

## **APPENDIX 1: DISCIPLINARY AND GRIEVANCE PROCEDURES**

[\* Refer to accompanying notes.]

### **DISCIPLINARY PROCEDURE**

*This procedure is not part of your contract of employment.*

All formal disciplinary action will be conducted by \_\_\_\_\_ [NAMED PERSON OR OFFICE]. Appeals will normally be conducted by \_\_\_\_\_ [NAMED PERSON OR OFFICE]. We reserve the right to suspend individuals during formal disciplinary action. Any suspension will be on a paid basis and does not mean that we have prejudged the issue.

Before any formal disciplinary action is taken, the relevant person will carry out a full investigation to establish the facts. The investigation will normally include a meeting with you.

Before any meeting, you will be:

- told in writing of the allegations/complaints against you, and the basis of those allegations;
- given a reasonable opportunity to consider your response to that information; and,
- offered the opportunity to be accompanied by a work colleague or a trade union representative (see *Right to be accompanied*, below).

You must take all reasonable steps to attend the meeting. At the meeting, you will be given a full opportunity to comment on the allegations, to put forward any defence or arguments you want, and to comment on what disciplinary sanction (if any) is appropriate.

#### *Informal Verbal Warning*

After establishing the facts, we may consider that there is no need to resort to the formal procedure, and that it is sufficient to talk the matter over with you. A note of the informal warning may be kept on your personnel file. This would be kept for background and would not normally be taken into account in the event of subsequent disciplinary procedures.

The purpose of an informal warning is to provide an opportunity for improvement or for the matter to be corrected without the necessity for formal disciplinary procedures to be instituted.

### **FORMAL DISCIPLINARY PROCESS**

#### *Right to be accompanied*

You have the right to be accompanied at any investigation or disciplinary hearing by a single companion who is either:

- a) a work colleague; or,

- b) a full-time official employed by a trade union; or a lay official, so long as they have been certified in writing by their union as having experience of, or as having received training in, acting as a worker's companion at disciplinary or grievance hearings.

Your representative has the right to explain and sum up your case, and to respond to any views expressed at the hearing. He may not answer questions on your behalf. If your representative cannot attend on the date we have set for the interview, we will always postpone the interview for up to five days and may (at our discretion) postpone it for longer.

#### Stage 1: Formal Verbal Warning

A record will be kept of the fact that a verbal warning has been given. You will be advised that it is a formal verbal warning. We will inform you of the steps which must be taken to improve your conduct and, where appropriate, a time limit for improvement. It will be made clear that any further misconduct will result in further disciplinary action being taken. You will also be informed of your right of appeal.

A note will be made of the verbal warning and the period after which it will expire (normally six months). This note will be placed on your personnel file.

If your conduct is sufficiently serious, we may omit stage 1 and proceed straight to stage 2.

#### Stage 2: Written Warning

Where the matter is of a more serious nature, or where you have failed to meet the required standards after having received a formal verbal warning, you may be given a written warning.

This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that further disciplinary action will follow if the required standards are not met or if there is further misconduct.

You will be informed of your right of appeal, and how and where this should be made. A record of the warning and related discussions will then be placed on your personnel file. It will normally cease to have effect after 12 months.

If your conduct is sufficiently serious, we may omit stages 1 and 2, and proceed straight to stage 3.

#### Stage 3: Final Written Warning

For more serious matters, or where you have failed to meet the required standards after being warned, you may be given a Final Written Warning. This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that you will be dismissed if the standards are not met or if there is further misconduct.

Again, you have the right to appeal. A record of the warning and a note of all related discussions will be placed on your personnel file. Again, a final written warning will normally cease to have effect after 12 months.

#### Stage 4: Dismissal

Where there has been gross misconduct (in which case, stages 1, 2 and 3 may be omitted) or where you have failed to meet the required standards after due warnings have been given, you may be dismissed. In extenuating circumstances we may apply another sanction such as disciplinary transfer, disciplinary suspension without pay or demotion.

This will be confirmed in writing and will include details of the appeals procedure.

In cases of gross misconduct, the dismissal will normally be without notice (or pay in lieu of notice).

#### Dismissal without Notice ('Summary Dismissal')

We regard certain issues as serious enough to be gross misconduct and to warrant summary dismissal without prior warning. Matters that justify summary dismissal, include, but are not limited to:

- refusal to obey a legitimate instruction\*;
- absence without permission\*, or persistent absence;
- breach of our policies and practices\*;
- improper use of our equipment\*;
- harassment or bullying;
- breaches of our Equal Opportunities Policy;
- actions bringing the Company into disrepute;
- acts of dishonesty where your conduct affects your ability or suitability for continued employment with us; for example, theft, fraud or the deliberate falsification of records or expenses;
- serious insubordination or rudeness to customers or suppliers;
- deliberate damage to property;
- a serious breach of Health & Safety policies;
- physical violence or aggressive behaviour;
- indecent or immoral acts;
- being under the influence of, or possessing, alcohol or illegal drugs during employment hours (unless you have been authorised to, and have been, entertaining clients, in which case a reasonable amount of alcohol consumption is permitted);

- bringing the company into serious disrepute;
- any breaches of confidentiality requirements in your contract of employment, other than minor breaches;
- harassment or bullying, other than minor breaches;
- breaches of our Equal Opportunities Policy.

In the event of gross misconduct, disciplinary action could take the form of a demotion, or a downgrading, with subsequent financial loss as well as loss of status, rather than a dismissal. This decision will be taken at our discretion.

#### Other Disciplinary Matters

Matters which may justify invoking the disciplinary procedure but which do *not* amount to gross misconduct include, but are not limited to, the following:

- refusal to obey a legitimate instruction\* †;
- refusal to answer a question during the course of a properly constituted investigation;
- absence without permission\* †, or persistent absence;
- poor timekeeping;
- failure to report damage to our property;
- failure to carry out your duties adequately;
- breach of our policies and practices\* †;
- continued poor work performance, or a persistent failure to keep up-to-date with technical developments;
- improper use of our equipment\* †;
- use of the internet and e-mail system other than for business purposes without authorisation\*;
- use of the internet and e-mail to view, download or forward any indecent or other unsuitable material\* †;
- harassment or bullying†;
- breaches of our Equal Opportunities Policy†;
- bringing the Company into disrepute†.

†Where not deemed serious enough for gross misconduct.

### What you can expect during the Disciplinary Process

At each stage of the disciplinary process:

- you will be told of the expected standard of performance of performance/behaviour, and the nature of the shortfall in expected standards will be identified;
- you will be given the opportunity to reply to any allegations made against you, and to outline any mitigating circumstances you wish to be considered;
- all the facts will then be considered. Occasionally we may ask you back for a further interview;
- you will be told of the disciplinary sanction being imposed (although this may be done in writing). This will include details of any timescale within which improvement is to be achieved and the likely consequences if there is no improvement; and,
- you will be advised of the right to appeal.

### **RIGHT TO APPEAL**

If you are not satisfied with a disciplinary decision, you may appeal, in writing, within five working days. Arrangements to hear the appeal will normally be made within five working days of receiving your written request, although this may not always be possible. If the decision you are appealing against was a decision to dismiss you, the appeal may be heard after the dismissal has taken place.

All appeals must set out the grounds on which you are making the appeal.

We will invite you to an appeal hearing, and remind you of your right to be accompanied.

Either:

The appeal hearing will be a full rehearing of the disciplinary charge, with the disciplinary decision being taken afresh.

Or:

The appeal hearing will reconsider the original decision. You will have an opportunity to put forward, should you wish to do so:

- a) new evidence, which was not available during the first hearing; and/or,
- b) complaints of a flaw in the original decision-making process, such as a failure to follow procedures or a failure to give you a fair hearing.
- c) However, if there was no meeting before the disciplinary decision was first taken, then the appeal will be a full hearing of the matters in question.

The outcome of the appeal will be confirmed to you in writing and will take one of three forms:

- a) the original decision will be upheld, in which case any disciplinary sanction will be confirmed;
- b) the original decision will be overruled, in which case any disciplinary sanction will be rescinded;
- c) the original decision will be substantially confirmed but a less severe sanction will be substituted for that originally imposed (usually in cases of appeals based on extenuating circumstances).

There is no further right of appeal.

## GRIEVANCE PROCEDURE

*This procedure is not part of your contract of employment; however, we will not depart from it without good reason.*

If there is any matter relating to your work, or the people with whom you work, with which you are unhappy, you should use the following grievance procedure.

**[IF APPROPRIATE:** If your grievance relates to an equal opportunities matter, it may be easier to deal with all complaints under one procedure rather than using both the grievance procedure and our equal opportunities complaints procedure. We will advise you which procedure is most appropriate.]

At any formal meeting, you have the right to be accompanied by a single companion who is either:

- a) a work colleague; or,
- b) a full-time official employed by a trade union; or a lay official, so long as they have been certified in writing by their union as having experience of, or as having received training in, acting as a worker's companion at disciplinary or grievance hearings.

Your representative has the right to explain and sum up your case, and to respond to any views expressed at the hearing. He may not answer questions on your behalf. If your representative cannot attend on the date we have set for the meeting, we will always postpone the interview for up to five days and may (at our discretion) postpone it for longer.

### Stage 1

Discuss the matter informally with your manager [**or somebody in human resources**]. S/he may be able to resolve the matter to your satisfaction.

### Stage 2

Write to \_\_\_\_\_ [**or somebody in human resources**], setting out your grievance in full (please include copies of any relevant documents). We will invite you to a meeting to discuss the grievance, and will try to resolve matters to your satisfaction. It may be necessary for us to make enquiries with other people about your grievance, and possibly to have a second meeting with you.

After the meeting, we will write to you with the outcome of your grievance. The letter will include a reminder of your right to appeal if you are not satisfied with the outcome.

### Stage 3

If you wish to appeal, you should write to \_\_\_\_\_ within one week of receiving the stage 2 decision. Your appeal letter should set out the reasons for your appeal.

We will invite you to attend an appeal meeting with \_\_\_\_\_ [**a more senior manager**], when your grievance and your reasons for appealing will be discussed further.

After the meeting, we will write to you with our final decision. There is no further appeal from this decision.

*After termination of employment*

If you wish to lodge a grievance after your employment has ended, we can either go through stages 2 and 3 above, or we can agree to deal with matters on the basis of a written grievance and response (without a meeting). We can discuss which option is easiest at the time.

**Please note:** The Association of Optometrists has made every effort to ensure that the information in these specimen Disciplinary and Grievance Procedures are correct. However, we cannot accept any liability for the accuracy or content. People relying on these specimen Disciplinary and Grievance Procedures do so at their own risk, but you may check with the Association for guidance.

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