



DISCIPLINE & APPEALS POLICY

1.0 INTRODUCTION

- 1.1 Almond Enterprises Ltd. (AEL Ltd.) recognises that it is important to have clear standards of performance and conduct at work, and that all employees should know and understand what is expected of them.

We will aim to achieve this through setting clear terms and conditions of employment, developing comprehensive policies and procedures and providing effective staff training, especially during the induction period for new employees.

- 1.2 We also recognise it is important to have effective disciplinary procedures so we can deal with situations when an employee has either clearly broken the rules, or where their performance, conduct or attendance appears to fall below the standards we regard as acceptable.

Our overall focus will be to resolve matters wherever possible, rather than automatically applying punitive action, subject to ensuring that the needs of the company and those we provide services to are met.

- 1.3 This policy and the supporting procedures apply to all permanent and temporary employees, irrespective of their length of service.

The term 'manager' as used in this document refers to the person who is:

- authorised to investigate a potential disciplinary offence;
- convene and chair a disciplinary meeting;
- decide on the level of disciplinary action to be taken;
- convene and chair an appeal hearing (this may include a Director).

Where 'Manager' appears, this refers to the actual post of Manager, Almond Enterprises Ltd.

- 1.4 While disciplinary action is being considered or is being taken, the employee involved may raise a grievance which may or may not be related to the disciplinary case. If this happens the manager will consider the appropriate action and will seek advice as required. For further details see the Grievance policy & procedure.
- 1.5 This policy and the supporting procedures comply with current Government and Acas guidance on Discipline & Appeals.
- 1.6 In implementing this policy we will ensure that we comply with our Equality and Diversity policy, in particular where any special arrangements are required for an employee with a

disability.

2.0 POLICY PRINCIPLES

2.1 This policy is based on the following key principles, including principles from the Acas Code of Practice:

- the procedure is designed to establish the facts quickly and deal consistently with disciplinary issues;
- the levels of management who can take the different types of action are specified;
- at every stage in the procedure the employee will be informed of the nature of the complaint against them;
- no disciplinary action will be taken until the matter has been fully investigated and the employee has been given an opportunity to state their case;
- all information and/or documentation relevant to the issue will be made available to the employee and, should they agree, to their representative;
- the employee has the right to be accompanied and be represented, if they wish, at every stage of the formal disciplinary procedure by a colleague or by a staff association/trade union representative, who has been certified in writing by their union as having experience of, or training in, acting as a worker's companion at disciplinary or grievance hearings, so long as the presence of the companion will not prejudice the hearing or result in a conflict of interest;
- the disciplinary procedure may be initiated at any of the stages 1 – 3 (see Section 4), depending on the seriousness of the alleged misconduct;
- disciplinary warnings given for different reasons will be cumulative for the purposes of following the various stages of the procedure;
- an employee will not normally be dismissed for a first offence, except where the offence comes into the category of gross misconduct;
- an employee will have the right to appeal against any disciplinary penalty imposed;
- the employee will be informed in writing of any disciplinary action taken, the reasons for the action, the change or improvement in behavior etc. expected (with timescales where appropriate, which will be reasonable according to the circumstances), the consequences of any failure to improve or of further incidents requiring disciplinary action, and the procedure for submitting an appeal;
- written communications will be sent to the employee's home address;
- references to disciplinary warnings issued will be removed from the employee's personal record at the end of the specified period, so long as the required standards have been attained and/or maintained and if no other incidents that would render the employee liable to disciplinary action have occurred in that time;
- repeated or re-occurring breaches of the same rules will entitle management to initiate

disciplinary action at a higher level, irrespective of the expiry of any previous warning.

3.0 INFORMAL COUNSELLING & MEDIATION

- 3.1 Wherever possible we will aim to encourage and maintain acceptable standards of conduct and performance without having to use the disciplinary procedures. We will therefore seek to deal with minor problems through performance management or informal counselling.
- 3.2 Performance management and counselling will not be part of the formal disciplinary procedure. Their aim will be to prevent the need for disciplinary action through helping the employee to recognise and overcome particular problems at an early stage.
- 3.3 We will consider the use of mediation services where this will contribute to the resolution of particular disciplinary situations for the benefit of the company and the staff involved.

4.0 DISCIPLINARY ACTION

- 4.1 There will be three levels of disciplinary action:

Level 1	- Improvement Note* or First written warning*	- for a minor breach of rules, or unsatisfactory conduct or performance
Level 2	- Final written warning	- for continued breaches of rules, or a more serious first offence
Level 3	- Dismissal (with or without suspension)	- for continued breaches of rules, or gross misconduct

For examples of offences which will result in disciplinary action, see Appendix 1.

[*An Improvement Note will be used where 'poor performance or behaviour' is the main issue. A First Written Warning will be used where there is a breach of rules or procedures.]

- 4.2 Each level of disciplinary action will remain on the employee's file for a minimum period, and will be removed at the end of the period if no further disciplinary action is required:
- Improvement Note/
First written warning - 6 months
 - Final written warning - 12 months
- 4.3 The length of time will begin on the date the warning was first issued, whether or not the employee submits an appeal which is subsequently unsuccessful. If, during the period of one warning a further warning is issued, the time period for the new warning will supersede the time period for the earlier warning.
- 4.4 Disciplinary action will be taken by the appropriate level of management (see Appendix 2A).
- 4.5 Where gross misconduct would normally result in dismissal, we may instead implement reductions in the employee's grade and associated salary. Any such demotion will be on a permanent basis, but the employee will have the right to secure subsequent advancement on the basis of effective performance and conduct.

We may also instigate suspension without pay for a period of up to two working weeks (all to be implemented through the first payroll after confirmation of any such punishment).

5.0 APPEALS

5.1 We recognise the importance of having an effective policy and procedure to enable an employee to appeal against disciplinary action taken against them.

5.2 Our appeals procedures are based on the principles contained in the Acas Code of Practice on Disciplinary and Grievance procedures. The key principles are:

- the time limit within which an appeal should be lodged is specified;
- an appeal is dealt with speedily;
- the appeals procedure is separate from the Grievance Procedure;
- the appeal is heard by the level of management above that which took the disciplinary action;
- the action which may be taken by those hearing the appeal is specified;
- the employee has the right to be accompanied and be represented, if they wish, by a colleague, or, if appropriate, by a staff association/trade union representative, who has been certified in writing by their union as having experience of, or training in, acting as a worker's companion at disciplinary or grievance hearings, so long as the presence of the companion will not prejudice the hearing or result in a conflict of interest.

5.3 Appeals against disciplinary action will be heard by the appropriate level of management as detailed in Appendix 2B.

6.0 UNAUTHORISED ABSENCE

6.1 Any employee who is absent from work for more than five days without giving notification will be sent a letter asking that they report to our office, at a specific date and time. If the employee does not attend, or fails to provide an adequate explanation for their non-attendance, a further letter will be sent, by recorded delivery, inviting the employee to attend a disciplinary meeting to discuss the absence.

6.2 If the employee does not attend the disciplinary meeting nor offer an acceptable explanation for their non-attendance, we will consider proceeding to dismissal.

6.3 The employee will not be eligible for pay for the period of absence from work, neither will they be entitled to notice or pay in lieu of notice, or for any other benefit that may otherwise accrue, during the period of notice.

Written acknowledgement of this will be sent to the individual along with confirmation of the final administrative arrangements and notification of the right to appeal.

6.4 Periods of unauthorised absence of less than five days may also result in disciplinary action,

which may lead to dismissal.

7.0 EXTERNAL ADVICE

7.1 Where appropriate, we may decide to involve a representative from an appropriate external personnel organisation in an advisory capacity at any stage of the disciplinary procedure.

8.0 IMPLEMENTATION AND REVIEW

8.1 The Manager will ensure that all employees are aware of the key principles in this policy, and that it is implemented when required.

8.2 The Manager will ensure that this policy is reviewed at least every three years by the Board of Directors.

FIRST APPROVED IN	AUGUST 2008
CURRENT VERSION 3.0 APPROVED IN	FEBRUARY 2019
NEXT REVIEW DUE BY	FEBRUARY 2022

APPENDIX 1

EXAMPLES OF OFFENCES WHICH MAY RESULT IN DISCIPLINARY ACTION

The examples of offences and misconduct below are not exhaustive. Employees are under a duty to comply with the standards of behaviour and performance we require, and to behave in a reasonable manner, at all times.

1. The following examples are regarded as ‘minor’ or ‘less serious’ and may result in an Improvement Note or First Written Warning. An Improvement Note will be used where ‘poor performance or behaviour’ is the main issue. A First Written Warning will be used where a breach of rules or procedures has occurred.

- Failure to achieve the required standards of work performance.
- Sub-standard or careless work over a period of time.
- Poor time-keeping.
- Unacceptable level of short-term absences or unexplained absenteeism.
- Failure to obey a reasonable instruction from a Supervisor or Manager.
- Negligence regarding the carrying out of prescribed duties which adversely affects clients and/or the reputation of the company.
- Failure to use safety clothing or safety equipment when required to do so.
- Breach of any other health & safety rules, where no injury, or damage to property or equipment results.
- Failure to follow computer/IT security procedures which **does not** result in any breach of confidentiality or loss of data.
- Neglect of equipment resulting in minor loss or damage to equipment or property.
- Unauthorised use of company property.
- Minor incidents of ‘harassment’ (which do not involve a breach of our Equality & Diversity policy), or other inappropriate behaviour, foul language etc. against a colleague.
- Initial failure to follow company policies or procedures.

Depending on the circumstances, any of the above may be regarded as ‘more serious’ conduct which may result in a Final Written Warning.

2. The undernoted offences are regarded as ‘more serious’ and will normally result in a Final Written Warning, which may be issued without any previous warnings in place.

- Any of the offences listed under (1) above occurring or re-occurring during the period that an Improvement Note or First Written Warning is in force.
- Failure to achieve and maintain the required improvement in performance or conduct by the date a first written warning is due to expire.
- Negligence in the carrying out of prescribed duties which seriously and adversely affects a client and/or the company’s efficiency and reputation and which may breach a code of conduct or statutory guidance.

- Failure to comply with the Equality & Diversity policy, including specific racial, sexual, age, sexual orientation, religion, belief or disability discrimination, harassment or victimisation.
- An incident of more serious harassment, bullying etc. against a colleague, possibly involving a minor level of violence.
- Breach of safety procedures or rules which results in minor injury to self or to others, and/or minor damage to equipment or property (depending on the circumstances this may also result in dismissal).
- Attendance at work under the influence of alcohol or drugs, but **not** wholly incapable of performing duties to a reasonable standard – except that in the case of authorised drivers of company vehicles this will also result in suspension.
- Deliberate or wilful failure to follow computer/IT security procedures resulting in loss of or damage to data, including abusive emails, unauthorised use of software or internet access.
- Posting negative or critical comments about the company on blogs or social networking sites, e.g. Facebook, Twitter etc., or about work colleagues – in particular without their knowledge, especially where this results in AEL's reputation being damaged without cause.
- Deliberately initiating a 'mischievous' complaint or grievance against any colleague or a Director.
- breach of the company's rules on the acceptance of gifts and benefits etc.

3. The undernoted offences are regarded as 'gross misconduct' and will normally result in dismissal following a period of suspension from duty. In the most serious cases the action may be summary dismissal without suspension, notice or payment in lieu of notice.

- Any of the offences listed under (2) above occurring or re-occurring during the period that a Final Written Warning is in force.
- Gross insubordination, i.e. refusal to obey a reasonable instruction accompanied by verbal abuse and/or threatening behaviour or actual violence towards a Supervisor or Manager.
- Wilful disregard of any company policy or procedure which has very serious adverse implications for clients, the company's efficiency and/or reputation.
- Fighting with a colleague at work, or assault, abusive or very threatening behaviour towards a colleague, tenant, other client or any other member of the public, while on duty.
- Theft or unauthorised possession either of company property, or of the personal property of a colleague or a client.
- Fraud or attempted fraud, e.g. falsely claiming benefits or expenses, falsification of documents including work records, time sheets, overtime sheets, attendance records, accounts or ledgers, whether manual or computerised, for personal benefit or the benefit of others, in breach of company rules or policies.
- Any other act of deceit or dishonesty relating to the employee's duties, or any other aspect of the company's activities.

- Provision of false or misleading information, or non-disclosure of information, either during the employment process or in subsequent employment, which materially affects the contract of employment.
- Breach or disregard of safety procedures or rules which seriously endangers the health and safety of others, i.e. potentially involving the loss of 'life or limb', whether or not actual injury or damage results.
- Attendance at work under the influence of alcohol or drugs to the extent that the individual is incapable of undertaking their prescribed duties to an acceptable standard.
- Wilful or grossly negligent damage to company property or equipment, or to the possessions or property of colleagues, clients or other members of the public, while on duty.
- Breach of confidentiality, i.e. the **unauthorised** disclosure of any confidential information about a colleague, client or any aspect of the company's business to any third party.
- Computer system sabotage, introduction of viruses or 'time bombs', hacking, breach of data protection rules, viewing and/or downloading of unacceptable material from the internet, e.g. pornographic, racist, violent.
- Any act of indecent or immoral behaviour while on duty.
- Non-disclosure of an interest in a contractual arrangement between the company and any other public agency or private company.
- Serious breach of the company's rules on acceptance of gifts and benefits etc., as detailed in the relevant policies.
- Serious acts of discrimination that are contrary to, or inconsistent with the company's Equality and Diversity policy in the areas of employment or provision of services, including any acts of harassment, victimisation or intimidation.
- Behaviour whether on duty or not on duty that results in, or is likely to result in criminal charges which adversely affects the individual's ability and/or suitability to perform their duties and responsibilities, particularly where the duties involve a degree of trust, or where there is a perceived risk to colleagues, clients or others.
- Failure to disclose a criminal charge or conviction while in the company's employment, when the charge or conviction is deemed to have implications for the individual's continued employment.

NOTES

1. The lists above contain examples only and are not to be regarded as exhaustive. The circumstances in each situation will be considered on their own merits, while having regard to the guidance above, and the disciplinary action to be taken will be at the appropriate level for that situation.
2. Where an offence would normally result in dismissal, but where as a result of mitigating circumstances the action is reduced to a Final Written warning, the warning may be kept on file for 3 years.

APPENDIX 2

PART A - LEVELS OF AUTHORITY FOR TAKING DISCIPLINARY ACTION

Staff Grade/Title	Improvement Note/ First written warning	Final written warning	Dismissal
Operative	Supervisor	Manager	Director
Supervisor	Manager	Manager	Director
Manager	Chairperson	Chairperson + Director	Chairperson

PART B - LEVELS OF AUTHORITY FOR HEARING APPEALS AGAINST DISCIPLINARY ACTION

Staff Grade/Title	Improvement Note/ First written warning	Final written warning	Dismissal
Operative	Manager	Director	Director*
Supervisor	Director	Director*	Office Bearer*
Manager	Board Panel**	Board Panel**	Board Panel**

[*Excluding anyone involved at an earlier stage – either disciplinary action or hearing an appeal]

[** Excluding any Director involved in the initial disciplinary action]