

Disciplinary Policy & Procedure

1. Policy Statement

- 1.1 All employers are unfortunately forced to administer discipline to staff at some time or another. The MOONSTONE CARE UK believes that any disciplinary action taken should be aimed at identifying those problems that caused or contributed to the disciplinary action having to be taken, and to assist in correcting them. The organisation believes that it is in the interests of all that disciplinary actions are carried out in a prompt, uniform and impartial way and that the main purpose of disciplinary action is to correct the problem, prevent its recurrence and prepare the employee for satisfactory standards of work in the future.
- 1.2 The organisation adheres Regulations 17 Good Governance – Policies and procedures for Domiciliary Care Agencies, published in accordance with the Care Standards Act 2000, which relates to the degree to which service user's rights and best interests are safeguarded by the organisation's policies and procedures. The organisation also adheres fully to the ACAS Code of Practice Disciplinary and Grievance Procedures.

2. Aim

- 2.1 This policy is intended to set out the values, principles and policies underpinning this organisation's approach to staff discipline. The purpose of this policy is to ensure a fair and systematic approach to the enforcement of acceptable standards of conduct and behaviour amongst all employees.

3 Principles

- 3.1 Employees are expected to know the standard of conduct or work performance expected of them.
- 3.2 Employees will be provided with a management statement of the case prior to any disciplinary meeting and will be allowed to respond to any alleged fault or failing at the meeting.
- 3.3 An employee is entitled to be accompanied by a trade union representative to a disciplinary meeting, staff representative employed by the Alliance, or work colleague employed by the Alliance. Other external representatives may not accompany an employee.
- 3.4 For minor or isolated infringements of rules or expected behaviour, managers and supervisors should give employees informal advice, coaching and counselling as part of their supervisory duties.
- 3.5 Where an employee's conduct or performance fails to improve as a result of advice, coaching or counselling, or where the offence is more serious, then the disciplinary procedure will be applied.
- 3.6 Except in cases of gross misconduct, no employee will be dismissed for a first offence.
- 3.7 If disciplinary action is being contemplated against an employee who is a local trade union representative, then the case should be discussed with a senior trade union representative or full time official, after obtaining consent from the employee.

Disciplinary Policy & Procedure

4.0 Categories of misconduct

4.1 Misconduct falls into three categories:

- Minor;
- Serious; and
- Gross.

4.2 Minor misconduct is a category which includes all minor offences. This may include lateness and failure to reach recognised standards of performance.

4.3 Serious misconduct is a category which includes more serious offences and repetition of misconduct that falls short of gross misconduct.

4.4 In circumstances where misconduct relates to potential drug or alcohol abuse, this policy should be read in conjunction with the company's Alcohol and Drugs Dependency Policy.

4.5 In conjunction with the MOONSTONE CARE UK's Child Protection Policies.

4.6 **MOONSTONE CARE UK may take disciplinary action in response to the following (non-exhaustive) list of misconduct offences:**

- Persistent bad timekeeping.
- Unauthorised absence
- Minor damage to MOONSTONE CARE UK 's property
- Failure to observe MOONSTONE CARE UK 's policies/ procedures
- Unsatisfactory performance at work
- Unsatisfactory work
- Abusive behaviour
- Unreasonable refusal to follow an instruction issued by a manager/supervisor
- Persistent lateness or absenteeism/poor attendance.

5. Steps prior to deciding to deciding to take disciplinary action – Investigation

5.1 When any incident of misconduct or negligence or poor performance is alleged to have occurred, the employee's manager or supervisor must establish the facts by thoroughly investigating the matter in a prompt manner to decide whether there is a need for a disciplinary interview.

5.2 The employee will be informed in writing, as soon as possible as to the fact of an investigation and when it has been concluded. Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. If such an interview is held prior to a disciplinary

THIS POLICY WAS REVIEWED AND UPDATED ON: [MAY 2017](#)

[Next Update – MAY 2018](#)

hearing, the employee will be informed at the outset that the interview is an investigatory interview.

5.3 Where appropriate/possible, signed written statements should be obtain as quickly as possible from the individual(s) concerned and should include where possible dates, times, details of those present and the issues of concern.

5.4 The employees will also have the opportunity to submit written evidence and call witnesses relevant to the case.

6. The Key Steps In Taking Disciplinary Action – Standard Procedure

6.1 Step 1: Management statement of Ground for Action and Invitation to a Meeting

6.2 Following an appropriate investigation, the manager must prepare a written statement of the employee's alleged conduct or characteristics, or of the circumstance which have lead to the contemplation of taking disciplinary action.

6.3 The manager or supervisor must send the statement to the employee including any evidence that will be relied upon at the meeting and, invite her/him to attend a disciplinary meeting to discuss the matter. The employee should also be informed of their right to be accompanied at the meeting. Employees should be given an appropriate amount of notice of the meeting in order to prepare their response.

6.4 On completion of an investigation, if there are reasonable grounds to believe that an employee has committed an act of misconduct, the employee will be invited to attend a disciplinary meeting and can be accompanied by a colleague or trade union official.

6.5 Under MOONSTONE CARE UK policy the employee should be

- Given a minimum of two working days advance notice of the meeting.
- Told the purpose of the hearing and that it will be held under the Company's disciplinary procedure. Given an outline of the nature of the alleged misconduct.
- Provided with all the relevant information (which should include statements taken from any fellow employees or other persons that MOONSTONE CARE UK intends to rely upon against the employee) not less than two working days in advance of meeting.

6.6 If the employee is unable to attend a disciplinary meeting and provides a good reason for failing to attend; the meeting may be adjourned to another day. Unless there are special circumstances mitigating against it, and the employee is unable to attend the rearranged meeting, the rearranged meeting will take place in the employee's absence. The employee's colleague or trade union official may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

7. Representation

The employee has the right to be represented by either –

- Work colleague or
- Qualified trade Union representative

7.1 A Qualified Trade Union representative is defined as a person who works for a union full time or has undertaken relevant training that allows them to represent employees.

The Trade Union Representative must be able to produce photo identification to confirm their identity and their position.

7.2 The role of the representative is to provide support and advice to the employee, but is not there to act on their behalf and cannot answer questions put to the employee. However, the representative may ask for an adjournment at any time to confer with the employee.

8. Step 2: The Disciplinary Meeting

8.1 A disciplinary meeting must take place before any disciplinary action is taken, (except where the action in question consists of suspension pending a disciplinary penalty).

8.2 At the meeting, manager or supervisor should ensure that the circumstances of the complaint against the employee are fully discussed and that the employee is provided with an opportunity to respond to the management case. The manager will then decide whether or not to issue a disciplinary penalty.

8.3 The manager may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gather further information). The employee will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with his/her colleague or trade union official, to consider the new information prior to the reconvening of the disciplinary proceedings.

8.4 As soon as possible after the conclusion of the disciplinary proceedings, the employee will be informed in writing of the decision and what disciplinary action, if any is to be taken. The employee will be notified of his/her right of appeal under this procedure.

9. Disciplinary penalties

9.1 Where, following a disciplinary hearing, it is established that the employee has committed a disciplinary offence; the following disciplinary action may be taken. Managers should not issue any disciplinary penalties without a formal meeting.

9.2 There are five disciplinary penalties, which may result from misconduct:

- Formal verbal warning (first formal warning);
- Written warning;
- Final written warning;
- Dismissal with notice; and
- Summary dismissal.

9.3 The gravity of the offence will determine which disciplinary penalty is issued.

9.4 Formal verbal warning

9.5 Minor breaches of organisational discipline, misconduct or time keeping, or failure to meet performance criteria, may result in a formal verbal warning given by the manager. The manager may give

THIS POLICY WAS REVIEWED AND UPDATED ON: [MAY 2017](#)

[Next Update – MAY 2018](#)

this at a disciplinary meeting with the employee. This warning should be confirmed in writing. If the warning relates to unsatisfactory performance then it should set out:

- The performance required;
- The improvement required;
- The timescale for improvement;
- Any review date; and
- Any support that can be offered to assist the employee to improve their performance.

9.6 If the warning relates to conduct then the nature of the misconduct and the change in behaviour required should be set out in the warning letter.

9.7 The warning will be placed on the employee's personal file. After a period of six months, if no further disciplinary action has been found necessary and the minor breach has been resolved, the warning will automatically be removed from the employee's file.

9.8 The warning should also state if any further misconduct takes place within the specified time period of 6 months could render the employee liable to further more severe disciplinary action.

9.9 Supervisors or line managers can issue verbal warnings.

9.10 First written warning

9.11 If a more serious disciplinary offence has been committed or further minor offences have been committed by an employee following a Recorded Verbal Warning that means "live", the employee will receive a First Written Warning. The Warning will:

- Set out the nature of the offence committed
- Specify the period for which the warning will remain live (minimum twelve months up to indefinite when there are exceptional circumstances) after such period the warning will automatically lapse.
- Inform the employee that further misconduct by the employee is likely to result in the employee's dismissal
- State that the employee may appeal against the warning.

9.11.1 Only the head of the organisation or senior manager can issue written warnings.

9.12 Dismissal with Notice

If the employee has committed an act of gross misconduct (these being acts of misconduct other than gross misconduct) following a final written warning, the employee may be dismissed with notice or with pay in lieu of notice.

9.13 Summarily Dismissal

If it is established that an employee has committed an act of gross misconduct, the employee may be summarily dismissed, without further notice or pay in lieu of notice.

9.13.1 Only the head of the organisation or senior manager can issue dismissals.

10. Step 3: The Appeal

10.1 Any employee who feels they have been disciplined unfairly may appeal in writing to the person named in the disciplinary letter. All appeals must be submitted in writing, clearly set out the grounds for appeal, written seven days of the date of the disciplinary meeting letter.

10.2 Normally an appeal meeting will be arranged with the employee together with the line manager who issued the disciplinary penalty within 7 working days of the employee's request. However, if the appeal is against a final warning or dismissal, then at management discretion, the Managing Director may hear the appeal. The employee may be accompanied by a work colleague or trade union representative.

10.3 Appeal meetings do not re – hear the case, but examines the decision of the disciplinary meeting and tests its reasonableness. The appeal manager will consider whether:

- The misconduct or capability was adequately investigated and substantiated;
- The clarity of procedures were applied appropriately and fairly;
- The disciplinary action taken was reasonable, in all the circumstances; and any new evidence that has come to light.

10.4 The manager who issued the disciplinary penalty will not be on the panel hearing the appeal.

10.5 Appeals will normally be held within 20 working days of the date of the original disciplinary meeting. A letter detailing the outcome of the appeal should be within 10 working days of the appeal meeting.

11. Gross Misconduct

11.1 Employees dismissed with notice will be paid for this period. An employee may be dismissed without notice if there has been an act of gross misconduct, or a major breach of duty or conduct that brings the organisation into dispute. The employee will be suspended with pay while the circumstances of the alleged gross misconduct are investigated.

11.2 Gross misconduct is of such a serious and fundamental nature that breaches the contractual relationship between the employee and the MOONSTONE CARE UK Agency. In the event that an employee commits an act of gross misconduct, the Company will be entitled to summarily terminate the employee's contract of employment without notice or pay in lieu of notice.

11.3 Examples of actions likely to be treated as gross misconduct by the MOONSTONE CARE UK AGENCY include, but are not limited to, the following (non-exclusive and non-exhaustive):

- Theft, fraud, deliberate falsification of records

- Serious failure to comply with procedures that protect children
- Serious failure to comply with procedures that protect adults
- Arson
- Corrupt practices
- Submission of false references/information or failure to disclose relevant information when requested in connection with an application for appointment with the agency
- Disorderly or indecent conduct, fighting at work or threatening physical violence
- Drunkenness or use of illegal drugs on duty
- Deliberate damage to agency property or that of other agencies or employees
- Persistent or substantial failure to follow agency documentary procedures and regulations
- Breaking statutory provisions which would render the agency or its employees liable to prosecution
- Serious breach of health and safety rules
- Serious breach of confidence/confidential information
- Serious or persistent acts of harassment
- Incitement to discriminate or actual acts of discrimination in contravention of the agency's Equal Opportunities Policy.

12. suspension

- 12.1 Suspension should be used sparingly in circumstances where manager needs to conduct investigation prior to a hearing where it is felt that the impact of not suspending the employee during the period would be likely to be more detrimental than suspending them.
- 12.2 The use of suspension from employment on full pay is a neutral process and should not imply guilt.
- 12.3 Cases which involve potential gross misconduct will usually result in suspension – particularly when relationships have broken down or where the employee's presence may prejudice the inquiry.
- 12.4 The Managing Director should be informed of all decisions to suspend an employee. All suspensions should be confirmed in writing within seven working days and the letter must confirm the terms of the suspension.
- 12.5 Suspension should be kept brief and reviewed to ensure that it is not unnecessarily protracted.

13. Records

- 13.1 Records will be kept in the employee's personal file detailing the nature of any breach of disciplinary rules, the action taken and the reasons for it, whether an appeal was lodged, its

outcome and any subsequent developments. These records will be carefully safeguarded and kept confidential.

14. Training

14.1 MOONSTONE CARE UK managers and supervisors should be given training and guidelines on the Company's disciplinary procedures.

14.2 The agency disciplinary policy should be included in the induction training for all new staff.