

Policy No: 03-1202	Authorised: Roxane Schatara	Date: 15/05/2018
STAFF DISCIPLINARY, GRIEVANCE & APPEALS PROCEDURE		

The Management of the Organisation has laid down a minimum set of rules to define standards of performance and acceptable behaviour, and which are backed up by fundamental Policies. These rules have been drawn up in the best interests of both the Organisation as the employer, and the staff member as the employee, and aim to ensure fairness and consistency for all.

The following sections of this Policy will firstly list out examples of conducts which will not be tolerated under any circumstances, and which are classified as Gross Misconduct offences. These offences may render any employee liable to immediate paid suspension of employment, pending a full disciplinary procedure that may result in dismissal. The list is not intended to be exhaustive and it is recommended that legal advice should be taken if some of these breaches are to form the express terms of the employee's contract.

Following this is set out the Organisation's disciplinary process which covers how disciplinary action can be taken against an employee, and the Appeals Procedure available, and finally the Organisation's Grievance Procedure which may be invoked if an employee is dissatisfied with any treatment of himself / herself, or any matters relating to their job performance.

1. GROSS MISCONDUCT:

- 1.1 Fighting, physical assault or dangerous horseplay.
- 1.2 Physical sexual harassment and other instances of gross immorality.
- 1.3 Gross insubordination or the use of aggressive behaviour or excessive bad language.
- 1.4 Failure or refusal to carry out a direct instruction given by a Manager or Supervisor during duty hours.
- 1.5 Theft of, or wilful damage to, any property belonging to the Organisation, a service user, relative or other employee.
- 1.6 Deliberate fraud, including fraudulent abuse of the Statutory Sick Pay Scheme and Absence Policies. This will include abandoning contracted duties without notification or prior permission.
- 1.7 Consuming alcohol while on duty or arriving at work intoxicated.
- 1.8 Abuse of drugs, solvents and other mind-altering substances.
- 1.9 Breach of safety rules and / or other actions which places at serious risk the health and safety of another person.
- 1.10 Abuse or maltreatment of service users. Any employees found verbally or physically abusing service users may be summarily dismissed and the Regulatory Authority informed.
- 1.11 Deliberately falsifying written records.
- 1.12 Unauthorised disclosure of confidential information.
- 1.13 Authorised Drivers - failure to disclose details of motoring / traffic offences or convictions.

2. DISCIPLINARY PROCEDURE:

The Organisation's Disciplinary Procedure MUST be read alongside the current ACAS codes of practice and Employment Rights Act 1996, and ALL INTENDED actions must be discussed prior with the Organisation's Human Resources or legal advisors / team.

- 2.1 The Disciplinary Procedure within the Organisation has been designed to follow the principle of general fairness, providing

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employees with every opportunity to justify their actions that may have been interpreted as a breach of Rules.

All issues must be dealt with promptly and consistently, and all employees MUST be informed of the basis of the problem in writing, enabling them to answer the case in a subsequent arranged meeting.

- 2.2 Where it is considered after a reasonable investigation, that disciplinary action is justified, it is intended that such action should be fair, remedial and designed to explain and prevent a recurrence of such actions.
- 2.3 All cases requiring disciplinary action will be judged according to circumstances, following the general principles of fairness. Factors to be considered will be:
- the severity of the offence;
 - the length of service of the employee involved;
 - the employee's record, if any, of previous offences;
 - any mitigating circumstances.
- 2.4 In all cases the employee will be given a full opportunity to explain the circumstances and the reason for the alleged breach of rules in a formal meeting held by the Organisation, accompanied by a colleague or Trade Union Representative. The employee must be notified of such meeting in writing. Any disciplinary action taken as a result of a reasonable and thorough investigation into the circumstances of the offence.
- 2.5 Persistent breaches of rules, or the same rule, will increase the severity of the action.
- 2.6 All employees, whatever the severity of action, MUST be given the opportunity to APPEAL against the decision within a reasonable time frame. (see section 3)
- 2.7 Suggested Period of Warnings:
- 2.7.1 *Verbal Warnings:*
- Verbal warnings are disregarded after 6 months. *Exceptions:* if the offence is repeated.
- 2.7.2 *Written Warnings:*
- Written warnings are disregarded after 12 months. *Exceptions:* if the offence is serious.
- 2.7.3 *Final Written Warnings:*
- Final written warnings are disregarded after 12 months. *Exceptions:* if the offence is serious.
- 2.7.4 *Dismissal:*
- Dismissal for Gross Misconduct renders the offender liable to termination of contract with or without notice. Dismissing an employee without notice must not be an option unless in extreme or exceptional circumstances.
 - The Organisation must be aware that dismissal or termination of employment of any employee may result in legal action against the Organisation in the form of statutory unfair dismissal, wrongful dismissal at common law, or breach of contract, depending on the circumstances.
 - The reasons for dismissal will set out in writing for the benefit of the employee. Once an

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employee receives written notice of dismissal, and the reasons for it, he / she has the right to appeal the decision. Once the matter has been discussed and all considerations taken into account, a final decision relating to the dismissal of that employee will be taken.

3 APPEALS PROCEDURE:

- 3.1 All employees have the right to appeal against ANY disciplinary action taken against them. This must be done within a reasonable time frame (usually 7 days) of the decision taken against them.
- 3.2 Appeals against warnings and dismissal must be made in writing, explaining why it is felt that the penalty imposed is too severe, or is inappropriate in the circumstances.
- 3.3 Where possible, the Appeals Procedure will be conducted by an independent third party, i.e. by somebody not connected with the original case. At the appeals hearing employees have the right to call on witnesses or to introduce any other information felt to be of value. By the same token the third party has the right to call on the person who took the disciplinary action and other individuals who may have been involved in the disciplinary process.
- 3.4 The result of the appeal will be made known to the employee within 5 working days of the hearing. The results of the hearing will be considered final.

4. GRIEVANCE PROCEDURE:

- 4.1 Where an employee has a grievance arising from their employment, then this must be raised with his / her immediate superior within a reasonable time frame. Any grievance that cannot be cleared up informally with a simple conversation with the supervisor, the employee must then be advised that the grievance must be addressed to the Organisation in writing for it to be dealt with formally.
- 4.2 All action by the Organisation must be carried out in line with the grievance procedure laid down by the recent ACAS codes of practice. This includes the grievance being investigated promptly and consistently within a reasonable time frame. As with the Disciplinary Procedure, the employee shall be notified in writing, inviting them (accompanied with a colleague or Trade Union Representative) to meeting to discuss and attempt to resolve the issue.
- 4.3 Depending on the outcome of the grievance, as with the Disciplinary Procedure, the employee is entitled to appeal the decision, prompting the Organisation to reopen the investigation, followed by another formal meeting.
- 4.4 *Employees are not permitted to withdraw their labour in pursuit of grievances.*