



Lindsey Lodge Hospice and Healthcare

Disciplinary Policy and Procedure

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1. Introduction

The Hospice's Disciplinary Policy, has been designed to provide a clear and transparent framework to deal with difficulties which may arise as part of the working relationship between employer and employee. They are necessary to ensure that everybody is treated in the same way in similar circumstances, to ensure issues are dealt with fairly and reasonably and that they are compliant with current legislation. Disciplinary procedures are needed:

To ensure that the employee understands what is expected of them in terms of standards of conduct (and the likely consequences of continued failure to meet these standards).

To set out a framework so that there is clarity in respect of the process to be applied in progressing disciplinary cases. This Disciplinary Policy is used to deal with misconduct, attendance (not related to ill health) and wilful poor performance. It does not apply to cases involving an individual's fitness and sickness absence or proposed redundancies. In those cases reference should be made to the appropriate Hospice policy or procedure.

2. Responsibilities and Accountabilities

2.1. Chief Executive Officer.

The Chief Executive Officer has ultimate responsibility for the implementation of this policy.

2.2. Workforce Department

It is the responsibility of the Workforce Manager to ensure the policy and its contents provide a fair method for dealing with disciplinary issues in accordance with the ACAS code of Practice on Disciplinary and Grievance procedures. Any queries regarding its application should be raised to the Workforce Manager in the first instance.

2.3. The Workforce Committee

The Workforce Committee will review and approve this policy and will receive quarterly reports on the number of disciplinary actions and nature for monitoring purposes and to direct future workforce strategy.

2.4. Line Managers

Line managers will be aware of the key provisions of this policy and will be responsible for applying the processes set out within it, seeking advice and support from the workforce manager.

2.5. Employees

It is the responsibility of all staff to co-operate with the processes set out within this policy and procedure.

2.6. Volunteers

A separate process will apply in respect of volunteers who do not have a contract of employment with the Hospice. In any instance where a volunteer's behaviour is deemed unacceptable or they fail to comply with Hospice policies and procedures it may be inappropriate for them to continue with in their role. No volunteer should be released without proper consultation between the volunteer and the line manager taking into account where appropriate corrective action such as additional training or reassignment. Arrangements for how potential concerns regarding Volunteers conduct will be addressed are set out in the Volunteers Policy.

3. Procedures and Implementation

3.1. General Principals

- All employees will have access to a copy of this Policy, and updates or amendments will be notified via a range of communication processes i.e. Staff Notice boards, team briefing sessions and monthly newsletters, etc.
- The Hospice will try to resolve disciplinary issues in a timely and constructive manner mindful of the pressure such procedures may place on those involved, directly or indirectly. The dignity of all employees involved in disciplinary investigations and action will be respected throughout and after the disciplinary procedure.
- Disciplinary action will only be taken after careful consideration of the facts and appropriate investigation of the alleged incident or conduct.
- No employee will be dismissed for a first and isolated offence unless it is for behaviour that is considered gross misconduct by the Hospice, or in some circumstances if the employee is within their probationary period.
- All statements and records will kept confidential except for any statutory obligation placed on the Hospice by legitimate external agencies. There may however be exceptional circumstances in which disclosure is necessary to adequately investigate allegations. In such circumstances the employee will be informed of such a requirement.
- The Hospice will report to relevant authorities or governing bodies e.g. GMC, NMC, DBS etc., Practitioners who have been suspended on clinical or professional grounds, or practitioners whose practising privileges have been suspended, restricted or withdrawn on professional or clinical grounds.

- Breaches of rules will be investigated before any disciplinary action is taken. The extent of the investigation will depend on the circumstances of each case, with a view to achieving a balance between minimising delay and undue concern with a need to ensure that all relevant information is considered before a final decision is made.
- A hearing will usually take place prior to any formal warning being given and will include a representative from the Workforce department to ensure appropriate HR advice is available.
- Reasonable timescales will be adhered to for any investigation or hearing, wherever possible, unless there are extenuating circumstances or where an extension is required. It is envisaged that all investigatory processes will be completed within 6 weeks and formal hearings convened within 4 weeks of the completion of the investigatory process. Where this timescale cannot be complied with, the reasons and revised timescale will be agreed with the parties concerned.
- The timing and location of meetings will be reasonable and meetings will be conducted in a manner that allows both parties to explain their respective cases appropriately.
- Employees are expected to use their best efforts to attend hearings when requested to do so. If the employee is unable to attend a meeting he/she should explain this immediately to the CEO or relevant senior manager.
- At every stage of the procedure employees will be advised of the precise nature of the complaint against them and be given the opportunity to state their case before any decision is made.
- Employees will be notified of their right to be accompanied at disciplinary hearings. Employees can bring a trade union representative or a workplace colleague to disciplinary hearing/investigation meeting. In instances where the employee wishes to bring someone else to support them they must notify the Workforce Manager or the person chairing the disciplinary meeting in at least a week advance of the hearing in order for the request to be considered. Legal representation is not permitted.
- Employees have the right of appeal against any formal disciplinary sanction imposed.
- There is no authority to sanction dismissal below CE or director Level within the Hospice

3.2. Informal Warnings.

Minor breaches by employees of the Hospice's discipline, misconduct or performance standards will normally be dealt with informally by their Line Manager. A note of any informal warning will be made on the employee's personal file but will be ignored for the purposes of any future disciplinary hearings. This is not regarded as part of the formal disciplinary procedure.

If an employee fails to respond to informal discussion and guidance, the disciplinary procedure may be invoked.

Where the breach is principally a performance issue and relates to the capability of an employee to do their job, the processes set out in the Hospice's performance policy will be progressed.

3.3. Formal Warnings.

The formal disciplinary procedure has 3 stages however the Hospice reserves the right to omit stage(s) 1 and 2 of the procedure where it considers it appropriate to do so and dependent on the nature of the conduct. The Workforce Manager should be consulted before any formal disciplinary action is considered.

3.4. Stage 1 – Written Warning

Repeated minor breaches or the first instance of a more serious issue may result in a formal written warning being given at Formal Warning Stage 1. Written confirmation of the warning will be issued to the employee detailing the reason for the warning, the improvement required and the timescale under which the issue will be monitored. A copy of the letter will be placed on the employees file. Written Warnings will normally be considered spent after 6 months, provided there has been no repeat of the breach.

3.5. Final Written Warning

Repeated breaches at the preceding level, or a more serious issue, may result in a Final Written Warning being given. Written confirmation of the warning will be issued to the employee detailing the reason for the warning, the improvement required and the timescale under which the issue will be monitored. A copy of the letter will be placed on the employee's file.

Final Written Warnings will **usually** be disregarded after a period of 12 months, provided there has been no repeat of the breach. In exceptional circumstances verging on gross misconduct, a final written warning may in exceptional circumstances remain on file longer – this will at the discretion of Chief Executive and Workforce Manager together with an agreed review date.

3.6. Stage 3 –Dismissal

3.6.1. Dismissal with notice

Repeated breaches at the preceding level or a more serious issue may result in **Dismissal with Notice** being given. Written confirmation of the outcome of this hearing will be issued to the employee detailing the reason for the action. A copy of the letter will be placed on the employee's file.

3.6.2. Dismissal without notice (Summary Dismissal)

If after investigation and subsequent hearing, the employee is considered guilty of an act of **Gross Misconduct**, the resulting action will normally be summary dismissal without notice or pay in lieu of notice. Acts which might lead to this decision include offensive behaviour such as bullying, aggressive behaviour, damage to property, fraud, serious incapacity caused by alcohol or drugs/serious breach of health and safety rules, serious breach of confidentiality. **This list is not exhaustive.**

3.6.3. Suspension

An employee may be suspended, with pay, while the circumstances of any complaint are investigated. The suspension will be for no longer than is necessary to investigate the allegations and the Hospice will confirm the arrangements to the employee in writing. Suspensions should only be considered in exceptional circumstances and the advice of the Workforce Manager/Manager on call should be sought prior to instigating a suspension.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Suspensions will be reviewed on a monthly basis and should be for as shorter period as possible.

3.6.4. Appeal Procedures

Employees have the right of appeal after any formal disciplinary action including dismissal.

Any appeal must be made in writing within 7 calendar days (first written warnings) or 14 calendar days (final written and dismissal) of the date of the written confirmation of action, and should include the reasons for the appeal. The employee should indicate in writing whether they will be accompanied by a union representative or work colleague, identifying their name and work location. Appeals should involve the Chief Executive or a director not previously involved in the decision to dismiss or award a disciplinary sanction. Termination of contract appeals should also involve a Trustee together with a director/the Chief Executive together with a member of the Workforce department. Appeals should be convened within 4 weeks of the date of the submission of appeal wherever possible.

Appeal hearings can uphold the previous decision, or overturn it for an alternative decision, which may or may not be in the favour of the employee.

3.6.5. The Right to be Accompanied

Employees have the statutory right to be accompanied by a fellow worker or a trained trade union official when they are required to attend formal disciplinary hearings. An employee wishing to be accompanied must make a "reasonable" request to be accompanied and this request will be accommodated subject to the achievement of a timely process and the

agreement of the fellow worker or trade union official to attend. The person accompanying the employee is permitted to address the meeting and confer with the employee during the meeting but cannot answer questions on behalf of the employee. In instances where the individual wishes to be accompanied by someone who is not a workplace colleague or a trade union official advice should be sought from the Workforce Manager or individual chairing the disciplinary meeting at least a week in advance of the scheduled meeting to enable the request to be considered.

3.6.6. Termination within the Probationary Period

For new recruits continued employment is subject to satisfactory completion of the probationary period, competent performance is assessed through regular reviews during this period.

The Hospice may, subject to the particular circumstances of the case, reserve the right to move immediately to stage 3 of this procedure. An employee within the probationary period and subject to a disciplinary procedure would still have the right to appeal any decision made.

4. Related Policies

Grievance Policy

Managing Sickness Absence and Wellbeing Policy

Performance Management Policy

Raising Concerns Policy

Dignity at Work policy

REFERENCES:

The procedure complies with the ACAS Code of practice on 'Discipline and Grievance Procedures (April 2009) but is subject to review in the light of future legislation. Any review will be made in consultation with the Trustees of the Hospice and in line with present and future employment legislation.

ACAS Code of Practice on Disciplinary and Grievance Procedures (April 2009), Employment Act 2008, General Medical Council (Licence to Practise and Revalidation) Regulations Order of Council 2012

Lead Author of Policy – Jane Lacey-Hatton, Workforce Manager.

Responsible Sub-group – Workforce Committee Subgroup of the Board

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To Be reviewed	Review completed	By	Approved By	Circulation
June 2021	Workforce	JLH	W/F Committee 08/06/2021	L: Policies & Guidelines

Disciplinary Process

Procedural Flowchart

