



general disciplinary action procedure described below applies) and “gross” misconduct, which is of so serious a nature that it justifies instant dismissal for a first offence. Listed below are examples which would normally be considered to be either general misconduct or gross misconduct. However, it should be recognised that neither list can be regarded as complete to meet every case, and also that action described as general misconduct may amount to and be treated as gross misconduct if the circumstances or the manner of the misconduct are such as to warrant serious disciplinary action. These lists should be regarded therefore as being illustrative rather than exhaustive.

### Examples of “gross” misconduct

Summary dismissal (i.e. dismissal without notice or pay in lieu of notice) may be necessary in cases of gross misconduct. For guidance, the following are examples of the offences which may be regarded as gross misconduct and will normally result in summary dismissal. It is emphasised that this is not an exhaustive list:

- Unauthorised use or disclosure of confidential information or business matters relating to Mainstay, its clients, temporary workers or applicants
- Engaging in any conduct or posting any comments which are detrimental to Mainstay or its clients or engaging in any conduct or posting any comments which could be derogatory to another person or third party or which could constitute unlawful discrimination or harassment
- Any prohibited use of Mainstay’s or its client’s internet and / or email facilities
- Acts of violence, including physical assault, unlawful discrimination, drunkenness, taking of non-prescribed drugs in such a way as to impair the ability to carry out work or conduct of any kind which endangers the health and safety of others
- Any bullying or harassment of fellow employees, clients, candidates or any other person (including via any social networking sites) both inside and outside of working hours
- A criminal offence committed at work other than a minor road traffic offence committed in the course of the employment, or an offence committed outside work which is incompatible with the employee remaining in the company’s employment
- Falsification of information or references on appointment
- Theft or fraudulent activity
- Unauthorised absence and / or failure to follow the correct absence reporting procedure
- Gross negligence in the performance of duties
- Any breaches of health and safety policies, procedures and instructions
- Any conduct tending to bring the company, or the employee, into disrepute or which results in the loss of custom of a client, temporary worker or applicant or a loss of business
- Working for or assisting a competitor of the company or seeking to establish a business which is likely to compete with the company or divulging confidential information concerning the company and its business
- Serious insubordination or refusal to obey a lawful and / or reasonable instruction in connection with the employment
- Deliberate and serious damage to property or causing any loss, damage or injury through negligence
- Serious misuse of the company’s property or name

### Examples of “general” misconduct

The following may be regarded as reasons for disciplinary action in that they deviate from accepted standards and constitute general misconduct. A first offence will usually result in a written warning. Repetition of offences following a warning could lead to a final written warning as appropriate. Thereafter any repetition will result in dismissal. It is again emphasised that this is not an exhaustive list:

- Poor job performance
- Poor attendance
- Poor time-keeping

- Failure to comply with the conditions of the employment contract
- Unseemly or disruptive conduct

### Disciplinary procedure

The following is the disciplinary action that may be taken against you in cases of misconduct or unsatisfactory performance:

- Informal discussion
- Minor breaches of discipline, misconduct, attendance, poor time-keeping, etc. may result in an informal discussion with your line manager and / or your Mainstay representative.
- Although an informal warning will not be formally recorded for the purposes of any future disciplinary hearing, a note of the conversation may be kept on your personnel file.
- It is expected that in most cases an informal discussion will resolve most difficulties. Where you commit a more serious act of misconduct or you fail to improve and maintain that improvement with regard to conduct, behaviour or job performance, the formal steps detailed below may be taken.

### Formal process

#### Step 1 - Written Statement

Mainstay will inform you in writing of the alleged conduct or characteristics, or other circumstances, which lead the company to contemplate dismissing or taking disciplinary action against you. This shall be done promptly after becoming aware of the circumstances, and you shall be invited to attend a meeting

to discuss the matter, once any necessary investigations have been conducted to establish the facts of the matter. Mainstay will provide a copy of any relevant documents which will be used at the disciplinary meeting to you in advance of the meeting.

#### Step 2 – Meeting

The meeting will take place before any action is taken and it will not take place unless the company has informed the you of the ground or grounds for contemplating disciplinary action or dismissal; and you have had a reasonable opportunity to consider your response to that information.

You have the right to be accompanied at the meeting by a work colleague (an Mainstay employee and not an employee of the client company) or a Trade Union representative. You will not be permitted to be accompanied by a family member or friend or any other person who is not a work colleague or trade union representative.

After the meeting, the company will inform you in writing of its decision as soon as reasonably possible (but normally within one week of the meeting) and notify you of the right to appeal against the decision if you are not satisfied with it. If there are any delays in reaching a decision, you will be notified in writing.

#### Stage 1 – Formal Written Warning

If your conduct or performance is unsatisfactory, you will be given a formal written warning. This written warning will include the reason for the warning and a note that, if there is no improvement after a specified period, further disciplinary action will be taken which may result in a final written being given. A copy of the written warning will be given to you and a copy will be placed on your personnel file. The warning will be disregarded after 6 months' satisfactory service.

#### Stage 2 – Formal Final Written Warning

If following a written warning, conduct or performance remains unsatisfactory, or if a serious incident occurs, a final written warning will be given making it clear that any recurrence of the offence or other misconduct within a specified period will result further disciplinary action being taken which may result in dismissal. A copy of the final written warning will be given to you and a copy will be placed on your personnel file. The warning will then be disregarded after 12 months' satisfactory service.

### Stage 3 – Dismissal or other sanction

If there is no satisfactory improvement in conduct or performance, or if further serious misconduct occurs within 12 months, the final step in the procedure may be dismissal, either with or without notice or payment in lieu of notice, or some other action short of dismissal such as disciplinary suspension or transfer to another department or job. Stage 3 may also apply to any gross misconduct (even if there are no active warnings on file) or any misconduct during your probationary period.

### Step 4 – Appeal

If you do wish to appeal, you must inform the company within 5 working days of receiving the decision. You must set out clearly the grounds for your appeal. The company will then invite you to attend a further meeting.

The appeal meeting may not necessarily take place before the dismissal or disciplinary action takes effect but it will be arranged within a reasonable period of time.

The appeal will be dealt with by a more senior manager than at the Step 2 meeting. Where this is not practicable, the company will hear the appeal and decide the case as impartially as possible. After the appeal meeting, the company will inform the employee of its final decision in writing, as soon as reasonably possible (but normally within one week of the meeting). The company may uphold or revoke the original decision or substitute a different penalty. There is no further right of appeal.