

## Disciplinary Policy

**Scope:** This policy applies to all the business divisions within the AG Barr Group

### 1 POLICY STATEMENT

The policy aims to set out the standards of conduct expected of all colleagues and to provide a framework within which people leaders can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

### 2 WHY DO WE NEED A DISCIPLINARY PROCEDURE?

Misconduct by colleagues impacts on morale, providing good customer service and the overall performance of the business. Minor issues of misconduct can often be resolved informally through discussion between colleagues and their people leaders. It is, however, important that a formal procedure is in place to deal with misconduct issues where these cannot be resolved through informal discussion or if informal discussion is not appropriate (for example, due to the seriousness of the alleged misconduct).

The policy also ensures that the Company deals with misconduct issues in accordance with its legal requirements.

### 3 WHEN DOES THE PROCEDURE APPLY?

This procedure is used to deal with misconduct. It does not apply to cases involving sickness absence or poor performance. In those cases, please refer to the Sickness Absence Policy or Performance Improvement Policy.

The procedure applies to all employees within the Company regardless of length of service.

This procedure does not form part of any colleague's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

Minor conduct issues can often be resolved informally between you and your people leader. 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 your personnel file but will be ignored for the purposes of any future disciplinary hearings. 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 alleged misconduct).

If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with HR or your manager as soon as possible.

Where disciplinary action is proposed to be taken in relation to a shop steward, the full time official of the union concerned shall usually also be notified.

#### **4 CONFIDENTIALITY**

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

You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

#### **5 INVESTIGATIONS**

The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, 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 you and any witnesses, and/or reviewing relevant documents.

Investigative interviews are solely for the purposes of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.

You must cooperate fully and promptly in any investigation. This will include informing us of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

#### **6 CRIMINAL ALLEGATIONS**

Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.

We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

#### **7 SUSPENSION**

In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by your people leader.

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

## **8 NOTIFICATION OF A HEARING**

Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:-

- a copy of any relevant documents which will be used at the disciplinary hearing; and
- a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

You must treat any information given to you in connection with a disciplinary matter as confidential, including the names of any witnesses and contents of witness statements.

We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time to prepare your case based on the information we have given you.

## **9 THE RIGHT TO BE ACCOMPANIED**

You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague and is not a solicitor. You must give notice of who your chosen companion is, in good time before the hearing. If your choice of companion is unreasonable we may require you to choose someone else (for example, if the person is under disciplinary investigation themselves).

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.

## **10 PROCEDURE AT DISCIPLINARY HEARINGS**

If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example, for health reasons), we may have to take a decision based on the available evidence.

The hearing will be chaired by a people leader. Another individual (who has not been involved in the case) will also be present for the purpose of note taking.

At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

We will inform you in writing of our decision and our reasons for it as soon as reasonably practicable after the disciplinary hearing. We may also explain this information to you in person.

## **11 DISCIPLINARY SANCTIONS**

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all colleagues fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

**Stage 1 - Verbal warning.** A verbal warning may be appropriate for a minor act of misconduct where you have no other active warnings on your disciplinary record. However, in some cases a first written warning may be a more appropriate penalty.

**Stage 2 - First written warning.** A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

**Stage 3 - Final written warning.** A final written warning will usually be appropriate for misconduct where there is already an active written warning on your record or misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

**Stage 4 - Dismissal.** Dismissal will usually only be appropriate for:-

- misconduct during your probationary period;
- further misconduct where there is an active final written warning on your record; or
- any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out below.

**Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal. These 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; or loss of overtime.

## **12 THE EFFECT OF A WARNING**

Warnings will confirm the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

Verbal warnings will usually remain active for 6 months. Written warnings will usually remain active for 12 months. After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## **13 APPEALS AGAINST DISCIPLINARY ACTION**

If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the individual identified in the disciplinary decision letter, within 5 days of the date of receiving written confirmation.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuous service or pay.

We will give you reasonable written notice of the date, time and place of the appeal hearing.

Where possible, the appeal hearing will be conducted impartially by a people leader who has not been previously involved in the case. You may bring a companion with you to the appeal hearing (as outlined above).

Following the appeal hearing we may confirm the original decision; revoke the original decision; or substitute a different penalty.

We will inform you in writing of our final decision as soon as possible, usually within fourteen days of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

## **14 GROSS MISCONDUCT**

Gross misconduct is a serious breach of contract and includes misconduct that, in our opinion, is likely to prejudice our business or reputation or irreparably damage the working relationship and trust between us. Gross misconduct will normally lead to dismissal without notice or pay in lieu of notice.

The following are examples of gross misconduct offences. This list is intended as a guide and is not exhaustive.

- Serious breach of Company policies, operating procedures and/or workplace rules
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures
- Knowing breach of statutory rules affecting your employment
- Dishonesty, theft or fraud
- Falsification of Company records, returns, or any other document to conceal or misrepresent cash/stock differences of any description
- Borrowing Company monies without proper authority, unauthorised payment of wages, or removing money from Company floats/petty cash
- Serious insubordination
- Refusal to perform assigned tasks or legitimate instructions given by an authorised person (e.g. your line manager or above)
- Serious misuse or misappropriation of Company monies or property or our name
- Bringing the Company into serious disrepute or conduct that negatively affects our reputation.
- Actual or threatened violence or behaviour which provokes violence
- Bullying (whether it takes place in person or online)
- Unlawful discrimination or harassment or victimisation against fellow staff members, suppliers, clients or customers.
- Deliberate and serious damage to or unauthorised removal of Company property or the property of a colleague, contractor, customer or member of the public
- Being under the influence of alcohol or drugs or other substances during working hours

- Consuming alcohol or lawful drugs during working hours or in the workplace
- Possession, use, supply or attempted supply of illegal drugs
- Smoking (including the use of e-cigarettes) outwith a designated area
- Deliberately accessing internet sites containing pornographic, offensive or obscene material
- Being charged or convicted of a criminal offence that, in our opinion, may affect our reputation or our relationships with our employees, customers, or the public, or otherwise affects your suitability to remain as an employee
- Causing loss, damage, or injury through serious negligence
- Serious breach of health and safety rules
- Withholding information concerning serious breaches of Company rules and procedures
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures
- Undertaking unauthorised paid or unpaid employment during your working hours
- Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet)
- Serious breach of confidence or unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure
- Fraudulent timekeeping related to your own records and other employees
- Giving false information about qualifications or entitlement to work (including immigration status); using fraudulent identity or withholding information that would be relevant
- Posting social media content that has the sufficient potential to or does bring the Company into disrepute, or reflects negatively on the Company or colleagues (in line with the Social Media Policy)
- Deliberate breach of professional standards relevant to your employment
- Offering or accepting a bribe within the meaning of the Bribery Act 2010.

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