

COMPANY POLICY MISCONDUCT & CONSEQUENCE MANAGEMENT

Purpose	This policy spells out the behaviour and actions which are not tolerated by the Company in order to promote a workplace that is safe, orderly and harmonious. It is also intended to correct and improve the standard of conduct of an employee where appropriate or necessary and to ensure that all employees are treated fairly, equally and consistently.
Scope	Applicable to all permanent and contract employees employed by the Company in all types of work patterns except shift work.
Revision date	
Issued by	HR Department
Approved by	Managing Director

Contents

Definition of misconduct

- Misconduct is an act or omission which violates or affects the employee's expressed or implied obligations to the Company.
- The misconduct must be related to the employees' duties or work or his position as an employee of the Company both within the Company's premises or outside.
- Act or behave in a way that affects the Company's image or reputation both directly or indirectly outside of the Company's premise shall be construed as misconduct.

Types of misconduct

1. Tardiness, punctuality, attendance and mannerism at work
 - Tardiness at work or at keeping appointments including being late to meetings without prior notification.
 - Reporting to work late.
 - Absent to work or absence from authorized workplace during work hours.
 - Leaving the Company premises during working hours without approval from Immediate Superior.
 - Taking breaks that are longer than authorised.
 - Failure or refusal to attend scheduled meetings, trainings, workshops or any type of engagements without apologies or without sending an authorised representative (where applicable).
 - Not turning up for overtime work after having agreed to do so.
 - Playing games on computer or mobile device during work hours.
 - Behaving in a boisterous manner that disturbs the work environment during work hours.
 - Engaging in horse play with others during work hours.
 - Sleeping while on duty.
 - Failure to scan at the guardhouse/attendance system and tailgating.

2. Negligence of duty and conditions of employment
 - Negligence or gross negligence of duty including not understanding an instruction irrespective of whether it has resulted in a loss to the Company or otherwise.
3. **Safety and security**
 - Gross disregard of security measures.
 - Parking vehicles outside the designated areas or general parking offences such as double parking or haphazard parking within the Company's premises or other designated areas provided by the Company.
 - Non-compliance to security procedures or failure to obey the instruction of security personnel.
 - Driving vehicles without due care and attention within Company premises.
 - Tampering with safety devices, fitting or machinery with or without mal intent.
4. **Safety and health**
 - Fail to adhere to safety rules and/or not using personal protective equipment (PPE) according to prescribed manner including face mask or other PPEs as required by the Company.
 - Removing any company instructions or health and safety equipment with the intent to create confusion or to cause harm to other employees or any acts inconsistent with the intent of the company is maintaining a safe and healthy work environment.
 - Gross disregard for health and safety measures.
 - Late in reporting workplace accidents and other accidents that should be reported to relevant authorities to immediate superior.
 - Failure to report to the Company on contacts made with regards to infectious disease.
 - Making false declaration(s) on coming into contact with person(s) with an infectious disease or any other false declaration(s) in order to be relieved from work or to gain an advantage(s) from the Company or Health authorities.
 - Failure to follow any quarantine orders or quarantine protocols enforced by the Company or Health authorities.
5. **Dressing and uniforms**
 - Not wearing uniform as required by the Company.
 - Not adhering to Company's dress code rules/policy.
 - Putting additional emblems or markings on the uniforms worn.
6. **Handling and preservation of Company property/environment**
 - Vandalise or writing graffiti on Company property.
 - Refusal to return keys, badges or any other Company property when directed.
 - Unauthorized removal, stealing of Company property or aiding, abetting or condoning such act (including borrowing without prior approval).
 - Littering within Company premises.
 - Unauthorized removal or detachment of notices, circulars or documents.
 - Wilful damage of Company property including the building with its fittings, machinery, completed or partially completed products of the Company, raw materials and Company vehicles.

7. Prohibited activities

- Involvement in money lending within Company premises.
- Carrying out prohibited union activities within Company premises which are against Company rules or code of industrial harmony.
- Conducting missionary or any religious activities within Company premises without approval of the Company.
- Conducting political activities within Company premises or bringing Company's image to disrepute in political events outside of the Company premises.
- Participation in illegal strikes or abetting, inciting, instigating or acting in furtherance thereof. Wilful slowing down of work or instigating others to do so shall also be construed as illegal strikes.
- Interference with the work of other employees.
- Gambling within Company premises.

8. Liquor and drugs

- Bringing in or consuming or being under the influence of liquor or being insobriety during work.
- Bringing in or consuming or being under the influence of dangerous or prohibited drugs during work.
- Getting drunk during official Company functions.

9. Sideline work, conflict of interest and personal activities

- Engaging in private and personal businesses or trades within the Company premises.
- Failure to declare Sideline activities or personal business.
- Engage in dual employment.
- Holding non-work-related meetings within Company premises without prior permission of the relevant approving authority.

10. Insubordination and refusal to follow instructions

- Refusal to go for medical examinations when directed to by the Company.
- Refusal to produce documents, certificates of qualification and photographs when directed for official Company purposes.
- Refusal to accept transfer orders.
- Insubordination by refusing to carry out or accept a rightful order from a superior.
- Insubordination by defying of persons in authority whether such persons are the direct superior or otherwise.
- Refusal to sign acceptance or acknowledgment when required by Company.

11. Sexual harassment, behaviour and language used

- Using foul or abusive language or making indecent gestures.
- Sexual harassment which includes sending of pornographic material to other employees, regardless of the method of sending.
- Display improper or riotous conduct or indecent or disorderly behaviour.
- Use of foul or offensive language and verbal abuse to any employees, vendors, visitors or any others that the Company comes in contact with.
- Engaging in immoral activity that brings disrepute to the employees concerned and to the Company at large.
- Writing and distributing poison pen letters.

- Distribution or exhibition of newspaper articles, handbills, pamphlets or posters within Company premises without prior permission of the relevant approving authority.
- Rude or improper behaviour towards members of public or Company stakeholders.
- Inciting racial, political or religious trouble within Company premises which includes e-mailing information that is racially, politically or religiously sensitive in content.
- Defamation of the Company and its officials or employees.
- Aiding, abetting, conspiring, instigating, inciting or condoning any misconduct.

12. Improper usage of company's IT facilities and assets and improper usage of media which includes but not limited to the below;

- Using Company's Notebook or PC for personal use.
- Installing or downloading software without approval from the Company.
- Usage of personal thumb drive or external storage devices on any Company Notebook, Desktop PCs and any machinery or assets.
- Recording and capturing images of conversations, meetings or events without approval from the organizer or facilitator.

13. Improper behaviour on Social Media

- Posting or discussing or making disparaging opinion or gestures or otherwise unwarranted and unwanted comments on any Company related topics that could embarrass or damage the Company's reputation or that of its employees, clients, any other stakeholders or member of the public in social media or in the internet or any electronic media.

14. Fraud, dishonesty, bribery and breach of trust

- Making false reports or declaring knowingly or failed to verify prior to submission.
- Falsifying, destroying or removal of Company records.
- Manipulation of Company process/documentation.
- Fraud or dishonesty while discharging duty or manipulation in order to deceive Company.
- Making false payment claims or false entries with the intention to cheat the Company.
- Requesting or accepting bribes, favours, kickbacks or commission from the Company's suppliers or customers, or any other party.
- Soliciting donations of any kind from suppliers.
- Misappropriation of Company funds and criminal breach of trust.
- Cheating or using manipulative ways on attendance records in whatsoever manner in order to deceive the Company.

15. Violent and dangerous behaviour

- Being violent, abusing, assaulting or threatening to assault, injure or harm any employees, customers or members of the public within or outside Company premises as well as behaviour that provokes violence.
- Extortion or attempted extortion.
- Possession of any weapon within Company premises.
- Carrying on subversive activities within Company premises.

16. Confidentiality and data protection

- Disclosure and unauthorise use of Company proprietary, confidential or sensitive information including to unauthorised person without prior permission of the relevant approving authority.
- Disclosure and unauthorise use of personal information of employees including to unauthorized persons in a non-judicious manner or without prior permission of the relevant approving authority.
- Making matters concerning their duties or the Company known to the public without prior permission of the relevant approving authority. This Includes but is not limited to publishing articles, books, photographs or letters; giving press interviews or releases; and giving lectures, speeches or presentations.

17. Smoking, eating and loitering in undesignated areas

- Smoking and/or the use of electronic smoking devices (also known as electronic cigarettes or “e-cigarettes”) is prohibited except at designated area.
- Eating or drinking in prohibited areas.
- Loitering in prohibited and restricted areas.

18. Others

- The acts or behaviours that are not acceptable and prohibited by the Company shall not be limited to those outlined in this policy. So long as such act/conduct brings disrepute to the Company or affect the image of the Company, disciplinary action shall be taken against an employee.

Disciplinary process and actions

- Disciplinary action shall be taken when there is reasonable and clear evidence of misconduct and shall be based on the principle of natural justice and substantial justice.
- For cases where an employee commits multiple types of misconduct over a period of twelve (12) months, the Company may pursue progressive punishment deemed necessary as though the misconduct committed is of the same nature.
- The Employee shall be given the opportunity to be heard in order to present his/her evidence and statement and where necessary seek pre-advise to defend their actions.
- An Employee who is a member of the union may seek help from the union in preparation for their inquiry.
- Upon concluding the disciplinary inquiry process, the Company shall issue either a Counselling, 1st Warning, 2nd Warning, or Final Warning Letter to the employee as a reminder to current his/her behaviour and avoid repetition in the future. An Employee may also be dismissed from employment.
- There is no compulsion on the Management to follow a progressive punishment pattern.
- Disciplinary action taken shall commensurate with the gravity of the offence.

Validity of the warning letters

- The disciplinary action will be effective immediately after the seven (7) days allowed for appealing.
- All warning letters shall be valid for one (1) year. The period of the validity of the consequence management shall be decided by the Company.

Consequence Management

- An employee who has been issued a warning letter shall result in any of the following consequences;
 - a) Reduced annual increment
 - b) Suspension of annual increment
 - c) Deferment of annual increment
 - d) Suspension of wages
- The Management reserves the right to amend or institute other types of consequence management at its sole discretion.

Appeals against disciplinary action

- Aggrieved employees may appeal to the Head of the Company who may set aside, alter or decrease the penalties imposed.
- The appeals must be made within seven (7) days of the meeting out of the disciplinary action.
- The appeals must be made in writing and include grounds for them.
- Employees may continue to work within the Company premises whilst appealing against the disciplinary action except when appealing against dismissals. Appealing against dismissals must be made from outside the Company premises.
- When employees appeal against the disciplinary action meted out to them within seven (7) days, the disciplinary action will be suspended until the appeal is disposed of.
- Employees who have been dismissed will not be allowed to work until the appeal is disposed of.
- The Head of the Company can dispose of the appeals in any of the following ways and the decision made by the Managing Director is final and conclusive.
 - a) Uphold the decision of the Inquiry Panel or HR.
 - b) Revoke the decision of the Inquiry Panel or HR.
 - c) Substitute the disciplinary action with less severe punishment.
 - d) Order a fresh inquiry by another Inquiry Panel.

Criminal proceedings against employees by the authorities

- Employee must inform the Company if there is any criminal proceeding against them.
- The Company will decide whether to allow the employees to continue working or to suspend them from their duties during the criminal proceedings.
 - a) An Employee who has been suspended will not receive any wages during the period of suspension.
 - b) The period of suspension may be extended even though the employees have been acquitted, until the disposal of appeals in a higher court (if applicable).
- If the criminal proceedings are discharged or dropped, the employee will be allowed to continue working.
- Being convicted of a criminal offence that in the Company's opinion is relevant to your continued employment, or your trustworthiness, which may adversely impact your ability to perform your role satisfactorily or which is likely to bring the Company into disrepute or otherwise affect our reputation or relationships with our staff, customers or the public shall result with in dismissal.

Detention and banishment

- Employee who has been detained or banished under any laws of Malaysia for a period of thirty (30) day or more shall be deemed to have also broken the Company rules and shall have his/her contract frustrated with immediate effect upon such detention or banishment.

Others

- The Company reserves the right to amend this policy from time to time and shall notify all employees when such amendment has been made and has been approved by the Management.
- Should there be a translation of this policy into other languages, the English version of this policy shall be authoritative in the event of any dispute or confusion.

Notes & Tips

1. This misconduct policy covers almost all aspects of behaviour that are not tolerated in the Malaysian employment scene. Having a long and thorough policy is always better than having a brief policy for the following reasons;
 - Every possible scenario should be mentioned to avoid room for argument or confusion
 - It will be helpful to make a charge against an employee by citing the conduct/incident clearly
 - Give employees no room to find loopholes
 - To show the Company's seriousness on zero tolerance for improper conduct of an employee
2. This policy has been developed without categorising major & minor misconducts. This is to give Companies the flexibility to decide on the type of disciplinary actions to be taken instead of being forced to follow a set of action. Company is not obliged to follow a progressive punishment pattern as the severity of certain cases may be so grave that it may require a stern action.
3. Companies should communicate adequately the details of this policy and constantly review it to ensure its contents stay relevant.

This sample policy/letter/document is merely a sample or guidance. Companies are advised to practice caution when drafting its HR documentation and shall always be in compliance with the Employment Act and Industrial Relations Act as well as past case laws so as to ensure the policy does not violate or infringe the prevailing employment regulations. Companies are encouraged to adopt best practices to be attractive employers and promote a productive and competitive operating landscape. The author shall not be held liable for any damages or claims arising from the usage of the contents of this document.

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