

# **Stonegate Group**

## **LINE MANAGERS GUIDE TO DISCIPLINARY**

**BRINGING  
PEOPLE  
TOGETHER**

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# Stonegate Group

# **OUR MISSION**

**BRINGING PEOPLE TOGETHER  
THROUGH OUR PASSION FOR  
GREAT PUBS, BARS AND VENUES**

## **OUR PILLARS**

**WE ALWAYS:**

**1**

OFFER  
THE WARMEST  
WELCOME TO  
EVERY GUEST

**2**

LOOK AFTER  
OUR TEAMS,  
AS THEY MAKE  
THE DIFFERENCE

**3**

STRIVE  
TO IMPROVE  
AND  
INNOVATE

**4**

POSITION  
EVERY SITE  
FOR  
SUCCESS

**5**

PROMOTE  
SAFETY  
AND  
EFFICIENCY

## **OUR VALUES**



## **GUIDE AIMS**

The purpose of this guide is to provide you with the tools and guidance required to conduct investigations, disciplinary hearings and appeals fairly and consistently. This will allow you to tackle misconduct and behaviour issues within the correct framework and in compliance with legislation.

## **WHAT'S COVERED**

Standard of proof  
Minor Issues  
Serious Issues  
Investigation  
Suspension  
Disciplinary Hearings  
Disciplinary Outcomes  
Dismissal  
Appeals

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## **ROLES AND RESPONSIBILITIES**

**Colleagues** – Are expected to behave responsibly, professionally and abide by this policy and all the rules and regulations required.

**Line Manager** – Is expected to behave responsibly, professionally and abide by this policy and all the rules and regulations required. Line managers must take appropriate and consistent action where colleagues fail to meet the required standards of behaviour or capability.

**ER Support / HRBP (Ops)** – Available to provide guidance to you, colleagues and your line manager.

**HRBP (PST)** – Available to provide guidance to you, colleagues and your line manager.

## **DEFINITIONS**

**Investigation** - A process to gather facts and assess allegations of misconduct, policy violations, or other workplace issues.

**Suspension** – Temporary removal of a colleague from the workplace whilst an investigation is carried out or where they pose an ongoing risk to the business.

**Disciplinary** – A formal process to address allegations of misconduct, intended to correct behaviour and enforce policies and procedures. This may result in the termination of employment in serious cases.

**Standard of Proof** – The level of proof and evidence required to make a decision.

**Gross Misconduct** – Serious misconduct which may result in dismissal.

**Appeal** - A formal request to review a decision made during a disciplinary procedure allowing a challenge to the outcome of a disciplinary hearing if it is believed to be unfair or incorrect.

## **PURPOSE**

It is important to provide a clear disciplinary policy and procedure:

- To ensure that all colleagues are treated fairly and consistently.
- There are standards of conduct and capability and the consequences for not meeting those standards are clear to everyone.
- It gives colleagues a chance to improve their conduct or capability.
- Rules are enforced protecting colleagues, the business, team morale and the work environment.
- To protect the safety of all colleagues and third parties entering our business.
- To ensure that all legal rights are upheld.

## DISCIPLINARY PROCEDURE

### STANDARD OF PROOF

A disciplinary hearing is not a criminal trial and sits firmly within civil law therefore, requires a different standard of proof.

In criminal proceedings there must be “proof beyond a reasonable doubt.” However, in disciplinary proceedings the standard of proof is lower. You must hold a reasonable belief that the allegation is true. This therefore considers that, on the balance of probabilities, it is more likely than not that the allegation is true.

This decision is made based on a reasonable and thorough investigation, considering any previous disciplinary record held by the colleague, the evidence against them, the weight of that evidence, the responses provided by them and their conduct during the proceedings.

Although this is the standard of proof required, you should be sure of your decision and be prepared to justify it to either an Appeal Chair or within an Employment Tribunal.

You can seek guidance and advice on an outcome from ER Support or your relevant HRBP, however the final decision should be yours.

### MINOR ISSUES

Not all instances of misconduct or capability will require a disciplinary hearing or the process to be started. Where the incident is minor and a conversation with the colleague can resolve the issue quickly then informal conversations should take place.

#### Example

You notice that one of your colleagues has been 15 minutes late for their shift on 3 occasions. You ask the colleague to come and speak to you, and you explain what you have noticed. The colleague tells you that there are road works on their normal bus route which has delayed the arrival of their bus and subsequently their arrival at work. You explain that although you understand this is causing an issue, that the colleague needs to make arrangements to be at work on time. This may be taking an earlier bus, a different route or alternative transport. You tell them that their timekeeping will be monitored going forwards and that any further instances of lateness may result in disciplinary action. Keep a note of the conversation on file and ensure that lateness has been logged on Fourth.

### LETTER OF CONCERN

Where you have previously discussed a colleague's minor misconduct with them, or you feel that the minor misconduct requires more than a conversation you are able to issue a letter of concern. You do not have to hold a disciplinary hearing to be able to issue this letter, although it could also be given as a disciplinary outcome.

You should have a conversation with the colleague about their performance or conduct that is causing concern. You should listen to their reasons and where appropriate issue a letter of concern. This letter should detail the concerns you have and what action you expect the colleague to take to rectify this. You should outline what steps you will take to assist them, such as training and when you next intend to review their conduct or performance. The letter should outline that if there is no improvement formal disciplinary action may start.

Template letters are available on Stonegate Central.

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## EXAMPLE

The colleague above, that you spoke to about timekeeping, made improvements for the first week and started to take an earlier bus to work, however over the last week their timekeeping has deteriorated, and they are 15 minutes late again. You have a conversation with the colleague, and they say that the earlier bus gets them to work 45 minutes before their shift is due to start and they felt this inconvenienced them too much so reverted to their original bus.

You reiterate the importance of being on time for work and as a result of their conduct not improving after your conversation you are going to issue them with a letter of concern and if improvements are not made immediately then disciplinary action will be taken. You use the template on Stonegate Central to produce the letter and issue a copy to the colleague. Save a copy to their personnel file and upload to Fourth.

You keep an eye on timekeeping and ensure there are no further incidents of lateness.

## MORE SERIOUS ISSUES

Where the matter is more serious due to allegations of misconduct or where the minor issues continue to occur, and informal management is not working, you should start the formal disciplinary procedure.

You should first understand whether the issue is one of conduct or capability. Conduct is the deliberate or conscious failure to perform tasks in accordance with training and company policy. Capability means that the colleague may lack the skill or experience required to undertake their role or certain tasks.

Where the matter is one of conduct you should follow the Disciplinary Procedure. Where the matter is one of capability you should follow the Performance Management Policy and Procedure.

## INVESTIGATION

When you have identified an allegation or an issue, you should complete an investigation. The person who completes the investigation should be more senior to the colleague who is being investigated. As such a Deputy Manager could complete an investigation into allegations against a Team Leader or Team Member. Alternatively, you could ask another colleague as senior as you from another site or department to complete the investigation.

A disciplinary hearing should not be arranged until a full investigation has been completed. As an investigator your role is to fact find and make a decision based on those facts whether there is a disciplinary case to answer. Your role is not to make a decision on an outcome. The disciplinary chair will make a decision based on your evidence and whether they think the colleague is guilty of the allegations.

You should complete a thorough investigation, ensuring that you find all the evidence available, even if it disproves the allegations. There are a number of areas available to you to complete your investigation such as:

- Guest complaints.
- CCTV footage.
- Complaints from third parties.
- Witness statements.
- Training records.
- Fourth records.
- Rota's.
- Payslips.
- Time and attendance records.
- Trading statements.
- Till receipts.
- Safe counts and declarations.
- Social media.
- Fit notes.
- Absence records.
- Kitchen diaries and records.
- Checklists.
- Risk assessments.
- Previous warnings.
- E mails.
- Expenses.
- Receipts.
- Interview with the colleague in question.

If you are investigating one allegation and discover evidence of other misconduct you must not ignore this. You should include all evidence of misconduct and amend the allegations as appropriate. For example, you are watching CCTV to establish whether a colleague has been leaving shift early. You notice that not only has the colleague been leaving early but, on their way out of site they have hidden a bottle of spirits under their coat. It is clear on CCTV that the bottle was stolen from behind the bar. Your investigation has provided an additional allegation to the timekeeping, and you should also address the allegation of theft.

## INTERVIEWING WITNESSES

Where possible you should interview witnesses face to face rather than request witnesses to write a statement. By completing an interview, you can ask questions and gain the clarity you need that you wouldn't ordinarily get from a written statement. You should check whether a witness needs any reasonable adjustments to be able to attend the meeting. You should:

- Put the witness at ease and explain that you want to ask them some questions.
- Hold the meeting in private and ensure you have enough time for the meeting.
- Explain that they are not in trouble. Confirm this is a formal meeting and that the information given may be disclosed during formal disciplinary proceedings.
- Explain that they need to be honest with you and give as much information as possible. They should not try to protect a colleague and lying could result in disciplinary action.
- Prepare for the meeting, knowing what information you need from the witness and be prepared to ask follow up and supplementary questions.
- Explain that no repercussions will happen as a result of them being a witness.
- Take comprehensive notes or arrange for a note taker to attend the meeting with you.
- Ask them to read and sign the notes to ensure they are an accurate record of the meeting.
- Keep the notes safe as part of the evidence pack.

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## INTERVIEWING THE COLLEAGUE

When interviewing the colleague as part of the investigation you should:

- Ensure that the meeting takes place in private, and you have enough time for the meeting.
- That they understand this is an investigation meeting and you are gathering information.
- Check for, note and make any reasonable adjustments necessary.
- Clearly state what the allegations are.
- Prepare for the meeting, knowing what information you require from the colleague and be prepared to ask follow up and supplementary questions.
- Find our information without judgement or preconceived ideas.
- Confirm what will happen next. For example, no further action is needed, you will gather more information, the colleague is being suspended, or you recommend that disciplinary action will take place, and they will receive written confirmation.
- Take comprehensive notes or arrange for a note taker to attend the meeting with you.
- Ask them to read and sign the notes to ensure they are an accurate record of the meeting.

## REASONABLE ADJUSTMENTS

Colleagues may require reasonable adjustments to be made so that they can attend an investigation, disciplinary or appeal meeting. The colleague is responsible for telling you that they require these adjustments in good time before the meeting takes place. You should check and note at the start of any meeting whether any adjustments are required and have been made, detailing what they are.

Reasonable adjustments could be, but are not limited to:

- Allowing them to bring a parent or guardian (under 18's).
- Allowing them to bring an alternative companion where disability has a substantial impact on their ability to take part in or understand the content of the meeting.
- Allowing them to bring a support worker / case worker.
- Allowing them to bring a translator or interpreter.
- Changing the location or time of the meeting.
- Improving accessibility to the meeting.
- Providing documents to them in a different format.
- Having regular breaks, longer breaks or holding the meeting over a number of sessions.
- Allowing time to move around, stand, sit etc.
- Adjusting lighting, noise, temperature within the meeting room.
- Holding the meeting face to face or remotely via Teams.
- Send them questions in writing and allow them to respond in writing.

## EVIDENCE PACK

You should collate all the evidence you have found as part of your investigation. This pack can be produced either in paper form or electronically. CCTV should be made available during the investigation and disciplinary however a copy cannot be sent to the colleague. All evidence should be made available for the colleague and the disciplining officer.

Make sure that the paperwork makes sense, the statements are clear, and handwriting is legible and CCTV is made available to view. Where necessary, a summary of the allegations and evidence may be helpful.

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# **SUSPENSION**

## **SUSPENDING A COLLEAGUE**

Suspension should only take place where the alleged offence is serious, the colleagues presence is a risk to the business, the allegation could be gross misconduct or the colleague's presence at work would interfere with a proper and thorough investigation.

You can suspend a colleague prior to an investigation taking place or at the end of an investigation. You should take advice from ER Support or your relevant HRBP before suspending a colleague.

Suspension should only be for as long as it takes to complete an investigation. There should be no unreasonable delays with this process. When suspended, the colleague is entitled to receive full pay. They should not contact other colleagues or enter the premises whilst suspended and can access all policies on ichoose. All keys should be removed from the colleague.

If the colleague lives in site accommodation they are entitled to remain in site, however should enter and exit through the accommodation entrance and not via the site. If they have to come through the site to enter or leave accommodation, rules should be made clear to the colleague that they should only be using the site for access and are not entitled to linger or enter any other area's of the site such as the office.

Colleagues should remain in any social media groups as removal may imply that a decision about their future employment has already been made.

Colleagues should receive confirmation in writing that they have been suspended and clearly set out the reasons why.

Template letters are available on Stonegate Central.

## **SICKNESS AND SUSPENSION**

There may be occasions where a colleague reports as unfit for work following a suspension. In the case of salaried colleagues, company sick pay will stop, and they will only be in receipt of SSP. For hourly paid colleagues they will continue to receive SSP in the normal way. Normal sickness absence reporting rules apply and after 7 days the colleague must provide a fit note from their GP.

Colleagues who are absent due to sickness may be asked to attend an Occupational Health assessment to see whether they are fit to attend work or able to attend a disciplinary hearing. If a colleague refuses to attend an Occupational Health assessment, then further disciplinary action will be taken. A colleague may be unfit for work but remains fit to attend a meeting. Adjustments may need to be made for the meeting to go ahead such as holding the meeting via Teams.

Please contact ER Support or your relevant HRBP for advice on, and to arrange an Occupational Health referral.

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## EXAMPLE

You have noticed on a number of occasions that when you cash up you are short between £20 and £40. You have a look at the days on which this has happened and make a note. You cross reference this with the rota and discover that there are 2 colleagues working on each shift that the money has gone missing. You decide to check the CCTV footage of these shifts to see if you can see any money being taken from the till.

When watching the CCTV you notice that one colleague acts suspiciously when using the till and often puts their hand in their pocket after completing a transaction. Checking further into this colleague you notice a high number of clears and voids by them.

You check the other colleague who is also on shift, however they give no indication of taking any money with low clears and voids.

You decide to invite the suspected colleague to an investigation meeting to put the evidence to them and ask them for their version of events.

At the investigation meeting the colleague denies taking any money from the till, however they are unable to explain why the money has gone missing on their shift, the high clears and voids and they watch the CCTV and can't explain why they put their hand in their pockets so often. As a result, you suspend the colleague for an allegation of theft and confirm the suspension in writing.

You also invite the other colleague who was working on those shifts to an investigation meeting to be sure that they are not responsible for the theft. In their meeting they deny taking any money from the till, however they do mention that the suspended colleague has told them that they are struggling financially and they have noticed their suspicious behaviour around the till.

You arrange for another General Manager to chair the disciplinary hearing and put together all the evidence you have gathered as part of the investigation.

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# **DISCIPLINARY**

# **HEARING**

## **DISCIPLINARY HEARING ARRANGEMENTS**

You should invite a colleague to a disciplinary hearing with no less than 48 hours' notice. The invitation must be in writing and clearly set out the allegations against them. Be clear what the allegations are and avoid using fancy wording. If the allegation is theft, avoid wording such as "misappropriation of company funds."

You can use the template letters available on Stonegate Central to invite the colleague to a disciplinary hearing. If there is a large amount of evidence, you should provide more than 48 hours' notice for them to adequately prepare a defence.

Colleagues have the right to be accompanied by a work colleague or Trade Union official. Reasonable adjustments can be made to the companion or to allow the meeting to continue where necessary and with adequate notice.

Make sure that you include all the evidence that will be used in the hearing with the letter and offer the opportunity to watch any CCTV footage again before the hearing takes place.

Ensure that you have adequate time to hold the meeting, and you will not be rushed. Hold the meeting in private and somewhere you will not be disturbed. The location should be accessible to the colleague and not involve unreasonable travel or be held at an unreasonable time.

Arrange for a note taker to be present. This can be in person or virtually. The note taker should not be involved in the disciplinary allegations in any way. They should be able to take comprehensive notes and accurately record the meeting. If they are typing the notes they should have the equipment required. If their notes will be handwritten ensure they are legible. If not they will need to be typed up after the meeting.

## **PREPARATION**

Before the hearing is due to take place you should read all the documents thoroughly and watch any CCTV that is relevant. From the evidence be clear what answers you need from the colleague, however try to avoid writing a script. By trying to stick to your questions you may not be paying attention to the answers given and may miss a follow up or supplementary question you need to ask.

Check with the investigating officer if you are unsure of anything in the evidence pack and if necessary, take advice from your relevant HRBP or ER Support. Use the Disciplinary Hearing Checklist to guide you through the meeting. The checklist and template for notes are available on Stonegate Central.

Ensure that you arrive to the location of the hearing before the colleague to prepare the meeting room. Be clear that this is a private meeting, and you are not to be disturbed. Set the meeting room out for all those who will be in attendance. Have water available on the table and if necessary, have some tissues to hand. Make sure you have adequate lighting, the temperature is right and there is no excessive noise. If your note taker is joining remotely, ensure to check the connection with them to avoid any technical issues when the meeting starts.

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## COMPANION

The colleague can bring either a work colleague or Trade Union Official with them to the meeting. If the colleague brings a Trade Union Official you should ask to see their ID. The companion can ask question, make representations, ask for adjournments, hold discussions with the colleague and sum up their case. They cannot answer questions on behalf of the colleague.

In certain cases, where adjustments are required, the colleague may bring a parent or guardian, translator, interpreter, support worker or case worker to the meeting. All requests must be reasonable in all the circumstance and give sufficient notice before the meeting for these requests to be considered. The colleague is not permitted to be accompanied by a legal representative such as a solicitor.

Where a colleague is accompanied, you should set out the roles and responsibilities of all the parties in the meeting. You should confirm that breaks can be taken if they need to hold private discussions and allow them to leave the room to do so. Should a companion become disruptive you should remind them that they need to remain professional and if they continue to be disruptive the meeting will be adjourned or they will be asked to leave.

If a chosen companion is not available to the colleague the hearing may be adjourned so that arrangements can be made. The meeting should only be adjourned for up to 5 days.

## CONDUCTING THE HEARING

Welcome all parties to the hearing and make introductions. Explain that this is a disciplinary hearing and that you will be making a decision on the outcome of the hearing as the disciplinary chair.

If they have chosen to be accompanied set out the roles and responsibilities of the companion. If they have chosen not to be accompanied, remind them of their rights and confirm they are happy to continue with the meeting on their own. Check for, note and make any reasonable adjustments required.

Explain the role of the note taker and confirm that a copy of the notes will be made available to them at the end of the meeting.

Discuss any housekeeping issues, such as the location of the toilets, drinks, breaks, fire alarms etc. Confirm that all parties will turn off their mobile phones and remind them that no recording of the meeting is permitted.

Check that the colleague has received all the evidence from the investigation, that they have read it all and understand it. Give them the opportunity to ask any questions about the evidence that they may be unsure about.

You can then proceed to ask the questions you need to ask in order to make a decision on the outcome to the disciplinary hearing.

Once you have asked all your questions you should sum up your understanding of the allegations, the evidence and the colleagues' answers to ensure it is clear.

You should adjourn the meeting to undertake further investigations if you feel they are required. Alternatively, you can decide on an outcome in the adjournment.

Explain whether you will be reconvening the meeting that day or when you will reconvene if you need to undertake further investigations.

If you are reconvening on the day, ensure you have adequate time to consider all the evidence and the information the colleague has given you. Be clear on the allegation and that you come to a reasonable belief.

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## THE OUTCOME

You should reconvene the disciplinary hearing to deliver the outcome. You should inform the colleague that the hearing has recommenced and that you have come to a decision. Check that the colleague has nothing more for you to consider and you have answered all their questions.

You can then provide the colleague with the decision that you have reached. You must let them know that the outcome of the hearing will be confirmed in writing and that they have the right of appeal against your decision. Check that the colleague understands the outcome and what this means to them.

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# **DISCIPLINARY**

# **OUTCOMES**

## **DISCIPLINARY OUTCOMES**

There are several possible disciplinary outcomes available to you. The outcome should be proportionate based on a few factors including but not limited to:

- The nature and seriousness of the allegation.
- Company policy.
- Any legal restrictions.
- The length of service of the colleague.
- Previous warnings.
- Chance of re offending.
- The colleagues conduct throughout the proceedings.
- Whether the colleague is sorry and has apologised.
- The seniority of the colleague.
- The training the colleague has received.
- Consistency of treatment.

## **DISCIPLINARY WARNINGS**

In any disciplinary hearing you are free to find that there is no case to answer and that the colleague has not committed the offence that is alleged. In which case you should confirm this outcome in writing. Should you feel that the allegation is minor and as a result of the disciplinary hearing should not result in a formal warning you are able to issue a letter of concern as an outcome. Depending on the nature of the allegation, you can issue any level of warning at any time and do not need to work through the warning stages.

A first written warning remain on file for 6 months. Final written warnings and first and final warnings remain on file for 12 months and should be logged on Fourth.

## **LETTER OF CONCERN**

This usually sits outside the disciplinary process and is often issued prior to formal action taking place or in conjunction with a Performance Improvement Plan (PIP).

This letter gives the colleague the opportunity to understand concerns and the expectations to address these concerns before formal action is taken.

It can also be issued as a disciplinary outcome where the offence is minor and a formal warning would be inappropriate.

Letters of concern should be documented and saved to the colleagues file and uploaded to Fourth to keep an accurate record of conduct and performance related conversations.

## **FIRST WRITTEN WARNING**

A first written warning can be issued either as a follow on from a letter of concern where the performance or conduct has not improved or deteriorated in the timescales given. Alternatively, a first written warning can be issued for more serious incidents of misconduct or a first serious incident.

You should include any expected improvements and the time frame for them to be measured.

A first written warning remains on file for 6 months.

Template letters can be found on Stonegate Central.

## **FINAL WRITTEN WARNING**

A final written warning can be issued following previous warnings where the misconduct has continued. In instances of more serious misconduct a final written warning can be issued and is referred to as a First and Final Written Warning.

You should include any expected improvements and the time frame for them to be measured.

A final written warning remains on file for 12 months.

Template letters can be found on Stonegate Central.

## **DISMISSAL**

There are two different dismissals which give different rights to the colleague.

The first is a dismissal with notice, often referred to as a procedural dismissal.

The second is a dismissal without notice, often referred to as summary dismissal.

A colleague should only be dismissed following a disciplinary hearing and where there was no other option available or where the misconduct was so serious that they should no longer be employed.

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## DISMISSAL

### DISMISSAL WITH NOTICE

Usually, a colleague is dismissed with notice where they have received warnings for allegations of misconduct and the behaviour has continued or there is a further instance of misconduct. This can be referred to as a “totting up of warnings.”

When dismissed with notice the colleague is entitled to receive their contractual notice pay. You can ask them to work their notice, or you can opt to make a payment in lieu of notice to them. If you are dismissing a colleague for misconduct, it is unlikely that you would want them to work any notice period.

This dismissal must be confirmed in writing to the colleague. Template letters are available on Stonegate Central.

When dismissing a colleague, it is important to remember:

- To ask them to collect and remove any personal belongings from the workplace.
- To ask them to return any property belonging to the company including keys, equipment such as a phone, laptop, company car.
- To confirm whether they are permitted to enter company premises after their dismissal.
- To confirm that they will be entitled to receive any accrued but untaken annual leave. If they have taken more than accrued that a payment will be deducted from their final pay.
- To confirm whether any other deductions from final pay will be made for example in relation to stock loss or cash loss.
- Where they live in accommodation when they will be expected to vacate the accommodation and the state in which the accommodation should be left on exit.
- To remind them of any restrictive covenants in their contract of employment. For example, not to poach any colleagues or customers.
- Whether any deductions from pay will be made for training courses provided to them.
- To remind them of their right of appeal.
- Remember to process them as a leaver on Fourth with the correct leaver information and reason.

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## DISMISSAL WITHOUT NOTICE

Usually, a colleague is dismissed without notice following a period of suspension and a disciplinary hearing for a gross misconduct offence or offences. There is no requirement to have any previous warnings on file. The offence is considered to be so serious that their employment cannot continue.

The colleagues last day of employment with the company will be the day on which you inform them that they are dismissed. They will not be entitled to receive any notice payments.

The dismissal must be confirmed in writing to the colleague. Template letters can be found on Stonegate Central.

When dismissing a colleague, it is important to remember:

- To ask them to collect and remove any personal belongings from the workplace.
- To ask them to return any property belonging to the company including keys, equipment such as a phone, laptop, company car.
- To confirm whether they are permitted to enter company premises after their dismissal.
- To confirm that they will be entitled to receive any accrued but untaken annual leave. If they have taken more than accrued that a payment will be deducted from their final pay.
- To confirm whether any other deductions from final pay will be made for example in relation to stock loss or cash loss.
- Where they live in accommodation when they will be expected to vacate the accommodation and the state in which the accommodation should be left on exit.
- To remind them of any restrictive covenants in their contract of employment. For example, not to poach any colleagues or customers.
- Whether any deductions from pay will be made for training courses provided to them.
- To remind them of their right of appeal.
- Remember to process them as a leaver on Fourth with the correct leaver information and reason.

## GROSS MISCONDUCT

When facing allegations of gross misconduct, the colleague would normally be suspended. Examples of gross misconduct are contained in the Handbook and consist of examples such as:

- Any act likely to jeopardise the Company's reputation, trading position or profitability.
- Theft, fraud or dishonesty.
- Bullying, harassment or discriminatory behaviour towards colleagues, guests or third parties.
- Falsification of records or documents, including hours worked on Fourth.
- Manipulation of stock i.e. the buying in of stock.
- Assault or fighting with guests, other colleagues or members of the public.
- Being under the influence of drink or drugs whilst on duty or drinking alcohol whilst on duty.
- The offering or accepting of a bribe.
- Dealing, trafficking or being in possession of illegal drugs either inside or outside the workplace.
- Any breach of the licensing, excise or employment laws, including National Minimum Wage Regulations.
- Misuse, neglect or wilful damage of company property.
- Insubordination through repeated refusal to obey a reasonable management instruction.
- Serious failure to follow Company procedures, practices or policies.
- Failure to follow the Company's security procedures for premises, money or keys.
- Serious breaches of health and safety policies, or any act which may endanger colleagues or guests.
- Unauthorised absence from work.
- Gross negligence.
- Any act that may result in the Company being held legally liable.

This list is not exhaustive and gives an indication of the types of offences that may be considered to be gross misconduct.

## **ALTERNATIVES TO DISMISSAL**

There are some cases where an alternative to dismissal can be considered. Usually these alternatives are accompanied by a Final Written Warning.

Examples are:

- Demotion.
- Transfer to another department or job.
- A period of suspension without pay.
- Loss of seniority.
- Reduction in pay.
- Loss of future pay increment or bonus.
- Loss of overtime.

## APPEAL

### APPEAL

Colleagues have the right of appeal following the issue of each level of formal warning or dismissal. An appeal should be sent in within 7 days of the outcome being given to them.

There may be occasions when an appeal is received later than the 7 days. You should establish why it has taken the colleague longer to submit their appeal and be reasonable in all the circumstances in arranging an appeal hearing.

### APPEAL LETTER

The appeal letter should outline the reasons that the colleague disagrees with the outcome of the disciplinary hearing. Where the appeal letter merely states that they would like to appeal then the colleague should be asked for the specific reasons for the appeal.

A colleague may feel that:

- The outcome was too harsh.
- They have been treated inconsistently with other colleagues.
- The disciplinary chair was biased against them based on previous interactions.
- The hearing was not conducted fairly.
- Evidence was not considered properly.
- New evidence has come to light.
- They were prevented from putting forward evidence to support their case.
- They were discriminated against due to a protected characteristic.

### THE APPEAL HEARING

An appeal hearing should be chaired by someone more senior to the disciplinary chair. You should invite a colleague to an appeal hearing with no less than 48 hours' notice. The invitation must be in writing and clearly letting them know this is an appeal.

You can use the template letters available on Stonegate Central to invite the colleague to an appeal hearing.

Colleagues have the right to be accompanied by a work colleague or Trade Union official. Reasonable adjustments can be made to the companion where necessary and with adequate notice.

Ensure that you have adequate time to hold the meeting, and you will not be rushed. Hold the meeting in private and somewhere you will not be disturbed. The location should be accessible to the colleague and not involve unreasonable travel or be held at an unreasonable time.

Arrange for a note taker to be present. This can be in person or virtually. The note taker should not be involved in the disciplinary procedure in any way and should not have taken notes in the disciplinary hearing. They should be able to take comprehensive notes and accurately record the meeting. If they are typing the notes they should have the equipment required. If the notes will be handwritten ensure they are legible. If not, they will need to be typed up after the meeting.

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## PREPARATION

Ensure that you have prepared for the meeting by reading all the documents from the investigation and disciplinary hearing. Read the appeal letter to ensure that you understand the reasons why the colleague is appealing the decision.

Ensure that you arrive to the location of the hearing before the colleague to prepare the meeting room. Be clear that this is a private meeting, and you are not to be disturbed. Set the meeting room out for all those who will be in attendance. Have water available on the table and if necessary, have some tissues to hand. Make sure you have adequate lighting, the temperature is right and there is no excessive noise. If your note taker is joining remotely, ensure to check the connection with them to avoid any technical issues when the meeting starts.

## HOLDING THE MEETING

Explain that this is an appeal hearing and that you will be making a decision on the outcome of the hearing as the chair.

If they have chosen to be accompanied set out the roles and responsibilities of the companion. If they have chosen not to be accompanied, remind them of their rights and confirm they are happy to continue with the meeting on their own. Check, note and make any reasonable adjustments that are required.

Where you are changing an outcome, you should first discuss this with the colleague's line manager in order for them to make the proper arrangements. For example, if you choose to reinstate a colleague and issue them with a final written warning their line manager needs to ensure that they can accept them back to work and agree a date for their return.

Explain the role of the note taker and confirm that a copy of the notes will be made available to them at the end of the meeting.

Discuss any housekeeping issues, such as the location of the toilets, drinks, breaks, fire alarms etc. Confirm that all parties will turn off their mobile phones and remind them that no recording of the meeting is permitted.

You can then proceed to ask the questions you need to ask in order to make a decision on the outcome to the appeal hearing.

Once you have asked all your questions you should sum up your understanding of the appeal, and the outcome that the colleague is seeking.

You should adjourn the meeting to undertake further investigations if you feel they are required. Alternatively, you can then decide the outcome in the adjournment.

Explain whether you will be reconvening the meeting that day or when you will reconvene if you need to undertake further investigations. Alternatively you can agree to provide an outcome in writing. If you are reconvening on the day, ensure you have adequate time to consider all the evidence and the information the colleague has given you. Be clear on the grounds of appeal and that you come to a reasonable belief.

## THE OUTCOME

When providing the outcome ensure that you have covered each point of the appeal letter and any additional points the colleague has raised in the meeting. Be clear what outcome they are looking for and what outcomes you have available to you.

Possible outcomes are:

- Uphold the original decision.
- Uphold some allegations and overturn others.
- Overturn the original decision and either remove the warning or reinstate the colleague in cases of dismissal.
- Substitute a lower sanction such as reducing the level of warning or reinstating the colleague on a level of warning.

The outcome should be confirmed in writing and the colleague should be informed that there are no further routes of appeal and that your decision is final.

Where you are changing an outcome, you should first discuss this with the colleague's line manager in order for them to make the proper arrangements. For example, if you choose to reinstate a colleague and issue them with a final written warning their line manager needs to ensure that they can accept them back to work and agree a date for their return.