

Disciplinary Policy & Procedure



1. PURPOSE

The purpose of the disciplinary policy and procedure with the Synaco Group is to:

- 1.1 Influence the conduct and behaviour of employees and to deal with problems of misconduct.
- 1.2 Ensure all employees understand the standards of conduct expected of them.
- 1.3 Provide a framework to ensure employees are treated fairly and consistently and wherever possible, given every opportunity to improve their conduct.

2. SCOPE

The procedure applies to all employees at host employer sites and all employees of the Synaco Group which includes Synaco Global Recruitment, Synaco Resources Pty Ltd and at all locations.

3. RESPONSIBILITIES

- 3.1 It is the responsibility of the Company Director to ensure all personnel are made aware of the disciplinary procedure.
- 3.2 It is the responsibility of all Managers to carry out disciplinary action in accordance with this procedure.

4. LEGAL & ETHICAL FRAMEWORK

The Synaco Group adheres to the requirements of the Fair Work Act 2009, recognises the principles set out in the Fair Work Regulations 2009 and will regularly review the Disciplinary Policy and Procedure in line with good practice and legislative requirements.

5. RELATED DOCUMENTATION

100-0003 – Grievance Policy & Procedure
100-0024 – Probation Policy & Procedure
100-0036 – Performance Management Policy & Procedure

6. GENERAL PRINCIPLES

The Synaco Group Disciplinary Procedure provides managers with the platform to deal with disciplinary issues fairly, consistently and speedily, and within the legal and ethical framework outlined above.

The Synaco Group fosters a culture of improvement whereby employees are given every opportunity to improve their conduct and efforts will be made to deal with conduct issues informally before progressing to the formal disciplinary process.

The Procedure ensures 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.

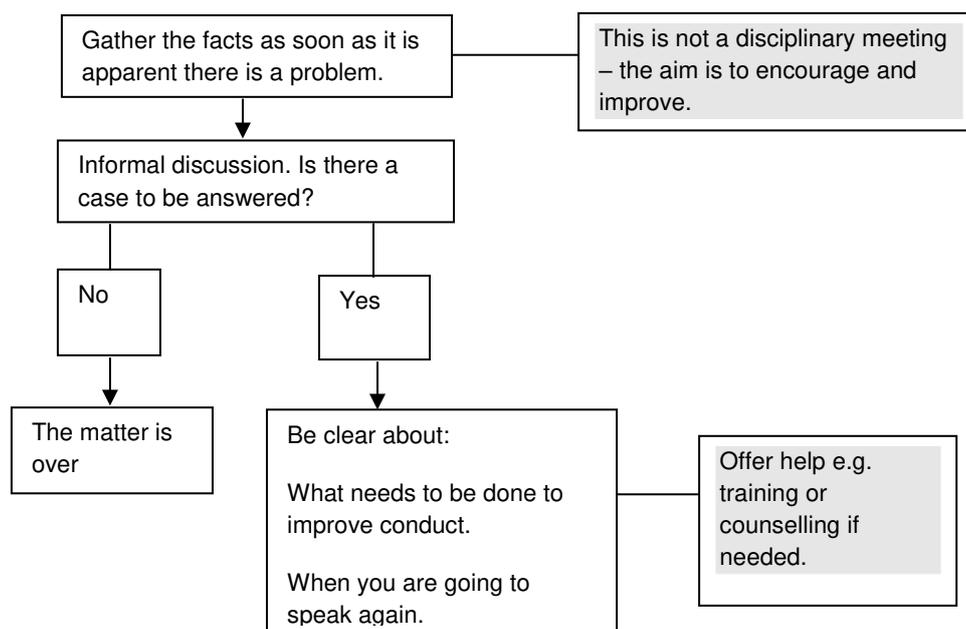
7. PROCEDURE

In the event that a conduct issue arises, the Manager should first and without undue delay make some initial enquiries to establish the nature and seriousness of the issue.

The employee should be informed as soon as possible of any concerns/issues.

The aim is to encourage improvement where standards of conduct are unsatisfactory and therefore where possible the following informal procedure will be used:

7.1 Informal Stage:



7.1.1 Advice, Coaching and Counselling

Every effort will be made to resolve issues or concerns about conduct at an early stage, on an informal basis and to achieve improvement through coaching, counselling, support and/or training where necessary. It is only where this process does not bring about the required improvement or the issue is of a sufficiently serious nature that the disciplinary action may be considered.

Coaching, counselling and/or training is therefore crucial to the maintenance of good standards of conduct and behaviour. Management action is normally appropriate in dealing with minor breaches

of discipline or unsatisfactory conduct or behaviour. In such situations, the line manager should meet with the employee to discuss:

- Any potential underlying reasons for the behaviour/poor conduct.
- The exact nature of the problem and the improvement expected.
- A reasonable timescale for improvement.
- Any support and/or training to be provided to help the employee achieve the required level of improvement.
- The process for monitoring the employee's progress over an agreed timescale.
- The potential outcome if there is no or insufficient improvement (e.g. disciplinary action).

A documented record of any meetings should be taken and shared with the employee. The extent will depend on the nature and circumstances of the issue(s). These notes must be kept confidential, stored safely and only be available for access by a limited number of people who need to have access to the notes.

7.1.2 Capability/Performance

Where there is concern surrounding the capability/performance of an employee (including issues relating to health), then the Synaco Group Performance Management Policy and Procedure should be referred to and followed.

7.2 **Formal Action**

Disciplinary action may be taken where a conduct issue arises and:

1. It is not appropriate to deal with the matter under the 'advice, coaching and counselling' process because of the nature/seriousness, or;
2. Where there has been insufficient improvement after advice, coaching and counselling, or;
3. Where issues of a similar nature have arisen and disciplinary action has been taken; advice should be sought from the Company Director in the first instance.

7.2.1 Investigation

- i. When a manager becomes aware of a conduct issue, he/she has the responsibility to ensure that the employee is informed as soon as possible and an appropriate investigation has been carried out to establish all the relevant facts and without undue delay.
- ii. It may not be appropriate for the immediate manager to be involved in the investigation, for example, if the employee alleges that the issue relates to or involves the immediate line manager. In these cases, an appropriate manager will be identified to conduct the investigation.
- iii. The Manager will make every effort to ensure that the facts are gathered promptly; statements are taken from witnesses where appropriate; any relevant documentation is collected and records checked.
- iv. When the investigation has been completed, the Manager will decide (after seeking advice from the Company Director) which of the following options to adopt:
 - No further action to be taken;

- Support, training, counselling, guidance and/or coaching (the advice, coaching and counselling process should be followed in these cases) to be recommended;
- Formal disciplinary action to be taken.

7.2.2 Suspension

A decision to suspend an employee on full pay may only be taken in more serious cases; where it appears relationships have broken down; where the employee's continuing presence in the workplace might be prejudicial to the investigation or where it is considered there are risks to the Company's property or its responsibilities to other parties. This decision should only be taken after consultation with the Company Director. During suspension, the employee should make him/herself available for interview or any disciplinary meeting during work hours. The suspension should be confirmed in writing to the employee. The suspension should be reviewed regularly to ensure that it is not protracted. It should be made clear to the employee that suspension is not a disciplinary action and does not imply blame or guilt.

7.3 **The Disciplinary Procedure**

7.3.1 Informing the Employee of the Problem

- If after conduction an investigation it is decided that there is a disciplinary case to answer, the employee will be notified of this in writing. The notification will contain sufficient information about the alleged misconduct and its possible consequences, to enable the employee to prepare to answer the case at a disciplinary meeting, It will normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification.
- The notification will also give details of the time and venue for the disciplinary meeting and advise the employee of their right to be accompanied at the meeting.

7.3.2 The Disciplinary Meeting

- Where appropriate and practicable, the manager conduction the disciplinary meeting will be a different manager to the manager who conducted the investigation. Where practicable, the Company Director will also be present and will take notes of the disciplinary meeting. It should be noted that any audio/visual recording of the disciplinary meeting by either party will not be permitted. In cases of absence management or performance management, it will be acceptable and normal practice for the employee's immediate line manager to conduct the disciplinary meeting.
- At the meeting the employer will explain the complaint against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses. Where either party intends to call relevant witnesses they should give advance notice that they intend to do this.

Employees have a statutory right to be accompanied by a companion where the disciplinary meeting could result in:

- A formal warning being issued; or
- The taking of some other disciplinary action; or
- The confirmation of a warning or some other disciplinary action (appeal hearings).

7.3.3 Right to be Accompanied

The chosen companion may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

To exercise the statutory right to be accompanied, workers must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location of someone who is suitable and willing was available on site.

The companion should be allowed to address the hearing to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the worker during the hearing. The companion does not however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

There is no duty on a fellow worker or trade union representative to accept a request if they do not wish to act as a companion.

Where the chosen companion cannot attend on the date proposed, the employee can offer an alternative time and date as long as it is reasonable and falls within a period of 5 working days beginning with the first working day after the day proposed by Synaco Group.

Companions who are employed by the Synaco Group are entitled to take a reasonable amount of paid time off to fulfil this responsibility.

7.3.4 Deciding on Appropriate Action

- An adjournment may be called before any decision is reached.
- In reaching a decision as to whether any disciplinary warning (and the level) or dismissal will be applied, the Manager will have regard (with the assistance of the Company Director, to whether any similar instances of (gross) misconduct have been dealt with by the Synaco Group and the level of sanction applied.
- The employee will be informed in writing, of the outcome of the disciplinary meeting. This will include:
 - The precise nature of the issue(s) discussed and the conclusions of fact reached by the Manager;
 - The action to be taken, e.g. First Written Warning (levels are set out at paragraph 6.4);
 - The implications and consequences of the action, including the recording arrangement (e.g. the length of time the warning remains on file before being disregarded for disciplinary purposes);

- The improvement or change in conduct or behaviour required and the consequences if the necessary improvement or change in conduct or behaviour is not achieved, e.g. possible further disciplinary action;
- The right of appeal and the procedure to be followed.

7.3.5 Providing Employees with an Opportunity to Appeal

Where an employee feels that disciplinary action taken against them is wrong or unjust they should appeal against the decision. They should provide the grounds for their appeal in writing and without unreasonable delay, to the relevant manager as advised.

Appeals will be heard without unreasonable delay and at a time and place which will be notified to the employee in advance. The appeal will be dealt with impartially and wherever possible by a manager who has not previously been involved in the case.

Employees have a statutory right to be accompanied at any such appeal hearing.

The appeal decision is final and employees will be informed in writing of the outcome of the appeal hearing as soon as possible and without unreasonable delay. The outcome may be:

- To uphold the decision;
- To overturn the decision;
- To overturn the decision but recommend a more severity penalty;
- To overturn the decision but recommend a lesser penalty.

7.4 **Disciplinary Action**

In many cases of minor offences, disciplinary action will involve progressive levels of penalties. However, depending on the seriousness of the issue, the Synaco Group may decide, following careful investigation, to impose a more serious penalty even if the employee has not been disciplined before. In deciding whether a particular disciplinary action is appropriate, the Synaco Group will consider the extent to which standards have been breached, precedent, the employee's record, position, length of service and special circumstances, which might make it appropriate to adjust the severity of the penalty, e.g. warnings on the employee's file for the same misconduct or for other misconduct. Examples of misconduct, serious misconduct and gross misconduct can be found at Appendix 3.

i. First Written Warning

The First Written Warning will be invoked in situations where the advice, coaching and counselling approach has failed to resolve a matter or where the issue has been sufficiently serious that the advice, coaching and counselling approach would not be appropriate.

A First Written Warning will be recorded against an employee for 6 months. The warning will remain on the employee's personnel file after this period but will be disregarded for disciplinary purposes.

ii. Final Written Warning

The Final Written Warning will be invoked in situations where an employee has failed to make an improvement during the lifetime of a First Written Warning, or there are further incidents of a failure to maintain standards, improve conduct or behaviour or a serious offence has taken place.

A Final Written Warning will be recorded against an employee for 12 months. The warning will remain on the employee's personnel file after this period, but will be disregarded for disciplinary purposes.

In some circumstances, where a serious breach of discipline has occurred, an indefinite final written warning may be issued. Such a warning will state that any future repetition of the act of misconduct for which the employee has been disciplined will result in dismissal.

iii. Dismissal

Dismissal may take place situations where: an employee has failed to make an improvement following a Final Written Warning; there are further incidents of a failure to maintain standards and/or improve conduct or behaviour or an act of gross misconduct has taken place.

7.4.1 Action Short of Dismissal

Where appropriate, the Manager may consider alternative actions to dismissal. Such actions may include:

- Transfer to a role in a different area of the business;
- Transfer to a role with different responsibilities;
- Demotion;
- Loss of pay.

7.4.2 Special Provisions

The above procedure would apply in all normal circumstances. Set out below however there are certain circumstances where extra care or slightly altered procedures would apply:

- Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed depending on the circumstances, however, after obtaining the employee's agreement, the matter will be discussed at an early stage with an official employed by the union;
- Employees with criminal charges or convictions outside of the Synaco Group will be considered depending on the nature of the offence and whether this makes them unsuitable for their type of work.

7.4.3 Disciplinary Action During Notice Period

If an employee has resigned and is working their notice period, is there is any cause for disciplinary action to be considered, this can still occur, up until and including the employee's last day of employment. The disciplinary procedure will still apply in full.

7.5 **Records**

Records will be compiled at each stage of the process detailing:

- The complaint against the employee;
- The employee's defence;
- Findings made and actions taken;
- The reason for actions taken;
- Whether an appeal was lodged;
- The outcome of the appeal;
- Any grievances raised during the disciplinary procedure;
- Subsequent developments;
- Notes of any formal meetings.

Records will be treated as confidential and will be kept no longer than the necessary in accordance with the Privacy Act 1988. This act gives individuals the right to request and have access to certain personal data. Copies of meeting records will be given to the employee including copies of any formal minutes that may have been taken. In certain circumstances (for example to protect a witness) information may be withheld.

APPENDIX 1 – PROCEDURE FOR DISCIPLINARY MEETINGS

The Opening

The Manager will:

- Introduce those present to the employee and explain why they are there
- Introduce and explain the role of the accompanying person if present
- Explain that the purpose of the meeting is to consider whether disciplinary action should be taken in accordance with the Synaco Group's disciplinary procedure
- Explain how the meeting will be conducted

Statement of the complaint

The manager will state precisely what the complaint is and outline the case briefly by going through the evidence that has been gathered. The manager will ensure that the employee and his or her representative or accompanying person are allowed to see any statements made by witnesses and questions them.

Employee's reply

The employee will be given the opportunity to state their case and answer any allegations that have been made. They will be able to ask questions, present evidence and call witnesses. The accompanying person may also ask questions and should be able to confer privately with the employee. It will be established whether the employee is prepared to accept that they may have done something wrong or are not performing to the required standard. The steps which should be taken to remedy the situation will be agreed.

General questioning and discussion

The Manager will:

- Use this stage to establish all the facts;
- Ask the employee if they have any explanation for the alleged misconduct, or if there are any special circumstances to be taken into account;
- Bring the proceedings to a close if it becomes clear during this stage that the employee has provided an adequate explanation and/or there is no real evidence to support the allegation.

Summing up

The Manager will summarise the main points of the discussion after the questioning is completed. This allows all parties to be reminded of the nature of the offence, the arguments and evidence put forward and to ensure nothing is missed. The employee will be asked if they have anything further to say.

Adjournment

An adjournment will be taken before a decision is taken about whether a disciplinary penalty is appropriate. This allows time for reflection and proper consideration. It also allows for any further checking of any matters raised, particularly if there is any dispute over facts. The decision may be given verbally following the adjournment and subsequently confirmed in writing, or if more appropriate the decision may just be confirmed in writing to the employee. The Manager will confirm that the employee has the right to appeal against any decision and the procedure to be followed if they wish to do so.

APPENDIX 2 – PROCEDURE FOR APPEAL MEETINGS

The Opening

The Manager will:

- Introduce those present to the employee and explain why they are there
- Introduce and explain the role of the accompanying person if present
- Explain the powers the manager hearing the appeal has
- Explain how the meeting will be conducted

Statement of the issues to be discussed

The Manager will state what disciplinary action was taken and the grounds for it. The Manager will also outline the reason for appeal as given by the employee.

Employee's reply

The employee will be given the opportunity to confirm their grounds for appeal and to state their case.

General questioning and discussion

The Manager will use this stage to review any new evidence which may have been introduced, and ensure that the employee has the opportunity to comment on it.

Summing up

The manager will summarise the main points of the discussion after the relevant issues have been fully explored. The employee will be asked if they have anything further to say.

Adjournment

An adjournment will be taken before a decision is taken about the outcome of the appeal. This allows time for reflection and proper consideration. It also allows for any further checking of any matters raised. The Manager will communicate the decision in writing. This decision is final and binding.

APPENDIX 3 – EXAMPLES OF GROSS MISCONDUCT

The following would normally constitute gross misconduct for which employees will be liable for summary dismissal without notice or payment in lieu of notice. This list is not exhaustive:

- Theft, fraud and deliberate falsification of records;
- Offering, promising or giving a bribe; or requesting, agreeing to receive or accepting a bribe;
- Physical violence, actual or threatened, against or in the vicinity of another person;
- Use of abusive or threatening conduct or language to or about a fellow employee, or creating an intimidating, hostile or offensive working environment;
- Harassment of, or discrimination against fellow employees or any person on the grounds of gender, race, religion, age, disability and/or sexual orientation, or any breach of the Discrimination Policy;
- Bullying (including intimidation, misuse or abuse of a position of authority to the detriment of a fellow employee, issuing unreasonable instructions or any act or series of behaviour designed to ostracise or “pick on” a fellow employee);
- Deliberate damage to property;
- Serious insubordination;
- Inappropriate use of IT facilities or data;
- Misuse of an organisation’s property (to include the Synaco Group’s computer systems) or name;
- Bringing the Company into serious disrepute;
- Serious incapability whilst on duty brought on by alcohol or illegal/non-prescribed drugs;
- Serious negligence which causes or might cause unacceptable loss, damage or injury;
- Serious infringement of health and safety rules;
- Serious breach of Security Procedures;
- Serious breach of confidence (subject to the Privacy Act 1988);
- Committing a criminal act on company premises and in some circumstances off company premises. In such instances, employees should also be aware that they may also be liable for criminal prosecution.

Examples of misconduct or serious misconduct

The following are examples of behaviour that would normally constitute misconduct or serious misconduct. The disciplinary penalty in the event of such misconduct would be at a level appropriate to the conduct under investigation and/or the employee’s previous disciplinary record.

The list is not exhaustive:

- Poor performance/incapability of performing;
- Poor attendance record or timekeeping;
- Failure to adhere to Company absence reporting requirements;
- Damage to Synaco Group’s or a client’s property;
- Non-compliance with reasonable instructions;
- Unprofessional conduct or failure to adhere to standards normally expected of a Synaco Group employee.