 – Appeal

If you do wish to appeal, you must inform the company within 5 working days of receiving the decision. You must set out clearly the grounds for your appeal. The company will then invite you to attend a further meeting.

The appeal meeting may not necessarily take place before the dismissal or disciplinary action takes effect but it will be arranged within a reasonable period of time.

The appeal will be dealt with by a more senior manager than at the Step 2 meeting. Where this is not practicable, the company will hear the appeal and decide the case as impartially as possible.

After the appeal meeting, the company will inform the employee of its final decision in writing, as soon as reasonably possible (but normally within one week of the meeting). The company may uphold or revoke the original decision or substitute a different penalty. There is no further right of appeal.