

Disciplinary, Dismissal and Grievance Procedures

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VERSION CONTROL

| | | |
|----|----------|---|
| v1 | 13/03/19 | Policy creation |
| v2 | 23/08/18 | Equality Impact Assessment added |
| | | Minimal word changes, with no impact on meaning |

GENERAL PRINCIPLES

The following general principles will apply to both the disciplinary, dismissal and grievance procedures:

- Each step and action will be taken without unreasonable delay.
- Reference to "Employee" shall include "Contracted" and "Sub-contracted" staff
- Reference to "He" may also include "she" or a gender-neutral term
- Whenever the employee is invited by the Company to attend a meeting, the employee must take all reasonable steps to attend.
- At all stages of the procedure, the employee will have the right to be accompanied by a trade union representative or a work colleague of their choice. If their companion is unable to attend any such meeting they may suggest an alternative date, provided it is within 5 working days of the original date.
- Timing and location of meetings must be reasonable.
- Meetings will be conducted in a manner that enables both the company and employee to explain their case.
- For appeal hearings following a decision, the company will as far as reasonably practicable, be represented by a more senior manager than attended the first meeting (unless the most senior manager attended that meeting).
- Whenever the company or employee is required to send the other a statement, the original or a copy will suffice.
- Where the Company believes a criminal offence has been committed by the employee, full details of the incident will be provided to the police or other investigative authority.
- Where the Company believes the nature of the offence is contrary to the individuals' professional standing, full details of the incident will be provided to the individual's State Registration body.
- Should a complaint arise as a result of work performed on behalf of a Client of the Company, the company shall combine information with the client as much as is possible to ensure the Service User and Client department are kept fully informed of any investigation and resulting action.

DISCIPLINARY AND DISMISSAL PROCEDURES

Purpose

The Disciplinary and Dismissal procedures are designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The company rules, and these procedures, apply to all employees. The aim is to ensure consistent and fair treatment for all in the organisation.

Principles

- No disciplinary action will be taken against an employee until the case has been fully investigated
- The Company may suspend you with or without pay* while an investigation takes place. Such a suspension will be reviewed as soon as possible and will not normally exceed 20 working days.
- An employee will not be dismissed for a first breach of discipline except in the case of gross misconduct (when the penalty may be dismissal without either notice or payment in lieu of notice).
- Misconduct will generally fall into two categories, namely "general" misconduct (in respect of which the general disciplinary action procedure described below applies) and "gross" misconduct, which is of so serious a nature that it justifies instant dismissal for a first offence. Listed below are examples which would normally be considered to be either general misconduct or gross misconduct. It should be recognised, however, that neither list can be regarded as complete to meet every case, and also that action described as general misconduct may amount to and be treated as gross misconduct if the circumstances or the manner of the misconduct are such as to warrant serious disciplinary action. These lists should be regarded therefore as being illustrative rather than exhaustive.

Examples of "general" misconduct:

The following may be regarded as reasons for disciplinary action in that they deviate from accepted standards and constitute general misconduct. The employee's first offence will usually result in a verbal or written warning as appropriate. Repetition of offences following a warning could lead to a written warning or a final written warning as appropriate. Thereafter any repetition will result in dismissal. It is again emphasised that this is not an exhaustive list

- Poor job performance.
- Poor time-keeping.
- Failure to comply with the conditions of their employment contract.
- Failure to maintain Professional Standards or satisfactory Continued Professional Development.
- Unseemly or disruptive conduct.

Examples of "gross" misconduct:

Summary dismissal (dismissal without notice or pay in lieu of notice) may be necessary in cases of gross misconduct. For guidance, the following are examples of the offences which may be regarded as gross misconduct and will normally result in summary dismissal. It is emphasised that this is not an exhaustive list:-

- Accepting or requesting payment from a Service User, unless a part of Client required System of Work
- Unauthorised use or disclosure of, confidential information or business matters relating to the Company, its Clients or Service Users'.

- Acts of violence, including physical assault; unlawful discrimination; drunkenness; taking of non-prescribed drugs in such a way as to impair the ability to carry out work; conduct of any kind which endangers the health and safety of others.
- A criminal offence committed at work other than a minor road traffic offence committed in the course of the employment, or an offence committed outside work which is incompatible with the employee remaining in employment.
- Theft or fraudulent activity, including the falsification of information or references on appointment or to secure contract.
- Unauthorised absence or gross negligence in the performance of duties.
- Acceptance of any bribe, secret profit or unauthorised commission.
- Any conduct tending to bring the Company, or the company's Clients, into disrepute or which results in the loss of custom of a client or other loss of business.
- Working for, or assisting, a competitor of the company or seeking to establish a business which is likely to compete with the company.
- Refusal to obey a lawful instruction in connection with the employment.

Disciplinary Action Procedure

The following is the disciplinary action that may be taken against an employee in cases of misconduct or unsatisfactory performance. **The disciplinary and dismissal procedure may be implemented at anyone of the following stages if the seriousness or repetitive nature of the employee's misconduct or unsatisfactory performance warrants such action:**

STAGE 1 – Informal Action: Oral Warning

If an employee's conduct or performance is unsatisfactory, they will be given an informal oral warning. However, this will be recorded in writing on their personnel file. The warning will be disregarded after 6 months' satisfactory service.

STAGE 2 – Formal Action: Written Warning

If the offence is serious, or if there is no improvement in standards after informal action has been taken in cases of minor misconduct or unsatisfactory performance or there has been further misconduct within 6 months of any informal action, a written warning will be given. This written warning will include the reason for the warning and a note that, if there is no improvement after a specified period, a final written warning will be given. A copy of the written warning will be given to the employee and a copy will be placed on their personnel file. The warning will be disregarded after 6 months satisfactory service.

STAGE 3 – Formal Action: Final Written Warning

If following a written warning, conduct or performance remains unsatisfactory, or if a serious incident occurs, a final written warning will be given making it clear that any recurrence of the offence or other serious misconduct within a specified period will result in dismissal. A copy of the written warning will be given to the employee and a copy will be placed on their personnel file. The warning will then be disregarded after 12 months satisfactory service.

STAGE 4 – Dismissal or Other Sanction

If there is no satisfactory improvement or if further serious misconduct occurs within 12 months, the final step in the procedure may be dismissal, either with or without notice or payment in lieu of notice, or some other action short of dismissal such as disciplinary suspension. If the employee faces dismissal or certain actions short of dismissal, such as loss of pay, the minimum statutory procedure will be followed as detailed below.

Minimum Statutory Procedures

The standard and modified dismissal and disciplinary procedures are set out below. The standard procedure will be used when the company contemplates dismissing or taking formal disciplinary action against an employee such as that set out in stage 4 above. The modified procedure will be used in the event that there has been a dismissal without notice for gross misconduct, in which case it will apply after such a dismissal.

Standard Procedure

Step 1 - Written Statement

The company will set out in writing the employee's alleged conduct or characteristics, or other circumstances, which lead the company to contemplate dismissing or taking disciplinary action against the employee. The company will send the statement or a copy of it to the employee and invite the employee to attend a meeting to discuss the matter.

Step 2 - Meeting

- The meeting will take place before any action is taken, except in the case where the disciplinary action consists of a suspension on full pay, to consider and discuss the allegation.
- The meeting will not take place unless:
 - The company has informed the employee of the ground or grounds for contemplating disciplinary action or dismissal in the form of a written statement
 - The employee has had a reasonable opportunity to consider his response to that information
- The employee has the right to be accompanied at the meeting by a work colleague or a Trade Union representative.
- After the meeting, the company will inform the employee in writing of its decision and notify them of the right to appeal against the decision if they are not satisfied with it.

Step 3 - Appeal

- If the employee does wish to appeal, he must inform the company within 5 working days of receiving the decision, and on doing so the company will invite him to attend a further meeting.
- The appeal meeting may not necessarily take place before the dismissal or disciplinary action takes effect, but it will be arranged within a reasonable period of time.
- The appeal will be dealt with by a more senior manager than at the Step 2 meeting. Where this is not practicable, the company will hear the appeal and decide the case as impartially as possible.
- After the appeal meeting, the company will inform the employee of its final decision.

Modified Procedure

Step 1 - Written Statement

The company will:

- Set out in writing:
 - The employee's alleged misconduct which has led to the dismissal,
 - What the basis was for thinking at the time of the dismissal that the employee was guilty of the alleged misconduct,
 - The employee's right to appeal against dismissal, and
- Send the statement to the employee.

Step 2 - Appeal

- If the employee does wish to appeal, he must inform the company within 5 working days of receiving the statement, and if he does so the company will invite him to attend a meeting.
- After the appeal meeting, the company will inform the employee of its final decision.

Referral to Professional Body / DBS

At any point, whether within the Disciplinary Procedure or separate to it, if the Company Directors consider that any staff action has a bearing on the individuals' competency to perform their role in a professional or safe manner, consideration will be given to referring them to their Professional Body, State Registration Body and/or National Disclosure and Barring Service.

(See separate policy on **Reporting Malpractice**)

GRIEVANCE PROCEDURE

If an employee has a problem or concern about their work, working conditions or relationships with a colleague, they should aim to settle their grievance informally with their Line Manager.

If an employee's grievance cannot be settled informally, or a formal approach is preferable, the employee should raise it formally with management by following the minimum statutory procedure below.

Minimum Statutory Procedures

The standard and modified Grievance Procedures are set out below. The standard procedure will apply to all current staff and the Modified Procedure used only where a grievance is raised by a past employee.

Standard Procedure

Step 1 - Written statement

The employee must set out their grievance in writing and send this statement to the company. This statement should be emailed to a Company Director, or sent to a Director by Recorded Delivery

Step 2 - Meeting

- The company will invite the employee to attend a meeting to discuss the grievance.
- The meeting will not take place unless:
 - The employee has informed the company of the basis for the grievance set out in the statement under step 1
 - The company has had a reasonable opportunity to consider its response to that information
- The individual raising the Grievance has the Right to be accompanied at the meeting by a person of their choice.
- The meeting will be chaired by a Company Director, who has the authority of the Board of Directors to act on its behalf.
- After the meeting the company will inform the employee of its decision, and the company will notify the employee of his right to appeal if he is not satisfied with it.

Step 3 - Appeal

If the employee does wish to appeal, he must inform the company within 5 working days of receiving the decision, and on doing so the company will invite him to attend a further meeting. The appeal hearing will be chaired by a Company Director. After the appeal meeting, the company will inform the employee of its final decision.

Modified Procedure

The modified procedure will only be used in the rare circumstances where an employee has already left the company's employment and wishes to raise a grievance, provided that both the employee and company agree to follow the modified procedure in writing.

Step 1 – Written Statement

The employee must set out in writing their grievance, and the basis for it, and send their statement to the company.

Step 2 - Written Response

The company will set out its response in writing and send it to the employee.

POLICY STANDARDS

Monitoring processes

The Board of Directors monitor the number and nature of Disciplinary procedures, Dismissals and Grievances made, with the ultimate aims of improving both internal and external company relations

Monitoring of this policy, together with its implementation, shall be performed by the IG Lead.

Distribution

All staff are made aware of the policy as part of their induction training. If there are any significant changes to the policies that affect the way in which staff initiate or respond, these are communicated to them via team briefs and staff meetings.

A copy of the policy is available to all staff via the Company's on-line Governance Framework folder, and can be accessed 24/7 from any location with Web Access. A hard copy version is retained at all sites of operation. A copy is also available on the company's website.

Training Requirements

Staff training and awareness of this and associated policies is undertaken at induction and discussed as part of clinical appraisals.

Awareness Plan

Promotion of this Policy is provided by Company Directors to Service Leads, particularly at induction. A copy is retained on the company's on-line Staff Governance Folder, which all staff have access to 24/7.

Approval

These policies has been approved by the undersigned and will be reviewed annually and any time there is a change in the law or ACAS recommendations.

References

- ACAS - Code of Practice 1 - Disciplinary and Grievance Procedures – Revised 2015
- Employment Act 2008

Policy Review

This policy is reviewed annually by the Company's IG Lead

Policy Created: 23/08/18

Policy Reviewed (annually): v.2 13/03/2019



Kevin Rendell

Director

APPENDIX

Appendix 1 – Equality Impact Assessment

An Equality Impact Assessment has been performed on this policy and procedure. The EIA demonstrates the policy is robust; there is no potential for discrimination or adverse impact. All opportunities to promote equality have been taken.

| | | Yes/No | Comments |
|----|--|--------|----------|
| 1. | Does the policy/guidance affect one group less or more favourably than another on the basis of: | | |
| | ▪ Race | No | |
| | ▪ Ethnic origins (inc. gypsies and travellers) | No | |
| | ▪ Nationality | No | |
| | ▪ Gender | No | |
| | ▪ Culture | No | |
| | ▪ Religion or belief | No | |
| | ▪ Sexual orientation including lesbian, gay and bisexual people | No | |
| | ▪ Age | No | |
| | ▪ Disability - learning disabilities, physical disability, sensory impairment and mental health problems | No | |
| 2. | Is there any evidence that some groups are affected differently? | No | |
| 3. | If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable? | NA | |
| 4. | Is the impact of the policy/guidance likely to be negative? | NA | |
| 5. | If so can the impact be avoided? | NA | |
| 6. | What alternatives are there to achieving the policy/guidance without the impact? | NA | |
| 7. | Can we reduce the impact by taking different action? | NA | |