



 **Review Sheet**



Last Reviewed
01 Apr '23



Last Amended
01 Apr '23



Next Planned Review in 12 months, or sooner as required.

Business impact



These changes require action as soon as possible.

Reason for this review

Client request

Were changes made?

Yes

Summary:

This policy has been reviewed and updated to confirm that if an employee has less than 2 years' service, the Discipline Policy and Procedure may be varied or the process may not be followed. This is because an employee who has less than 2 years' service cannot bring an ordinary unfair dismissal claim. The references have also been checked and updated.

Relevant legislation:

- Employment Rights Act 1996
- Data Protection Act 2018
- UK GDPR

Underpinning knowledge - What have we used to ensure that the policy is current:

- Author: Government, (1996), *Employment Rights Act 1996*. [Online] Available from: <https://www.legislation.gov.uk/ukpga/1996/18/contents> [Accessed: 5/10/2021]
- Author: ACAS, (2015), *Acas Code of Practice on disciplinary and grievance procedures*. [Online] Available from: https://acas.org.uk/media/1047/Acas-Code-of-Practice-on-Discipline-and-Grievance/pdf/11287_CoP1_Disciplinary_Procedures_v1_Accessible.pdf [Accessed: 5/10/2021]
- Author: Government, (2020), *Disciplinary procedures and action against you at work*. [Online] Available from: <https://www.gov.uk/disciplinary-procedures-and-action-at-work> [Accessed: 5/10/2021]
- Author: Skills for Care, (2013), *Code of Conduct for Healthcare Support Workers and Adult Social Care Workers in England*. [Online] Available from: <https://www.skillsforcare.org.uk/Documents/Standards-legislation/Code-of-Conduct/Code-of-Conduct.pdf> [Accessed: 5/10/2021]

Suggested action:

- Establish process to confirm the understanding of relevant staff
- Establish training sessions for staff
- Widely distribute the 'Key Facts' of the policy
- Share content of the policy with all staff

Equality Impact Assessment:

Commenciz Ltd have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.



1. Purpose

1.1 To ensure the safe and effective operation of the business and the fair and equal treatment of all its employees to ensure continuing high standards.

1.2 Commenciz Ltd views the Discipline Policy and Procedure as a positive contribution to the success of the business for both the organisation and its employees.

1.3 Commenciz Ltd is committed to encouraging its employees to maintain the required standards of behaviour so as to deliver the best service for Service Users and ensure a healthy and productive working environment.

1.4 To support Commenciz Ltd in meeting the following Key Lines of Enquiry:

| Key Question | Key Lines of Enquiry |
|--------------|--|
| SAFE | S1: How do systems, processes and practices keep people safe and safeguarded from abuse? |
| SAFE | S2: How are risks to people assessed and their safety monitored and managed so they are supported to stay safe and their freedom is respected? |
| WELL-LED | W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed? |
| WELL-LED | W3: How are the people who use the service, the public and staff engaged and involved? |

1.5 To meet the legal requirements of the regulated activities that {Commenciz Ltd} is registered to provide:

- Employment Rights Act 1996
- Data Protection Act 2018
- UK GDPR



2. Scope

2.1 The following roles may be affected by this policy:

- All staff

2.2 The following Service Users may be affected by this policy:

- Service Users to the extent they are affected by any act of misconduct

2.3 The following stakeholders may be affected by this policy:

- Commissioners
- Local Authority
- NHS



3. Objectives

3.1 To ensure that managers are aware of the disciplinary process, the sanctions available and the steps to be taken at each stage.

3.2 To ensure transparency for staff who are subject to the disciplinary process.

3.3 To ensure that any party involved in the disciplinary process considers any alternative sanctions that may be available.

3.4 To ensure that Commenciz Ltd follows best practice and acts in accordance with the ACAS Code of Conduct when required.



4. Policy

4.1 When May Action Be Taken Under this Process?

Action will be taken where Commenciz Ltd believes an employee's behaviour, actions or omissions constitute misconduct. The seriousness of the misconduct matter will determine the severity of any sanction imposed. Misconduct can range from minor misconduct through to gross misconduct, the latter justifying dismissal without notice.

Commenciz Ltd reserves the right to disapply all or part of this policy where the circumstances dictate that this is appropriate.

4.2 Minor Conduct Issues

Minor conduct issues can often be resolved informally between an employee and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file.

Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

4.3 Confidentiality

Commenciz Ltd's aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential, any information communicated to them in connection with an investigation or disciplinary matter.

The employee and anyone accompanying them (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure.

4.4 Investigations

The purpose of an investigation is a fact-finding exercise. It is an opportunity for Commenciz Ltd to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents.

The employee must co-operate fully and promptly in any investigation. This will include informing Commenciz Ltd of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

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 the employee. Investigatory meetings are not disciplinary meetings and the employee will not necessarily be offered the right to be accompanied.

Even in the most serious allegations of gross misconduct (see below), a full investigation will be held. In any alleged case of gross misconduct, the employee may be suspended pending the outcome of the investigation if there is no alternative option available to Commenciz Ltd to protect the effectiveness and independence of the investigation.

Before any disciplinary meeting, the employee will be:

- Told in writing of the allegations/complaints against them, and the basis of those allegations
- Given a reasonable opportunity to consider their response to that information
- Offered the opportunity to be accompanied by a work colleague or a trade union representative
- The employee must take all reasonable steps to attend the meeting. At the meeting, they will be given a full opportunity to comment on the allegations, to put forward any defence or arguments, and to comment on what disciplinary sanction (if any) is appropriate

4.5 Informal Warning

After establishing the facts, Commenciz Ltd may consider that there is no need to resort to the formal procedure, and that it is sufficient to talk the matter over with the employee. A note of the informal warning may be kept on the employee's personnel file. However, the informal warning 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 enacted.

4.6 Suspension

In some circumstances Commenciz Ltd may need to suspend the employee from work. The suspension will be for no longer than is necessary to investigate any allegations of misconduct or so long as is otherwise



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reasonable while any disciplinary procedure is outstanding. Commenciz Ltd will confirm the arrangements to the employee in writing. While suspended, the employee should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless they have been authorised to do so by their manager.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The employee will continue to receive full basic salary and benefits during the period of suspension.

4.7 Any data collected as part of this policy will be processed in accordance with current Data Protection legislation, the Privacy Notice issued to staff and the Data Security and Data Retention Policy and Procedure at Commenciz Ltd.

4.8 This policy does not form part of an employee's contract of employment and it may be amended at any time. Commenciz Ltd may also vary this policy, including any time limits, as appropriate in any case.

4.9 This policy applies to employees only. It does not apply to casual workers, self-employed contractors or other third parties.



5. Procedure

5.1 Formal Disciplinary Process

If Commenciz Ltd considers there are grounds for taking formal action, the employee will be required to attend a disciplinary hearing. The employee will be provided with a notification of the hearing and the following information:

- A summary of the evidence gathered as part of an investigation
- A copy of all relevant documents to be used at the hearing; and
- Copies of any witness statements

As part of the disciplinary hearing, Commenciz Ltd will look to confirm the following with the employee:

- Details of the conduct issues and the evidence which suggests the conduct or behaviour has fallen below the standards required
- Provide the employee with an opportunity to ask questions and to present evidence on their own behalf
- Establish the likely causes of the conduct issues
- Identify whether any further measures can be taken to assist with the conduct issues
- Discuss the standard of conduct expected; and
- Issue the employee with an appropriate warning

5.2 Right to be Accompanied

At all stages of the formal disciplinary process, the employee has the right to be accompanied by a single companion who is either:

- A work colleague; or
- A full-time official employed by a trade union

The representative has the right to explain and sum up the employee's case, and to respond to any views expressed at the hearing. They may not answer questions on the employee's behalf. If the representative cannot attend on the date Commenciz Ltd has set for the hearing, the employee must inform us immediately and we will arrange an alternative time for the hearing to take place. A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so. If the companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, Commenciz Ltd may ask the employee to choose someone else. The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason or is persistently unable to do so (for example for health reasons), Commenciz Ltd may have to take a decision based on the available evidence.

5.3 Procedure at the Disciplinary Hearing

The hearing will be chaired by a manager of the appropriate seniority. A note-taker will also be present and this person will be confirmed prior to the hearing date.

At the disciplinary hearing the chair of the meeting will go through the allegations and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to us and ask questions but should not answer questions on the employee's behalf. The employee may confer privately with their companion at any time during the hearing. Commenciz Ltd may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in light of any new points raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Commenciz Ltd will inform the employee in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing.

5.4 Stage 1: Written Warning

If it is decided that the employee's conduct or performance is unsatisfactory, the disciplinary officer may give 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.

The employee will be informed of their right of appeal, and how and where this should be made. A record of the warning and related discussions will then be placed on their personnel file. It will normally cease to have



effect after 12 months.

If the employee's conduct is sufficiently serious, Commenciz Ltd may omit stage 1, and proceed straight to stage 2.

5.5 Stage 2: Final Written Warning

For more serious matters, or where the employee has failed to meet the required standards after already receiving a formal warning which has not yet expired, they 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 the employee will be dismissed if the standards are not met or if there is further misconduct.

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

5.6 Stage 3: Dismissal

If there is still no improvement in your conduct, where further misconduct occurs whilst the final written warning is active, or the employee's conduct amounts to gross misconduct, they may be dismissed. The employee will be invited to a stage 3 disciplinary hearing and Commenciz Ltd will discuss a range of options including dismissal, redeployment or extension of a final written warning. Where dismissal is appropriate, this will normally be on full notice and/or payment in lieu of some or all of the employee's notice unless your conduct amounts to gross misconduct, in which circumstances, the employee will not be entitled to notice or payment in lieu of notice.

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

5.7 Dismissal Without Notice ('Summary Dismissal')

Commenciz Ltd regards certain issues as serious enough to warrant 'summary dismissal' without prior warning. These issues would constitute gross misconduct, that is a single act of misconduct that is sufficiently serious to break the employment contract between us. Matters that may justify summary dismissal, include, but are not limited to:

- Actions which may harm the well-being of a Service User ("abuse")
- Acts of dishonesty where the employee's conduct affects their ability or suitability for continued employment, for example, theft, fraud, the deliberate falsification of records or expenses, a relevant criminal warning or conviction, or inclusion on the DBS register
- 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;
- Bringing Commenciz Ltd into serious disrepute;
- Any breaches of confidentiality requirements in the employee's contract of employment, other than minor breaches;
- Harassment or bullying, other than minor breaches;
- Breaches of our Equality and Diversity Policy and Procedure, other than minor breaches;
- Wilful misrepresentation at the time of appointment, including:
 - Previous positions held
 - Qualifications held
 - Falsification of date of birth
 - Declaration of health; and
 - Failure to disclose a criminal conviction/caution within the provision of the Rehabilitation of Offenders Act;
- Abuse of the protected disclosure provisions;
- Serious failure to abide by the professional code of conduct which applies to the employee's work, a copy of which was issued on engagement, a revised copy of which will have been issued if it has changed since engagement, and a copy of which is also available for inspection in the office;



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- Deliberate disclosure of privileged confidential information to unauthorised people;
- Negligent or deliberate failure to comply with the legal requirement for the policy & procedure concerning medicines at Commenciz Ltd;
- Working whilst contravening an enactment or working in such a way that is in breach of rules laid down by statutory bodies, e.g. erasure from the register of the Nursing & Midwifery Council;
- Serious breach of data protection and/or failure to adhere to the policy;
- Failure to notify Commenciz Ltd of an actual or suspected data breach; or
- Covertly recording internal meetings with Commenciz Ltd without consent

5.8 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
- One occasion of absence without permission, or persistent absence
- Poor timekeeping
- Failure to report damage to the property of Commenciz Ltd
- Failure to carry out duties adequately
- Breach of our policies, procedures and practices
- Continued poor work performance, or a persistent failure to keep up to date with technical developments
- Improper use of our equipment
- Harassment or bullying (in ways that are not deemed serious enough to constitute gross misconduct)
- Breaches of our equal opportunities policy (in ways that are not deemed serious enough to constitute gross misconduct)
- Actions bringing Commenciz Ltd into disrepute (in ways that are not deemed serious enough to constitute gross misconduct); and
- Minor breach of data protection or minor failure to adhere to the Data Protection and Confidentiality Policy and Procedure

5.9 Alternatives to Dismissal

In some cases, Commenciz Ltd may, at its discretion, consider alternatives to dismissal. These may be authorised by a manager of sufficient seniority and will usually be accompanied by a final written warning. Examples include:

- 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; and/or
- Loss of overtime

5.10 Right to Appeal

If the employee is not satisfied with a disciplinary decision, they may appeal, in writing, within five working days. Arrangements to hear the appeal will normally be made within five working days of receiving a written request. If the decision being appealed was a decision to dismiss, the appeal may be heard after the dismissal has taken place.

All appeals must set out the grounds on which the appeal is being made.

Commenciz Ltd will invite the employee to an appeal hearing and remind them of their right to be accompanied.

The appeal hearing will, where possible, be held by someone other than the person who held the original hearing.



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

- The original decision will be upheld, in which case any disciplinary sanction will be confirmed
- The original decision will be overruled, in which case any disciplinary sanction will be rescinded; or
- 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.

In the event that the employee has been dismissed, the date of dismissal will not be delayed pending the outcome of an appeal. In the event that the appeal is successful and the decision to dismiss is revoked, the employee will suffer no loss of continuity or pay.

5.11 If an Employee has Less than 2 Years' Continuous Service

If an employee has less than 2 years' continuous service, Commenciz Ltd retains its discretion to vary or to not follow the above process.

If Commenciz Ltd decides to terminate a short serving employee's employment without any prior written warnings, Commenciz Ltd will write to that employee confirming the reasons for dismissal.



6. Definitions

6.1 ACAS Code of Practice

- The non-statutory guidance from the Arbitration and Conciliation Service which outlines how an employer should approach a disciplinary process with an employee. A failure to follow the ACAS Guidance can lead to an uplift of up to 25% in any Employment Tribunal award

6.2 Demotion

- Moving an employee to a lower level job role or removal of some duties

6.3 Gross Misconduct

- Misconduct which is so serious as to justify dismissing the employee without notice

6.4 Representative

- A fellow employee or Trade Union Representative



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- This process is to be used when an employee has committed an act of misconduct. It should not be used when the employee is absent on long-term sick leave
- Managers must ensure that they follow each stage of the disciplinary process if they find there is a case to answer following an investigation
- Commenciz Ltd will ensure that each stage of the disciplinary process is overseen by a different manager of appropriate seniority in accordance with the ACAS Code of Practice if this is at all possible
- The disciplining officer will ensure that the sanction they impose is appropriate given the circumstances of the misconduct



Key Facts - People affected by the service

People affected by this service should be aware of the following:

- Commenciz Ltd appreciates that, on some occasions, Service Users may be asked to provide evidence of any misconduct where they are directly affected to ensure a full and fair investigation. Commenciz Ltd will ensure that this is kept to a minimum and/or appropriate safeguards are put in place
- Service Users may wish to understand where certain carers are in the event they are suspended pending any disciplinary process. Commenciz Ltd will ensure that no details are disclosed unless this is absolutely necessary i.e. to aid the investigation



Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

ACAS - Acas Guide to Discipline and Grievances at Work:

<https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work>

ACAS - Investigations for Discipline and Grievance: Step by Step:

<https://www.acas.org.uk/investigations-for-discipline-and-grievance-step-by-step>

GOVERNMENT, (2016) - Taking Disciplinary Action Against an Employee:

<https://www.gov.uk/taking-disciplinary-action/overview>

GOVERNMENT - Disciplinary Procedures and Action Against you at Work:

<https://www.gov.uk/disciplinary-procedures-and-action-at-work/how-disciplinary-procedures-work>

ACAS - Disciplinary Procedure: Step by Step:

<https://www.acas.org.uk/disciplinary-procedure-step-by-step>



Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- Consider allowing an employee to be accompanied by someone other than a fellow employee or trade union representative when the circumstances require it
- Follow not only the mandatory statutory guidance from the ACAS Code of Practice but also the non-statutory ACAS Guidance on disciplinary and grievance procedures
- Ensure that each stage of the process is undertaken in a timely fashion
- Ensure at all times that three individual managers, unconnected with the facts of the disciplinary and of appropriate seniority, oversee each aspect of the disciplinary process



Forms

The following forms are included as part of this policy:

| Title of form | When would the form be used? | Created by |
|---|---|---------------|
| A Manager's Agenda to Appeal Hearing - PP03 | To guide an Appeal Hearing Officer. | Commenciz Ltd |
| A Manager's Agenda to a Disciplinary Hearing - PP03 | To guide a Disciplining Officer. | Commenciz Ltd |
| Manager's Guidance Note to a Disciplinary Process - PP03 | As detailed guidance for a disciplinary process. | Commenciz Ltd |
| Letter Confirming Dismissal Following Previous Warnings - PP03 | Further misconduct after final written warning. | Commenciz Ltd |
| Letter Confirming Dismissal for Gross Misconduct - PP03 | Following a finding of gross misconduct. | Commenciz Ltd |
| First Written Warning Letter - PP03 | After first instance of misconduct. | Commenciz Ltd |
| Final Written Warning Letter - PP03 | Following serious misconduct short of dismissal. | Commenciz Ltd |
| Letter Confirming no Formal Sanction - PP03 | When it has been determined that there was no misconduct or the misconduct was not serious enough to merit a formal sanction. | Commenciz Ltd |
| Letter Confirming Outcome of Appeal - PP03 | As decision letter following an employee's appeal. | Commenciz Ltd |
| Letter Confirming no Disciplinary Action Following Investigation - PP03 | When an investigation turns up no evidence of misconduct. | Commenciz Ltd |
| Letter Confirming Suspension - PP03 | When an employee is to be suspended pending investigation. | Commenciz Ltd |
| Disciplinary Invite Letter - PP03 | To commence a disciplinary process. | Commenciz Ltd |
| Appeal Invite Letter - PP03 | To commence an appeal process following the employee's appeal against disciplinary sanction. | Commenciz Ltd |
| Investigation Invite Letter - PP03 | To invite an employee to an investigation meeting. | Commenciz Ltd |
| Letter Confirming Dismissal for Employee with Less than Two Years' Service - PP03 | To confirm dismissal for a short service employee. | Commenciz Ltd |



PP03 - Discipline Policy and Procedure

Human Resources - Performance & Discipline

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| | | |
|--|---|---------------|
| Invite Letter for Short Service Dismissal Meeting - PP03 | To invite an employee with less than two years' service to a meeting. | Commenciz Ltd |
| Flowchart - How to Conduct a Disciplinary | When conducting a disciplinary. | Commenciz Ltd |

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| Stage of Hearing | Completed (Please Tick or N/A) |
|---|--------------------------------|
| 1. Introduce those in attendance, stating their role and purpose at the hearing. | |
| 2. State that the hearing will be recorded and/or minuted. | |
| <p>3a. If the employee is accompanied by a companion– introduce the companion and confirm their role at the hearing. Explain that the companion must not answer any questions on behalf of the employee.</p> <p>3b. If the employee is not accompanied by a companion – ensure that the employee is aware of their right to be accompanied. Ask the employee to confirm that they have chosen to come to the hearing alone.</p> | |
| 4. Explain that the purpose of the hearing is to hear the employee's grounds of appeal as set out within their appeal letter. | |
| <p>5. Explain how the hearing is to be structured, ensuring that it complies with the contractual appeal procedure in place.</p> <p>Confirm to the employee whether you intend to conduct a full re-hearing or simply consider the grounds raised in the employee's appeal.</p> | |
| <p>6. Ask the employee to put forward their appeal and present any relevant evidence, including calling supporting witnesses.</p> <p>The employee should limit their grounds of appeal to those set out in their appeal letter only.</p> | |
| 7. Confirm the known facts. Establish if there are any mitigating circumstances which ought to be taken into account in relation to the appeal. | |
| 8. Summarise the main issues raised and ask the employee to contribute any additional points. | |
| <p>9. Adjourn the hearing in order to consider all the complaint following the issues raised in the hearing. Advise the employee that they shall be notified of the outcome by letter.</p> <p>Try to provide the employee with the outcome of the appeal within 5 working days of the hearing, provided your disciplinary procedure does not specify a timeframe in which to notify the employee of the outcome.</p> | |
| 10. Conduct any further investigations in light of the issues raised in the hearing. | |
| 11. Consider any mitigating circumstances. | |
| <p>12. Consider the outcome of the appeal and whetherto:</p> <ul style="list-style-type: none"> • Uphold the earlier decision and impose a penalty • Apply a lesser or more stringent penalty, consider any other outcomes • Overturn the previous decision (and reinstate the employee if they have been dismissed) | |
| 13. Write to the employee to inform them of the outcome of the appeal hearing. Inform the employee that there is no further right to appeal. | |

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| Stage of Hearing | Completed (Please Tick or N/A) |
|---|--------------------------------|
| 1. Introduce those in attendance, stating their role and purpose at the hearing. | |
| 2. State that the hearing will be recorded and/or minuted. | |
| <p>3a. If the employee is accompanied by a companion– introduce the companion and confirm their role at the hearing. Explain that the companion must not answer any questions on behalf of the employee.</p> <p>3b. If the employee is not accompanied by a companion – ensure that the employee is aware of their right to be accompanied. Ask the employee to confirm that they have chosen to come to the hearing alone.</p> | |
| 4. Outline the purpose of the hearing. | |
| 5. Explain how the hearing is to be structured | |
| <p>6.</p> <ul style="list-style-type: none"> • Outline the complaint against the employee • Put forward any evidence in support of the complaint; and • Allow the employee [and companion] to review and question any witness statements | |
| <p>7. Ask the employee to put forward their case. Allow the employee to:</p> <ul style="list-style-type: none"> • Answer any questions put to them • Challenge the evidence put forward in support of the complaint • Call relevant witnesses to support their case | |
| 8. Confirm the known facts. Establish if there are any mitigating circumstances which ought to be taken into account. | |
| 9. Summarise the main issues raised and ask the employee to contribute any additional points. | |
| 10. Adjourn the hearing in order to consider all the complaint following the issues raised in the hearing. | |
| 11. Inform employee that they will be notified of the outcome of the hearing by letter within [7 days]. | |
| 12. Conduct any further investigations in light of the issues raised in the hearing. | |
| 14. Ensure that any disciplinary action is reasonable, considering any mitigating circumstances and ensure that any penalty is in line with the Company's disciplinary policy and the ACAS Code of Practice. | |
| 15. Ensure that any penalty is in line with disciplinary action previously taken by the Company in similar circumstances. | |
| 16. Write to the employee to inform them of the outcome of the hearing. Include details of the employee's right to appeal in the decision letter. | |

Human Resource Manager's Guidance Note on how to conduct a disciplinary

1. PRELIMINARY CONSIDERATIONS

You should consider whether or not formal action is required prior to instigating any disciplinary proceedings, especially where it may be more appropriate to resolve the matter informally, through discussions with all parties involved. Please note that if any "informal discussions" result in the employee being issued with a warning in writing, which is retained on their personnel file, it could be construed as a formal disciplinary warning, which requires you to have followed a fair procedure in advance of giving it.

2. SUSPENSION

It is important to consider whether the employee needs to be suspended to allow a full investigation to take place. This will usually only be appropriate in the following cases:

- Where there are allegations of serious misconduct or incompetence
- Where the employee's continued presence in the workplace would render an investigation impossible; or
- Where working relations have broken down and there is no other way of avoiding conflict while the matter is resolved

An employee should be suspended on full pay and a formal letter confirming the terms of the suspension (and a point of contact in the company for the employee) should be sent to the employee. It is advisable to take a neutral line in the event that colleagues or external clients enquire as to the whereabouts of the employee.

3. INVESTIGATIONS

A fair and balanced investigation will be required, where any formal action is taken. The investigation should not simply be a search for evidence against the employee. Evidence in the employee's favour should also be sought.

An investigation should not be carried out by the same person who will hold the disciplinary hearing or any appeal hearing. Where possible, it should be conducted by someone impartial such as an HR manager. In cases involving harassment, bullying or discriminatory treatment, the person(s) conducting the investigation should have been given equal opportunities training.

The level of investigation required will depend on the individual circumstances of the case, but the investigation must be sufficient:

- To enable the Chair of any subsequent disciplinary hearing to form reasonable grounds for believing or disbelieving the allegations against the employee; and
- To enable the case to be put to the employee in a manner that makes it clear what is being alleged

It is important that an investigatory meeting is held with the employee at an early stage, as it may be that there is simply a misunderstanding which can be resolved without the need for a disciplinary hearing.

NOTE: An investigatory meeting is not a disciplinary hearing, and so the employee has no statutory right to be accompanied. Where the employee is accompanied by a trade union official, the companion may insist on attending all meetings of whatever nature, although you may wish to resist this.

If the allegations relate to poor performance or capability, the investigation may solely consist of a review of the employee's appraisals as well as any discussions that have taken place between the line manager and employee. If the allegations relate to misconduct, you should interview witnesses (who may be other employees) and gather any other relevant evidence.

The employee under investigation may also be able to direct you to witnesses or documentary evidence that support their case and you should always ask the employee in any investigatory meeting. Make sure that any witnesses who may support the employee's version of events are also interviewed.

Any investigatory meetings to interview the employee or other witnesses should be held in private and notes should be taken of the meeting.

Try and restrict the number of witnesses to the minimum required to establish what is being alleged. In cases of suspected misconduct, it is appropriate to remind employees who are being interviewed of their duty of confidentiality.

Following an investigation, the company may decide that no further action is necessary and the employee should be informed of this decision. If the company decides that further action is necessary, there must first be a disciplinary hearing. The fact that an investigation has been conducted is not a sufficient legal basis on its own for dismissal or any other sanction.

It is important to ensure that there is a clear distinction between an investigatory meeting and a disciplinary hearing – the two meetings should not be held together.

4. WITNESSES WHO WISH TO REMAIN ANONYMOUS

Where a witness asks to remain anonymous, you should enquire as to the reason for this request. The witness's request for anonymity should be considered against the employee's need to fully understand the evidence for/against the allegations made.

You may consider editing the witness statement to remove reference to their name or any other information that may identify them. The key issue is that the employee must know the case they have to answer.

5. WRITTEN STATEMENT

If, following the investigation, you believe that there are sufficient grounds to hold a disciplinary hearing, you must send the employee a letter containing the following:

- Details of the allegations against them and the basis for those allegations and their possible consequences, so the employee can properly prepare for the hearing
- Copies of all the evidence you intend to rely on at the disciplinary hearing e.g. witness statements
- Confirmation of whether you intend to call witnesses to the meeting or simply rely on written statements. You

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should ask the employee if they wish to submit any evidence or call any witnesses to the hearing

- Inform the employee of the time and place of the disciplinary hearing
- Explain to the employee that they have the right to be accompanied to the hearing by a trade union representative or a colleague
- Ask the employee whether they have any disability or other special requirements and make reasonable adjustments accordingly
- If a possible outcome of the hearing is the dismissal of the employee, the employee must be made aware of that prior to the hearing
- Provide the employee with a copy of the Company's disciplinary procedure when you send the invite letter, if you have not already done so

6. POSTPONEMENT OR FAILURE TO ATTEND HEARING

If an employee cannot attend a disciplinary hearing due to illness, or wishes to adjourn because their companion is unavailable, you should arrange a further meeting within a reasonable timescale.

However, if the employee persistently fails to attend the hearing or fails to attend without good reason then you may consider making a decision in the employee's absence. You should consider the reason for a requested postponement and any other relevant circumstances, especially if dismissal is a possible outcome of the hearing. If the employee cannot attend due to illness, you may wish to postpone until a medical certificate has been obtained or consideration can be given to holding the disciplinary hearing at or near the employee's home or by telephone.

When considering postponing a disciplinary hearing, it is important to balance the need to make business decisions against the need to treat the employee fairly. It may be best to seek legal advice before making a decision.

7. DISCIPLINARY HEARING

The hearing should be held in private during the employee's normal working hours. You should afford the employee sufficient time between sending the letter and the hearing to allow the employee to consider the allegations and the evidence against them and to prepare for the hearing. In most cases a period of 3 to 5 working days will be appropriate, but consideration should be given to the nature of the allegations and the complexity of the case. Reasons for any further delay should be explained to the employee.

The disciplinary hearing should ideally be conducted by a single manager or a panel with one individual appointed as the Chair. The person conducting the disciplinary hearing should not have been involved in the investigation in any capacity. Bear in mind that a more senior member of staff may be required to hold any subsequent appeal hearing, following the hearing. Depending on the complexity of the case, you may wish to have a member of the HR department present in an advisory capacity.

There should also be a note-taker present and they should not have been previously involved in the investigations. The employee should be provided with a copy of the notes following the disciplinary hearing.

7.1 Introductions

- Firstly, the Chair should introduce those present, explain the purpose of the hearing and remind the employee of their right to be accompanied. Provisions should have already been made for a disabled employee but a final check may be made
- The employee should be asked to confirm that they are satisfied with the arrangements for the hearing and that they have received, read and understood all the necessary documents, e.g. disciplinary procedure, any report of the investigation, the witness statements etc.

7.2 Outline the Complaint

- The employee should be taken carefully through the allegations that have been made and all relevant evidence in support of the allegations should be put forward
- There is no need for you to call all relevant witnesses to the hearing and the matter can be dealt with by witness statements alone. The law does not generally require the Chair to allow court-room style cross-examination of witnesses. The employee should be allowed to raise points in response to anything a witness has said
- The employee should then be given the opportunity to make any representations, ask questions and produce or discuss documentary evidence in reply

7.3 The Employee's Case

- The Employee should then be allowed to put forward their case by allowing them to answer any questions put to them and challenge the evidence put forward in support of the allegations. The employee should usually be allowed to call relevant witnesses to the hearing if they wish
- The Employee's companion can make statements and/or ask questions on the Employee's behalf. The representative should not answer questions that have been put to the employee directly. However, the companion and the employee should be permitted to confer privately before any reply is given
- Employees and witnesses may be under significant stress during the hearing and therefore may become visibly distressed and/or aggressive. If necessary, the Chair should allow "time out" for the individuals concerned to regain their composure

7.4 Summary of the Issues

- Once the employee has put forward their case, the Chair should summarise the main issues put forward both for and against the allegations made and request any necessary clarification from the employee. Ask the employee if they have any further questions before the meeting is adjourned

8. ADJOURNING THE HEARING

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The hearing should be adjourned for the Chair to consider the employee's case against the complaint. It is good practice to adjourn the hearing and avoid making a decision at the end of the hearing so that the Chair can take time to consider the matter and avoid accusations that the hearing was pre-judged.

Issues may require further investigation as a result of the hearing and witnesses may need to be re-interviewed. Any new information which comes to light as a result of any further investigation should be given to the employee in writing so that they may consider it. The employee should then be given a chance to respond to any new information at a reconvened hearing.

You should give the employee an indication of how long it is likely to be before the meeting is reconvened, taking into account the complexity of the issues and the need for any further investigation. In most cases, it is sensible to adjourn at least until the following day.

9. THE DECISION

When considering the appropriate sanction, demotion, redeployment or a final written warning should be considered before deciding to dismiss an employee. Final warnings are not usually appropriate for relatively minor misconduct. It is usually considered appropriate to give two written warnings (a first written warning and a final written warning) before deciding to dismiss an employee. You should consider what sanctions have been imposed on other employees for similar conduct and regard should be had to any 'live' warnings on the employee's personnel file. Expired warnings on the personnel file should not be taken into account. Employees should not be dismissed without any prior warning, save in cases of gross misconduct but you may wish to seek legal advice before deciding to dismiss.

Once the Chair has reached a decision, the meeting can be reconvened so that the decision can be explained to the employee. The employee should be advised of the sanction, the reasons for imposing it and the fact that they have a right to submit a written appeal. The decision must be given in writing in any event, but it is usually better if done face to face and then confirmed in writing.

If a warning is imposed, the length of the warning should be given, and the consequences of any further misconduct or failure to improve must be made clear.

10. APPEAL

Instructions on how to appeal should also be provided, including the name of the person to whom the appeal must be submitted and the timescale for appeal. Five working days is generally considered reasonable but there is no specific time limit in the Acas Code of Practice, so you should take legal advice before rejecting an appeal as being out of time.

So far as possible, any appeal should be heard or chaired by someone who has not been previously involved. Ideally, they should be more senior than the Chair of the disciplinary hearing and, where possible, outside their direct reporting line. If there is no-one suitable to hear the appeal, it is possible to engage a third party to chair the appeal meeting. Please contact us further for advice if needed.

The manager conducting the appeal should have access to the evidence compiled during the investigation and copies of the notes from the disciplinary meeting. However, they should not confer with the initial decision-maker before the appeal meeting, as this may lead to a biased view being taken before the employee has presented their arguments.

There is no set format for the appeal, provided the employee is allowed adequate opportunity to present their arguments. The person chairing it should aim to be as impartial as possible. If the original hearing was procedurally flawed, the appeal should be conducted as a full rehearing of all the evidence. In other cases, it may be acceptable to simply review the original decision based on the paperwork and any representations the employee may make.

Employees have the right to be accompanied by a fellow employee or Trade Union representative at an appeal hearing.

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LETTER CONFIRMING DISMISSAL FOLLOWING PREVIOUS WARNINGS

[insert name, and]
[address of employee]

[date]

Dear [insert name of employee]

Confirmation of Dismissal

Further to the disciplinary hearing held on [date] and having carefully considered the available evidence and information presented to me, it has been decided that your employment with Commenciz Ltd should be terminated on grounds of your [conduct, with [insert week[s] notice] OR gross misconduct, without notice].

You will recall during the disciplinary hearing that the following allegations were discussed:

[set out each allegation of misconduct]

You said in response that [summarise what the individual said in their defence to the above allegations].

In the meeting, it was established that the dissatisfaction of Commenciz Ltd with your conduct was well founded, in particular [state brief grounds for decision].

I [was not able to find any mitigating circumstances] OR [did not find your explanation above because [state reasons]].

As you are aware, Commenciz Ltd has previously taken disciplinary action against you and you were previously given warnings on [dates] about your conduct. Your final written warning dated [date], which is still active, warned you that, unless Commenciz Ltd saw an improvement in your conduct, this would result in your dismissal.

Therefore, having taken all of the facts and circumstances into consideration, I have taken the decision to terminate your employment, with [Insert week(s) notice OR immediate effect].

You have the right to appeal against your dismissal. If you wish to appeal, you must submit your appeal in writing to [name] by [date]. You should state the grounds for your appeal in full. You should be aware that the effect of lodging an appeal will not delay the dismissal, but if you are subsequently reinstated, any lost pay will be reimbursed.

The following arrangements apply with immediate effect (but may be changed in the event of a successful appeal):

- [You are entitled to notice of [one month] under your contract of employment and your final day of employment shall be [termination date]

OR

- Your dismissal is effective immediately and your final day of employment is, therefore, [termination date]. You shall receive [one month's] pay in lieu of notice in accordance with your contract of employment, subject to normal deductions of tax and National Insurance contributions
- You have [number] days outstanding holiday entitlement, for which you shall receive payment in lieu as part of your final payment of salary. This shall be subject to normal deductions of tax and National Insurance contributions
- You will be reimbursed for any genuine expense claims submitted by [date] with your final payment of salary
- You must return any property including [insert details such as mobile phone, laptop computer, confidential documents] belonging to us in good condition by [date]
- Your final payment of salary shall be made on [date], subject to normal deductions of tax and National Insurance contributions. We shall forward your P45 to you in due course
- You will remain bound by clauses [insert clause numbers] of your contract of employment in respect of [insert details of confidentiality obligations and restrictive covenants] until [date] - If applicable

If you have any further questions, please do not hesitate to contact me.

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
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LETTER CONFIRMING DISMISSAL FOR GROSS MISCONDUCT

[insert name, and]
[address of employee]
[date]

Dear [insert name of employee]

Confirmation of summary dismissal for gross misconduct

Further to the disciplinary hearing held on [insert date] and considering the seriousness of this matter, it was decided that your employment with Commenciz Ltd should be terminated for gross misconduct, without notice and/or further warning. You have been dismissed for the following reason[s]: [summarise the allegations and findings of gross misconduct from the investigation and disciplinary hearing].

[On [insert dates], you were given warnings about your conduct. You were given a final written warning on [insert date] and it was made clear to you that you were likely to be dismissed if your conduct did not improve.]

You have the right to appeal against your dismissal. Any appeal must be made in writing to [name and contact details] within 7 days [or insert relevant time scale as per the handbook] of receiving this letter. You must state your grounds of appeal in full. In accordance with our disciplinary procedure, you may then present your grounds of appeal at an appeal hearing. You have the right to be accompanied to any appeal hearing by another employee or a trade union representative.

The following arrangements apply with immediate effect (but may be amended following a successful appeal):

- You are dismissed immediately. Your final day of employment is [date of dismissal]
- You are not entitled to any period of notice or payment in lieu of notice
- You have [insert number] days outstanding holiday entitlement. Payment in lieu of your holiday entitlement, subject to normal deductions of tax and National Insurance contributions, will be included in your final payment of salary. [As your dismissal is for gross misconduct this entitlement is based only on your statutory holiday entitlement, according to clause [insert clause] of your contract.] Your final payment of salary shall be made on [date] subject to normal deductions of tax and National Insurance contributions. Your P45 shall be forwarded to you in due course
- You will be reimbursed for any genuine expense claims submitted by [date] with your final payment of salary
- You must return any company property including [insert items of property (e.g. electronics or confidential documents)] in good condition by [date]
- [You will remain bound by clauses [insert clause numbers] of your contract of employment in respect of [insert details of confidentiality obligations and restrictive covenants] until [date].] [IF THIS IS APPROPRIATE]

If you have any questions, please do not hesitate to contact me.

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

FIRST WRITTEN WARNING

[insert name, and]
[address of employee]
[date]

Dear [insert name of employee]

Re: First Written Warning

Further to the disciplinary hearing held on [date], it has been decided to give you a first written warning under our disciplinary procedure.

The details of your misconduct are as follows [set out misconduct].

At the hearing we explained the following standards of conduct expected of you: [set out expected improvements including any timescale if relevant].

You are now required to [set out details of any other action that will be taken, including additional training or supervision].

This warning shall be placed [permanently] on your personnel file. However, this notice shall expire for disciplinary purposes after [date, usually six months from date of warning], on condition that there is no further misconduct.

Any further misconduct during the [insert time frame/6 months] following this notice is likely to result in a further disciplinary hearing, which may result in you being given a final written warning [or, in the case of gross misconduct, dismissal].

You may appeal this decision in writing to [name and contact details] and you should set out the grounds of your appeal in full. You have until [insert date] to submit an appeal.

If you have any questions regarding this warning, please contact [name and contact details].

Yours sincerely,

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

FINAL WRITTEN WARNING

[insert name, and]
[address of employee]
[date]

Dear [insert name of employee]

Final Written Warning

Further to the disciplinary hearing held on [date] and after carefully considering this matter, it has been decided that you should be given a final written warning under our disciplinary procedure.

On [insert date], you were issued a written warning about your misconduct. That written warning has not yet expired and as such you are now being issued a final written warning.

The details of your misconduct are as follows: [set out misconduct].

During the disciplinary hearing we explained the standards of conduct expected of you as follows: [set out expected improvements including any timescale if relevant].

You are also required to: [set out details of any other action that will be taken, including additional training or supervision].

This final written warning shall be placed [permanently] on your personnel file. However, it shall expire for disciplinary purposes after [insert date, usually 12 months from date of warning], on condition that there is no further misconduct during that time.

Any further misconduct during the [12 months] following the date of this notice, is likely to result in another disciplinary hearing which could ultimately lead to your dismissal.

You may appeal against this decision. Any appeal should be made in writing and should set out your grounds for appeal in full. Please forward your appeal to [name and contact details].

If you have any questions regarding this warning, please contact [name].

Yours sincerely,

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
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LETTER TO EMPLOYEE FOLLOWING A DISCIPLINARY
HEARING – NO PENALTY TO BE IMPOSED

[name of employee]
[address of employee]

[Date]

Dear [name of employee]

Re: Outcome of Disciplinary Hearing

Following the disciplinary hearing on [insert date], Commenciz Ltd can now confirm that no disciplinary penalty will be imposed against you.

During the disciplinary hearing, the following concerns were raised with you: [outline concerns]

You are required to improve your conduct in line with the expectations below: [outline expectations].

Please note that your conduct will continue to be monitored and reviewed.

Should there be any further incidents of misconduct, you may be subject to formal disciplinary action pursuant to our disciplinary procedure.

If you have any queries in relation to this letter, please do not hesitate to contact me.

Yours sincerely

[Name]

on behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

LETTER CONFIRMING OUTCOME OF APPEAL

[insert name, and]
[address of employee]
[date]

Dear [insert name of employee]

Re: Outcome of Appeal Hearing

Further to the appeal hearing held on [date], it has been decided that our original decision that [details of original decision] has been [upheld OR changed]

Following the appeal hearing, our decision has changed to [details of new decision and the reasons for the "new" decision].
OR

The decision to uphold our original decision is now final. There is no further right of appeal under our disciplinary procedure.

[The [dismissal] arrangements as set out in our letter of [date] are [revoked OR amended as follows [insert new arrangements including effect on continuity of employment and salary]].

If you have any further questions please do not hesitate to contact me.

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

LETTER CONFIRMING OUTCOME OF INVESTIGATION – NO DISCIPLINARY ACTION
[insert name, and]
[address of employee]
[date]

Dear [insert name of employee]

Outcome of Investigation Meeting

Further to the investigation meeting on [insert date], I write to confirm that the investigation into [details of allegations] is now complete and the Company has decided, on this occasion, not to invoke the formal disciplinary procedure. However, due to the concerns discussed with you, the Company expects to see an improvement in your conduct and it is expected that you will [outline expectations].

Your conduct will be monitored and reviewed on an ongoing basis.

Please be advised that if there are any further incidents of misconduct, you may be subject to formal disciplinary action under the Company's disciplinary procedure.

Should you have any questions regarding the contents of this letter, please contact [name and contact details].

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

SUSPENSION LETTER

[insert name, and]

[address of employee]

[date]

Dear [insert name of employee]

Suspension Pending Disciplinary Investigation

I am writing to confirm that, as of the date of this letter, you have been suspended from work until further notice pending investigation into an allegation of [gross] misconduct OR give details]. This decision was discussed with you at our meeting on [insert date].

Please note, it is possible that the nature of the allegations may change depending on what facts/evidence are uncovered as part of our investigation.

Your suspension does not mean there is any assumption that you are guilty of any misconduct and nor does it constitute any form of disciplinary action against you. We will keep the matter under review and will aim to make the period of suspension no longer than is necessary.

During your suspension, we shall continue to pay your salary in the normal way. You are also entitled to your normal contractual benefits including [insert relevant benefits such as healthcare, use of company car, pensions etc.]

For the avoidance of doubt, you remain employed by us throughout your suspension and as such continue to be bound by your terms and conditions of employment including:-

- [Obligations of confidentiality
- Not working for anyone else whilst in our employment
- Not competing with our business in any way and/or soliciting customers/staff etc.
- INSERT ANYMORE]

You must co-operate with our investigations and may be required to attend the workplace for investigative interviews or disciplinary hearings. However, you are not otherwise required to carry out any of your duties and you should not attend the workplace unless authorised by [name] to do so. [Your e-mail account has been suspended and you no longer have access to our computer network].

During your suspension, you are specifically instructed not to contact by any means (directly or indirectly) any staff or clients or suppliers of the business. However, you are required to be available to answer any work-related queries and remain available during your suspension so that I am able to contact you if the need arises.

Please read and ensure that you understand our Disciplinary Policy and Procedure and Disciplinary Rules, which are enclosed with this letter.

When we have carried out our investigation, we shall contact you at the earliest opportunity to inform you of the outcome of the investigation. If you are required to attend a disciplinary hearing, you will be given full details of the allegations against you and you will have the opportunity to state your case at the hearing, in accordance with the Disciplinary Procedure.

If you know of any documents, witnesses or information that you think will be relevant to the matters under investigation please let me know as soon as possible. If you require access to the premises or computer network for this purpose, please let me know as we may agree to arrange this under supervision.

If you have any queries about this matter or the terms of your suspension, please feel free to contact [insert name and contact details].

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

INVITATION TO DISCIPLINARY HEARING

[insert name, and]

[address of employee]

[date]

Dear [insert employee's name]

Invitation to Disciplinary Hearing

Further to the investigation meeting on [date], I am writing to inform you that you are required to attend a disciplinary hearing at [place] on [date] at [time]. The purpose of the hearing is to consider an allegation of [misconduct OR gross misconduct] against you. At this hearing, I will consider the following allegations against you that [set out allegation - for example, "you assaulted another employee" OR "you have made false claims for expenses"].

The basis for this allegation is that [give summary of information obtained as a result of investigations into the allegation - for example: "[name] has complained that you assaulted him in the canteen on [date]. We have carried out an investigation and have received statements from [name] and [name] who witnessed the assault taking place"

I enclose copies of all relevant evidence gathered from the investigation that will be raised at the hearing. This will be considered, together with any evidence and submissions from you, during the hearing itself. In this regard, if you would like to submit any documentation for consideration at the hearing, please let me have copies, along with any names of witnesses you wish to bring forward by no later than [insert date]. If you do not have those documents, please provide details so that they can be obtained.

[We intend to call the following witnesses to the hearing: [give names of witnesses] OR We do not intend to call any witnesses to the hearing.]

The hearing will be held in accordance with the Disciplinary Procedure which is [attached OR set out in the Staff Handbook].

Depending on the facts established at the hearing, the outcome could be any of the following:

- [Issue you with a written warning or a final written warning] OR
- [Dismiss you with notice or pay in lieu of notice]

Please note that a decision will not be made until you have had a full opportunity to put forward your version of events and the hearing has been concluded.

The hearing will be conducted by [name] and the following people will also be present: [give names or job roles of participants].

You are entitled to bring a fellow employee or a trade union representative to the meeting in accordance with our Disciplinary Procedure. If you wish to bring a companion, please let me know their name as soon as possible.

[Your suspension on full pay will continue pending the outcome of the disciplinary hearing.]

Please confirm that you have received this letter and that you will attend at the time stated above. If for any unavoidable reason you or your companion cannot attend at that time, please contact me as soon as possible. If you have any specific needs at the hearing as a result of a disability, or if you have any other questions, please also contact me as soon as possible.

You should be aware that if you do not attend the meeting without good reason, a decision may be made in your absence on the information which the organisation has before it, without the benefit of your representations and comments. It is therefore in your best interests to ensure that you attend and, where you are unable to do so, please contact me as soon as possible.

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

INVITATION TO APPEAL MEETING

[insert name, and]
[address of employee]
[date]

Dear [insert name of employee]

Appeal Hearing

Further to your letter of [date] requesting an appeal against [details of decision to be appealed], we request your attendance at an appeal hearing to be held at [place] on [date] at [time], in order to consider your appeal.

The hearing will be [a full rehearing OR limited to the grounds you raised in your letter of [insert details]].

The appeal hearing shall be carried out by [name] and the following people will also attend: [give names of all participants].

You have the right to be accompanied at the appeal hearing by another employee or a trade union representative. Should you wish to be accompanied to the appeal hearing, please provide us with details of the person who shall be accompanying you as soon as possible before the hearing.

[Please find enclosed copies of relevant documentation to be used at the appeal hearing.] If there are any [additional] documents you wish to discuss at the appeal hearing, please provide us with copies as soon as possible. Please also provide us with details of any documents, not in your possession, which you wish for us to obtain for use at the hearing.

We should be grateful if you would confirm receipt of this letter by return and confirm that you are available to attend the hearing. If for any unavoidable reason you and/or your companion are not able to attend the hearing, [or you wish to suggest an alternative time or place], please contact us as soon as possible.

If you have any questions, please speak to me as soon as possible.

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

LETTER TO EMPLOYEE INVITING THEM TO A
INVESTIGATION MEETING

[Insert name and
address of employee]

[date]

Dear [employee's name]

Invite to Investigation Meeting

[Following your suspension on [insert date],] I am writing to confirm that the Company is commencing an investigation into an allegation of [give details]. Please note, it is possible that the nature of the allegations may change depending on what facts/evidence are uncovered as part of our investigation.

This investigation does not mean there is any assumption that you are guilty of any misconduct nor does it constitute any form of disciplinary action. The purpose of the investigation is to seek further information in relation to the above allegation (s). This will also involve providing you with an opportunity to respond and offer any explanation including any mitigating circumstances. We will keep the matter under review and will aim to conduct the investigation as quickly as possible.

As the investigating officer, I would, therefore, like to request a meeting with you on [date] at [time] at [place] to undertake my investigation. [You are entitled to bring a fellow employee or a trade union representative to the meeting. If you wish to bring a companion, please let me know their name as soon as possible.]

We have enclosed a copy of our Disciplinary Procedure and Disciplinary Rules. Please read this document carefully and ensure that you understand it.

As soon as I have carried out my investigation, I shall write to inform you of the outcome of the investigation and whether we intend to proceed to a disciplinary hearing. If I consider that there are grounds for disciplinary action, I shall inform you in writing of those grounds in detail and you will have the opportunity to present your case at the disciplinary hearing, in accordance with the Disciplinary Procedure.

If you know of any documents, witnesses or information that you think will be relevant to the matters under investigation, please let me know as soon as possible.

Please confirm that you are able to attend [and whether you wish to be accompanied by a colleague or trade union representative] so that the necessary arrangements can be made. If for any unavoidable reason you cannot attend at that time, please contact me as soon as possible. If you have any queries about this matter please feel free to contact me.

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

DISMISSAL LETTER (LESS THAN 2 YEARS' SERVICE)

Please seek advice on whether any automatic unfair reasons exist prior to sending any letter

[insert name, and]
[address of employee]
[date]

Dear [name of employee]

Confirmation of Dismissal

Following our meeting on [insert date of meeting], during which we confirmed that it has been decided that your employment with Commenciz Ltd is to terminate following [insert number] weeks'/months' notice.

Your dismissal is due to: [insert reasons – ensure no protected characteristics/automatically unfair reason].

[GENERAL EXPLANATION BEHIND DECISION IF YOU WISH e.g. "The business needs staff who are reliable and committed and unfortunately, given the issues over the past few weeks and the failure to arrive on time and adhere to reporting lateness, you have left the Company with little option but to terminate your employment."]

Given that you have less than 2 years' service, there is no obligation on Commenciz Ltd to apply the disciplinary procedures set out in the Staff Handbook. [Please note that there is no right to appeal this decision] or [However, in this instance we are prepared to allow an appeal if you disagree with the reasons for your dismissal. Any appeal should be made in writing within [insert number] days and sent to [name and contact details] setting out your grounds for appeal in full].

The following arrangements apply with immediate effect:

- You are entitled to 7 days' notice pursuant to your contract of employment. [You will be required to attend work as normal during your notice period. Your final day of employment shall be [termination date]] or [You are not required to work your notice period. Your final date of employment is today, [insert date]. You will be paid in lieu of your notice period.]
- You have [number] days outstanding holiday entitlement, [for which you shall receive payment in lieu as part of your final payment of salary, subject to normal deductions of tax and National Insurance contributions.] or [which you shall be required to work during your notice period]
- Your final payment of salary shall be made on [date], subject to normal deductions of tax and National Insurance contributions. We shall forward your P45 to you in due course
- You must return any property belonging to Commenciz Ltd in good condition on or before [date]
- [ANY OTHER MATTERS TO ADDRESS ON DISMISSAL – continuation of restrictions and confidentiality obligations etc.]

If you have any questions, please do not hesitate to contact me.

Yours sincerely

[name]

On behalf of Commenciz Ltd

Commenciz Ltd
Fairgate House, 205 Kings Road, Tyseley, Birmingham, England, B11 2AA

INVITATION TO DISMISSAL MEETING – LESS THAN 2 YEARS SERVICE

Please seek advice on whether any automatic unfair reasons exist prior to sending any letter

[Name and
address of employee]

[Date]

Dear [name],

[Capability] Meeting – Review of employment

I am writing to inform you that you are required to attend a [capability] meeting on [insert date] at [insert time] in [insert location].

As you are aware, there have been concerns about your performance for some time. [Insert details of any recent discussions held, the shortfall and the expected standards or reasons for potential dismissal].

The purpose of the meeting is to discuss the reason(s) behind your poor performance and to allow you to inform us of your reason(s) in response to this. We will also ask you to put forward any mitigating circumstances that you feel should be taken into account.

Please note that following this meeting, the company may decide to dismiss you.

Please confirm that you are able to attend the meeting. Please let me know in advance of the meeting whether you wish to be accompanied by a colleague or trade union official and inform us of their name, so that the necessary arrangements can be made.

The meeting will be chaired by [insert name, job title], and [insert name, job title] will also be in attendance to act as a witness and note taker.

If you have any question in relation to this letter, please do not hesitate to contact me.

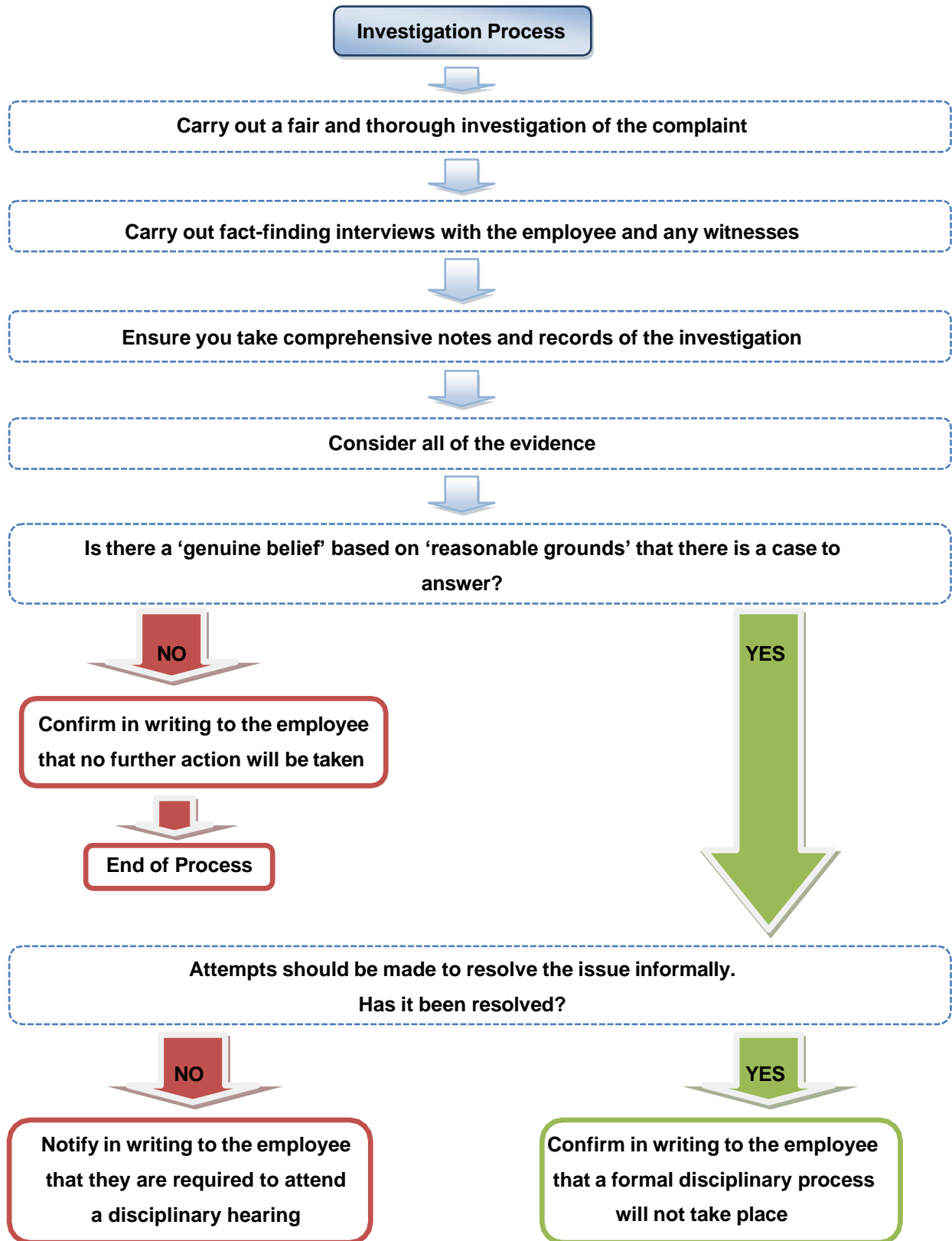
Yours sincerely,

[Name]
on behalf of Commenciz Ltd

FLOWCHART

HOW TO CONDUCT A DISCIPLINARY

This flowchart is to offer guidance on how to deal with a disciplinary issue.





End of Process

You should allow the employee to be accompanied by a colleague or trade union representative



Confirm the date of the meeting; prepare and collate all relevant information; arrange for a note-taker; arrange a private room



The Disciplinary Meeting

At the meeting you should introduce those who are present and state that notes will be taken during the meeting.



Is the employee accompanied by a colleague or trade union representative?

NO



Confirm that the employee is aware of their right to be accompanied and that they have chosen to come alone

YES



At the meeting you should confirm the following:

- The role of the person accompanying the employee;
- The purpose of the meeting;
- The format of the meeting;



Inform the employee of precisely what the complaint is. Outline any evidence gathered



Allow the employee and representative to see/question any witness statements

↓

Allow the employee to set out their case, answer questions and challenge any evidence

↓

Hear any witness evidence and consider any documentation provided by the employee

↓

You should listen, question and seek clarification on the main issues. You should summarise your understanding of the issues throughout the meeting.

↓

Have matters been raised in the meeting that need to be explored further?

↓ YES

Adjourn the Meeting

You should make further enquiries and agree a mutual time to reconvene the meeting

NO

You should summarise the main points of the discussion overall and then adjourn the meeting

↓

The Decision

When reaching the decision that disciplinary action is required, you should:

- Be reasonable in the circumstances and consider consistency with similar allegations
- Consider the company's disciplinary policy and the Acas Code of Practice
- Account for any mitigating circumstances and company precedents

↓

You should reconvene the meeting and inform the employee of the decision and their right to appeal

↓

After the Disciplinary Meeting

You should write up notes of the disciplinary meeting



You should confirm the decision in writing without unreasonable delay, setting out the reasons for the disciplinary penalty. Inform the employee of their right to appeal



Does the employee appeal the decision?



Hold an appeal meeting without unreasonable delay to be heard by a more senior manager



Confirm the appeal date in writing and inform the employee of their right to be accompanied



After the appeal meeting, write up the notes and update any records



Notify the employee of the decision and any actions that will be taken. Inform the employee that the appeal meeting is the final stage of the disciplinary procedure



Continuously monitor the situation



Disciplinary process complete



Continuously monitor the situation



Disciplinary process complete