

DISCIPLINARY AND MANAGING POOR PERFORMANCE POLICY AND PROCEDURE

1. Policy statement

- 1.1 Your line manager will usually try to resolve any performance or conduct problems through informal discussions in the normal course of work and performance reviews. These discussions should identify any problem areas and result in an agreed action plan. However, we may decide that it is necessary to invoke the Company's disciplinary and poor performance procedure if a problem cannot be resolved informally or formal action is required. The below procedure may be implemented at any time.
- 1.2 You should be aware of the seriousness of the situation if you find yourself subject to the disciplinary and capability procedure.
- 1.3 If you are in your probation period, the Company may determine in its absolute discretion to not follow this policy.
- 1.4 If your employment contract is subject to a collective agreement, a different disciplinary and capability procedure may apply. If you are unsure, please speak to your line manager.

2. Investigations and suspension

- 2.1 Where a potential disciplinary or performance matter arises, the Company will endeavour to make necessary investigations to establish the facts promptly. Having carried out such preliminary investigations, the Company will decide whether to take no further action, deal with the matter informally, or arrange for the matter to be handled on a formal basis.
- 2.2 You must co-operate fully and promptly in any investigation. The Company may choose to hold an investigatory meeting with you solely to establish the facts of the case and if we do so we will indicate to you that the meeting is an investigatory meeting and not a disciplinary or capability meeting. You do not have the right to be accompanied at an investigatory meeting.
- 2.3 In instances which the Company considers to be particularly serious (for example in cases involving alleged gross misconduct), where relationships have broken down or where there is a risk to the Company's responsibilities to third parties or our property or where any investigation or any aspect of the disciplinary or capability procedure may otherwise be hindered, you may be suspended from work temporarily with pay whilst an investigation is carried out. Any period of suspension will be kept under review. Any suspension on this basis should not be considered a disciplinary sanction or as an indication that any decision has already been made about the allegations.

3. Formal disciplinary and capability procedure

3.1 Notification of problem and invitation to meeting

- 3.1.1 Following the initial investigation, if it is determined that a formal procedure is to be followed, you will be provided with a written notification setting out your alleged misconduct or poor performance or other grounds of complaint against you.
- 3.1.2 The notification will include an invitation for you to attend a disciplinary or performance improvement meeting to discuss the matter. It will give details of the time and venue of the meeting. You will be provided with sufficient information about the alleged conduct or performance issue and the possible consequences to enable you to prepare for the meeting. The notification will allow sufficient time for you to prepare for the meeting.

- 3.1.3 The meeting should, unless circumstances require otherwise, take place a minimum of 48 hours after the notification is sent.
- 3.1.4 The notification may be accompanied by copies of any written evidence that will be considered at the disciplinary/performance improvement meeting. This may include copies of relevant documents and/or witness statements. Where it is necessary for a witness's identity is to be kept confidential, we will give you as much information as possible whilst maintaining confidentiality.
- 3.1.5 If you have difficulty reading or English is not your first language, you should let the Company know so that the content of the notification can be explained to you.

3.2 The disciplinary/capability meeting

- 3.2.1 The meeting will be held at a reasonable time and place for the issue to be discussed. It may be held remotely via video conferencing software.
- 3.2.2 You will be entitled to attend the meeting with a companion (trade union representative or a colleague). The role that companions play in meetings under this policy is detailed below.
- 3.2.3 You must take all reasonable steps to attend the meeting and if you or your companion cannot attend on the date suggested, you must notify the Company immediately and propose an alternative date for the meeting to be held without unreasonable delay. The meeting should be held within 5 working days of the original proposed date, unless special circumstances are present.
- 3.2.4 If you are persistently unable or unwilling to attend the meeting, the Company may hold the meeting in your absence and make a decision based on the evidence available at the time.
- 3.2.5 The meeting will be chaired by a manager who, where possible, has no prior involvement in the investigation or the conduct or performance issue. In some circumstances an external HR consultant may chair the meeting. A notetaker will be present at the meeting.
- 3.2.6 At the meeting the complaint or perceived issue will be fully explained to you and the person(s) conducting the meeting will go through the evidence that has been gathered. You can make representations and explain your view of the situation and answer any allegations that have been made. You will be allowed to ask questions and present evidence. If appropriate, you may call witnesses provided the Company is notified of your intention to do so and the identity of the witnesses in advance. You will also be given an opportunity to raise points about any information provided by witnesses.
- 3.2.7 The Company may adjourn the hearing if it needs to carry out any further investigations.
- 3.2.8 You and anyone accompanying you (including witnesses and companions) at any time, are prohibited from making any recordings of meetings or hearings that might take place.

3.3 Decision following the meeting

- 3.3.1 After the meeting has taken place, the Company will decide whether or not disciplinary, improvement or any other action should be taken.
- 3.3.2 You will be informed of the Company's decision in writing. This will be communicated to you without unreasonable delay and usually within 10 working days of the meeting, and you will be notified of your right to appeal against the decision if you are not satisfied with it.

4. **Right to appeal**

- 4.1 You have the right to appeal against any disciplinary or capability action (including dismissal) taken against you. However, the original disciplinary or capability decision (including a decision to dismiss) will be implemented pending the appeal meeting and its outcome and will not be delayed. If the appeal is successful, any decision to dismiss will be revoked with no loss of continuity or pay
- 4.2 If you wish to appeal, you must inform the Company in writing within 5 working days of the date of the Company's written decision of the grounds for your appeal in full. You will then be invited to attend another meeting and you must take all reasonable steps to attend the meeting, in line with the disciplinary/ capability meeting procedure described above. You will be entitled to bring a companion to any appeal meeting.
- 4.3 Where possible, the manager who made the original disciplinary/capability decision will not be involved in the decision-making process of the appeal. The appeal meeting will be heard by an appropriate member of senior management. Every effort will be made to ensure that the appeal will be heard and concluded quickly and impartially.
- 4.4 After the appeal meeting, you will be informed of the Company's final decision and this will be communicated to you in writing without unreasonable delay. There will be no further right of appeal.

5. **Range of Disciplinary/ Improvement Action**

- 5.1 Depending on the seriousness of the disciplinary or performance improvement situation and the Company's findings following a hearing, the issue may be dealt with either by informal action or formal action. Examples of these actions are as follows:
 - 5.1.1 Informal action
 - (a) verbal warning/advice.
 - 5.1.2 Formal action
 - (a) formal written warning/improvement notice;
 - (b) final written warning/improvement notice; or
 - (c) termination of employment, whether without notice and without pay in lieu of notice (for gross misconduct) or with notice or payment in lieu of notice (if applicable).
- 5.2 A formal written warning or improvement notice may be appropriate for a first act of misconduct or occasion of poor performance where there are no other active warnings on your record. A final written warning or final improvement notice may be appropriate for situations where there is already an active written warning or improvement notice on your record or where the

Company considers the misconduct or poor performance to be sufficiently serious to warrant a final written warning or improvement notice even though there are no other active warnings on your record.

- 5.3 You should not regard the range of possible sanctions outlined above as cumulative or exhaustive. Where it is decided that action should be taken, it is for management to decide which of the possible sanctions is appropriate in a given case.
- 5.4 You will not normally be dismissed for a first act of misconduct or other breach of discipline or occasion of poor performance. However, you should note that in the case of gross misconduct/gross negligence or if you have not yet completed your probationary period, you may be dismissed even if no previous warnings have been given.
- 5.5 In most cases, continuance or repetition of the misconduct, poor performance or other conduct or performance issues during the currency of a final written warning or final improvement notice (or sometimes a written warning or improvement notice) will result in your dismissal (with or without notice or payment in lieu of notice).
- 5.6 Before making the decision on what disciplinary or improvement action it should impose, the Company will take into account your disciplinary/ performance history and general employment records, length of service, actions taken in similar cases (if any) and any explanation given by you at the disciplinary/performance improvement meeting.
- 5.7 Warnings/improvement notices
- 5.7.1 Improvement notices for **unsatisfactory performance** will normally indicate:
- (a) the performance problem;
 - (b) the improvements required of you;
 - (c) the timescale for achieving this improvement;
 - (d) (where appropriate) any guidance or training which has been agreed upon;
 - (e) the date on which your performance will be reviewed again;
 - (f) the period during which the improvement notice will last; and
 - (g) the likely consequences of further unsatisfactory job performance (including failure to improve your standard of work or maintain such an improvement).
- 5.7.2 Written warnings for **misconduct** will normally indicate:
- (a) the nature of misconduct;
 - (b) the change in behaviour required;
 - (c) the period during which the warning will last; and
 - (d) the likely consequences of failure to change behaviour or further misconduct (including final written warning or dismissal).
- 5.7.3 You will be given a copy of any warning issued to you and a copy will also be placed on your personnel record.

- 5.7.4 Improvement notices for unsatisfactory performance and warnings for misconduct are normally disregarded (in the absence of further unsatisfactory job performance or misconduct) after the period specified in the improvement notice or warning. However, a record of the improvement notice or warning may be kept on your personnel file in accordance with our Privacy Notice.
- 5.7.5 In cases where a show comes to an end and there is a significant period of time where normal duties are not carried out prior to the commencement of a new production, it may be appropriate to extend the duration of an improvement notice and improvement period or warning in order to accommodate the change in circumstances. Such an extension may also be appropriate if you take a significant amount of annual leave or sick leave during the improvement notice or warning period. If you temporarily move to another venue during a gap between shows at your usual place of work, all relevant paperwork and appropriate monitoring responsibilities will usually transfer to the appropriate line manager(s) for the duration of the temporary transfer.

6. **Gross misconduct**

- 6.1 Examples of gross misconduct for which the Company will usually summarily dismiss (i.e. terminate employment without notice or payment in lieu of notice) are set out below. This list is not exhaustive. Any other very serious incident of misconduct may also lead to summary dismissal:
- 6.1.1 theft or unauthorised possession of or deliberate and serious damage to property belonging to the Company, to another employee, or to a client;
- 6.1.2 serious misuse (including disclosure) of confidential information or serious misuse of the Company's property or name;
- 6.1.3 conduct, whether inside or outside working hours, which may adversely affect the Company's business reputation, or which adversely affects your suitability for the type of work which you perform;
- 6.1.4 drunkenness or disorderly conduct (including being under the influence of alcohol or illegal drugs or misusing legal drugs) whilst at work, or on Company business or otherwise on the Company's premises;
- 6.1.5 unauthorised absence from work (including conduct inconsistent with an alleged sickness, injury or other incapacity);
- 6.1.6 conduct tending to bring the Company into disrepute;
- 6.1.7 serious insubordination including refusal or failure to obey reasonable and lawful instructions of your manager and/or other members of management or serious or persistent neglect of your duties or any material breach or non-observance of those duties;
- 6.1.8 dishonesty or fraud of any sort including abuse of the sickness self-certification procedure/expense reporting procedure or making false statements with intent to deceive;
- 6.1.9 unlawful discrimination, harassment or victimisation and/or failure to observe any requirement of the Company's Equal Opportunities Policy or Anti-Bullying and Harassment Policy;

- 6.1.10 disregard for the safety of other employees including serious breach of the Company's Health and Safety Policy for the time being in force;
- 6.1.11 physical violence or threatening physical violence or bullying, irrespective of whether this takes place during work time or outside work time and/or your normal work place;
- 6.1.12 unauthorised entry into the Company's computer system including lending or disclosing an access password;
- 6.1.13 serious or repeated breaches of the Company's IT and Communications Systems Policy or Social Media and Internet Posting policy;
- 6.1.14 causing any serious risk to Company security including lending or giving your electronic key card or security pass to an unauthorised person; or
- 6.1.15 being in possession of or dealing in illegal drugs whilst at work, on Company premises or otherwise on Company business.

7. The role of companions

- 7.1 You are entitled to bring a fellow employee or trade union representative to any disciplinary/capability meeting or appeal meeting. You are not entitled to bring a companion to any investigation meeting.
- 7.2 If your companion is a colleague, they will be allowed reasonable paid time off to act as your companion. You must inform us of the identity of your companion as soon as this is known and prior to the meeting.
- 7.3 Your companion may make representations on your behalf and may assist you in responding to any statements put forward at the disciplinary/capability meeting and any appeal meeting, provided you expressly authorise this at the beginning of the relevant meeting (so that all members of the decision-making body know who may make representations on your behalf). However, your companion will not be able to answer questions put to you during the course of any meeting.

8. General disciplinary and capability meeting provisions

- 8.1 The Company will endeavour to take each step and action under this procedure promptly and without unreasonable delay.
- 8.2 Meetings must be conducted in a manner that enables both the Company and you to explain their cases.
- 8.3 Where possible the timing and location of the meeting should be agreed between the Company and you. The Company will endeavour to ensure that the meeting is in a private location and that there are no interruptions. Meetings may be held remotely using video conferencing software.
- 8.4 You and anyone accompanying you (including witnesses) at any time, are prohibited from making any audio or video recordings of meetings or hearings that might take place. Any breach of this rule will be considered gross misconduct.

9. **Records**

9.1 During and for an appropriate period after the disciplinary or capability process the Company will keep written records which may include (where applicable):

- 9.1.1 The complaint against you or issue with your conduct or performance;
- 9.1.2 your defence;
- 9.1.3 findings made and actions taken;
- 9.1.4 the reason for actions taken;
- 9.1.5 whether an appeal has been lodged;
- 9.1.6 the outcome of any appeal;
- 9.1.7 any grievances raised during the disciplinary or capability process; and/or
- 9.1.8 subsequent developments.

All such records will be kept confidential and will be processed in accordance with our Privacy Notice