

DISCIPLINARY POLICY AND PROCEDURE			
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For use by:	All employees of Burgess Farms and its subsidiary Companies		
Purpose:	To ensure all employees know what standards are expected and where disciplinary action is contemplated, employees are treated fairly and reasonably		
This document supports: <i>Standards and legislation</i>	Acas Code of Practice 1 – Disciplinary and Grievance Procedures Employment Rights Act 1996 Trade Union and Labour Relations (Consolidation) Act 1992 Equality Act 2010		
Key related documents:	Grievance Procedure Capability Policy and Procedure Dignity at Work Policy and Procedure Managing Absence Policy and Procedure Managing Long Term Absence Policy and Procedure CCTV Policy Drugs and Alcohol Policy Stop and Search Policy GDPR Privacy Notice Data Protection Policy Data Retention Schedule		
Review date:	Changes to legislation / Changes to Company policy		



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Definitions

“**Company**” means Burgess Farms

“**Subsidiary Companies**” means all Companies owned by Burgess Farms

1. Policy Statement

The Company's policy is designed in line with Acas Code of Practice 1. The policy is to encourage and therefore expect employees to achieve and maintain acceptable standards of conduct and to ensure that employees know what standards are expected of them in their work. The aim of this policy and procedure is to ensure reasonable, consistent and fair treatment for all employees.

We recognise the importance of clearly communicating the standards and behaviours we expect of our employees. The disciplinary policy forms part of this communication and the formal process is instigated when standards fall below those which we consider satisfactory in the workplace.

The policy is not intended primarily as a means of imposing sanctions and punishment but as a means of emphasising and encouraging the attainment of good standards of individual conduct.

The Company reserves the right to amend the policy and procedure as necessary to meet any changing legislation or business requirements. This policy does not confer any contractual rights on employees.

Issues of poor performance due to capability are dealt with by the Company in accordance with the Capability Policy.

Issues of poor performance related to conduct or gross negligence are dealt with as conduct under the Disciplinary Policy.

The procedure is non contractual and we reserve the right to amend this policy at any time.

2. Key Principles

The Company will:

- raise and deal with issues promptly
- not unreasonably delay meetings, decisions or confirmation of those decisions

- act consistently and fairly
- carry out any necessary investigations, to establish the facts of the case
- inform employees of the basis of the allegation and give them an opportunity to put their case forward
- respond before any decisions are made
- allow employees to be accompanied at any formal disciplinary meeting
- allow employees to appeal against any formal disciplinary outcome.

3. Scope

This policy and procedure applies to all employees employed by Burgess Farms and its subsidiary companies.

4. Disciplinary Policy

4.1 Disciplinary Stages

Minor issues of misconduct will usually be addressed informally, however repeated or more serious matters will constitute formal action.

As reflects best practice and ACAS approved guidelines, the stages and scope of the formal procedure are defined below;

- At every stage of the procedure an employee will be advised of the nature of the misconduct or complaint against them, their right to be accompanied, informed of all relevant evidence and will be given the opportunity to state their case before any decision is taken.
- No disciplinary action will be taken against an employee until the case has been fully investigated.
- Other than those essential to the disciplinary process, the proceedings, witness statements and records will be kept confidential.
- Normally employees will not be dismissed for a first instance of discipline, except in the case of Gross Misconduct when the penalty will normally be summary dismissal.
- The employee will be given notice of the meeting in line with statutory guidelines as a minimum, alongside all evidence that may be used in the meeting.
- In appropriate cases, such as poor performance or an unacceptable level of absenteeism, an employee may be advised of the time allowed for improvement and necessary support made available to attain the necessary standard.
- All warnings will highlight the consequences of failure to improve or further breaches of the rules.
- Help and guidance will be given to employees to enable them to achieve the required standards of conduct and/or performance where appropriate.
- All employees will have the right of appeal at all stages of the disciplinary procedure.
- A fellow employee or a Trade Union Official may accompany an employee to a disciplinary meeting. The chosen companion has the right to address the hearing but not to answer questions on the employee's behalf.

- Each case will be assessed on its merits taking into account any mitigating circumstances. The procedure may be initiated at any stage dependent upon the seriousness of the breach of rules or misconduct.

4.2 Summary Dismissal

Where the decision to dismiss has been made on the grounds of Gross Misconduct (see Appendix 1) summary dismissal (dismissal without notice) may be applied.

4.3 Suspension

The Company reserves the right to suspend an employee on full basic pay while an investigation into any alleged offence is carried out. Suspension is a neutral act and does not imply guilt on the part of the employee suspended. During the period of suspension employees may be refused:

- access to any of the Company's premises
- contact with other employees, clients, suppliers or contractors
- access to Company IT and communication systems

You are to remain available to attend work at all times during your suspension.

If you are suspended on full pay but tell us you are unfit to work because of sickness issues, then you will be paid according to your contract of employment, which could entail a reduction in what you are paid, for example statutory sick pay.

If pre-approved holidays fall during a period of suspension, they will still count as holiday leave and will be deducted from your holiday entitlement as normal.

4.4 Criminal Charges and Convictions

The Company reserves the right to dismiss an employee because they have been charged with, or convicted of, a criminal offence that occurred outside the workplace. This decision will be based upon the fact that the alleged conduct is thought likely to affect the continued employment relationship. Consideration will be given to what effect the charge or conviction has on the employee's suitability to do the job and the employee's relationship with their employer, work colleagues and customers. The offences most likely to impact on the employment relationship are those involving dishonesty, fraud, theft, violence or inappropriate sexual behaviour.

In each case, having considered the facts, the Company will decide whether or not the conduct is sufficiently serious to warrant invoking its disciplinary procedure.

4.5 Format of Meetings

Any meeting that may take place as part of the informal or formal disciplinary procedure will usually be held face to face where practical, this may be on the Company premises or in special circumstances, in a neutral location. There may be certain circumstances where face to face meetings cannot take place, if this happens to be the case meetings will be held virtually, via a video platform or telephone call.

4.6 Right of Representation

Employees have the right to be accompanied by a fellow work colleague or a trade union official from a trade union in the disciplinary or appeal meeting. If an employee wishes to be accompanied, they will inform the Company of the name of their work colleague employee or trade union official prior to the meeting. An employee may not ask a member of Human Resources (HR) to accompany them. It is the employee's responsibility to ensure that the companion is able to attend the meeting as scheduled.

The employee representative is there to support the employee. They are permitted to address the hearing, but are not permitted to answer questions on the employee's behalf. The employee representative may request an adjournment to a disciplinary hearing at any point if they feel the employee needs a break from the proceedings or to confer with the employee.

4.7 Record Keeping & Data Protection

In order to prove a fair procedure, should this be necessary, the minutes of disciplinary discussions and meetings will be kept together with copies of any warnings issued on the employee's personal file.

The employee will be asked to sign the minutes of any disciplinary meeting as an accurate account of the discussions that took place. The employee will read the minutes before signing and mark any amendments. Where possible, all amendments will be agreed with the Disciplinary Manager or HR Representative who will also sign the minutes. The minutes will be sent to the employee without unreasonable delay after the meeting for their reference.

Whilst disciplinary records remain 'live' on personnel files for the period specified on letters issued, access to any such records will be strictly controlled in accordance with the statutory requirements of the General Data Protection Regulations (GDPR) (refer to the Company's Data Protection policy). Records will be retained on Company systems for the period specified within the Company's Data Retention schedules.

Please note that it is prohibited for employees to record (whether covertly or otherwise) the proceedings at any meeting in accordance with this policy, without the express permission of the Company. If it is found that an employee has recorded such meetings, they could be subject to further disciplinary action.

4.8 Expired Warnings

Any warnings and associated documents shall be kept on file for the term of your employment, however once the 'live' period of any warning has been spent, the circumstances will not be used in any further disciplinary proceedings.

4.9 Confidentiality

Where any information is given by the employee or about the employee, their right to absolute confidentiality on all personal matters will be guaranteed by all parties.

Access to this information will be restricted to the business where appropriate and for business statistical purposes unless otherwise mandated by law.

4.10 Complaints

Any employee who is dissatisfied with the application of this policy may raise their concerns in writing to their first Line Manager who will address their concerns with HR.

If this happens, the Chairperson will consider whether to suspend the disciplinary procedure for a short period whilst the complaint is dealt with or to deal with the complaint and disciplinary matter concurrently.

4.11 Breach of Policy

Breach of the Disciplinary Policy and Procedure by employees will be regarded as misconduct and could lead to disciplinary action.

5. Disciplinary Procedure

5.1 Procedure Statement

The Company reserves the right to use or omit any step in the procedure should it consider it appropriate, depending on the circumstances of the case and the seriousness of the conduct. If, having embarked upon the disciplinary procedure, HR consider that the issue may be more appropriately dealt with under the Capability Procedure; the Company reserves the right to invoke the capability procedure at any stage.

5.2 Informal Procedure

Where a manager identifies poor performance or minor misconduct, this will be discussed with the employee at the earliest opportunity.

5.3 Counselling

Counselling does not form part of the formal disciplinary procedure. It may be used as an initial step to resolve issues of minor unacceptable conduct i.e. where an employee is failing to meet the required Company standards. The immediate Line Manager or Supervisor will counsel the employee on an informal basis which will take the form of a one to one meeting.

There is no automatic right to be represented at this stage, but employees may request this.

The purpose of counselling is to explore and establish;

- areas of concern
- standards required
- contributory factors or additional problems facing the employee
- support and training to achieve required standards
- a time bound process for review and resolution

An agreed written account of any counselling, including an indication of the above and the final outcomes will be provided to the employee and a copy will be retained by the Manager until the matter has been resolved.

The employee will be informed that continued failure to meet the standards may result in formal action being taken under the disciplinary procedure.

Any documentation at the counselling stage may form part of the disciplinary investigation at a later stage.

5.4 Formal Procedure

Before any formal action is taken against an employee, the Company will conduct a reasonable investigation to establish the relevant facts.

The investigation may be undertaken by the immediate Line Manager or where this is not appropriate; a member of the HR team will nominate a manager who has not previously been involved in the case to conduct the investigation. HR advice should be sought at this stage.

5.5 Disciplinary investigation

Managers must ensure that the investigation is conducted in a way that does not discriminate.

The aim of the investigation will be to:

- ascertain the facts
- assess the facts
- reach conclusions on what occurred
- identify the allegation displayed by the facts
- determine whether there is a case to answer
- determine whether a disciplinary meeting will be convened
- make any other recommendations

The investigation may include an investigatory interview with the employee, gaining statements and/or interviewing witnesses or others involved, viewing CCTV, sourcing evidence such as work records and supporting policies and procedures.

Where an investigation meeting takes place, there is no automatic right to be represented but employees may request this. It may be appropriate to provide written invitation and advance warning of this meeting, however there is no statutory notice or right to this.

An employee may not be invited to an investigation meeting and may only be invited to a disciplinary meeting once the investigation has concluded, this is dependant on the circumstances of the disciplinary proceedings.

The manager leading the investigation will endeavour to conclude the investigation as soon as reasonably possible. The manager leading the investigation will inform the employee of the outcome of the investigation. This may be given verbally in the first instance but will be followed up in writing without unreasonable delay. This includes cases where no further action is required or formal disciplinary action is to be evoked.

In the case of Gross Misconduct, the investigating manager should be different to the disciplinary hearing manager. For cases of misconduct, it is preferable that the manager conducting the investigation is different to the manager who will chair the disciplinary, however it is accepted that in some cases, the most appropriate course of action is for the colleague's Line Manager to fulfil both roles. HR will assess the merits of each case and make recommendations accordingly.

5.6 Conduct of the Disciplinary Meeting

An employee will be invited to a disciplinary meeting in writing with reasonable and fair notice in accordance with statutory requirements, the letter will include;

- when and where your disciplinary meeting will take place;
- who will be present
- your right to be accompanied
- the details of the allegation of misconduct made against you; and
- the possible consequences.

All evidence that has been collected during the investigation and may be used at the disciplinary hearing, will also be enclosed.

The disciplinary meeting will be chaired by an appropriately authorised manager normally accompanied by a representative of HR and/or a note taker. The manager chairing the meeting must make it clear to the employee and all present that the event is a disciplinary meeting. All people present will be introduced to the employee and an explanation given as to why they are in attendance. The purpose of the meeting should be clearly stated:

- the agenda for the meeting
- the relevance to the Company's disciplinary procedure
- to have an exchange of views concerning the allegation made
- to consider what level of disciplinary action will be taken, if any

The nature of the allegations will be outlined and the basis of the case will be clearly defined.

The purpose of the meeting is to provide an opportunity to discuss the facts with the employee and to allow fair consideration before a decision is reached. Both parties will be given the opportunity to state their case and examine all relevant information, ask questions and call relevant witnesses if desired.

All the facts will be thoroughly examined, including any contested allegations.

Any statements or evidence will be seen by both parties prior to the meeting. If any new facts emerge, a decision will be made on whether a further investigation is required; if so, the meeting will be adjourned and reconvened when the investigation is completed. The employee or their representative may similarly request an adjournment, for example to consult on a particular point arising.

An adjournment will be called before reaching a decision.

All decisions made will be based on the facts and mitigating evidence as available at the time of the disciplinary meeting. Decisions will be made by the chair of the meeting on the balance of probabilities – in other words what they consider to be more likely on the basis of the evidence before them.

In consideration of the appropriate outcome, if any, the following non-exclusive factors will be taken into account;

- the gravity of the offence
- the employee's disciplinary record, general record, position and length of service
- any mitigating circumstances
- the reasonableness of the sanction in the circumstances of the case
- where dismissal is being considered, whether there are any lesser sanctions that would be appropriate. Lesser sanctions could include suspension without pay, demotion, transfer to a different role or an extension to a current final written warning, if applicable.

The employee may be verbally informed of the decision; any action taken, the rationale for the decision and the right of appeal. The outcome will be confirmed in writing to the employee without unreasonable delay. In certain circumstances, where a lengthened adjournment is required to fairly consider what sanction should be imposed, the outcome may be conveyed to the employee via phone call or by letter without reasonable delay.

Notes of the disciplinary meeting will be kept by the HR representative or note taker present at the meeting, the chair is responsible for ensuring that the summary is agreed and signed by all parties.

5.6.1 Failure to Attend a Meeting

Should you fail to attend a disciplinary meeting and/or fail to make contact with the Company to make alternative arrangements, you will be given one final opportunity to attend a further re-scheduled meeting. Failure to attend this re-scheduled meeting, without good reason, may result in the hearing being held in your absence and a decision made.

Should you make contact with the Company to re-arrange an alternative date, and subsequently fail to attend the meeting, a decision will be taken in your absence. Failure to

attend the meetings may also be regarded as a failure to comply with a reasonable management instruction as per this policy, which may warrant disciplinary sanction being issued up to and including summary dismissal.

5.7 Levels of Disciplinary Action

Stage 1 - First Written Warning

A First Written Warning may be issued if the offence is a serious one, or if a further offence occurs and the counselling period is still valid. The warning will give details of the complaint and in appropriate circumstances the improvement requirement and the timescale. It will warn that action under further stages of this policy will be considered if there is no satisfactory improvement, or any repetition of misconduct. A copy of this written warning will be retained on file but it will be spent for disciplinary purposes after 12 months.

Stage 2 - Final Written Warning

If there is still a failure to improve the conduct or if the misconduct is sufficiently serious a Final Written Warning will normally be given. The warning will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement, or any repetition of misconduct and will advise of the right of appeal. A copy of this final written warning will be retained on file but it will normally be spent for disciplinary purposes after 12 months.

Stage 3 - Dismissal

If conduct remains unsatisfactory and the employee still fails to reach the prescribed standards, dismissal will normally result. The Company will only dismiss employees summarily in the event of gross misconduct (see below). The employee will be provided, without unreasonable delay, with written reasons for dismissal, the date on which employment will terminate and confirming the right of appeal. In exceptional circumstances, breaches of conduct that would normally justify dismissal may be dealt with in an alternative manner, for example suspension without pay, demotion, transfer to a different role or an extension to a current final written warning, if applicable.

5.8 Witnesses

The Company reserves the right to be able to call upon independent witnesses to take part in the disciplinary process where it is felt appropriate and necessary to the case. This includes chairing any meeting in line with the formal disciplinary proceedings.

If there are any further documents, including witness statements, the employee wishes to be considered at any meetings, they should provide copies in advance. If an employee wishes documents to be considered that they cannot access, they should notify the manager or HR so that, if relevant, these documents can be obtained on their behalf. The Company reserves the right to refuse access to sensitive and confidential documents.

Employees are also entitled to call witnesses of their own to any meetings arranged; names should be provided to the manager or HR in advance of any meeting taking place.

Any witnesses called will be seen independently within investigatory meetings. Witnesses will be advised prior to any investigation that their names and statements may be used within the disciplinary process and that the information will be kept confidential to the investigating officer.

It is not Company policy to use 'anonymous' statements, unless during particularly sensitive cases and HR should advise in these situations.

6. Alternatives to Dismissal

In line with ACAS recommendations, depending upon the seriousness of the conduct and the individual circumstances, managers may consider the viability of a suitable alternative to dismissal. When circumstances are such that an alternative may be considered, the following options may be more appropriate:

- A period of suspension without pay
- Demotion (giving a set timescale for when this penalty is 'spent' e.g. 12 months, six months). If demotion involves reduction in pay, any such reduction will be introduced in a reasonable manner. After the spent demotion period, the employee will be free to apply for any suitable vacancies within the group at the level of their previous position.
- An extension to a current final written warning, if applicable.

The Company is not obliged to pursue any alternative to dismissal.

7. Appeal

All employees have the right to appeal against any disciplinary outcome. If they wish to avail themselves of that right they will do so in writing, detailing the grounds of the appeal, within 7 working days of that the date of disciplinary outcome letter. The grounds for appeal will be directed to the Chairperson of the disciplinary meeting.

7.1 Appeal Panel Members

Appeal hearings are where possible carried out by the next level of authority above the disciplining manager or from another area of the business and will be arranged without unreasonable delay. You will be notified in writing of the date of the appeal hearing.

7.2 Note Taking

An independent person either from HR or other function will be note taker at the appeal hearing.

7.3 Appeal Procedure

An employee will be invited to an appeal meeting in writing with reasonable and fair notice in accordance with statutory requirements, the letter will include;

- when and where your appeal meeting will take place;
- who will be present
- your right to be accompanied

During the appeal meeting;

- The Chairperson will confirm with the employee the grounds on which the appeal is being made. The employee will outline their reasons, in full, for the appeal.
- The Chairperson may ask questions as may be appropriate after the employee has stated their case for appeal.
- The Chairperson will re-outline the management case and may call witnesses.
- The employee may ask questions of the management case and/or bring their own witnesses.
- The Chairperson will clarify any issues raised.
- The Chairperson will summarise the management case.
- The employee or their representative may summarise the employee's case.
- Where applicable further investigation may need to take place, in this case an adjournment will be made and the meeting will reconvene as soon as reasonably possible
- The Chairperson will bring the meeting to a close and will then consider the facts, before reaching their decision.

7.4 Decision

The decision will usually follow an adjournment from the appeal meeting. The Chairperson's decision will normally be given verbally, together with their reasoning, a copy of which will be supplied to the employee in writing within five working days of the appeal. There is only one stage of internal appeal and that decision will be final.

8. Additional Information

For further advice about the options that are available to an employee and the procedures required of the Company and the employee visit www.acas.org.uk.

9. Appendix 1

9.1 Misconduct

Breaches of the following rules which, if substantiated, may result in informal action such as counselling or formal disciplinary action resulting in issuing of a first written warning, a final written warning, or dismissal with notice, depending upon the circumstances;

- Unauthorised absence, poor attendance/poor timekeeping
- Failure to adhere to the absence notification procedure

- Failure to interact appropriately with colleagues, suppliers, customers, or other Company stakeholders
- Manner of performance of duties and/or attitude towards manager or colleagues
- An unintentional act of prejudice, discrimination, harassment, victimisation or behaviour that may be perceived as intimidating
- Any activity outside the scope of normal accepted employment practices whilst in working hours or on Company premises at any time
- A minor breach of safety regulations or non-observance of a provision of the Health and Safety at Work Act
- Failure to comply with uniform, personal protective equipment, personal appearance or hygiene requirements
- Abuse or misuse of sickness pay/leave provisions
- Breach of contract/terms and conditions of employment
- Breach of confidentiality – disclosure of privileged and confidential information to unauthorised persons
- Participating without authority in other employment, trade, business or profession which is prejudicial to, or which adversely affects employment with the Company
- Abuse or misuse of the Company's property
- Failure to carry out reasonable instructions given by management effectively and in a timely manner
- Unacceptable conduct contrary to the Company's policies, values and behaviours
- Failure to adequately perform duties of individual job description
- Any breach of Company policy, rules or procedures

This list is not exhaustive.

9.2 Gross Misconduct

The following list provides examples of offences that are normally regarded as Gross Misconduct leading to summary dismissal without notice or pay in lieu of notice, even for a first offence;

- Any act that irreparably breaks the mutual trust and confidence between the Company and the employee
- Any act that brings or is likely to bring the Company into disrepute (Including behaviour outside of the workplace)
- Conviction of a criminal offence or behaviour, which makes the employee unsuitable for their role
- AWOL absence from site
- Any act of indecent or inappropriate behaviour
- Smoking in prohibited areas including in Company vehicles
- Serious breach of health and safety rules
- Theft or attempted theft

- Use of abusive language or written remarks. These could be addressed at another colleague or third party but would include anyone where we believe it could damage the reputation of the Company
- Refusal to comply with a lawful and reasonable request
- Supplying, possession, consuming or being under the influence of alcohol or drugs, including legal highs, solvents and abuse of prescription drugs
- Unauthorised removal from site of Company property
- Fraud, forgery or falsification of records or expense claims
- Assault, threatening behaviour or fighting
- Disclosure of confidential and/or Company information
- Misuse of Company property, including misuse of a Company credit card
- Making false claims and other acts of dishonesty
- Intentional damage to company property
- Incapability through alcohol, illegal drugs, legal highs, solvents or abuse of illegal highs.
- Serious negligence or dereliction of duty, which causes unacceptable loss, damage or injury
- Serious acts of insubordination
- Recording (whether covertly or otherwise) any meeting without consent
- Deliberate product contamination or handling product in an unsafe manner
- Unauthorised computer access
- Sexual, Racial or any other form of Harassment, including bullying
- Acts of discrimination (racial, sex, sexual orientation, age, religious, disability)
- Serious misuse of communications systems, e.g. e-mail, internet etc...
- Solicitation and/or acceptance of gifts, money or other inducements for personal gain or the gain of family/friends
- Breach of Company Data Protection rules
- Any conduct or performance bringing the Company into public disrepute
- Breach of Company IT policies

This list does no more than cover possible offences and is not exhaustive.