

DISCIPLINARY POLICY AND PROCEDURE

1 Aims and Objectives

1.1 Intu is committed to promoting fairness and consistency in the treatment of all employees in connection with conduct and performance. In order to achieve this, the following rules and procedures have been adopted, in line with nationally recognised codes of practice.

1.2 The purpose of the Disciplinary Procedure is to:

- Help and encourage employees at all levels to achieve and maintain standards of conduct, attendance and job performance
- Improve and correct
- Ensure that disciplinary action is fair and reasonable in the circumstances of each case
- Deal speedily with actions relating to misconduct and, in particular, gross misconduct
- Ensure that disciplinary action is carried out in a manner that is equitable and consistent within the employing company and with other companies throughout the group

2 Principles

The following principles will apply throughout the disciplinary process:

- The disciplinary procedure will apply in full only once you have been in the company's employment for 6 months. If you breach disciplinary rules and/or your performance is not satisfactory within the first 6 months you may be subject to dismissal without the full procedure being invoked.
- The company will fully investigate the circumstances and take appropriate action. Investigations will be carried out speedily with a full consideration of all the relevant facts.
- No disciplinary action will be taken until the individual has had an opportunity to state their case at an Investigatory Meeting and/or a Disciplinary Hearing as appropriate.
- An employee who is subject to investigation and/or disciplinary action has the right to be accompanied at any formal meeting by a work colleague (an employee of the intu group) or an accredited trade union representative.
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.
- Consideration will be given to long service, previous good conduct and any mitigating circumstances.
- More serious penalties may be applied where previous action has proved ineffective in producing the desired effect or the misconduct is sufficiently serious.
- This procedure will apply to disciplinary action up to and including dismissal. Dismissal for reasons unconnected with discipline or performance is covered by the company's Dismissal Policy.

- There is a right of appeal against any disciplinary action beyond the oral warning stage., i.e. from stages two to four, para 5.2.5 to 5.2.7 below.

In addition, the following will apply generally to the process:

- Normally, in advance of any Disciplinary Hearing the employee will be:
 - Informed in writing of the nature of the complaint or allegations and the Disciplinary Hearing arrangements, and given reasonable time in advance to prepare for the Hearing
 - Informed of his/her rights under the procedure
 - Informed of the right to be accompanied by a work colleague or a union representative.
- The employee must make every effort to attend any investigatory or Disciplinary Hearing. If an employee is absent from work during the process, and/or fails to attend on more than one appointed time for a Hearing, the company reserves the right to hear the case in the employee's absence and/or to suspend any sickness payment that may be due for the absence.
- The appropriate Departmental Manager or independent manager will normally conduct disciplinary hearings and a Human Resources representative or designated note taker will be present.
- A Departmental Manager (or, in exceptional circumstances out of hours the immediate supervisor) may suspend an employee with pay pending investigation, if this is considered to be appropriate. Hearings will be held as soon as is reasonably practicable and the employee will be kept informed as to the date on which the investigation is likely to be concluded.
- Where full information is not available at the hearing or further consideration is required, the manager conducting the hearing may adjourn, but for no longer than is necessary.
- In certain circumstances, an employee under investigation may request the calling of a specific witness to clarify/expand on their statement. It will be the responsibility of the manager to decide whether this is reasonable in the specific circumstances.
- An employee will not normally be dismissed for a first breach of discipline except in the case of gross misconduct, when the outcome may be dismissal without notice or pay in lieu of notice. Alternatives to dismissal may be demotion or transfer to a more suitable job or department, if available. Pay and benefits will be reduced accordingly.

3 Misconduct

3.1 The following is a non-exhaustive list of examples of misconduct and would not normally lead to dismissal for a first offence except in serious cases:

- Poor timekeeping/attendance

- Failure to comply with a reasonable request or order
- Failure to comply with a health & safety requirement
- Absence from work without permission
- Posting or distributing unauthorised literature at work or on intu premises
- Misuse of intu equipment/facilities or property belonging to a third party.
- Inappropriate behaviour towards a customer or colleague
- Failing to comply with the company's dress code
- Failure to perform to the required standards, including personal attitude, rudeness, abruptness or personal hygiene
- Failure to cooperate reasonably with colleagues
- Breaches of terms & conditions of employment or the company's Business Code of Practice

4 Gross Misconduct

4.1 Certain offences may be regarded as being so serious as to render the offender liable to dismissal without notice on the grounds of gross misconduct. These examples are not exhaustive, nor do they exclude dismissal for other acts of a similar nature:

- Conduct likely to bring intu into disrepute
- Acts of incitement or actual acts of discrimination on the grounds of sex, race, disability, religion, sexual orientation, colour or ethnic origin or other protected characteristics under Equality legislation.
- Sexual, racial, or other harassment related to a protected characteristic under the Equality Act towards other colleagues, customers, suppliers or members of the public
- Acting in a way prejudicial to intu's interests in dealings with customers or other outside contacts
- Acting in a way prejudicial to the employing company's interests in dealings with other members of the intu group
- Use of abusive or threatening language or swearing towards other colleagues, customers, retail partners or visitors
- Using inappropriate or threatening behaviour, fighting or attempting actual bodily injury to another person
- Wilful contravention of the intu Code of Professional Conduct
- Making false statements in regard to matters affecting employment
- Wilful disregard of safety rules and/or precautions
- Serious breach of health & safety rules potentially and/or recklessly endangering life or personal safety of self or others
- Unauthorised disclosure of confidential company information
- Breach of ICT policy and/or Acceptable Use of Systems policies, for example:
 - Unauthorised personal use of company equipment.
 - Unauthorised entry into the employer's computer systems.
 - The use of private or pirate software on the employer's computer system.
 - Malicious use of the Company's computer system.
 - Misuse of the internet or email
 - Use of company telephones for excessive personal use
- Unauthorised copying, removing or transferring personal or sensitive data (as defined by the DPA) from the company premises or destroying or altering that data
- Theft or attempted theft either by consumption or removal

- Fraud, attempted fraud or falsification of any document or Company Records
- Failing to account correctly for any cash or property received, and/or failure to comply with intu accounting, cash or property handling procedures
- Deliberate damage to, or wilful neglect or misuse of the property of other employees, intu, retail partners or visitors
- Drunkenness, or being under the influence of, or misuse of drugs or alcohol or being in possession of illegal drugs or intoxicating liquor whilst on duty
- Leaving your designated site/place of work, during working hours, without the prior permission of a manager without a satisfactory explanation
- Sleeping whilst on duty
- Smoking in public or prohibited areas whilst on duty
- Bringing firearms, weapons of any kind or other prohibited items onto intu premises
- Assisting, encouraging or procuring any other member of staff to commit an act of gross misconduct
- Any criminal or civil offence which, in the opinion of management, makes the employee unsuitable to carry out his/her duties or where a penalty imposed by a court of law for the offence makes this impossible or impracticable
- Where an act has been committed which would make continued employment unacceptable to intu, its retail partners, customers or other employees

5 Procedure

5.1 Informal Action

- 5.1.1 The relevant supervisor or manager will normally deal with lapses in work performance or minor breaches of the rules in the first instance, via file notes and informal counselling. The supervisor/manager will explain the reasons for the counselling, discuss with the individual strategies for ensuring the problem does not occur again, and explain the likely consequences of formal disciplinary action should the individual fail to meet the necessary standards of attendance, conduct or job performance.
- 5.1.2 A file note is issued to document the first conversation between a supervisor or manager and an individual about a lapse in work performance or a minor breach of the rules.
- 5.1.3 It is expected that in most cases informal action will quickly resolve any difficulties. However, where conduct or performance is sufficiently serious or the individual fails to improve and maintain that improvement with regard to conduct or performance the company may invoke the formal procedure set out below.

5.2 Formal Disciplinary Procedure

- 5.2.1 The formal disciplinary procedure will be invoked where breaches of company rules, misconduct, poor performance or attendance have not been remedied by informal counselling, or are more serious.
- 5.2.2 Following an Investigatory Meeting, the employee will be invited to a Disciplinary Hearing, at which a formal warning may be issued.

5.2.3 Where formal warnings are issued, a copy of the warning will be placed on the employee's personal file and will specify:

- The stage of the disciplinary process
- The reason given for the warning
- The duration of the warning. Warnings may be extended beyond the durations stipulated if the Company considers that it is appropriate to do so in the circumstances
- Improvements in conduct or performance required to be achieved and maintained
- The consequences of failure to respond as required
- The right of appeal

5.2.4 **Stage One: Oral Warning**

If conduct or performance does not meet acceptable standards, the employee will be issued with a formal Oral Warning by his or her manager. This normally remains current for six months.

5.2.5 **Stage Two: Written Warning**

If the offence is more serious or there is a failure to respond to an oral warning, this will result in a Written Warning, issued by a manager. This will remain current for a period of not less than six and not more than 12 months, depending upon the particular circumstances.

5.2.6 **Stage Three: Final Written Warning**

In the event of a further breach of rules or failure to bring about the required standard of performance, or where there is a more serious disciplinary offence, a Final Written Warning will be issued by a manager. This will remain current for 12 months. If a Final Written Warning is issued the employee should be advised that if the conduct is repeated or performance does not improve they may be liable for dismissal.

5.2.7 **Stage Four: Dismissal with or without notice, or demotion**

Dismissal with notice may be appropriate in circumstances where the disciplinary procedure has failed to elicit acceptable standards of conduct or performance, and there is a failure to respond to previous warnings. Dismissal without notice may be appropriate in circumstances where there are serious breaches of duty, or an act of gross misconduct has occurred which is so unacceptable as to justify dismissal without prior warnings.

5.2.8 The decision to dismiss will be taken by an appropriate Manager, with guidance from the Human Resources Department. Written reasons for the dismissal, the date on which the employment terminated and the right of appeal will be provided.

5.2.9 Demotion may be appropriate where it is deemed appropriate to relieve an employee of some or all of their responsibilities by transferring them into a position of reduced responsibility. Pay and benefits will be reduced accordingly. A warning of any level may also be issued in addition to the demotion.

5.2.10 **Suspension without pay**

As an alternative to dismissal the company may consider imposing a period of suspension without pay. This period will not normally be longer than two weeks and would be accompanied by a Final Written Warning (or extension of a

previously issued Final Written Warning). It may also be accompanied by demotion in appropriate circumstances.

6 The right to be accompanied

- 6.1 If an employee so wishes, a work colleague or union representative may be present at a disciplinary hearing. The chosen companion will be permitted to address the meeting and to confer with the employee during the meeting, but they will not be permitted to answer any question on the employee's behalf. The company will normally require notification of the companion prior to the hearing.

7 Records

- 7.1 Formal warnings will normally be issued in the form of a letter which may include a summary of any meetings that have taken place or recorded on a disciplinary interview form. A copy of the disciplinary form (if used) will be issued to the employee, one will be retained on the employee's file, and where appropriate, another will be given to the employee's representative. In cases where a disciplinary form has been issued copies of the notes from investigatory and disciplinary hearings relating to employees may be available to the employee upon request from the Human Resources Department. Separate notes will not be issued where the meeting has been summarised in detail in a letter confirming the outcome of the hearing.

8 Right to Appeal

- 8.1 All employees have the right to appeal against any formal disciplinary decision beyond oral warning stage. The right to appeal should be advised at the end of the Disciplinary Hearing. An appeal must be submitted in writing without unreasonable delay, which will normally be within 14 days, by the employee, to the Human Resources department, or as otherwise specified in the disciplinary form or letter issued to the employee after the hearing.
- 8.2 The employee has the right to be heard personally at an appeal and to be accompanied by a work colleague or trade union representative.
- 8.3 Appeals against warnings and dismissals will be referred to a senior manager who may be within or outside the individual's chain of management depending on the level of disciplinary action and the circumstances of the case, who will be accompanied by a Human Resources representative or designate. Appeals against dismissal will normally be heard by an independent senior manager. The decision of the appeal chair is final.

9 Review

- 9.1 This policy, the rules and procedures will be reviewed by the company at least every two years or more frequently in response to relevant changes of legislation or current practice.

10 **Contractual status**

- 10.1 This policy sits outside the contract of employment and does not convey an automatic right for the employee that it will be used in full, except to the extent that company has the right to impose penalties set out in this document (such as demotion or suspension without pay) where they would otherwise be considered a potential breach of contract.