

Disciplinary Rules and Disciplinary & Grievance Procedure

Disciplinary Rules and Disciplinary Procedure

1. Introduction

The Company, Spinal Home Care Service Ltd, requires good standards of discipline from its employees, together with satisfactory standards of work. The purpose of the disciplinary procedure is to ensure that any concerns over employees' conduct or performance are handled in a fair, consistent and timely manner, with the intention of bringing about an improvement, and to protect the proper operation of the Company's business and the health and safety of its employees.

This procedure may be reviewed and updated from time to time. Any amendments will be notified to employees in writing, following consultation and/or notice where appropriate.

2. Rules and Application

The following are some examples of types of conduct that will normally be addressed through implementation of the Company's disciplinary procedure:

- Unsatisfactory work performance;
- Breaches of company policies and procedures;
- Inappropriate behaviour (e.g. fighting, drunkenness, etc.);
- Bullying, harassment or victimisation;
- Discrimination on any of the grounds listed in the Company's Equal Opportunity Policy: e.g. race, sex, sexual orientation, religion, disability, age, gender reassignment, marital status or ethnic origin;
- Persistent lateness or poor timekeeping;
- Unacceptable levels of absence, especially when unauthorised;
- Serious or repeated failure to follow reasonable requests or instructions;
- Abuse, misuse or neglect of company property or facilities;
- Use of company facilities and equipment for personal reasons during work time e.g. company email, telephones and internet access.

The disciplinary procedure does not apply to:-

- termination of employment during or at the end of a new employee's probationary period (including any extended probationary period); or

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- termination of employment by reason of redundancy; or
- termination of employment by mutual consent.

Where time limits are referred to in this procedure, they may be shortened or extended by mutual consent.

Disciplinary matters will be handled with as high a degree of confidentiality as is practicable, particularly when the issue is of a sensitive nature.

Confidential records of disciplinary matters will be kept in the employee's personnel file in accordance with Data Protection legislation. Copies of meeting notes will be provided to the employee, although the Company reserves the right to withhold certain information (e.g. to protect a witness).

The Company reserves the right to suspend an employee from work on full pay or on pay based on the average hours worked during the previous 12 weeks, depending on the contract held by the employee. This would normally be for no more than 5 working days, while a disciplinary offence is investigated. Employees will be advised if the suspension is likely to last longer than 5 working days. Suspension on full or average pay is not regarded by the Company as disciplinary action.

The Company reserves the right to monitor employees' activities including telephone calls, email messages and internet use at any time, whether as part of a disciplinary investigation or otherwise. Employees should therefore not consider such activities and methods of communication to be confidential when conducted at work.

The Company reserves the right to search an employee's desk, bags, pockets, vehicle or other company property or personal possessions where such action is considered necessary in the opinion of the Company. A search will only be carried out by an appropriate person, in the presence of a witness and employees may request the presence of a work colleague.



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3. Disciplinary Procedure-Steps:

1. Informal Discussion with Employee:

In the first instance, the Company will try to resolve disciplinary issues informally by way of informal discussion with the concerned employee, this could be part of a supervision session.

The Employer/Manager will have a talk with the employee in private. This is a two way discussion where the Employer will be able to inform the employee of their shortcomings in conduct or performance and at the same time the employee will be able to provide an explanation. The main purpose of the informal talk is to find a solution to the problem that is beneficial for both the Employer and the employee.

Generally, cases of minor misconduct and/or unsatisfactory performance are dealt with informally. However, if the informal action does not provide a solution to the problem or if the disciplinary issue is too serious to be dealt with informally then the formal disciplinary procedure will be followed.

2. Formal Disciplinary Procedure

The stages of the formal disciplinary procedure are:

- Stage 1 – Improvement note for unsatisfactory performance or first warning for misconduct.

The Improvement note for unsatisfactory performance is a written letter to the employee setting out the performance problem, the improvement that is required, the time-scale and will also include details of any help that may be given following discussion with the employee. The employee will be advised that this constitutes the first stage of the formal procedure. A record of the improvement note will be kept for 6 months, subject to achieving and sustaining satisfactory performance. Instead, the first warning for misconduct is a written warning to the employee setting out the nature of the misconduct and the change in behaviour required and the right to appeal. The warning will also inform the employee that a final written warning will be considered if there is no satisfactory improvement. A record of the warning will be kept for 6 months.



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- Stage 2 – final written warning

If the offence is sufficiently serious, or there is a failure to improve during the currency of a prior warning, a final written warning may be given. This will give details of the complaint, the improvement required and the time-scale. It will also warn that failure to improve may lead to action under Stage 3 and will refer to the right of appeal. A copy of this written warning will be kept on file and will be disregarded for disciplinary purposes after 12 months subject to achieving satisfactory conduct/performance.

- Stage 3 – dismissal (or other penalty)

If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or disciplinary suspension. The employee will be provided with, in writing, the reasons for dismissal, the date on which the employment will terminate, and their rights of appeal, as soon as reasonably practicable.

During formal disciplinary procedures the Company will first conduct a careful investigation of the alleged matter. If the Company concludes that there is a disciplinary case to answer, the Company will notify the employee of this in writing. This notification will contain information about the alleged disciplinary matter and it also provides details of the time and venue for the disciplinary meeting. The employee has a statutory right to be accompanied at the hearing by a fellow employee, trade union representative or an official employed by a trade union.

If the employee is unable to attend the disciplinary hearing at the agreed time, the employer shall offer an alternative reasonable time and date. If the employee fails to attend on the rearranged date, the employer is free to decide upon the matter. The employer will have to inform the employee about such a decision in writing.

If the employer is unable to attend the hearing, such a delay should be conveyed to the employee at the earliest opportunity and a reasonable alternative should be provided to the employee.



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4. Gross Misconduct

In the event that an employee commits an act of gross misconduct, the Company is entitled to summarily terminate the employee's contract of employment without notice or pay in lieu of notice. In all cases the employee will be suspended on full pay for a short period to allow for an investigation into the alleged Gross Misconduct to take place. This suspension is not a disciplinary action. Further action will be taken, as appropriate, following the investigation.

The following non-exhaustive list gives examples of offences that the Company will normally regard as gross misconduct:

- Theft, fraud, dishonesty or deliberate falsification of records;
- Fighting, assault or other violent behaviour;
- Deliberate damage to, or misuse of, company property;
- Deliberate use of internet and/or email to access or distribute material of a pornographic, offensive, obscene or inappropriate nature;
- Incapability at work due to the effect of alcohol or drugs;
- Possession, custody or control of illegal drugs on company or client premises;
- Serious breach of the Company's rules, policies and procedures;
- Serious negligence which causes loss, damage or injury;
- Conviction of a criminal offence that is relevant to the employee's employment with the Company and renders them unsuitable for their work;
- Conduct likely to bring the Company's name into disrepute;
- Bullying, harassment, victimisation or discrimination;
- Serious acts of insubordination.
- Maltreatment of Service users
- Failure to report an incident of abuse, or suspected abuse of a service user
- Acceptance of gifts & hospitality in contravention of Corruptions Acts (1906)
- Failure to give notice of any pecuniary interest of which you are aware, in contract, which has been or is proposed to be, entered into by the organisation.
- Wilful misrepresentation at the time of appointment including:
 - Previous positions held
 - Qualifications held
 - Falsification of date of birth
 - Declaration of health
 - Failure to disclose a criminal conviction/caution within the provisions of the



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Rehabilitation of Offenders Act

- Wilful misrepresentation at any time during employment in connection with qualifications held
- Deliberate disclosure of privileged confidential information to unauthorised people
- Negligent or deliberate failure to comply with the requirements of the organisation's policy and procedure concerning medicines
- Working whilst contravening and enactment, or breach of rules laid down by statutory bodies
- Any act or omission constituting serious or gross negligence / or dereliction of duty
- Serious failure to abide by the Code of Conduct and Practise issued by the General Social Care Council, a copy of which is available for inspection in the office

The above examples are illustrative and do not form an exhaustive list

5. Appeal

Employees have the right to appeal against any formal disciplinary action. An appeal should be made in writing within 5 working days of the disciplinary decision. An appeal meeting will be arranged and the outcome confirmed in writing within 5 working days of the meeting.

Where possible, the appeal will be handled by a different (preferably more senior) manager than the one involved in the disciplinary hearing. However, where this is not practicable, the same manager may handle both the disciplinary and the appeal meetings and he/she will act as impartially as possible. Decisions made at this stage will be final. There is no further right of internal appeal.

Disciplinary procedure summary

Offence	First Occasion	Second Occasion	Third Occasion	Fourth Occasion
Minor Misconduct	Informal discussion / supervision	Improvement Note	Final written warning	Dismissal
Misconduct	Improvement Note	Final written warning	Dismissal	
Gross Misconduct	Dismissal			

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Disciplinary authority

	Person Authorised to take disciplinary action in the case of:	
	Management	Other employees
Informal discussion	A Director	Line manager
Improvement note	A Director	Line manager
Final written warning	A Director	A Director
Dismissal	A Director	A Director

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Grievance Procedure

The grievance procedure enables the Company to ensure that any problems, complaints or concerns raised by employees are dealt with in a fair, timely and consistent manner. If an employee has a grievance or complaint regarding:

- their work, working conditions, pay and benefits, working hours; or
- discrimination on the grounds of race, sex, sexual orientation, religion, disability, age, gender reassignment, marital status or ethnic origin; or
- treatment by colleagues including harassment and bullying; or
- if they are concerned about their health and safety or a breach of statutory employment rights; or
- any other issue affecting their employment it should be raised in line with this procedure.

1. Informal Procedure

- 1.1. Employees should, where possible, discuss the grievance or complaint with their immediate manager on an informal basis first. The manager will discuss any concerns with the employee and attempt to resolve the matter within a reasonable timescale. Where it is not possible for the employee to talk to their immediate manager, or if the grievance concerns him or her, the employee should instead talk to the next most senior person.
- 1.2. Where the informal procedure is used, both parties should keep a written record of the meeting including what was discussed and any proposed action.
- 1.3. If the grievance has not been resolved or cannot be settled informally, the matter should be dealt with according to the formal grievance procedure.

2. Formal Grievance Procedure

2.1. Stage 1 – Written Statement

The aggrieved employee must first send a written statement detailing the nature of the grievance to their immediate manager (the “Grievance”). Where it is their immediate manager who is the subject of the Grievance, the employee should instead send the written statement to another manager of equal or greater seniority, where possible.

2.2. Stage 2 – Grievance Meeting

- 2.2.1. Upon receiving the written statement person handling the grievance will arrange for a formal meeting to be held in order to discuss the grievance. The formal meeting will be held without unreasonable delay and usually no longer than 5 working days after the Grievance is received; unless further time is required to carry out necessary investigations before the meeting.
- 2.2.2. The employee, following a reasonable request, have the right to be accompanied at any meeting concerning the grievance by a colleague, a suitably certified trade union representative or an official employed by a trade union.



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- 2.2.3. The companion shall be allowed to support the employee's case and confer with the employee during the meeting.
- 2.2.4. The companion shall not answer questions on behalf of the employee, address the meeting without the employee's consent or prevent the Employer(s), from explaining their case.
- 2.2.5. The Employer(s), employees and their companions shall make every effort to attend the meeting.
- 2.2.6. If an investigation of the matter is required then the meeting should be adjourned to a later date before a decision is taken about how to deal with the employee's grievance.
- 2.2.7. Following the meeting and investigation, the person handling the grievance, without unreasonable delay, shall:
 - 2.2.7.1. Send to the employee the decision in writing and the action intended to be taken in order to resolve the grievance; and
 - 2.2.7.2. Inform the employee in writing of their right to appeal if they are not satisfied with the action taken.

2.3. Stage 3 - Appeal

- 2.3.1. If you feel your grievance has not been satisfactorily resolved, you have the right to appeal. Your request for an appeal should be submitted to person handling the grievance in writing within 5 working days of you receiving written confirmation of the outcome of the formal grievance procedure. The written request for an appeal must also state the grounds for the appeal.
- 2.3.2. The person handling the grievance will arrange a meeting to discuss the appeal within a reasonable time of receiving the request for an appeal. The employee will be informed of the time and place of the appeal in advance.
- 2.3.3. The appeal will be dealt with impartially and wherever possible will be chaired by a manager who has not previously been involved in the case and of increased seniority than the one who dealt with the original grievance.
- 2.3.4. The employee has the right to be accompanied at the appeal meeting by a colleague or trade union representative.
- 2.3.5. The outcome of the appeal meeting shall be communicated to the employee in writing within 5 working days. Decisions made at this point are final and the grievance procedure is concluded.

3. Overlapping grievance and disciplinary cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

4. Collective grievances



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The provisions of this code do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative. These grievances should be handled in accordance with the organisation's collective grievance process.

5. Confidentiality

5.1. Grievances will be handled with as high a degree of confidentiality as is practicable.

5.2. Confidential records of the grievance will be kept in the employee's personnel file in accordance with Data Protection legislation. Copies of meeting notes will be provided to the employee, although the Company reserves the right to withhold certain information (e.g. to protect a witness).

Approved by: 
Andrew Swanson, Director

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