

PRIVACY ACT

PRINCIPLES SUMMARY

At the core of the Privacy Act are 12 information privacy principles that set out how we may collect, store, use and disclose personal information. 'Personal information' is any information about an individual (a living natural person) if that individual can be identified.

Principles 1 to 4 :

Govern the collection of personal information. This includes the reasons why personal information may be collected, where it may be collected from, and how it is collected.

Principle 5:

Governs the way personal information is stored. It is designed to protect personal information from unauthorised use or disclosure.

Principle 6:

Gives individuals the right to access information about themselves.

Principle 7:

Gives individuals the right to correct information about themselves.

Principles 8 to 11:

Place restrictions on how people and organisations can use or disclose personal information. These include ensuring information is accurate and up-to-date, and that it isn't improperly disclosed.

Principle 12:

Governs how "unique identifiers" – such as IRD numbers, bank client numbers, driver's license and passport numbers can be used.

Privacy Act – Pending Change due in November 2020

The Minister of Justice introduced a Bill amending the current Privacy Act (1993) on 20 March 2018 due to be implemented in March 2020. The Bill is in process and changes are due in November 2020. The Privacy Commissioner states that "the Bill contains measures to ensure the law addresses some of the most pressing aspects of the modern digital economy". You need to be aware of these pending changes, prepare to implement the necessary policy changes and prepare to educate your staff as increased penalties will occur for non-compliance.

PRIVACY ACT

PRIVACY ACT – PRINCIPLES IN DETAIL

Principle 1: Purpose of collection of personal information

Personal information must not be collected unless:

- the collection is for a lawful purpose connected with a function or activity of the agency collecting the information; and
- it is necessary to collect the information for that purpose

Principle 2: Source of personal information

Personal information must be collected directly from the individual concerned.

The exceptions to this are when the agency collecting the information believes on reasonable grounds that:

- the information is publicly available; or
- the individual concerned authorises collection of the information from someone else; or
- the interests of the individual concerned are not prejudiced; or
- it is necessary for a public sector agency to collect the information to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings; or
- complying with this principle would prejudice the purposes of collection; or
- complying with this principle would not be reasonably practical in the specific case; or
- the information will not be used in a form that identifies the individual; or
- the Privacy Commissioner has authorised collection under Section 54

Principle 3: Collection of information

When an agency collects personal information directly from the individual concerned, it must take reasonable steps to ensure the individual is aware of:

- the fact that the information is being collected;
- the purpose;
- the intended recipients;
- the names and addresses of who is collecting the information and who will hold it;
- any specific law governing provision of the information and whether provision is voluntary or mandatory;
- the consequences if all or any part of the requested information is not provided; and
- the individual's rights of access to and correction of personal information

Principle 4: Manner of collection of personal information

Personal information must not be collected by:

- unlawful means; or
- means that are unfair or intrude unreasonably on the personal affairs of the individual concerned

Principle 5: Storage and security of personal information

An agency holding personal information must ensure that:

- there are reasonable safeguards against loss, misuse or disclosure; and
- if it is necessary to give information to another person, such as someone working on contract, everything reasonable is done to prevent unauthorised use or disclosure of the information

PRIVACY ACT

Principle 6: Access to personal information

Where personal information is held in a way that it can readily be retrieved, the individual concerned is entitled to:

- obtain confirmation of whether the information is held; and
- have access to information about them

An agency may refuse to disclose personal information for a range of reasons, including that it would:

- pose risks to New Zealand's security or defense;
- breach confidences with another government;
- prevent detection of criminal offences or the right to a fair trial;
- endanger the safety of an individual;
- disclose a trade secret or unreasonably prejudice someone's commercial position;
- involve an unwarranted breach of another individual's privacy;
- breach confidence where the information has been gained solely for reasons to do with the individual's employment, or to decide whether to insure the individual;
- be contrary to the interests of an individual under the age of 16;
- breach legal professional privilege;
- reveal the confidential source of information provided to a Radio New Zealand or Television New Zealand journalist; or
- constitute contempt of court or the House of Representatives.

Requests can also be refused, for example, if the agency does not hold the information or if the request is frivolous or vexatious

Principle 7: Correction of personal information

Everyone is entitled to:

- request correction of their personal information;
- request that if it is not corrected, a statement is attached to the original information saying what correction was sought but not made.

If agencies have already passed on personal information that they then correct, they should inform the recipients about the correction

Principle 8: Accuracy of personal information to be checked before use

An agency must not use or disclose personal information without taking reasonable steps to check it is accurate, complete, relevant, up to date, and not misleading

Principle 9: Personal information not to be kept for longer than necessary

An agency holding personal information must not keep it for longer than needed for the purpose for which the agency collected it.

PRIVACY ACT

Principle 10: Limits on use of personal information

Personal information obtained in connection with one purpose must not be used for another. The exceptions include situations when the agency holding personal information believes on reasonable grounds that:

- the use is one of the purposes for which the information was collected; or
- the use is directly related to the purpose the information was obtained for; or
- the agency got the information from a publicly available publication; or
- the individual concerned has authorised the use; or
- the use is necessary for a public sector agency to collect the information to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings; or
- the use is necessary to prevent or lessen a serious and imminent threat to public health or safety, or the life or health of any individual; or
- the individual concerned is not identified; or
- the use is authorised by the Privacy Commissioner under section 54

Principle 11: Limits on disclosure of personal information

Personal information must not be disclosed unless the agency reasonably believes that:

- the disclosure is in connection with, or directly related to, one of the purposes for which it was obtained; or
- the agency got the information from a publicly available publication; or
- disclosure is to the individual concerned; or
- disclosure is authorised by the individual concerned; or
- it is necessary for a public sector agency to disclose the information to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings; or
- disclosure is necessary to prevent or lessen a serious and imminent threat to public health or safety, or the life or health of any individual; or
- disclosure is necessary to facilitate the sale of a business as a going concern; or
- the information is to be used in a form in which the individual concerned is not identified; or
- disclosure has been authorised by the Privacy Commissioner under section 54

Principle 12: Unique identifiers

Unique identifiers – such as IRD numbers, bank customer numbers, driver’s licence and passport numbers – must not be assigned to individuals unless this is necessary for the organisation concerned to carry out its functions efficiently. The identifiers must be truly unique to everyone (except in some tax related circumstances), and the identity of individuals must be clearly established. No one is required to disclose their unique identifier unless it is for, or related to, one of the purposes for which the identifier was assigned. The Government is not allowed to give people one personal number to use in all their dealings with government agencies

EXCEPTIONS TO THE PRINCIPLES

Many of the principles have built-in exceptions. It’s important to read the principles together with their exceptions to see how they relate to specific circumstances. The exceptions to principle 6 are set out in sections 27-29 of the Act.

The privacy principles do not cover an individual who collects or holds personal information solely or principally for personal, family or household reasons.

MINIMUM WAGE

The current minimum wage rates (before tax) are as at 1 June 2020 and apply to employees aged 16 years or over are:

Type of minimum wage	Hourly Rate	Weekly Rate (40-hour week)
Adult	\$18.90	\$756.00
Starting-out	\$15.12	\$604.80
Training	\$15.12	\$604.80

Adult Rate

The adult minimum wage rate applies to employees aged 16 years and over.

Starting-out Rate

The starting-out minimum wage applies to workers who are:

- 16- and 17-year-old employees who have not completed six calendar months of continuous employment service with their current employer.
- 18- and 19-year old employees who have been paid one or more social security benefits for six months or more, and who haven't completed six calendar months' continuous employment with an employer since they started being paid a benefit.

IMPORTANT NOTES:

- After six months with one employer they are not starting-out workers and must be paid the adult minimum wage.
- If an employee is supervising or training other workers, then the starting-out minimum wage rates do not apply, and they must be paid at least the adult minimum wage.

Training Rate:

The training rate applies to employees aged 20 years or over whose employment agreement states that they must do at least 60 credits a year of an industry training programme to become qualified in the area they are working in. Many of these employees will be apprentices. An apprentice has the same minimum rights and protections under employment law as any other employee but may be paid the training wage.

This rate does not apply to employees who are being trained at work, for example, by their employer at the start of their employment; it only applies to employees doing an *approved industry training programme*.

If an employee is supervising or training other workers, then the training wage rate does not apply, and they must be paid at least the adult minimum wage.

INFORMAL FEEDBACK & COACHING

Guide for Giving Feedback

This guide gives us template to prepare and to assess past feedback (for learning and improvement)

Feedback	Engagement	Ownership & Actions
Start with a thank you for their time	Ask open questions (e.g. are you aware, help me to understand, what's going on)	Encourage the person to focus on solutions (how do you think we can deal with this, so where to from here, what would be a more effective response in that situation)
Set the scene (e.g. the reason I wanted to talk to you today or I have noticed that...)	Wait for person to think / respond, no rush, silences are ok	Get actions points agreed then put them into writing / e-mail to confirm expectations
Give an example (e.g. I heard you sayand your tone of voice sounded to me like you were telling them what to do when this is not your job)	Paraphrase what you heard (so what you are telling me is that because ... then you think it is ok to ...)	Create consequences should the behaviour continue. After several discussions around the same issue you may need to say if it continues you will move from coaching to a formal performance management process.
Avoid emotive language / and words that are likely to create a negative emotional response (e.g. bossy, childish)	Keep doing this until you are sure the person understands the issue from your perspective	Get help from HR to prepare for a conversation if it happens again (if you directly observe something it is ok to say I just observed...and we need to talk about this later, I will let you know when suits)

INFORMAL FEEDBACK & COACHING

Specific Example 1 – Telling others what to do in an inappropriate manner

Feedback

Thanks for your time.

I have observed you communicating in a way that sounds like telling others what to do. For example, I overheard you say what **nnnn** should doand your tone sounded like you were giving instruction rather than asking a question or seeking clarification.

Engagement

Are you aware that you come across that way?
(space to record response)

Answer along lines of...

So what you are telling me is that when you get frustrated that things are not done then you think it is ok to tell your colleague what to do even though you do not have the same level of experience and are not their boss?

Ownership & Actions

I need to be clear that this situation can't continue, and we can't keep having these conversations.

How do you think we can prevent this recurring? Is there any support you need from us to resolve this situation?
(space to record response)

Remind the person that they have responsibility for changing their responses and documenting ideas in writing. And explain that this will become a more formal process if it continues.

E-mail the person a summary of your conversation (it is a good idea to run by HR first)

INFORMAL FEEDBACK & COACHING

Specific example 2 – Repeated personal phone calls and texts disrupting workflow

Feedback

Thank you for your time.

I heard you on your personal phone 2x again (or saw you texting etc) yesterday while you were working. I have advised you in the past that you need to take your breaks away from your desk to take these calls due to the impact this has on the wider team

Engagement

Are you aware that overuse of your personal phone is taking you away you're your agreed work time?
(space to record response)

Answer along lines of...

So, what you are telling me is that when you get these calls it's ok to disrupt the workflow and be paid for personal activities?

Ownership & Actions

I need to be clear that I expect all personal phone use to be away from your desk and during your breaks. We can't keep having these conversations.

How do you think we can prevent this recurring? Is there any support you need from us to resolve this situation?

(space to record response)

Thank the person for ownership of a solution, put agreed goals in writing and follow up.

E-mail a summary of your conversation (it is a good idea to run by HR first)

INFORMAL FEEDBACK & COACHING

Specific example 3 – Excessive Sick Leave taken

Feedback

Thanks for making time to meet with us today, in a recent HR audit we noticed that your sick leave total hours over the past year was quite high, so we had a look at monthly days sick leave and LWP over the past six months. As you can see below, there have been **NNNN** days off in the last **NNNN** months. We are wondering if you were aware of this?

(space for response)

Engagement

Can you tell us what has caused this level of sick leave which more than the equivalent of annual entitlement in the last three months and significantly higher than others who work here?

(space for response)

Ownership & Actions

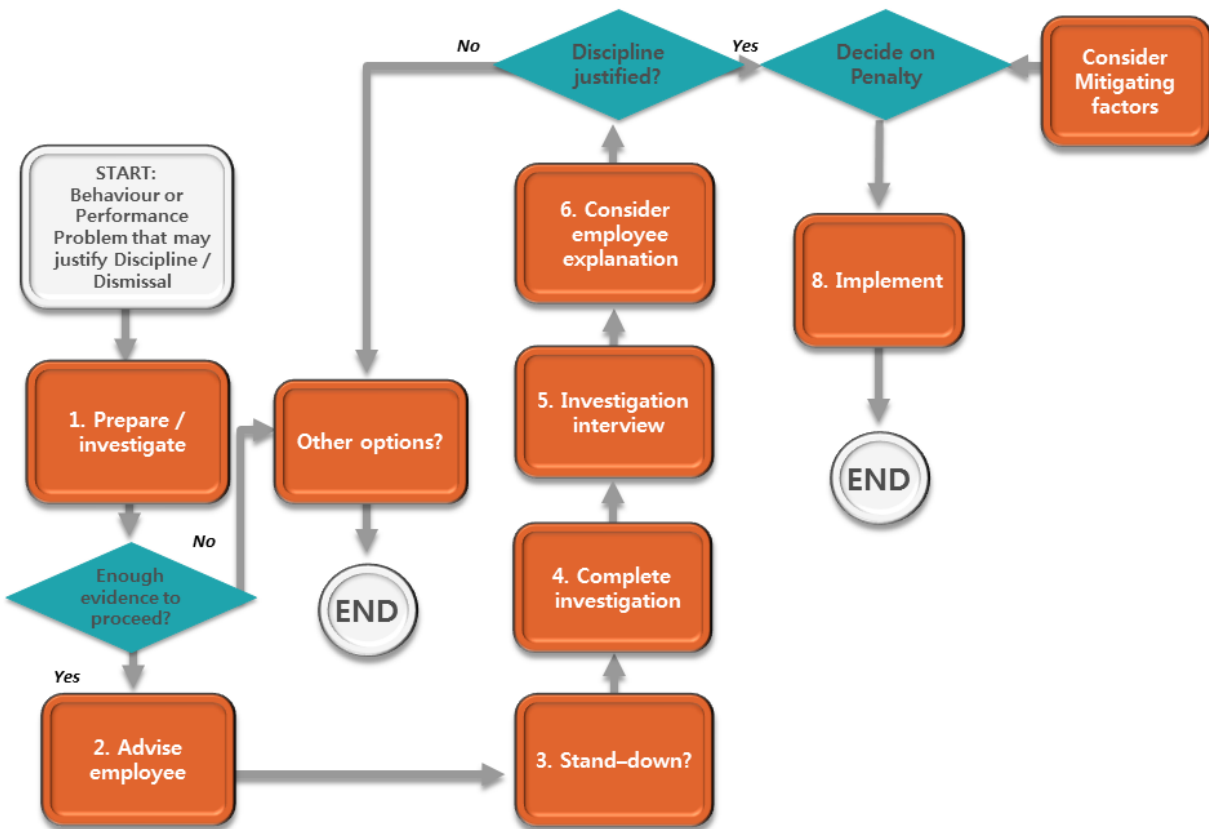
I need to be clear that this situation can't continue, and we can't keep having these conversations.

How do you think we can get the level of sick leave down? Is there any support you need from us to resolve this situation?

Thank the person for ownership of a solution, put agreed goals in writing and follow up.

E-mail a summary of your conversation (it is a good idea to run by HR first)

DISCIPLINARY PROCESS GUIDE



Note: Considering whether discipline is justified (based on seriousness of concerns) and penalty action to be taken (top blue diamonds in above chart) must be two distinct steps in the Discipline meeting and the employee must be given an opportunity to comment on both these steps before moving from a tentative view to a decision.

NB. All the Letters referred to below are available individually as template downloads through the HRNow App.

DISCIPLINARY PROCESS GUIDE

Misconduct or Serious Misconduct

- Consider the *possible* nature of the conduct, if it is possible there has been a breach of the serious misconduct rules or similar serious actions, consider whether suspension is appropriate
- Suspension should only be considered where; the allegation is serious, there are concerns the conduct could be repeated, there are safety concerns, or concerns that evidence might be tampered with or concerns that witnesses may be influenced
- If probable lesser misconduct, then do not suspend the employee

Suspension Process

- Advise the Employee that there are serious concerns ask them to attend a meeting to discuss possible suspension on pay
- Fair Process is a requirement when deciding to suspend the employee
- There may be some rare exceptions when an employer may not have to give the employee an opportunity to comment on the proposal to suspend prior to this being decided, e.g. where there could be an immediate danger to the employee or to others or the employee is unable to perform safety-sensitive work
- Where possible, give the employee the opportunity to have a support person at the meeting, but this cannot unreasonably delay the suspension meeting
- At the meeting, only the prospect of suspension on pay and the reason(s) why it is being considered are discussed, not the details of the allegation or concern
- Listen to employee's comments on suspension, adjourn, consider, return and advise of decision regarding whether to suspend the employee
- If suspended, send letter **A below**

Investigation

You are required to carry out a "*full and fair investigation*". This should involve the following:

- Interview all witnesses and take notes; you may interview the witness, write up the conversation and get it signed, or you may ask individuals to provide their own written statement
- Compare statements and re-interview witnesses if necessary, to try to resolve any inconsistencies or omissions
- Collect and preserve any evidence, including texts, videos or photographs
- Write a summary of the allegations arising from the investigation. This should not be as conclusions but as tentative views, e.g. "*It is alleged that...*" or "*it appears that . . .*".
- The conclusions will be included in your invitation to the investigation meeting, you are required to obtain the employee's perspective on the concerns and tentative views in the investigation meeting

Invitation to Investigation Meeting

- Invite the employee to an investigation meeting, using letter **B below**
- Send all the information gathered during the investigation to the employee, with the letter
- Allow enough time for the employee to gain representation (usually at least 2 days)
- The employee must be given the time they need to be represented and prepared

DISCIPLINARY PROCESS GUIDE

The Investigation Meeting

- Ensure that the person who is deciding on the outcome is involved in the meeting
- Take detailed notes of the discussion
- If the employee is unrepresented, remind them of their right to be represented as stated in their letter and ask the employee if they want to continue without representation / support
- Postpone meeting if the employee decides they want to wait so they can be represented
- Restate the allegations / concerns as outline in the letter
- Refer to the information gathered during the investigation and ensure that the employee is provided with the opportunity to comment on each issue raised
- Listen to the employee's explanation / perspective and query any inconsistencies
- You should test the employee's explanation by asking clarifying questions, not just listen to it
- Do not express any conclusions during the investigation meeting
- After the investigation meeting, you need to fully consider the employee's perspective and develop a tentative view on the seriousness of the concern / allegation

Invitation to Disciplinary Meeting

- Invite the employee to a disciplinary meeting, using either letter **C below** for possible serious misconduct or letter **D below** for possible less than serious misconduct
- Send all the information gathered during the investigation to the employee, with the letter
- Allow enough time for the employee to gain representation (usually at least 2 days)
- The employee must be given the time they need to be represented and prepared

The Disciplinary Meeting

- Advise the employee of your tentative view on the level of seriousness as outlined in the disciplinary meeting letter- and your tentative view on whether there has been possible misconduct or serious misconduct
- When the employee has had an opportunity to comment on your tentative view regarding the level of seriousness, adjourn and consider their comments then reconvene and advise of your decision about the seriousness, giving reasons (you may take until the next day if you prefer or if there is a lot of new information from the employee)
- Next advise the employee you want to hear input as to an appropriate action / penalty for the misconduct or serious misconduct
- Advise the employee of the possible outcome you are considering, e.g. a first warning, a final warning, or dismissal on notice
- For serious misconduct – advise that a possible outcome being considered would be dismissal but that you are prepared to consider whether other alternatives are appropriate
- Adjourn and consider any submissions made by the employee or representative, this may be done at the meeting with adjournments or over one or two days to do this
- When deciding on action to be taken, you must be consistent in how you treat / have treated other employees for similar issues.
- Reconvene and advise of your decision, e.g. warning or dismissal
- After the meeting, confirm your decision in writing on seriousness and action to be taken; if a warning, see letters **E or F below**, if dismissing, see letters **G or H below**.

DISCIPLINARY PROCESS GUIDE

Trial Periods

Significant issues to remember in relation to trial periods are:

- These only apply if you have 19 or less staff at the time an offer is made
- The trial period provision applies only to 'new' employees, i.e. employees who have not been previously employed by the employer
- If an employee has worked for you as a student, a casual, or on a fixed term on a previous occasion, you are not entitled to apply the 90-day trial period
- While you have protection from a Personal Grievance for dismissal, the 90-day trial period does not prevent an employee from taking a personal grievance over other matters that occur during the trial
- On this basis, you are required to treat an employee on a trial period in a fair way, as you would your permanent staff
- The trial period is not enforceable if the employee signs the employment agreement after having commenced employment, considering this it is also important that any induction occurs after the contract has been signed
- You need to keep an employee on a trial period fully informed as to their progress and likelihood of succeeding with the trial
- If you decide to terminate an employee within the trial period, you must give advance warning that you are considering this and should briefly communicate your reasons for doing so to the employee
- It is important to note that you must give notice consistent with the employment agreement to the employee if you are ending the trial
- Once you have formally given notice, then you may simply not require the employee to attend work for the rest of the notice period, but you must pay out the notice period

Trial Period Dismissal Procedure

There is no strict process necessary around the ending of a trial period, however it is advisable to:

- Advise the employee at least one week prior to the Dismissal that you are thinking of dismissing under the Trial Period and briefly say why
- Verbally advise the employee, *"I need to meet you to talk about your position and the trial period. You are welcome to bring a support person to the meeting if you wish"*
- At the meeting tell the employee that you are proposing to terminate the trial and give a general reason as to why
- Give the employee an opportunity to comment, leave the room for a few minutes, then return and give the required notice (as per employment agreement)
- Send written notice of termination using letter ***K below***

Misconduct or Serious Misconduct during Trial Period

If an employee on a trial period commits an act of misconduct it is preferable that this is treated in a low-key way by providing coaching. It is not recommended to start a disciplinary process.



DISCIPLINARY PROCESS GUIDE

Resignations during Disciplinary Process

A resignation in circumstances where the employee is; in a disciplinary process, known to be dissatisfied and/or writes a resignation letter expressing concerns about the employment situation should not initially be accepted. You should advise the employee that you will hold the resignation to give them a few days to reconsider their decision as you are concerned it may just be a reaction to the current situation. Offer to have a discussion with them about their resignation and respond to any questions or concerns they have.

Once the employee has taken time to reconsider their resignation, if they do choose to let the resignation stand you should add to your resignation letter, "As we received your resignation during a disciplinary process, we asked you to take a few days to reconsider this decision. You subsequently confirmed this decision and advised that you did not want to discuss this any further."

This does not apply when there are 'without prejudice' discussions held part way through the discipline process. 'Without prejudice' discussions are usually held to encourage people to settle disputes without resorting to litigation. It basically enables frank conversations, without fear of remarks made being referred to in current, or subsequent proceedings. But there are risks with these discussions and it is recommended that legal advice is sought.





DISCIPLINARY PROCESS GUIDE

A

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [**employee**]

SUSPENSION ON PAY

As you are aware, we have serious concerns in relation to [**briefly describe incident**].

After considering your comments on the prospect of suspension, I concluded that suspension on pay, pending investigation, was appropriate, due to our concerns that [**briefly describe concerns**]. You are therefore to remain away from work until I complete the investigation. I will send you a letter requiring you to attend an investigation meeting shortly.

In the meantime, I require that you do not contact any witnesses or those directly involved in the incident.

Yours,

[name]

[position in organisation]

[employing organisation name]





DISCIPLINARY PROCESS GUIDE

B

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [employee]

NOTICE OF INVESTIGATION MEETING

We request that you attend an investigation meeting on/...../..... at am/pm regarding the following concerns / allegations:

[*Briefly describe allegation*]

[*Quote possible breaches of employment agreement / job description / policies / house rules if appropriate*]

I have attached relevant information gathered to date as part of the investigation into this matter.

You should know that:

- the investigation is not disciplinary action
- no decision has been made yet
- your response about what did or didn't happen will be considered as part of the investigation
- the matter will be fully investigated before a decision is made about what happened or didn't happen
- only after the above decision is made will it be decided if any further action (including disciplinary action) needs to be taken.

Our intention with this investigation meeting is to consider and evaluate all relevant facts, including any explanation and further information you have regarding these errors. No decision in respect of this matter has been made or will be made in advance of following the appropriate process.

However, once a decision has been made about whether this incident potentially represents misconduct or serious misconduct and you have an opportunity to comment on this, a possible outcome of this investigation could be to initiate disciplinary action up to and including dismissal.

You are encouraged to bring a representative or support person to assist you at this meeting. If you consider that you need more time to find a representative or support person, please advise us and we will reschedule the meeting to a suitable time/date.

Yours,

[name]

[position in organisation]

[employing organisation name]



DISCIPLINARY PROCESS GUIDE

C

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [employee]

NOTICE OF DISCIPLINARY MEETING – POSSIBLE SERIOUS MISCONDUCT

You are requested to attend a disciplinary meeting on/...../..... at am/pm regarding possible serious misconduct.

Following our investigation meeting on **DATE**, we advise that our tentative view is that the concerns we discussed may represent *Serious Misconduct*. This tentative view is based on considerations including:

- The impact of these errors on the reputation of our business
- The inconvenience caused to clients
- The financial cost to our business
- The lack of attention when completing essential documentation checks
- Failure to follow correct procedures (CHANGE THESE AS NEEDED)

We have also considered your feedback and advise that **ADD DETAILS HERE**

In this meeting, you will have an opportunity to comment on our tentative view that these concerns may represent *Serious Misconduct*, then we will decide on the level of seriousness and advise you of this. We will then need to consider what, if any, disciplinary action is to be taken and we will ask for your perspective on what you think may be appropriate action.

You are encouraged to bring a representative or support person to assist you at this meeting. If you consider that you need more time to find a representative or support person, please advise us and we will reschedule the meeting to a suitable time/date.

You are advised that if our concerns amount to serious misconduct, disciplinary action up to and including instant dismissal may be considered.

Yours,

[name]

[position in organisation]

[employing organisation name]

DISCIPLINARY PROCESS GUIDE

D

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [**employee**]

NOTICE OF DISCIPLINARY MEETING – POSSIBLE MISCONDUCT [OR] POSSIBLE UNSATISFACTORY WORK PERFORMANCE

You are requested to attend a disciplinary meeting on/...../..... at am/pm regarding possible misconduct or possible unsatisfactory work performance.

Following our investigation meeting on **DATE**, we advise that our tentative view is that the concerns we discussed may represent *Misconduct or a Performance Issue*. This tentative view is based on considerations including:

- The impact of these errors on the reputation of our business
- The inconvenience caused to clients
- The financial cost to our business
- The lack of attention when completing essential documentation checks
- Failure to follow correct procedures (CHANGE THESE AS NEEDED)

We have also considered your feedback and advise that **ADD DETAILS HERE**

In this meeting, you will have an opportunity to comment on our tentative view that these concerns may represent *Misconduct or a Performance Issue*, then we will decide on the level of seriousness and advise you of this. We will then need to consider what, if any, disciplinary action is to be taken and we will ask for your perspective on what you think may be appropriate action.

You are encouraged to bring a representative or support person to assist you at this meeting. If you consider that you need more time to find a representative or support person, please advise us and we will reschedule the meeting to a suitable time/date.

You are advised that if the concerns amount to misconduct or a Performance Issue, disciplinary action may be considered up to and including a [**first**] or [**final**] warning.

[OR]

You are advised that if the concerns amount to misconduct or a Performance Issue, because you are on a final warning, disciplinary action may be considered up to and including dismissal on notice.

Yours,

[name]

[position in organisation]

[employing organisation name]

DISCIPLINARY PROCESS GUIDE

E

DECISION REGARDING DISCIPLINARY ACTION – MISCONDUCT – FIRST WARNING

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [employee]

FIRST WARNING

This letter confirms my verbal advice to you on [date of disciplinary meeting] that you would be issued a first warning.

After listening to your explanation, I was satisfied that following misconduct had occurred [or] work performance issues had been identified:

[Describe misconduct]

After discussing possible outcomes with you and giving you a chance to present your view of appropriate action, I decided that a first warning was appropriate. You are now issued with this first warning. You are required to observe the following corrective action:

[Describe requirements on the employee as a result of the warning]

Should there be any repetition of this misconduct or conduct of a similar nature [or these work performance issues], you will face further disciplinary procedures, with the likely outcome being a final written warning.

This warning will remain in force for a period of [12] months.

Yours,

[name]

[position in organisation]

[employing organisation name]

DISCIPLINARY PROCESS GUIDE

F

OUTCOME OF DISCIPLINARY MEETING – FINAL WARNING

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [employee]

FINAL WARNING

This letter confirms my verbal advice to you on [date of disciplinary meeting] that you would be issued a final warning.

After listening to your explanation, I was satisfied that following misconduct had occurred [or] work performance issues were identified:

[Describe misconduct]

After discussing possible outcomes with you and giving you a chance to present your view of appropriate action, and considering the fact that you are already on a first warning, I decided that a final warning was appropriate. You are now issued with this final warning. You are required to observe the following corrective action:

[Describe requirements on the employee as a result of the warning]

Should there be any repetition of this misconduct or conduct of a similar nature [or these work performance issues], you will face further disciplinary procedures, and due to the fact that you are on this final warning, dismissal will be a likely outcome.

This warning will remain in force for a period of [12] months.

Yours,

[name]

[position in organisation]

[employing organisation name]

DISCIPLINARY PROCESS GUIDE

G

TERMINATION OF EMPLOYMENT - MISCONDUCT

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [employee]

TERMINATION OF EMPLOYMENT - MISCONDUCT

This letter is to record the outcome of the disciplinary meeting held on [date].

After hearing your explanations surrounding the [brief description of the allegation] it was determined that misconduct had occurred. After hearing your comments on an appropriate outcome and taking into account the fact that you were on a Final Warning it was determined that you would be dismissed. You were therefore given [insert contractual notice period] notice of termination of your employment.

[Optional:

We agreed that you would not have to work out your notice period.]

Yours,

[name]

[position in organisation]

[employing organisation name]



DISCIPLINARY PROCESS GUIDE

H

OUTCOME OF DISCIPLINARY MEETING – SERIOUS MISCONDUCT

[Company Letterhead or Company Name and Address Details]

[Date]

Dear [**employee**]

OUTCOME OF DISCIPLINARY MEETING

This letter confirms our verbal advice at our disciplinary meeting held on [**date**].

At the meeting, having heard and considered your explanations, we concluded that [**allegation**] amounted to serious misconduct. We then discussed with you what the appropriate penalty should be. We concluded that dismissal was the appropriate action. Your employment was then terminated with immediate effect.

Your final pay will be direct credited to your bank account.

Yours,

[name]

[position in organisation]

[employing organisation name]

