

## Disciplinary Procedure Policy

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1. Scope
  - 1.1. Disciplinary situations include misconduct and/or poor performance.
  - 1.2. Where the Company has separate appropriate capability policies or procedures in place these will be used to address performance issues but the same basic principles of fairness defined in this Disciplinary Procedure ("the Procedure")<sup>1</sup> should still be followed, though they may need to be adapted.
  - 1.3. For the purposes of this Procedure, "the Company" means Sundridge Park Lawn Tennis and Squash Limited and "the Board" means the Board of Directors of the Company.
2. Principles
  - 2.1. This Procedure is designed to ensure that whenever a disciplinary process is being followed issues are dealt with fairly<sup>2</sup>. There are a number of elements to this:
    - The Company and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
    - The Company and employees should act consistently.
    - The Company will carry out any necessary investigations to establish the facts of the case.
    - The Company will inform employees of the basis of the problem under investigation and give them an opportunity to put their case in response before any decisions are made.
    - The Company will allow employees to be accompanied at any formal disciplinary meeting.
    - The Company should allow an employee to appeal against any formal decision made.
  - 2.2. Where an employee is unable or unwilling to attend a disciplinary meeting without good cause the Company will make a decision on the evidence available.
  - 2.3. If an employee is charged with, or convicted of a criminal offence this is not necessarily in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with the Company, work colleagues and customers.
3. Investigation
  - 3.1. It is important to carry out necessary investigations of potential disciplinary matters to establish the facts of the case. In some cases this will require the holding of an investigatory meeting with the employee before proceeding to any disciplinary hearing. In others, the investigation stage will be the collation of evidence by the Company for use at any disciplinary hearing.
  - 3.2. In misconduct cases, where practicable, different people should carry out the investigation and disciplinary hearing.

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<sup>1</sup> Which seek to follow those defined in the 2009 ACAS Code of Practice

<sup>2</sup> As set out in the 2009 ACAS Code of Practice

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- 3.3 If there is an investigatory meeting this should not by itself result in any disciplinary action. Although there is no statutory right for an employee to be accompanied at a formal investigatory meeting, the Company may permit the employee to be accompanied by a trade union representative or a workplace colleague.
- 3.4 In cases where a period of suspension with pay is considered necessary, this period should be as brief as possible, should be kept under review and it should be made clear that this suspension is not considered a disciplinary action.
4. Management Instructions
- 4.1 The procedure in Section 5 (et seq.) does not relate to management instructions which might be given to the employee by a manager, a Director of the Company or another authorised representative of the Company.
- 4.2 There is no appeal against such a management instruction. If an employee objects to a management instruction that has been given to him or her, he or she may make written comments explaining this objection and give these to his or her line manager.
- 4.3 Repeated failure to implement a management instruction will normally lead to disciplinary action in accordance with the Procedure.
5. First Written Warning
- 5.1 If the Board, having carried out or arranged for appropriate investigation of the case, considers on the facts that formal disciplinary action for misconduct is necessary, one of the directors of the Company will write to the employee to inform him/her, at least five working days in advance of the hearing date, setting out:
- The date, time and place of the disciplinary hearing;
  - The nature of the complaint;
  - The employee's right to be accompanied by his/her representative of an independent trade union or a workplace colleague;
  - Where appropriate copies of any written evidence, which may include any witness statements;
  - The titles of enclosed copies of any documents to be used as evidence;
  - The names of any witnesses to be called on behalf of the Company;
  - The employee's right to call witnesses on his/her behalf;
  - The name and office of the director or other person nominated by the Board who will conduct the hearing on behalf of the Company and of any adviser who will accompany them and
  - Possible consequences and penalties that may result from the hearing.

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(At the employee's request, an extra copy of this notice, together with any enclosures, will be provided for his/her representative).

- 5.2 If the decision of the disciplinary hearing, following the investigations and professional advice, is that the facts of the case could amount to gross misconduct the matter will be referred to the Board.
- 5.3 At the disciplinary hearing the director or nominee (see Section 5.1) should explain the complaint against the employee and go through the evidence that has been gathered. The employee should be allowed to set out their case and answer any allegations that have been made. The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. Where the Company or employee intends to call relevant witnesses they should give advance notice that they intend to do this and provide details of the witness to be called.
- 5.4 At the conclusion of the hearing, following an adjournment for consideration of the facts, the said director or nominee will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the employee and his/her representative. If the said director or nominee decides the complaint was justified, s/he may give the employee a First Written Warning which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to a Final Warning, unless there are mitigating circumstances.
- 5.5 If the employee is given no further written warning of misconduct within twelve months of the date of the First Written Warning, then this warning shall be disregarded and the warning letter will make this clear.
- 5.6 Some more serious acts of misconduct might justify omitting the first stage of the Procedure and instead to issue a Final Written Warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the Company or if there is no satisfactory explanation of that misconduct.
- 5.7 When it can be shown that warnings given to the employee about potential Final Written Warning resulting from continued misconduct have not been heeded, misconduct procedures could lead to action leading to an employee's dismissal.
- 6. Final Written Warning
  - 6.1 If a further complaint is made about the employee's conduct within twelve months of the date of the First Written Warning, the same procedure (as in Section 5) will be followed.
  - 6.2 If the director or person nominated by the Board to conduct the disciplinary hearing decides at the conclusion of the disciplinary hearing that this further complaint is justified, he or she may give the employee a Final Written Warning, which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances.

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- 6.3 Again this Final Written Warning, together with any previous warning, will be disregarded if no further complaint about misconduct is made within twelve months of the date of the Final Written Warning, and the warning letter will make this clear.
7. Dismissal
- 7.1 If a further complaint is received within twelve months from the date of the Final Written Warning, the complaint will be referred to a hearing before the Chairman of the Board following a similar procedure to that in Section 5, adjusted appropriately. The Chairman of the Board shall be accompanied by an adviser appointed by the Company.
- 7.2 If the Chairman of the Board decides the complaint is justified, he or she may decide to dismiss the employee. The Chairman of the Board will state his/her decision and his/her reasons and inform the employee of his/her right to appeal to a hearing of the full Board of Directors. The Chairman of the Board will soon afterwards confirm the decision and right of appeal in writing to the employee (and his/her representative). The Chairman of the Board will record the outcome of his/her considerations and the names of persons present at the hearing.
- 7.3 The Company will give notice in writing to the employee that he/she is dismissed, whether the decision was with notice, or with pay in lieu of notice and the effective date of dismissal.
8. Gross Misconduct
- 8.1 Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence. Examples of gross misconduct are given in the Appendix. But a fair disciplinary process should always be followed, before dismissing for gross misconduct.
- 8.2 If the complaint is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice, the employee will be informed by a director of the Company that he/she is suspended on full pay pending further investigation of the complaint including a hearing before the Chairman of the Board who, if he or she considers the complaint constitutes gross misconduct, may decide to dismiss the employee. The procedure to be followed will be as in Section 7.
- 8.3 Where a suspension has taken place that suspension may only be lifted by the Chairman of the Board.
9. Right of Appeal
- 9.1 Where an employee feels that disciplinary action taken against him or her is wrong or unjust they may appeal against the decision. Appeals should be heard without unreasonable delay and ideally at an agreed time and place. Employees should let the Company know the grounds for their appeal in writing. Appeal should be dealt with impartially and wherever possible by person(s) not previously involved in the case.
- 9.2 The employee has a right of appeal against a written warning issued in accordance with Section 5 or 6. The appeal hearing will be heard by a panel chaired by the Chairman of the Board. This is unless the Chairman was involved as a witness or a nominee or panel member at an earlier stage in the disciplinary procedure and in which case another

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member of the Board, uninvolved in earlier stages, must chair the panel. Other panel members should not have been involved in earlier stages of the disciplinary procedure. The panel can confirm the warning, reduce a Final Written Warning to a First Written Warning or cancel the warning.

- 9.3 The employee has a right of appeal against the decision of the Chairman of the Board given in accordance with Sections 7 or 8. The appeal hearing will be held by the full Board (other than the Chairman) but excluding any Board members previously involved in earlier stages of the disciplinary procedure. The Board can (acting by majority decision) confirm the decision of the Chairman of the Board, amend that decision or cancel that decision.
- 9.4 The employee should give notice of any appeal under Section 9.2 or 9.3 in writing to the Company Administrator.
- 9.5 All appeal hearings will be held as soon as possible after receipt of the notice of appeal.
10. Variation in Penalties
- 10.1 Penalties may be varied at appeal.
- 10.2 If the appeal panel under Section 9.3 decides not to uphold a decision to dismiss, the notice of dismissal shall be immediately withdrawn.
11. Confidentiality
- 11.1 Any proceedings under this Procedure shall remain confidential to the parties concerned. Only the decision of a disciplinary hearing may be reported.
12. References

ACAS Code of Practice: <http://www.acas.org.uk/index.aspx?articleid=2175>  
Discipline and Grievance at Work: ACAS Guide:  
<http://www.acas.org.uk/CHttpHandler.ashx?id=1043#page=13>

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Appendix      Gross Misconduct and Misconduct Definitions

Gross Misconduct

Gross misconduct is the commission of an act which renders it inadvisable for the employee to be allowed to remain at work. The disciplinary procedure must be followed when dealing with gross misconduct.

The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- § Dishonesty associated with place of work or job being undertaken.
- § Theft of property belonging to the Company, contractor, or an employee, or member of the public.
- § Deliberate falsification of timesheets or expenses claims for pecuniary advantage.
- § Demanding or accepting monies or other considerations as a bribe for the use of Company property, provision of Company service or the showing of favour on behalf of the Company.
- § Falsification of any information given on an application form for a post to gain advantage whether pecuniary or otherwise.
- § Failure to disclose criminal convictions, bindover orders or warnings given by a local police force either before or during employment (except those exempted under the Exceptions Orders 1975 (2013) to the Rehabilitation of Offenders Act 1974). (Guidance and criteria on the filtering of cautions and convictions can be found on the Disclosure and Barring Service website.)
- § Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.
- § Gross negligence in failing to attend to or carry out the agreed duties of the post.
- § Wilfully ignoring responsibilities/instructions thus placing themselves and/or other employees/people in danger, e.g. ignoring safety instructions or legal requirements.
- § Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.
- § Wilful unauthorised disclosure of information (classified as confidential), by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to the Company, or other employees.

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- § Acts of violence or vandalism in the course of employment:
  - Malicious damage to Company or a member's property.
  - Actual physical violence towards members of the Company, officials or to members of the public.
  
- § Sexual misconduct at work:
  - Sexual misconduct whether criminal or not.
  
- § Misuse of Company computer resources (this includes internet and email facilities) including:
  - Sending, receiving, obtaining, viewing, downloading, printing, displaying or otherwise transmitting or gaining access to material which in the opinion of the Company is unsuitable for the Company (this includes material which is offensive, unlawful, obscene or abusive);
  - Improperly managing security settings or protocols on any device or equipment which could compromise the strict obligation to ensure that all child protection records are kept confidentially and securely, or to misuse or not take proper care of Company data and information;
  - Using the Company's computer resources for any business activity which is not to do with the Company or its interests.

Misconduct

Misconduct is of a degree less serious than that which would warrant immediate suspension from duty for a first offence but which could nevertheless lead to dismissal if persistent. The disciplinary procedure must be followed when dealing with misconduct.

The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- § Absenteeism and lateness, for example:
  - Failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
  - Frequent failure to attend work punctually;
  - Failure to notify the Company Administrator immediately or as soon as reasonably practicable when absence is due to sickness;
  - Failure to provide medical certificates in accordance with the employee's contract of employment.
  
- § Dishonesty - petty wrongs, for example:
  - Making unauthorised private telephone calls and/or sending personal mail at the Company's expense;
  - Failure to report any loss and/or damage to any property issued to or by the employee in connection with his/her employment;

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- Using the school's telephone, fax, email or internet for unauthorised personal purposes.
  
- § Neglect of duty, for example:
  - Failure to adopt safe working practices/use protective equipment where required by law or management;
  - Negligent use of Company property in such a way as is likely to cause significant damage or loss;
  - Failure to discharge without sufficient cause the obligations which statute or the contract of employment places on the employee;
  - Insubordination;
  
- § Abusive behaviour/offensive language which arises directly out of or in connection with work and which is directed at colleagues, visitors, members of the Company or members of the public.
  
- § Victimisation of other employees in the course of their employment.
  
- § Discrimination, whether unlawful or not, in the course of duty against other employees, members of the Company or members of the public on the grounds of sex, marital status, ethnic origin, disability, sexual orientation, religion or age.
  
- § Undertaking additional employment outside normal working hours which would be detrimental to the work to be performed as an employee of the Company.

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