# Disciplinary

##### Introduction

**The disciplinary procedure exists to ensure that problem areas within the working environment can be resolved as quickly and fairly as possible.**

**It may be used to bring to the attention of an employee any shortcomings in their performance, conduct or abilities and to encourage the individual to address these problem areas, with the necessary support.**

**In some cases it may be necessary to impose a penalty because of a failure to improve or because of the seriousness of the issue concerned.**

##### **Policy**

Disciplinary action will be taken when an employee’s conduct or performance in relation to their work warrants such a response.

The problem area must be, in the opinion of the service manager, sufficiently serious for usual problem solving methods (often referred to as *‘informal warnings’*) not to result in an adequate response.

*‘Informal Warnings’ will always be recorded in supervision notes and signed by both parties.*

*The main areas where this procedure might be used are:*

* Minor misconduct
* Serious misconduct
* Gross misconduct

***Examples of each are:***

## *Minor misconduct*

* Poor time keeping
* Failure to report for work without adequate explanation
* Breach of My Support and Care Services Ltd rules (policies), where no danger to health and safety is involved
* Poor work performance (i.e. poor quality, too many mistakes)
* Behaving in a disorderly manner
* Use of offensive language

## *Serious misconduct*

* Repeated misconduct of a minor nature
* Use of obscene or threatening language
* Consumption of alcohol or influence of alcohol whilst on duty
* Absence without permission, or leaving the workplace without due authorisation
* Minor motoring offences whilst in company vehicles (minor = offences which do not result in a ban)

## *Gross misconduct*

* Persistent misconduct of a serious nature.
* Bringing My Support and Care Services Ltd into disrepute.
* Abuse or neglect of My Support and Care Services Ltd Customers.
* Acts of sexual or racial harassment, or discrimination of any kind, which contravenes My Support and Care Services Ltd policy entitled *‘Equal Opportunities and Anti Discriminatory* *Practise’*
* Physical assault
* Dangerous or wilful breaches of Health and Safety rules
* Refusal to obey lawful instruction
* Dishonesty, including falsification of records
* Theft from service users, colleagues or My Support and Care Services Ltd
* Serious breach of My Support and Care Services Ltd policy entitled *‘Confidentiality’*
* Sleeping on duty, unless expressly permitted
* Criminal misconduct outside of employment as specified below

***Criminal misconduct outside of employment***

Any employee that becomes involved in criminal proceeding outside of work must inform the service manager or the managing director in their absence.

As employment law is based on different principles than criminal law, My Support and Care Services Ltd has the right to take disciplinary action before the outcome of a criminal case is known.

Criminal conduct outside of work will not automatically lead to an employee’s dismissal. If however, the misconduct is such that it indicates the employee is unsuitable to work with vulnerable adults or effects the reputation of My Support and Care Services Ltd, the employee may be liable for dismissal.

**Procedures**

All stages of the procedure will be carried out as quickly and carefully as possible in the best interests of all concerned.

Where a disciplinary matter arises, the service manager will be responsible for carrying out the procedure, they will:

* Establish the full facts promptly, before memory fades (if an investigatory meeting is held solely to establish the facts, the employee will be informed that it is not a disciplinary meeting)
* If there are witnesses, written statements will be taken at the earliest opportunity
* Decide whether to drop the matter, deal with it informally or arrange for it to be handled formally (in this instance the service manager will inform the director)

***Informal Action***

* The service manager will discuss the issue with the employee confidentially; this will be recorded in the employee’s supervision book and signed by both parties.

***Suspension***

In certain cases, for example those involving gross misconduct i.e. allegations of abuse; My Support and Care Services Ltd will suspend an employee with full pay whilst an investigation is conducted. This will not be considered as a disciplinary action.

***Formal Action***

The service manager will inform the employee, in writing, of the following:

* What they are considered to have done wrong and the reasons why it is not acceptable
* Inviting them to a meeting where the issue/s can be discussed
* Their right to be accompanied at the meeting (colleague, union member)

The length between written notification and the meeting will be long enough to allow the employee to prepare but not so long that memories fade.

**At the meeting:**

* The service manager will explain the complaint against the employee and go through the evidence gathered
* The employee will be allowed to set out their case and answer any allegations that have been made, ask any questions, present evidence and call witnesses and given an opportunity to raise points about any information provided by witnesses.

**Outcome and Actions from Meeting**:

The service manager must decide whether disciplinary action is justified, and what action to take, if any and the employee must be informed of the decision.

**The disciplinary actions are as follows:**

* ***Formal verbal warning*****–** will be issued if the employee is deemed as performing unsatisfactorily. The warning will set out the performance problem, the improvement that is required, and the timescale for achieving this improvement, a review date, and any support that My Support and Care Services Ltd will provide to the employee. Failure for performance to improve could lead to final written warning and ultimately, dismissal.

*A record of the warning will be kept on an employee’s personnel file and used to monitor and review performance over an agreed time.*

* ***Formal written warning* –** will be issued if the employee is deemed to be guilty of serious misconduct. The warning will set out the nature of the misconduct, why it is not acceptable and the change in behaviour required. Failure for behaviour to improve could lead to final written warning and ultimately, dismissal.

Employees can appeal against the decision – see *‘Appeals Process’* further on in this document.

*A record of the warning will be kept on an employee’s personnel file; it will be disregarded for disciplinary purposes after six months (unless otherwise stated by the service manager)*

* ***Final written warning* –** will be issued if there is a failure to improve performance or change behaviour as outlined the first two formal stages or where the offence is deemed sufficientlyserious. The warning will give details of, and grounds for the complaint, it will also warn the employee that failure to improve performance or modify behaviour may lead to dismissal or some other penalty.

Employees can appeal against the decision – see *‘Appeals Process’* further on in this document.

*A record of the warning will be kept on an employee’s personnel file; it will be disregarded for disciplinary purposes after twelve months (unless otherwise stated by the service manager)*

* **Dismissal or Other Penalties** – a decision to dismiss an employee or implement any other penalties such as demotion or loss of seniority / pay will only be taken by the service manager and the director of My Support and Care Services Ltd. The employee will receive written confirmation of this including the reasons for dismissal, the appropriate period of notice, the date on which the contract of employment will terminate and their right of appeal

**Appeals**

An employee has the right to appeal any decision or disciplinary action taken under this procedure.

An appeal must be made, in writing, to the director of My Support and Care Services Ltd within 10 working days, stating the grounds for the appeal and presenting any supporting evidence (i.e. statements);

**Managing Director**: **Lesley Barker**

**Address**:My Support and Care Services Ltd

 143 High Street

 Honiton

 Devon EX14 1PJ

**On receipt of the appeal the directors will:**

* Respond, in writing, within 5 working days, informing the employee of the appeals arrangements and their right to be accompanied at the appeal meeting.
* Consider the information given to them and decide whether any decision or penalty imposed at the time of the hearing should be overturned or changed (it may be necessary toseek specialist advice at this time)*.* We shall consult with our legal team to ensure a fair decision is made.
* Inform the employee, in writing, of the decision and the reasons for it.

**If the employee has exhausted My Support and Care Services Ltd appeals procedure and is still dissatisfied with the outcome, they may be entitled to an industrial tribunal.**

Also see policies *‘Grievances’* and *‘Whistleblowing’.*

#### N.B

Reference has been, and will be made to *‘Code of Practise 1 – Disciplinary and Grievance* Procedures’ produced by *‘acas’* in any disciplinary or grievance matter.

**acas**

Helpline 08456 06 16 00 [www.acas.org.uk](http://www.acas.org.uk)