

# Disciplinary Policy & Procedure



## Policy - disciplinary

The purpose of this disciplinary policy is to help us deal fairly and consistently with disciplinary issues and to ensure that you are aware of the process for handling such matters.

## General principles

At our discretion, we may choose to deal with minor instances of misconduct informally by way of counselling, guidance or instruction or informal cautioning. If a problem continues or we judge it to be sufficiently serious, the following procedure will apply.

Before making any formal disciplinary decision under this procedure, we will conduct the following steps:

- We will conduct a prompt investigation. We will inform you whether any meeting you are asked to attend is investigatory or disciplinary. In serious cases, where practicable, different people will conduct the investigation and the disciplinary hearing.
- We will give you or send you a letter setting out the complaint made against you and inform you of the possible outcomes of the disciplinary hearing. Also included will be relevant evidence which may, where appropriate, include witness statements. The letter will inform you that you must attend a disciplinary hearing to discuss the matter and will confirm the time, date, and location of that meeting. The letter will also tell you that you have the right to be accompanied at the disciplinary hearing. If you do not understand the letter, you should ask the Make UK representative for an explanation.
- We will give you, together with any permitted person that you may choose as a companion, reasonable time to prepare your response.
- At the hearing, we will explain the company's case and give you the opportunity to put your case in respect of the allegations made against you.

You have the right to appeal against any formal action taken against you under the procedure. See \*'Appeals' below.

Depending on the seriousness of the misconduct, or your disciplinary record taken as a whole, we may miss out stages of the procedure if we think this would be reasonable in the circumstances.

Depending on the circumstances, it may be appropriate to suspend you from work in order that an investigation can take place. Suspension does not amount to a disciplinary sanction and does not imply that any decision has already been made about the allegations.

Each stage of this procedure will be conducted without unreasonable delay.

If you have difficulty at any stage of the disciplinary procedure because of a disability, you should discuss the situation with your Employer or Make UK representative as soon as possible.

## Conduct of meetings under the policy, including appeals

All disciplinary meetings, including appeals, will be held at a reasonable time and place. If you are invited to attend a disciplinary meeting, you must take all reasonable steps to attend. If, without good cause, you are persistently unable or unwilling to attend, we will hear the matter in your absence and make a decision based on the evidence available to us.

An appropriate level of management together with a representative of from your Employer will conduct the hearings. At the meeting, the Make UK Manager will explain the role of all those in attendance. The manager will then explain the case against you and go through the evidence that has been gathered. You will be given the opportunity to respond in full. This will include time to ask questions and present evidence. If you intend to call any witnesses, you must give us advance written notice that you intend to do this.

If any matters become known during a disciplinary meeting which require further investigation, we may, at our discretion, adjourn a disciplinary meeting to enable us to investigate them.

### **\*Appeals**

If you are dissatisfied with a disciplinary decision that has been taken about you, you can appeal against that decision. Appeals are reasonably required to be in writing, setting out the reasons for the appeal, and should be sent / delivered to the Director of Apprentices & Technical Training within five working days of the disciplinary decision. We will then invite you to an appeal meeting which will normally take place within five working days of receipt of your appeal or as soon as reasonably practicable thereafter. The appeal meeting may take place after the disciplinary decision has taken effect. If you are appealing against an exclusion and or and suspension and your appeal is subsequently upheld, you will normally be treated as having continued in employment pending the hearing of the appeal. However, if your appeal is not successful, the original date of your exclusion and suspension will stand.

You have the right to be accompanied to an appeal hearing by a fellow worker.

The appeal hearing may be a complete re-hearing of the matter, or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have become known. This will be at our discretion depending on the circumstances of your case.

Wherever possible, your appeal will be heard by someone more senior than the person who took the decision to take disciplinary action against you. If this is not practicable, the appeal will be heard by another manager who has not previously been involved in the matter. If you have been dismissed, the appeal will be heard by a Director of Apprentices & Technical Training. We will tell you promptly of the outcome of the appeal, wherever possible within five working days of the hearing and confirm it in writing. Following the appeal hearing, we may either confirm the original decision; revoke the original decision; or substitute a different penalty. This decision will be final.

Part of the below Appendices are:

Appendix A - **Gross misconduct**

Appendix B - **Examples of unacceptable behaviours**

Appendix C - **Searching a learner and/or their possessions**

Appendix D - **Exclusion and Suspension**

Appendix E - **First written warning**

## Appendix A - **Gross misconduct**

The following are examples of behaviour which fall within the definition of 'gross misconduct':

- refusal to accept and act on reasonable instructions from a supervisor or other member of management
- serious negligence that could, or does, result in unacceptable loss, damage, or injury
- fighting, assault or threatening or bullying behaviour
- harassment or deliberate discrimination
- theft, fraud, accepting or offering a bribe, falsification of company records or any dishonesty involving the company, its employees, customers, or authorised visitors, or attempts to commit such offences
- deliberate and/or serious breach of any of our company policies
- deliberate or reckless damage to property belonging to the company, its employees, customers, or authorised visitors
- being unfit to work due to misuse of alcohol or illegal drugs
- unauthorised disclosure of confidential information
- any action likely to endanger seriously the health and safety of the employee/learners or any other person
- any action or behaviour which could seriously damage the company's reputation
- deliberately accessing Internet sites containing pornographic, offensive, or obscene material, or bringing offensive material/objects into the workplace.

The above list is not exhaustive. It illustrates the type of conduct that will normally merit an exclusion and suspension for a first offence. Other types of offence may also be treated as gross misconduct, depending on the seriousness of the particular facts.

Following investigation and a disciplinary hearing, if we are satisfied that you have committed gross misconduct, we will be entitled to dismiss you without notice or payment in lieu of notice.

## Appendix B - **Examples of unacceptable behaviours**

The examples given below are not a complete list and may be added to at the discretion of the Director of Apprentices & Technical Training.

### **STAGE 1 Examples**

- Minor breaches of health and safety including the misuse or failure to wear PPE
- Lateness to class
- Absenteeism below training centre target – 85%
- Not prepared for learning – no PPE, pens, papers etc.
- Mobile phone usage in class – unauthorised
- Eating and drinking in classrooms, open IT, or workshop areas – unless water in closed bottles
- Playing music in public areas loud enough to disrupt other people
- Refusal to comply with a staff member's request, including receptionists or catering staff
- Swearing and bad language – directed to someone or just used in public areas
- Threatening behaviour – low level e.g., staring at others, menacing behaviour
- Unprofessional behaviour – e.g., hugging, feet on sofa or tables etc.
- Wearing a hood or unprofessional dress in work e.g., a hat/cap, shorts etc.
- Work not submitted on time
- Boasting about bad behaviour outside training centre environment
- Smoking anywhere on training centre premises designated as non-smoking areas
- Repeated failure to sign in or out of the training centre.
- Using areas that are not authorised for learners
- Refusal to wear the training centre or company uniform and/or PPE
- Parking in unauthorised areas or on the site service roads

## **STAGE 2 Examples**

- Repeat of Stage 1 concerns
- Refusing to attend a Stage 1 hearing
- Repeated minor breaches of health and safety
- Continued poor attendance
- Plagiarism or other malpractice such as copying others' work
- Inappropriate comments that may be interpreted as bullying, discriminatory, belittling etc.
- Littering the training centre premises, including spitting
- Poor attitude towards tutor/lecturer or training centre employees e.g., rolling of the eyes, abrupt reactions, slamming books on tables etc.
- Refusing to work in class or being rude to visitors or external clients
- Refusing to provide your full name and ID card to training centre staff or providing the wrong identity

## **STAGE 3 Examples**

- Repeat of Stage 2 concerns
- Refusing to attend a Stage 2 hearing
- Any serious single act construed as a breach of health and safety
- Refusing to be search for drugs or offensive weapons – See Appendix C
- Bad behaviour on training centre premises
- Bad behaviour on training centre or public transport, to include educational visits
- Cyber and verbal bullying including text messaging, Facebook, Twitter etc.
- Cheating or disruption in exams
- Damage to training centre, Learners,' staff or clients' property e.g., cars, bikes, walls tables, blocking toilets etc.
- Discriminatory comments or innuendos
- Disregarding training centre or site speed limits
- Drug related activities e.g., in possession of drugs or drugs related tools or deemed to have taken drugs
- Hacking training centre website, Moodle, emails
- Inappropriate use or access of e-resources
- Interfering with safety equipment e.g., fire extinguishers, fire alarms, first aid books
- Possession of offensive weapons or making such weapons
- Smoking in non-designated smoking areas
- Stealing learner, staff or Make UK property
- Being under the influence of alcohol

## **Appendix C: Searching a learner and/or their possessions**

Make UK has a zero tolerance for drugs or any activities that may lead to threat or violence.

- Verbal abuse or physical abuse towards a learner, tutor/lecturer or Make UK employee
- Breach of Health and Safety guidelines and working in an unsafe manner that puts others at risk

### **Purpose**

This section aims to give guidance on how the training centres staff implement the search of a learner who may be involved in drug related activities, in possession of an offensive weapon or in possession of indecent / inappropriate materials.

### **Clarification**

The Training centre's definition of a 'learner search' is where a learner volunteers to show the Safeguarding Officer or a member of the training centres Senior Management Team (SMT) that they are not in possession of drugs, drug related tools, an offensive weapon, or indecent / inappropriate materials.

## **Responsibility**

Only the Safeguarding Lead, Centre Manager, or a member of the Senior Management Team (SMT) is to conduct a learner search. Training centre staff may be enlisted for support in such situations but only as a witness and not to conduct or assist in a learner search or the suspension of a learner.

## **Refusal to participate**

If a learner refuses to cooperate with the instructions of a Safeguarding Lead in participating in being searched, or surrendering drugs, drug-related tools, offensive weapons or indecent / inappropriate materials, the Safeguarding Lead will immediately inform the learner that he or she is in breach of the training centres Disciplinary Procedures. Their lack of participation may lead to the Director of Apprentices & Technical Training permanently excluding them from the training centre.

If the learner continues to refuse to participate, then the Safeguarding lead will ask them to leave the training centre premises immediately and he or she will be escorted off the premises.

If the learner refuses to leave the training centres premises, then a member of the Senior Management Team (SMT) is to be called who will take charge of the situation and may choose to enlist the support of the Police.

## **Procedure**

Step 1:

If any member of staff suspects a learner of being under the influence of drugs or in possession of drugs, drug related tools, an offensive weapon, or indecent / inappropriate materials, then he or she should call the Safeguarding Lead immediately

Step 2:

The Safeguarding Lead will assess whether the situation is suspicious or not. If there is a valid concern, the Safeguarding Lead will call the Centre Manager to act as a witness. If the Centre Manager is not available, the Safeguarding Lead is to call the nearest training centre member of staff to act as a witness.

Step 3:

The Safeguarding Lead will inform the relevant learner of the allegation, and that their possessions are going to be subject to a search. If the learner refuses to participate, refer to the above 'Refusal to participate' section.

Step 4:

The Safeguarding Lead and the Centre Manager will escort the learner to a quiet room or to an equivalent suitable private room to conduct the search.

If there is more than one learner, then the Safeguarding Lead may enlist the support of another staff member to supervise the remaining Learners. The role of the member of staff is to witness the behaviour of the learners whilst the Safeguarding Lead is conducting his / her duties.

Step 5:

The Safeguarding Lead will ask the learner to:

- Empty all bags, turn out all pockets, open boxes, pencil cases, phones, iPad etc.

- Take off jackets or other outer garments, unless such actions may be deemed insulting to religion, race or gender or affecting a disability or modesty.
- Take off shoes, trainers, boots, etc.

The Safeguarding Lead will not touch a learner him / herself.

Step 6:

If the learner has been found with an item that may be deemed as suspicious, then the Safeguarding Lead is to take such item off the learner and suspend the learner until a hearing takes place, in accordance to the Disciplinary procedures. If the learner refuses to hand over the suspicious item, refer to the above 'Refusal to participate' section.

Step 7:

If the learner or any member of the group is not in possession of anything that may be deemed suspicious, then no learner will be suspended. However, if one member of the group is found in possession of something suspicious then the entire group is to be suspended.

## Appendix D - **Exclusion and Suspension**

The usual penalties for misconduct are set out in the appendixes. No penalty should be imposed without a hearing.

Exclusion is considered when all possible actions identified through the Disciplinary Policy and Procedure have been exhausted. It can also be used if the serious nature of the behaviour(s) being addressed require investigation without interference or are likely to impact upon the safety of the individual or others in the training centre.

A member of the Senior Management Team (SMT) are the only personnel permitted to permanently exclude a learner.

They are required to follow the procedures set out in the Disciplinary Policy and Procedure, which are designed to ensure fairness and openness and minimise the need for an appeal against the decision.

All Disciplinary cases including exclusions are treated in the strictest confidence. Only those who need to know the details of exclusion are informed of them.

Types of exclusion:

Learners can be excluded from the training centre in two ways:

- 1: Suspension
- 2: Permanent exclusion

### **1: Suspension**

A member of the Senior Management Team (SMT) can only decide suspension.

This process will only be used when:

- Health and safety is compromised where a learner's presence is believed to be a risk to themselves or others
- To allow an investigation to take place following a serious incident where the learner's presence may affect the procedure, such as drug related investigation or a fight on Make UK premises
- The learner has put themselves beyond the control of the training centre by breaking the Centre rules for their safety and/or the safety of others e.g. A Pre18 age learner leaving the training centre without permission.

A learner aged under 18 can only be suspended from the training centre if a parent / guardian collects them or is present at a panel hearing that results in the learner being suspended.

## **2: Permanent exclusion**

Where a hearing is likely to lead to a permanent exclusion, the Director of Apprentices & Technical Training would ensure that all reasonable strategies to address behaviour have been considered and applied. This will include interventions from:

- The Safeguarding Lead
- Centre Manager and other support team depending on the learners needs

Interviewing a learner for a serious incident

Before the hearing the learner concerned will be encouraged to:

- write, sign and date a statement of what happened in their own words
- agree to an interview to present their side of what happened in an incident

The learner's support may act as scribe to record the learner's statement if the learner has weak literacy skills or is refusing to co-operate.

## **3: Witness statements**

The content of witness statements and their sources will be shared with the learner as they are entitled to know the source and nature of the evidence. However, if the training centre has a concern for the health and safety or the emotions of a witness, the Director of Apprentices & Technical Training may allow the statement to remain anonymous, even if the circumstances lead to a permanent exclusion of the learner.

## **4: Proof**

The hearing will draw upon evidence of a learner's past behaviour; the risk of a repeat of the unacceptable behaviour and the likelihood to respond positively to the guidance, actions, and sanctions available. There is no requirement for the Director of Apprentices & Technical Training to have hard evidence proof, but sufficient serious suspicion should suffice.

## **5: The decision to exclude**

In all cases where a learner is permanently excluded, information and guidance will be provided of possible alternative places of study. Learners aged 16 to 19 will be referred to the local careers' guidance service.

## **6: Parent's Responsibilities**

If a parent refuses to collect an excluded learner from the training centre, guidance suggests that the training centre's duty of care remains, as the training centre must have responsibility for the learner's safety.

- For pre 18 learners, the training centre will ensure they have safe and adequate means to travel to their home. However, if a Pre 18 learner attends the training centre against advice with the intention of disrupting training centre's normal working practices or threatening others, the Director of Apprentices & Technical Training may decide to seek police help to remove the learner from training centre.
- The Training centre will ensure they have arrived safely home and have adequate supervision at home.

## **Support**

Support for the learner is automatic and will take into account their age and learning needs.

- a. Learners aged under 18 and all vulnerable adults must be accompanied by a parent/guardian/legal carer or employer representative at all Hearing Panels. Sufficient notice will be given in advance of the hearing.
  - b. Learners aged 18+ should be supported by an independent member of staff or a suitable friend.
- Any learner who believes they have been discriminated against, irrespective of the outcome of the hearing can have a relevant representative or advocate at any stage. Advice on the training centres Complaints Procedure may also be offered.

## **Appendix E - First written warning**

We may issue a first written warning if your conduct does not meet the company's standards.

A first written warning will normally be issued by Make UK Manager or a nominated deputy. Where, at the conclusion of the disciplinary hearing, we decide to issue such a warning, you will be informed of the following:

- the nature of the misconduct that has led to the warning
- the action or improvement (if any) which is required of you
- if appropriate, the timescale for taking any such action
- the consequences if you do not take the required action or fail to improve or if there is further misconduct
- when the warning will cease to have effect, subject to satisfactory conduct [or performance]. This will normally be after six months, but a longer period may be stated in exceptional cases
- the right of appeal

All these matters will be confirmed to you in writing.

## **Second written warning**

We may issue a second written warning if:

- the required improvement is not achieved within the timescale stated in the first warning
- further misconduct occurs while a first written warning is still in effect, whether or not involving a repetition of the conduct which was the subject of the first warning
- the seriousness of the misconduct merits it, regardless of whether a first written warning has already been issued.

A second written warning will normally be issued by your immediate manager or a nominated deputy. Where, at the conclusion of the disciplinary meeting, we decide to issue a second written warning, you will be informed of the following:

- the nature of the misconduct that has led to the warning, including any prior warning(s) which have been taken into account
- the action or improvement (if any) which is required of you
- if appropriate, the timescale for taking any such action
- the consequences of not taking the required action or failing to improve or of further misconduct, which could be a final written warning

- when the warning will cease to have effect, subject to satisfactory conduct [or performance]. This will normally be after six months, but a longer period may be stated in exceptional cases
- the right of appeal

All these matters will be confirmed to you in writing.

### Final written warning


We may issue a final written warning if:

- the required improvement is not achieved within the timescale stated in the first/second written warning
- further misconduct or poor performance occurs while a first/second warning is still in effect, whether or not involving a repetition of the conduct which was the subject of a previous warning
- the seriousness of the misconduct merits it, regardless of whether we have issued any previous warnings

A final warning will normally be issued by an immediate manager or a nominated deputy. Where, at the conclusion of the disciplinary meeting, we decide to issue a final written warning, you will be informed of the following:

- the nature of the misconduct that has led to the final warning, including any prior warning(s) which have been taken into account
- the action or improvement (if any) which is required of you
- if appropriate, the timescale for implementing any such action
- the fact that this is a final warning and that the next stage of the procedure will be exclusion and suspension
- when the warning will cease to have effect, subject to satisfactory conduct. This will normally be after twelve months, but a longer period may be stated in exceptional cases
- the right of appeal

All these matters will be confirmed to you in writing.

Policy Author	Policy Signature	Last Review Date	Policy Date	Policy Review Date
Jayne Griffiths Compliance Manager		February 2020	August 2022	August 2023