

Disciplinary Policy and Procedure

Introduction

The aim of the Disciplinary Policy and Procedure is to provide a framework so your line manager can work with you to maintain satisfactory standards of conduct and performance and to encourage improvement where necessary.

Minor shortcomings will normally be dealt with informally outside the formal disciplinary procedure. Only repeated or more serious misconduct will trigger the formal disciplinary procedure.

This procedure is for guidance only and does not form part of your contract of employment. It may be amended at any time, in accordance with employment law changes and best practice updates.

Disciplinary Procedure – Scope

This procedure applies to all Metaverse VR (MVR) employees, except those working their probationary period. Contract and agency workers are not covered by this procedure.

This procedure is designed to ensure you are aware of and understand your rights and responsibilities relating to discipline.

MVR will ensure cases of alleged misconduct, unacceptable performance or other acts or omissions are dealt with consistently and fairly within a reasonable timescale.

This Disciplinary Policy and Procedure will only be used when necessary and as a last resort. Wherever possible, informal and/or formal counselling or other good management practice is encouraged to resolve matters prior to any disciplinary proceedings commencing. The procedure is intended to be positive rather than punitive but takes account of the fact sanctions may have to be applied in some circumstances.

You can discuss any part of this policy with your line manager, who will help clarify your rights as well as give guidance and support where it may be needed.

Related Policies/Procedures

This policy and procedure may also be used as part of separate procedures such as sickness absence, harassment and substance abuse, for further details on any of the policies listed please see our sharepoint site:

- Grievance Policy and Procedure;
- Harassment and Bullying Policy;
- Sickness Absence and Medical Capability Policy and Procedure;
- Alcohol and Drugs Misuse Policy.

Confidentiality

At MVR we aim to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. You must treat as confidential any information shared with you in connection with an investigation or disciplinary matter.

If you are involved in a disciplinary investigation, electronic recordings of any meetings or hearings conducted under this procedure is not permitted. Written records of the proceedings will be shared with you.

You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings, unless we believe their identity should remain confidential or they request for this to be the case.

Right to be Accompanied

You have a right to be accompanied by a work colleague at any point during the disciplinary process. However, this must not delay the investigation.

Roles

Investigating Manager: Usually the line manager or, where appropriate, an independent manager or suitably experienced external individual. They will investigate all the facts and make a recommendation whether there is sufficient evidence to proceed to a hearing.

Investigatory Hearing Chair: Usually a manager not previously involved in the incident or investigation. They will chair the investigatory hearing and decide whether a disciplinary hearing is appropriate.

Disciplinary Hearing Chair: Usually a manager not previously involved in the incident or investigation. They will chair the disciplinary hearing and decide whether a disciplinary sanction is appropriate. A more senior manager, will chair any cases where gross misconduct has been alleged or where dismissal is a possible outcome.

Appeal Chair: Usually a peer or more senior manager than the Disciplinary Hearing Chair who has not previously been involved in the incident or investigation. They will decide whether any grounds for appeal are upheld.

Human Resources (HR): Provides technical guidance regarding policy and procedure to managers addressing a disciplinary issue: they will not recommend a course of action. An HR representative will attend formal meetings to address any procedural questions and to take formal notes (or will arrange for another party to do so.)

Companion: A companion is a work colleague who may make representations and ask questions, but may not answer questions on behalf of the individual.

Counselling

Counselling is an attempt to correct a situation and prevent it from getting worse without having to use the formal disciplinary process. Where improvement is required, you will be given clear guidelines as to:

- what is expected in terms of improving shortcomings in your conduct or performance;
- the time scales for improvement;
- when this will be reviewed; and
- where appropriate, you will be advised that failure to improve may result in formal disciplinary action.

A record of the counselling should be given to you and a copy retained in your personnel file. It is imperative any counselling should be followed up and improvements recognised and recorded. Once the counselling objectives have been met, any record of the counselling will be removed from your file.

If during counselling it becomes clear the matter is more serious, then the discussion should be adjourned, and pursued under the formal disciplinary procedure.

Suspension

Suspension is not disciplinary action. Suspension may be considered to protect you (the employee under investigation), if we believe your presence could prejudice the working environment or hamper an investigation, or when the seriousness of the complaint makes it appropriate. For example, where:

- Preliminary investigations suggest there is a potentially serious case, i.e. one involving gross misconduct;
- Preliminary investigations indicate the health and safety of other employees could be at risk;

- There is a reasonable suspicion potential witnesses will be unduly influenced;
- Relationships at work have broken down;
- There appear to be risks to MVR's property.

The suspension will be for no longer than is necessary to investigate the allegations and arrangements will be confirmed with you in writing. You will receive written confirmation within 3 days of:

- the reason for the suspension;
- the date and time from which the suspension will operate;
- the timescale of the ongoing investigation;
- the right of appeal to the immediate manager of the suspending manager should the suspension last more than 7 days.

While suspended you should not visit MVR premises or contact any colleagues, customers, suppliers, or contractors, unless authorised to do so by the COO. Support will be provided to you via your line manager, HR and you will have access to our Employee Assistance support through Aviva, the service can be accessed by accessing aviva.co.uk/business/workplace-wellbeing/wellbeing/wellbeing-solutions/

Suspension can only be authorised by either the CEO or the COO. SLT members can only be suspended by the CEO.

Suspension of this kind is not a disciplinary penalty and does not imply any decision has already been made about the allegations. While suspended, you will continue to receive your full basic salary.

While suspended, you will be required to co-operate fully with the investigation, to attend any investigatory interviews and to remain contactable during what would be your normal working hours.

Normal policies and procedures apply during periods of suspension, e.g. annual leave must be booked and agreed in advance and any sickness must be notified in the normal way.

Criminal Charges

Where your conduct is the subject of a criminal investigation, charge or conviction, MVR 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. If you, as the person under investigation/charge/conviction, are unable, or have been advised, not to attend a disciplinary hearing or say anything about a pending criminal matter, we will 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 it is considered relevant to your employment, and/or you have not informed us of the matter.

Formal Investigation Procedure

The purpose of an investigation is 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 investigation required will depend on the nature of the allegations and will vary from case to case.

Formal investigations should be carried out by the Investigating Manager. All the relevant facts should be gathered promptly as soon as is practicable after the alleged incident. Statements should be taken from witnesses at the earliest opportunity. Any physical evidence should be preserved and/or photographed if reasonable to do so.

As the subject of the investigation, you must cooperate fully and promptly in any investigation activity. This will include providing information on the names of any relevant witnesses, disclosing any relevant documents and attending investigation interviews if required. An investigation will normally include an interview with you unless there are exceptional circumstances to prevent this from happening. Prior to being interviewed, you will be given notification of the nature of the allegation in writing, with brief details.

The Investigating Manager will write up a report of their findings and make a recommendation whether there is sufficient evidence to proceed to an investigatory hearing.

In most circumstances where misconduct or serious misconduct is suspected, it will be appropriate to set up an investigatory hearing.

Formal Investigation Hearing

We will give you written notice of the date, time and place of the Investigatory Hearing. The hearing will be held as soon as reasonably practicable, while also allowing you to have a reasonable amount of time, a minimum of 2 days, to prepare your case based on the information provided to you.

The Investigatory Hearing is chaired by a manager not previously involved in the incident or investigation. The Investigating Manager will be asked to present his/her findings to you (as the employee under investigation). You will then have the opportunity to raise any questions and put forward your account. You have the right to be accompanied at this hearing.

Notification of a Disciplinary Hearing

Following the investigation hearing, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. You will receive written confirmation of the allegations made against you, the basis for the allegations, and what the likely range of outcomes will be if a decision is reached after the hearing there are sufficient grounds to support the allegation(s).

The following will also be provided to you, where appropriate:

- A summary of relevant information gathered during the investigation;
- A copy of any relevant documents which will be used at the Disciplinary Hearing;
- A copy of any relevant witness statements, except where their identity is to be kept confidential, in which case as much information as possible will be given while maintaining confidentiality.

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, while also allowing you to have a reasonable amount of time, a minimum of 2 days, to prepare your case based on the information provided to you.

Disciplinary Hearing

You must take all reasonable steps to attend a disciplinary hearing. If there is a justifiable reason for non-attendance then the hearing will be rearranged, although the hearing will only be delayed for a maximum of 5 days. If you fail to attend, the Chair may decide to hear the case in your absence. Decisions will then be taken based on the information available at the hearing.

At the Disciplinary Hearing the Investigating Manager will go through the allegations against you and present the evidence they have gathered. You will be able to respond, present any evidence of your own and call witnesses. Your companion may make representations and ask questions, but may not answer questions on your behalf. You may confer privately with your companion at any time during the hearing, and may ask to do this in private.

Disciplinary hearings may be adjourned if there is a need to carry out any further investigations, such as re-interviewing witnesses in light of any new points raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened. Hearings may also be adjourned for short periods due to upset or distress expressed by the employee or witnesses, should it be required.

Disciplinary Hearing Outcome

Following the full presentation of the facts, and your opportunity to state your side of the case, the hearing should be adjourned for the Chair and HR representative to discuss the case and decide which of the following options is appropriate:

- Not upheld;
- First written warning;
- Final written warning;
- Dismissal.

The seriousness of the matter will determine the level of disciplinary action taken. Thus, in some circumstances, a final written warning or dismissal may be given without a first written warning being received.

All parties should be brought back, and informed as to the outcome.

Disciplinary Warnings

Disciplinary warnings will remain 'active' for the stipulated period of time and will expire after that, provided the required standard of performance or conduct is maintained. MVR reserves the right to extend the duration of the written warnings, subject to the right to appeal. Spent warnings will normally be disregarded for any future disciplinary purpose, and details will be removed from your personnel file.

Written warnings should contain the following information:

- Who was present at the Disciplinary Hearing;
- Details of the incident/allegation;
- Details of the disciplinary action taken;
- Notification that a failure to maintain agreed standards will lead to further disciplinary action including dismissal;
- Confirmation of the right to appeal.

Written warnings for misconduct will state 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. Warnings for poor performance state the nature of the wrongdoing, the improvement required, the time scale allowed for this, a review date, any measures such as additional training or supervision which will be taken and the consequences of not improving as required.

Warnings

All warning letters will be issued within 7 days of the date of the Disciplinary Hearing and will contain the following information:

- The nature of the offence and where appropriate, that if further misconduct occurs, more severe disciplinary action will be taken;
- The period of time given for improvement;
- The right to appeal within 5 working days of the outcome being communicated;
- In the case of a final written warning, reference must be made to the fact that any further misconduct will lead to dismissal, and that you have a right of appeal, and who to raise this with.

The letter confirming dismissal will contain the following information:

- The reason for dismissal and any administrative matters arising from the termination of your employment
- Your right of appeal and to whom you should make your appeal

Please note: You will receive a copy of the warning, which will either be given to you in person or sent to your home address via recorded delivery. A copy of the warning and any supporting documentation will be attached to your file.

First Written Warning

A first written warning will usually be appropriate for a first act of misconduct or poor performance where there are no other active written warnings on your disciplinary record. This will normally remain active for 6 months.

Final Written Warning

A final written warning will usually be appropriate for further poor performance or misconduct where there is already an active written warning on your record, or misconduct or poor performance that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on your file. This warning will normally remain active for 12 months.

Dismissal

If, despite having received a final written warning, you are unable to meet the required standard or commit an act of gross misconduct, you will normally be dismissed. You will be provided with written reasons for your dismissal and the date upon which your employment will cease together with notification of your right of appeal.

For dismissal other than gross misconduct MVR will pay salary in lieu of notice. Dismissal for gross misconduct will normally be summary dismissal, that is to say without notice or pay in lieu of notice and without prejudice to any other rights which we may have against you.

Alternatives to Dismissal

At its discretion, MVR may consider alternatives to dismissal, which will usually be accompanied by a final written warning. Examples include:

- demotion and/or loss of seniority;
- transfer to another department or job;
- a period of suspension without pay;
- reduction in pay.

Examples of Misconduct

Below are some examples of misconduct. It is stressed however this list is not exhaustive and on all occasions a full and proper investigation must take place prior to the issue of a warning:

- Breaches of MVR policies and procedures;
- Breaches of your employment contract;
- Damage to, or unauthorised use of, company property;
- Persistent lateness and poor timekeeping;
- Failure to meet required standard(s) of work or behaviours during probationary extension period;
- Absence from work, including going absent during work, without valid reason, notification or authorisation;
- Refusal to follow reasonable requests;
- Excessive personal use of company emails, internet, etc;

- Obscene language or other offensive behaviour;
- Smoking or vaping within unauthorised areas;
- Negligence in the performance of duties;
- Unreasonable standards of dress or personal hygiene.

Examples of Gross Misconduct

Listed below are examples of misconduct which may be considered to be Gross Misconduct and may warrant a Final Warning, Demotion or Dismissal. It is stressed however this list is not exhaustive and on all occasions a full and proper investigation must take place prior to the issuing of a Final Warning, Demotion or Dismissal:

- Theft, including unauthorised possession of MVR property;
- Breaches of confidentiality, prejudicial to the interest of MVR;
- Being unfit for duty because of the misuse/ consumption of drugs or alcohol;
- Refusal to carry out a management instruction which is within your capabilities, and which would be seen to be in our interest;
- Breach of confidentiality / security procedures;
- Bribing or attempting to bribe another individual, or personally taking or knowingly allowing another person to take a bribe;
- Physical assault, breach of the peace or verbal abuse;
- False declaration of qualifications or professional registration;
- Failure to observe our rules, regulations or procedures;
- Willful damage of property at work;
- Incompetence or failure to apply sound professional judgement.

Appeals

You have the right to appeal against the outcome of a disciplinary hearing. The basis of your appeal should normally relate to one of the following areas:

- our Procedure has not been followed correctly;
- the resulting disciplinary action was inappropriate;
- the need for disciplinary action was not warranted;
- new information which may influence disciplinary action, has arisen.

Your appeal should be put in writing, contain the grounds for appeal (whether its based on the facts of the case or the severity of the punishment) and should be lodged within 5 days of receipt of the warning / dismissal letter.

Detailed grounds for appeal must be submitted no later than 2 days prior to the Appeal Hearing. No additional written evidence will be admissible on the date of the hearing. If you raise anything new in your appeal, further investigation and adjournment of the appeal hearing may be necessary. If any new information comes to light, MVR will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before attending the appeal hearing.

Written notice of the date, time and place of the appeal hearing will be given to you. This will normally be within 5 working days of receiving your written appeal.

Witnesses may be required by either party at an appeal hearing, dependent upon the circumstances and nature of the case. Either party must give 5 days prior notice they intend to call specific persons involved or associated with the case under consideration.

The appeals against final warnings and dismissal will be heard by the appropriate Director or CEO. They may also involve another senior manager not previously involved with the case.

Following the appeal hearing, the Chair will either:

- Confirm the original decision;
- Revoke the original decision; or
- Substitute a different penalty (such as those outlined in 'alternatives to dismissal' above).

Outcome of Appeal

You will be informed in writing of our final decision as soon as possible, usually within 5 working days of the Appeal Hearing. Where possible an explanation will also be given in person. There is no further right of appeal.

Records

A record will be retained on your file detailing the nature of the Disciplinary Hearing and the outcome, plus any action taken and the reasons for that action together with any minutes taken and letters sent.

These records will be confidential and retained in accordance with the Data Protection Act and Freedom of Information Act. Copies of any meeting records can be provided to you, although in certain circumstances some information may be withheld, for example to protect a witness or where information contained is irrelevant.