**Disciplinary Policy and Procedure**

**General Comments -**

* This is a template/precedent document only. It should be tailored as appropriate to suit the needs of each individual firm.
* All sections should be considered and implemented as deemed appropriate for the firm. This cover page should not be included.
* The LSQI cannot accept any responsibility for any errors or omissions contained in this template document.
* The document should be reviewed on an annual basis, or as required.

**Specific Comments -**

* Firm to complete all sections in red italics.

**The Legal Quality Standard of Ireland**

**March 2025**

**[*FIRM NAME*]**

**Disciplinary Policy and Procedure**

**1.0 Introduction**

[Name of firm] is committed to delivering a high quality service which requires all employees to maintain appropriate standards of conduct, performance and attendance.

**2.0 Purpose**

The purpose of this disciplinary procedure is to ensure all employees maintain the required standards. The emphasis in operating the disciplinary process is to make employees aware if their performance, attendance and/or conduct falls below the firm’s standards and to identify how the necessary improvements can be achieved. The firm’s intention is that potential disciplinary cases will be dealt with at an early stage with a view to resolving problems/issues as quickly and fairly as possible.

1. **Scope of the Policy and Procedure**

3.1 This policy applies to all employees of *[Name of firm]* and has been prepared in line with the Code of Practice on Grievance and Disciplinary Procedures (S.I. no. 146 of 2000) under the Industrial Relations Act 1990 (hereinafter referred to as ‘the Code’), see Appendix A.

3.2 The following is a non-exhaustive list of the type of conduct which may lead to disciplinary action under this procedure:-

* Unsatisfactory work standards
* Persistent poor timekeeping and absenteeism
* Unauthorised absence
* Breach of Health and Safety Rules
* Breach of internet/e-mail policy
* Negligence
* Refusal to obey reasonable instructions
* Breach of workplace policy or procedure

3.3 Conduct relating to bullying, harassment or sexual harassment at work will be dealt with under the firm’s Dignity at Work Policy.

**4.0 Disciplinary Procedure – General Principles**

* In the first instance, the employee’s immediate *[Firm to complete e.g. Supervising Solicitor/Manager/Head of Department]* will try to resolve any performance or conduct related issue informally without invoking the disciplinary procedure.
* This policy will be implemented in a manner that complies with the general principles of natural justice and fair procedures, as set out in ‘the Code’, which include:-
  + That the disciplinary action, where necessary, is taken promptly and in a fair, uniform and consistent manner;
  + That details of any allegation are put to the employee concerned;
  + That the employee concerned is given the opportunity to respond fully to any such allegations of complaints;
  + That the employee concerned is given the opportunity to avail of the right to be represented during the procedure;
  + That the employee concerned has the right to a fair and impartial determinations of the issues concerned, taking into account any representations made by, or on behalf of, the employee and any other relevant or appropriate evidence, factors or circumstances.
* The employee will be advised of his/her right to be accompanied by a work colleague or employee representative at all formal hearings under the disciplinary procedure as set out in ‘the Code’.
* Pending the outcome of an investigation, an employee may be suspended with pay pending.
* Intimidating or exerting pressure on any person who may be required to attend as a witness, will be considered to be a disciplinary offence.
* An employee may appeal against a disciplinary decision or any aspect of the disciplinary proceedings.
* In addition to the issuing of warnings, the semployee may be subject to disciplinary sanctions short of dismissal: -
  + Withholding/deferral of an increment
  + Demotion
  + Redeployment (which may involve loss of premium earnings)
  + Suspension without pay
* Generally, the steps in the disciplinary procedure will be progressive, for example, a verbal warning, a written warning, a final written warning, and dismissal. However, there may be instances where more serious action, including dismissal, is warranted at an earlier stage.

**6.0 Informal – Pre-procedure stage**

Many shortcomings in an employee’s attendance, conduct and/or work are capable of being resolved on an informal basis without recourse to the formal disciplinary procedure. The objective of the informal interview is to alert the employee of his/her shortcomings and decide what measures should be taken to bring about the required improvements.

The following principles apply when carrying out informal interviews:

* The employee shall be given precise details of the specific aspects of his/her attendance, work and/or conduct that require improvement.
* The employee shall be given an opportunity to respond to complaints and careful consideration shall be given to any explanations given.
* Having made the employee aware of the shortcomings in his/her attendance, conduct and/or work, the *[Firm to complete – e.g. Supervising Solicitor/Manager/Head of Department]* shall identify any measures that can be taken to help the employee and formulate an action plan for achieving the required improvements.
* Details of the informal interview and any follow-up action agreed shall be documented and signed by both parties.

**7.0 Disciplinary Procedure**

In circumstances, where an employee’s attendance, work and/or conduct falls below the required firm’s standards, notwithstanding the informal procedure being conducted, the issue/complaint will be dealt with under the formal disciplinary procedure.

The disciplinary procedural stages are set out here:

7.1 Stage 1 – Verbal Warning

Where an employee’s attendance, work and/or conduct does not meet the firm’s required standards he/she will normally be issued with a formal verbal warning by *[Firm to complete e.g. Supervising Solicitor/Partner/Head of Department/Principal]* for a period of ***[6]* months**. The employee will be advised of the precise nature and details of the issue/complaint, the improvements required and the timescale for improvement. The employee will be advised that the warning constitutes the first stage of the disciplinary procedure and failure to improve may result in further disciplinary action under stage 2 of the disciplinary procedure. A record of the warning will be kept on the employee’s personnel file and will be removed after *[6]* months, subject to satisfactory improvement during this period.

7.2 Stage 2 – Written Warning

Where an employee fails to make the necessary improvements or if the employee’s poor attendance, work and/or conduct is more serious, he/she will normally be issued with a formal written warning by *[Firm to complete e.g. Supervising Solicitor/Partner/Head of Department/Principal]* for a period of ***[9]* months**. The written warning will give details of the precise nature and details of the issue/complaint, the improvements required and the timescale for improvement. The employee will be advised that failure to improve may result in issuing a final written warning under stage 3 of the disciplinary procedure. A record of the warning will be kept on the employee’s personnel file and will be removed after *[9]* months, subject to satisfactory improvement during this period.

7.3 Stage 3 – Final Written Warning

Where an employee fails to make the necessary improvements, he/she will normally be issued with a final written warning by *[Firm to complete e.g. Supervising Solicitor/Partner/Head of Department/Principal]* for a period ***[12]* months**, (this period may be extended in exceptional circumstances). This final written warning will give details of the precise nature and details of the issue/complaint, the improvements required and the timescale for improvement. The employee will be advised that failure to improve may lead to dismissal or some other sanction short of dismissal under stage 4 of the disciplinary procedure. A record of the warning will be kept on the employee’s personnel file and will be removed after *[12]* months, subject to satisfactory improvement during this period.

Stage 4 – Dismissal or action short of dismissal

In circumstances following the issue of a final written warning, where the employee still fails to meet the required standards of attendance, conduct and/or work, this may result in a decision to dismiss by *[insert name of relevant person/job title within the firm who has the power to dismiss]*. Alternatively, the *[insert name of relevant person/job title within the firm who has the power to dismiss]* may decide to impose a disciplinary sanction short of dismissal.

1. – Serious Misconduct

The progressive stages of the dismissal procedure will not be applied where an employee is guilty of serious misconduct. Serious misconduct of an employee may result in dismissal without notice.

The following is a non-exhaustive list of examples which could be serious enough to warrant dismissal without notice:-

* Violent, abusive threatening behaviour
* Theft or in any way misappropriating Firm property or money
* Malicious or wilful damage to Firm property
* Reporting to work under the influence of alcohol, unprescribed drugs or misuse of prescribed medication
* Fraud or deliberate falsification of documents
* Serious breaches of confidentiality
* Gross negligence or derelictions of duties
* Gross insubordination
* Serious breach of health and safety rules
* Downloading/disseminating pornographic material from the internet
* Circulation of offensive, obscene or indecent e-mails or text messages
* Serious abuse of telephone, e-mail and other facilities
* Serious bullying, sexual harassment or harassment against another employee
* Sexual assault

In all cases of alleged serious misconduct, a full investigation will be carried out to establish the facts in accordance with the following principles:

* The general principles of natural justice and fair procedures, as set out in ‘the Code’;
* The employee will be advised of his/her right to be accompanied by a work colleague or employee representative at all formal hearings under the disciplinary procedure as set out in ‘the Code’;
* It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness.

The employee may be suspended with pay pending the outcome of the investigation. Suspension with pay is a precautionary measure and not a disciplinary sanction. An employee will only be suspended after careful evaluation and other alternative measures will be considered, for example - reassigning the employee to suitable alternative duties pending the outcome of the investigation.

On completion of the investigation, a written report of the investigator(s) findings and recommendations will be submitted to *[firm to complete e.g. senior management/managing partner]* and the employee. If it is found following the investigation that there is a reasonable belief that the employee is guilty of the alleged misconduct, a disciplinary hearing may be convened under stage 4 of the disciplinary procedure to determine the appropriate disciplinary sanction.

1. Appeals Procedure

An employee may appeal against any disciplinary action taken. Any appeal should be made in writing addressed to *[insert name of relevant person within the Firm]* within *[5]* working days after notification of the decision. The appeal should set out the grounds on which the employee is appealing and whether or not the employee wishes to be represented and whether the employee intends to call any witnesses.

An appeal hearing is not intended to repeat the investigation process but to address specific issues which the employee feels have received insufficient consideration, such as: Mitigating circumstances, Procedural deficiencies, Severity of the sanction imposed.

The appeals hearing will normally be held within *[10]* working days of the appeal being lodged. An appeal will be conducted, where possible, by someone of appropriate seniority who has not been involved in the matter under appeal. The appeal decision is final, and no further appeal may be made

An employee who feels that he/she has been unfairly dismissed may refer a case under the Unfair Dismissals Acts, 1977-2001 within 6 months of the date of dismissal.

**Signed:**

**Dated:**

**Date of next review:**

**Appendix A**

# S.I. No. 146/2000 - Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order, 2000

|  |  |  |
| --- | --- | --- |
|  |  | WHEREAS the Labour Relations Commission has prepared under subsection (1) of [section 42](https://www.irishstatutebook.ie/1990/en/act/pub/0019/sec0042.html#sec42) of the [Industrial Relations Act, 1990](https://www.irishstatutebook.ie/1990/en/act/pub/0019/index.html) (No. 19 of 1990), a draft code of practice on grievance and disciplinary procedures and which code is proposed to replace the code set out in the Schedule to the [Industrial Relations Act, 1990](https://www.irishstatutebook.ie/1990/en/act/pub/0019/index.html) , Code of Practice on Disciplinary Procedures (Declaration) Order, 1996 ( [S.I. No 117 of 1996](https://www.irishstatutebook.ie/1996/en/si/0117.html) ); |
|  |  | AND WHEREAS the Labour Relations Commission has complied with subsection (2) of that section and has submitted the draft code of practice to the Minister for Enterprise, Trade and Employment; |
|  |  | NOW THEREFORE, I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by subsections (3) and (6) of that section, the Labour (Transfer of Departmental Administration and Ministerial Functions) Order, 1993 ( [S.I. No. 18 of 1993](https://www.irishstatutebook.ie/1993/en/si/0018.html) ), and the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order, 1997 ( [S.I. No. 305 of 1997](https://www.irishstatutebook.ie/1997/en/si/0305.html) ), and after consultation with the Commission, hereby order as follows: |
|  |  | 1.     This Order may be cited as the Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order, 2000. |
|  |  | 2.     It is hereby declared that the code of practice set out in the Schedule to this Order shall be a code of practice for the purposes of the [Industrial Relations Act, 1990](https://www.irishstatutebook.ie/1990/en/act/pub/0019/index.html) (No. 19 of 1990). |
|  |  | 3.     The code of practice set out in the Schedule to the [Industrial Relations Act, 1990](https://www.irishstatutebook.ie/1990/en/act/pub/0019/index.html) , Code of Practice on Disciplinary Procedures (Declaration) Order, 1996 ( [S.I. No 117 of 1996](https://www.irishstatutebook.ie/1996/en/si/0117.html) ), is revoked. |
|  |  | **SCHEDULE** |
|  |  | **1. INTRODUCTION** |
|  |  | 1.     [Section 42](https://www.irishstatutebook.ie/1990/en/act/pub/0019/sec0042.html#sec42) of the [Industrial Relations Act, 1990](https://www.irishstatutebook.ie/1990/en/act/pub/0019/index.html) provides for the preparation of draft Codes of Practice by the Labour Relations Commission for submission to the Minister, and for the making by him of an order declaring that a draft Code of Practice received by him under section 42 and scheduled to the order shall be a Code of Practice for the purposes of the said Act |
|  |  | 2.     In May 1999 the Minister for Enterprise, Trade and Employment requested the Commission under [Section 42](https://www.irishstatutebook.ie/1990/en/act/pub/0019/sec0042.html#sec42) of the [Industrial Relations Act, 1990](https://www.irishstatutebook.ie/1990/en/act/pub/0019/index.html) to amend the Code of Practice on Disciplinary Procedures ( [S.I. No. 117 of 1996](https://www.irishstatutebook.ie/1996/en/si/0117.html) ) to take account of the recommendations on Individual Representation contained in the Report of the High Level Group on Trade Union Recognition. The High Level Group, involving the Departments of the Taoiseach, Finance and Enterprise, Trade and Employment, the Irish Congress of Trade Unions (ICTU), the Irish Business and Employers Confederation (IBEC) and IDA-Ireland, was established under paragraph 9.22 of *Partnership 2000 for Inclusion Employment and Competitiveness* to consider proposals submitted by ICTU on the Recognition of Unions and the Right to Bargain and to take account of European developments and the detailed position of IBEC on the impact of the ICTU proposals. |
|  |  | 3.     When preparing and agreeing this Code of Practice the Commission consulted with the Department of Enterprise, Trade and Employment, ICTU, IBEC, the Employment Appeals Tribunal and the Health and Safety Authority and took account of the views expressed to the maximum extent possible. |
|  |  | 4.     The main purpose of this Code of Practice is to provide guidance to employers, employees and their representatives on the general principles which apply in the operation of grievance and disciplinary procedures. |
|  |  | **2. GENERAL** |
|  |  | 1.     This Code of Practice contains general guidelines on the application of grievance and disciplinary procedures and the promotion of best practice in giving effect to such procedures. While the Code outlines the principles of fair procedures for employers and employees generally, it is of particular relevance to situations of individual representation. |
|  |  | 2.     While arrangements for handling discipline and grievance issues vary considerably from employment to employment depending on a wide variety of factors including the terms of contracts of employment, locally agreed procedures, industry agreements and whether trade unions are recognised for bargaining purposes, the principles and procedures of this Code of Practice should apply unless alternative agreed procedures exist in the workplace which conform to its general provisions for dealing with grievance and disciplinary issues. |
|  |  | **3. IMPORTANCE OF PROCEDURES** |
|  |  | 1.     Procedures are necessary to ensure both that while discipline is maintained in the workplace by applying disciplinary measures in a fair and consistent manner, grievances are handled in accordance with the principles of natural justice and fairness. Apart from considerations of equity and natural justice, the maintenance of a good industrial relations atmosphere in the workplace requires that acceptable fair procedures are in place and observed. |
|  |  | 2.     Such procedures serve a dual purpose in that they provide a framework which enables management to maintain satisfactory standards and employees to have access to procedures whereby alleged failures to comply with these standards may be fairly and sensitively addressed. It is important that procedures of this kind exist and that the purpose, function and terms of such procedures are clearly understood by all concerned. |
|  |  | 3.     In the interest of good industrial relations, grievance and disciplinary procedures should be in writing and presented in a format and language that is easily understood. Copies of the procedures should be given to all employees at the commencement of employment and should be included in employee programmes of induction and refresher training and, trade union programmes of employee representative training. All members of management, including supervisory personnel and all employee representatives should be fully aware of such procedures and adhere to their terms. |
|  |  | **4. GENERAL PRINCIPLES** |
|  |  | 1.     The essential elements of any procedure for dealing with grievance and disciplinary issues are that they be rational and fair, that the basis for disciplinary action is clear, that the range of penalties that can be imposed is well-defined and that an internal appeal mechanism is available. |
|  |  | 2.     Procedures should be reviewed and up-dated periodically so that they are consistent with changed circumstances in the workplace, developments in employment legislation and case law, and good practice generally. |
|  |  | 3.     Good practice entails a number of stages in discipline and grievance handling. These include raising the issue with the immediate manager in the first instance. If not resolved, matters are then progressed through a number of steps involving more senior management, HR/IR staff, employee representation, as appropriate, and referral to a third party, either internal or external, in accordance with any locally agreed arrangements. |
|  |  | 4.     For the purposes of this Code of Practice, “employee representative” includes a colleague of the employee's choice and a registered trade union but not any other person or body unconnected with the enterprise. |
|  |  | 5.     The basis of the representation of employees in matters affecting their rights has been addressed in legislation, including the [Protection of Employment Act, 1977](https://www.irishstatutebook.ie/1977/en/act/pub/0007/index.html) ; the European Communities (Safeguarding of Employees Rights on Transfer of Undertakings) Regulations, 1980; [Safety, Health and Welfare at Work Act, 1989](https://www.irishstatutebook.ie/1989/en/act/pub/0007/index.html) ; [Transnational Information and Consultation of Employees Act, 1996](https://www.irishstatutebook.ie/1996/en/act/pub/0020/index.html) ; and the [Organisation of Working Time Act, 1997](https://www.irishstatutebook.ie/1997/en/act/pub/0020/index.html) . Together with the case law derived from the legislation governing unfair dismissals and other aspects of employment protection, this corpus of law sets out the proper standards to be applied to the handling of grievances, discipline and matters detrimental to the rights of individual employees. |
|  |  | 6.     The procedures for dealing with such issues reflecting the varying circumstances of enterprises/organisations, must comply with the general principles of natural justice and fair procedures which include: |
|  |  | •    That employee grievances are fairly examined and processed; |
|  |  | •    That details of any allegations or complaints are put to the employee concerned; |
|  |  | •    That the employee concerned is given the opportunity to respond fully to any such allegations or complaints; |
|  |  | •   That the employee concerned is given the opportunity to avail of the right to be represented during the procedure; |
|  |  | •   That the employee concerned has the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee and any other relevant or appropriate evidence, factors or circumstances. |
|  |  | 7.    These principles may require that the allegations or complaints be set out in writing, that the source of the allegations or complaint be given or that the employee concerned be allowed to confront or question witnesses. |
|  |  | 8.    As a general rule, an attempt should be made to resolve grievance and disciplinary issues between the employee concerned and his or her immediate manager or supervisor. This could be done on an informal or private basis. |
|  |  | 9.    The consequences of a departure from the rules and employment requirements of the enterprise/organisation should be clearly set out in procedures, particularly in respect of breaches of discipline which if proved would warrant suspension or dismissal. |
|  |  | 10.    Disciplinary action may include: |
|  |  | • An oral warning |
|  |  | • A written warning |
|  |  | • A final written warning |
|  |  | • Suspension without pay |
|  |  | • Transfer to another task, or section of the enterprise |
|  |  | • Demotion |
|  |  | • Some other appropriate disciplinary action short of dismissal |
|  |  | • Dismissal |
|  |  | 11.    Generally, the steps in the procedure will be progressive, for example, an oral warning, a written warning, a final written warning, and dismissal. However, there may be instances where more serious action, including dismissal, is warranted at an earlier stage. In such instances the procedures set out at paragraph 6 hereof should be complied with. |
|  |  | 12.    An employee may be suspended on full pay pending the outcome of an investigation into an alleged breach of discipline. |
|  |  | 13.    Procedures should set out clearly the different levels in the enterprise or organisation at which the various stages of the procedures will be applied. |
|  |  | 14.    Warnings should be removed from an employee's record after a specified period and the employee advised accordingly. |
|  |  | 15.    The operation of a good grievance and disciplinary procedure requires the maintenance of adequate records. As already stated, it also requires that all members of management, including supervisory personnel and all employees and their representatives be familiar with and adhere to their terms. |
|  |  | |  |  | | --- | --- | | /images/seal.jpg | Given under my Official Seal,  This 26th day of May 2000 | |  | Mary Harney | |  | Minister for Enterprise, Trade and Employment | |
|  |  | **EXPLANATORY NOTE** |
|  |  | ***This note is not part of the Instrument and does not purport to be a legal interpretation.*** |
|  |  | The effect of this Order is to declare that the draft code of practice set out in the Schedule to this Order is a code of practice for the purposes of the [Industrial Relations Act, 1990](https://www.irishstatutebook.ie/1990/en/act/pub/0019/index.html) . |