

## **EHA DISCIPLINARY & GRIEVANCE POLICY/PROCEDURE**

### ***Disciplinary Procedure***

#### **1. Purpose and Scope**

Under the provisions of the *Employment Act 2002 (Dispute Resolution) Regulations* the EHA is required to publish Dismissal, Disciplinary & Appeals Procedures, the purpose of which is to ensure and promote fairness and order in the treatment of staff and in the conduct of employment relations.

It is the EHA's intention to ensure a fair and systematic approach to the enforcement of acceptable standards of conduct and behaviour amongst all of its employees. The major purpose of disciplinary action is to correct problems, prevent their recurrence and prepare employees for satisfactory service in the future. It is in the interests of all employees that disciplinary action is prompt, uniform and impartial.

To ensure compliance it is essential that employees know what standards of conduct are expected of them and to that end details of Disciplinary Rules and Procedures are set out below.

Disciplinary action may take any one of four forms depending on the severity of the misconduct and the number of occurrences - a verbal warning, a written warning, a final written warning, or dismissal. There may be circumstances when one or more steps in the procedure are bypassed due to the nature of the misconduct involved. The EHA also recognises that there are certain types of misconduct that are so serious they justify either suspension or, in extreme situations, dismissal without verbal or written warnings being given.

#### **1.1 Introduction to the Disciplinary Procedure**

It is understood that if any organisation of people is to work efficiently and safely, it must have disciplinary rules. With this in mind this procedure has been written to reflect the following principles:

- a) That the purpose of any disciplinary action is corrective.
- b) Disciplinary action will only be undertaken in cases where after investigation evidence exists that a breach of discipline has occurred.
- c) If suspension is considered necessary, such action is to be regarded as a neutral act and the suspended employee will continue to be paid in full.
- d) Any disciplinary action that may be taken should be dealt with speedily, reasonably and be entirely appropriate to the nature of the misconduct.
- e) That the procedure for handling disciplinary matters is equally in the interests of employees' and the EHA.

#### **1.2 Circumstances that may lead to Disciplinary Action**

An employee is liable to disciplinary action if he / she:

- a) Wilfully or otherwise disregards their conditions of employment, rules of the EHA or their work location.
- b) Fails to perform their duties in a manner and / or to the standards as defined by management.



- c) Commits any act of misconduct, which is reasonably deemed by management to be prejudicial to the interests of the EHA or its employees.

### **1.3 Misconduct that may result in Disciplinary Action**

The following lists represent examples of actions or misconduct that may result in disciplinary action being taken against an employee ranging from a verbal warning to dismissal. It should be understood that repeated or continuing acts of misconduct may result in increasing levels of disciplinary action being taken against an employee including dismissal.

These lists are not exclusive or exhaustive and are by way of example only. The EHA reserves the right to consider other acts as falling within these categories.

The following is a non-exhaustive list of examples of misconduct that may on the first occasion or instance result in a **verbal warning** being issued to an employee.

- a) Unauthorised lateness.
- b) Unsatisfactory work standards.
- c) Poor performance.
- d) Unauthorised absence

Where there is a second instance of minor misconduct, a **written warning** may be given. The following is a non-exhaustive list of examples of misconduct that may on the first occasion or instance result in a written warning being issued to an employee.

- a) Misuse of EHA facilities e.g. equipment, vehicles and computer facilities.
- b) Unreasonable behaviour except where such actions result in an accident or injury which will be treated as gross misconduct.
- c) Failure to comply with written policies and procedures, relevant legislation relating to an employee's job and written instructions.

The following is a non-exhaustive list of examples of gross misconduct that may result in **dismissal**:

- a) theft, financial impropriety or deliberate deception.
- b) gross negligence or dereliction of duty.
- c) falsification of records, documents or other dishonesty.
- d) acts of aggression or physical violence.
- e) deliberate damage or wilful neglect of EHA property or equipment.
- f) being under the influence of alcohol or drugs in working hours.
- g) possession of illegal substances on EHA premises.
- h) serious breach of work instructions.
- i) extreme insubordination/refusal to carry out reasonable instructions.
- j) rudeness to customers, suppliers, colleagues or other third parties.
- k) unacceptable use of obscene or abusive language.
- l) discrimination, harassment or victimisation.
- m) misrepresentation of information or qualifications.
- n) failure to observe the EHA's IT and internet policy, misuse of computer systems, e-mail or internet.
- o) serious breach of health & safety rules or disregard of safety precautions
- p) smoking other than designated areas.
- q) breach of confidentiality relating to EHA business.

- r) carrying out private work in working hours or using EHA vehicles or equipment for private work.
- s) taking a second job (including self-employment) without permission.
- t) gambling, bribery or corruption including compromising the professionalism or integrity of the EHA.
- u) unprofessional conduct which could lead to probable or actual damage to customer relations, loss of goodwill or the EHA's reputation.
- v) conviction for a criminal offence which affects suitability for the job (taking into account the provisions of the Rehabilitation Of Offenders Act 1974).
- w) recording of discussions with management or colleagues without prior express approval.

## **2. Informal Action - Counselling**

It is recognised as being in the interests of the EHA and its employees that in some situations, the right word at the right time may be more appropriate than dealing with a breach of discipline using formal disciplinary procedures. Counselling will be used generally for first instances of minor misconduct where appropriate.

Employees will not be allowed representation where informal action or counselling is undertaken.

## **3. Formal Action - The Disciplinary Procedure**

The disciplinary procedure may be entered into at any stage depending on the seriousness of the offence.

In consideration of disciplinary action, the manager conducting the hearing will:

- a) Explain the nature of the complaint to the employee. If action other than a verbal warning is contemplated, details of the complaint will be put in writing to the employee.
- b) Provide reasonable time for the employee to review his / her position.

At a hearing, the manager will:

- a) Explain the purpose of the meeting.
- b) Provide any supporting evidence.
- c) Allow the employee to submit a response.
- d) Allow the employee to submit a request to call witnesses to support his / her case.
- e) Allow representation (a work colleague or trade union representative) at all formal stages of the procedure.

### **3.1 Disciplinary Sanctions**

#### **Written Warning**

Further misconduct following counselling or the first instance of misconduct may result in a written warning. Details of the misconduct will be recorded by the manager and placed on the employee's personal file; but disregarded after a period of six months, provided there is no further misconduct within this period.

### **Final Written Warning**

In the case of repeated misconduct for which a written warning or warnings have previously been issued, or in the case of gross or serious misconduct not of itself warranting immediate dismissal, a final written warning will be given to the employee by the manager, which will state that a repetition of this misconduct or further misconduct will result in dismissal.

A copy of this warning will be placed on the employee's personal file, but will be disregarded after a period of 12 months, provided there has been no further misconduct within this period.

### **Dismissal**

Dismissal will be applied in the case of repeated misconduct for which a final written warning or warnings still active on the personal file have been issued, or in the case of gross misconduct. In cases where dismissal is due to gross misconduct, dismissal will be without notice or payment in lieu of notice. Dismissals for gross misconduct will still follow the procedure laid out above.

### **3.2 Representation**

The employee may consult and be assisted, if he / she so wishes by a work colleague or accredited representative at any stage in the disciplinary procedure, however, the employee will not be allowed legal representation at any stage in the disciplinary procedure.

### **3.3 Meeting Times**

It is the intention that the EHA and the employee concerned should agree a mutually convenient time and date for a disciplinary hearing. It is recognised that in some circumstances, the employee and, or his / her representative may not be able to attend a hearing on the proposed date. In such circumstances, the employee may offer an alternative time and date so long as it is reasonable and falls within five working days from the originally proposed date.

### **3.4 Non attendance**

If an employee cannot attend the disciplinary hearing they are required to notify their line manager in advance and their line manager will notify them of an alternative arrangement. If on the day of the hearing they are unable to attend due to circumstances outside their control, an alternative arrangement will be made. However, if the reason is not valid, employees will be invited to an alternative hearing, which, if they fail to attend without good reason, will take place in their absence.

On occasion, the prospect of a disciplinary meeting may cause a degree of stress resulting in absence from work.

A medical statement indicating a diagnosis such as stress, anxiety or depression, or any other similarly worded diagnosis, will not normally be accepted as a reason for refusing to attend any investigatory meeting, performance review or disciplinary hearing.

A medical certificate from a GP recommending a patient to refrain from work is given for the purpose of authorising SSP. It does not necessarily mean that an employee cannot attend the workplace at all. In such a situation, the EHA will contact the employee to re-arrange the meeting. If the employee is unable to attend, the EHA will request a doctor's report to ascertain whether the employee is fit to attend a disciplinary meeting.

If the employee is considered fit to attend and refuses to do so, the meeting will be held in his or her absence.

Where the EHA receives medical evidence from an expert confirming the employee is not fit to attend due to a diagnosis of mental illness or evidence that there has been a previous history of mental illness, the EHA will offer the following choices:

- The meeting may be postponed for a short time, but in such cases it is obviously preferable to conclude the issue as quickly as possible and the EHA has the right to continue the procedure as appropriate.
- The employee may nominate a colleague, trade union representative or close family member to attend on his or her behalf and act as intermediary.
- The EHA will offer to hold the meeting off site, either at the employee's home or in a neutral place to avoid the stress of coming in to work.
- The meeting may be held over the telephone.
- The employee may send a written submission.

### **3.5 Documentation**

Copies of any relevant documentation relating to disciplinary proceedings will be issued to the employee and his / her representative as appropriate.

### **4. Other Dismissals**

In other situations where dismissal is contemplated, for example – redundancy, health reasons or a fixed term contract beyond the term of two years, the following procedure will be followed and the employee will be provided with:

- a) Written reasons for the considered dismissal
- b) An invitation to attend a meeting to discuss the facts and a right to be accompanied by a work colleague or accredited trade union official
- c) A right of appeal against any final decision to dismiss.

### **5. Limiting Disciplinary Procedure**

The full disciplinary procedure does not apply during the first two years of service, when employees may be dismissed without reference to the procedure if their conduct or standard of work is unsatisfactory for any reason. However, before making any decision the EHA will still inform the employee in writing of the reasons for contemplating dismissal, a meeting will be held to discuss the issue and the right of appeal will be allowed.

### **6. The Appeals Procedure**

All employees have the right to appeal against any disciplinary action taken against them in accordance with the following procedure:

- a) An appeal against disciplinary action must be made in writing (it has been advised that verbal appeals should be heard as well) by the employee no later than five working days after the date on which disciplinary action was notified to the employee and should be made to the Chief Executive stating the grounds for the appeal.
- b) The Chief Executive will without undue delay, inform the employee of the date and time at which an appeal hearing will take place.

- c) The appeal will be heard by the Chief Executive provided that they were not previously involved in the disciplinary hearing.
- d) The employee must attend the appeal hearing in person to explain the grounds of the appeal. In the event of non-attendance by the employee, the EHA reserves the right to conduct the hearing in the employee's absence except where there is a good or justifiable reason to postpone the appeal hearing.
- e) The employee will be informed of the outcome of the hearing within five working days of the hearing taking place. Any re-instatement or re-engagement that may take place as a result of an appeal against dismissal will take effect from the date of the disciplinary action in question and previous continuous service with the EHA will be counted. The employee concerned will suffer no loss of entitlement to his / her contractual earnings.

### **6.1 Representation**

The employee may consult and be assisted, if he / she so wishes, by a work colleague or accredited representative during a disciplinary appeal hearing, however, the employee will not be allowed legal representation at any stage in the disciplinary appeals procedure.

### **6.2 Meeting Times**

It is the intention that the EHA and the employee concerned should agree a mutually convenient time and date for a disciplinary appeal hearing. It is recognised that in some circumstances, the employee and, or his / her representative may not be able to attend a hearing on the proposed date. In such circumstances, the employee may offer an alternative time and date so long as it is reasonable and falls within five working days from the originally proposed date.

### **6.3 Documentation**

Copies of any relevant documentation relating to disciplinary appeals proceedings will be issued to the employee and his / her representative as appropriate.

## ***Grievance Procedure***

### **1.1 Introduction**

The EHA always aims to prevent grievances arising and encourages frank and open discussion of problems where they may arise. Where grievances cannot be resolved by discussion, employees may use the formal Grievance Procedure.

The object of the grievance procedure set out below is to provide a means for dealing promptly with any grievance, which an employee may have in the course of, and connected with, his or her employment.

It is in the best interest of the employee and the EHA to resolve any grievance related to employment that an employee may have as quickly as possible and as close to the point of origin as possible.

**Stage 1** - Where an employee is not able to solve a grievance informally he / she should formally raise their grievance in writing with their immediate manager who will invite the employee in writing to a meeting within 5 working days.

**Stage 2** - Failing settlement, the employee may take the matter to the Chief Executive who will invite the employee in writing to a meeting within 5 working days.

**Stage 3** - Failing settlement, the employee may take the matter to a member of the Board of Directors who will invite the employee in writing to a meeting within 5 working days.

In circumstances where an employee's grievance is against their line manager, the matter should be raised with a senior manager on the same level as their line manager or with the Chief Executive.

### **1.2 Response**

Following a grievance meeting, at any stage, the manager will write to the employee to inform them of the outcome of the meeting and any investigations that took place. The manager will respond to the grievance in writing within seven working days. In exceptional cases it may not be possible to respond in this time, if this occurs the employee should be given an explanation for the delay and told when a response can be expected.

### **1.3 Accompaniment**

The employee may consult and be assisted at any stage in the grievance procedure, if he / she so wishes by a companion who may only be a work colleague or accredited trade union representative. The employee will not be allowed legal representation at any stage in the grievance procedure.

An employee acting as a companion is entitled to reasonable time off work with pay to attend hearings and to confer and prepare with the employee. A companion has the right to make opening and closing statements, to address the meeting when appropriate and to confer with the employee.

### **1.4 Meeting Times**

It is the intention that the EHA and the employee concerned should agree a mutually convenient time and date for a grievance hearing. It is recognised that in some circumstances, the employee and, or his / her representative may not be able to attend a hearing on the proposed date.

In such circumstances, the employee may offer an alternative time and date so long as it is reasonable and falls within 5 working days from the originally proposed date.

### **1.5 Documentation**

Copies of any relevant documentation relating to grievance proceedings will be issued to the employee, his / her representative or the employer where appropriate.

The manager dealing with the grievance should give a decision on the grievance within seven working days. If it is not possible to respond within the specified time period the employee should be given an explanation and told when a response can be expected.