



## **1. Introduction**

Homemaker is committed to ensuring that the highest standards of practice and conduct are maintained by staff, in order to ensure that customers, clients and everyone we come into contact with in our working time receive high quality services.

The disciplinary procedure offers a mechanism for ensuring that staff are aware of the standards of behaviour, conduct and performance expected of them, and aims to outline those expectations, and to ensure that whenever there is a need to question such standards, any disciplinary action is applied consistently, fairly, sensitively and objectively.

In all cases except for gross misconduct, the disciplinary procedure should be viewed as a way of encouraging and measuring improvement.

Staff have the right to feel supported within their workplace, and should have the opportunity to appeal against any decision or action which they feel has been applied unfairly.

The procedure applies to all staff of Homemaker, whether on permanent, temporary, or fixed-term contracts as well as secondments, and should be read in conjunction with other relevant policies, including Code of Conduct, Confidentiality, Whistleblowing, and the Grievance procedure.

## **2. Discipline**

### **2.1 Standards**

General standards are implied in any employment contract and are, therefore, conditions of employment. For example, employees are expected to

- Maintain conduct in keeping with the interests and reputation of Homemaker Southwest;
- Devote full attention to the duties of their positions and in doing so act with responsibility, judgement and good faith in relation to their work;
- Carry out any reasonable instruction given by Managers or the Board relating to those duties;
- Never under any circumstances divulge to any unauthorised person, or make personal use of, confidential information connected with Homemaker's staff, clients or business;
- Observe the organisation's policies and procedures;
- Treat everyone with respect and politeness.

Gross misconduct is action that fundamentally undermines the employment contract with the result that the employer's trust and confidence in an employee's ability to fulfil the terms of his or her contract of employment is damaged beyond repair. For example

- Dishonesty, theft, fraud or misuse of Homemaker's funds or property;

- Violence to or verbal harassment of other members of staff, clients or members of the public;
- Obscene or indecent behaviour or sexual misconduct;
- Deliberate breach of security or of financial or confidential procedures;
- Inappropriate relationships with clients;
- Incapability through the influence of drugs or alcohol;
- Failure to follow a reasonable instruction;
- Professional incompetence or negligence.

This list is not exhaustive, but indicates the kind of misconduct that might result in summary dismissal. In certain circumstances, serious misconduct that has taken place outside of work may also be regarded as gross misconduct, if it affects the employment relationship or the reputation of the organisation.

## **2.2 Process**

### **2.2.1 Probationary period**

Concerns re performance or conduct during the probationary period will be handled in line with but outside the formal disciplinary procedure.

Issues of capability or behaviour may well come to light over a period, and should be highlighted clearly within supervision. During the probationary period, the member of staff should be given every opportunity to improve by way of specific targets and timescales, and their performance should be monitored frequently and sensitively. , Where it becomes evident that the required performance standards are not being met, the employee should be given one week's notice of termination of contract before the end of the six-month probationary period. In exceptional circumstances, the probationary period may be extended, with clear targets for improvement identified.

#### **2.2.2. Informal process**

As the procedure is designed to help employees achieve and improve on the required standards, issues should initially be addressed as informally as possible .The formal process must be used when all other measures have failed, or where the situation continues or worsens.

Concerns will be raised and highlighted as a matter of course through supervision, and the manager must always keep a note of the details and the agreed action, including timescales for improvement. All efforts should be made to assist an employee to meet the required standards, through additional training, support, etc.

The aim of the informal process is to deal with matters quickly and effectively. Any further or ongoing breaches of discipline, whether it is conduct or capability, will lead to formal action.

## **2.3 Formal process**

The formal process must be used when informal efforts to change behaviour or improve performance have failed, or when there is evidence of possible serious or gross misconduct.

The formal process involves a written record, a right of appeal, a right to be accompanied, and the possibility of dismissal.

**At all stages within the process, the employee must be informed in writing of the issues, and there must be a formal and recorded meeting between employee and manager to discuss and clarify each party's position.**

There are four possible stages in the procedure, and an employee may enter at any stage, depending on the nature of the offence, eg. minor breaches at 1, serious breaches at 2 or 3, and gross misconduct at stage 4.

In most cases of continuing misconduct, involving either the same or differing behaviours, the process may start with a formal verbal warning and work through the stages to ultimate dismissal.

- Stage 1 Formal verbal warning
- Stage 2 Formal written warning
- Stage 3 Final written warning
- Stage 4 Dismissal

**Stage 1 - Formal verbal warning:** Where there has been a minor breach of discipline or lack of capability, or where attempts to bring about change through supervision have failed, the manager may issue a "formal verbal warning". This will be confirmed in writing by the Manager, and a copy kept on the personal file. Unless a shorter or longer period is decided upon at the time, the warning will be kept on file for six months. After that time, if no further concerns have been raised, the warning will be disregarded for future disciplinary purposes.

Stage 1 is the responsibility of the Line Manager in a one-to-one meeting with the member of staff. Appeals should be heard by the Manager's Line Manager.

**Stages 2 and 3 - Formal written warnings:** Where the issues are more serious, the manager should take advice from the Director before deciding on a plan of action. Depending on the nature of the allegations, the Director will decide whether an investigation needs to take place.

**Investigation:** The Director may nominate one or more people to interview relevant people. These may include the member of staff concerned, his/her manager, his/her colleagues, and clients (if the concern relates to specific casework), to collect as much information as possible about the circumstances surrounding the alleged misconduct. Where it is inappropriate to involve other managers, the Director may ask for assistance from Board Members. It may also be necessary to seek advice from an external personnel specialist.

The member of staff must be notified that an investigation is taking place, and should be advised of their right to be accompanied throughout the process by a personal representative.

**Disciplinary hearing:** Once the Director is in receipt of full written details, he/she should convene a formal disciplinary hearing. Employees should be notified in writing at least 7 days in advance of the meeting, with specific details of the allegation being brought against them. The Director should chair the meeting, and should be accompanied by the Line Manager. He/she may ask the investigating officer to join the meeting simply to clarify any points which may be raised. Where there are witnesses to a particular allegation, the Director must decide whether it is necessary for them to attend the hearing, or whether their written evidence will suffice.

The Director should carefully consider all the evidence presented to him/her, and will question the employee in detail, to satisfy him/herself that he/she is in receipt of the full facts and circumstances surrounding the alleged misconduct.

The Director will then decide whether or not he/she is satisfied that misconduct has occurred. If not, no further action should be taken. If he/she holds reasonable belief that misconduct has occurred, he/she must decide on what appropriate level of action should follow. Usually where no previous written warnings have been given, a first written warning would be expected, but where previous misconduct has failed to improve, a final written warning may be appropriate.

The outcome must be notified in writing as soon as possible after the hearing, with the member of staff being told of their right to appeal against the decision within 10 working days.

**Stage 4 – Dismissal:** Whilst it is never possible or desirable to pre-empt the outcome of a disciplinary hearing, it will be apparent from the outset if an issue represents alleged gross misconduct, or is sufficiently serious to suggest likely dismissal.

Where, in the opinion of the Director, dismissal is a probability, the hearing should be chaired by a member of the Board, whilst still involving the Director. In any event, any decision to dismiss must be discussed with the Chair of the Board before being implemented.

**An investigation** should be carried out as above, with the member of staff being informed of the seriousness of their position.

In cases of substantiated gross misconduct, an employee may be dismissed summarily without notice. In other circumstances, or where a final written warning has already been given, notice of dismissal should be given. The formal letter should tell employees of their right to appeal within 10 working days.

### **3. Breach of discipline involving the Director**

Where any issues of discipline directly involve the Director, his/her role as described in this procedure will be taken instead by a Board member, nominated by the chair.

### **4. Suspension**

In allegations of gross misconduct, employees should be suspended from work on full pay. Suspension should also be considered if the employee's continued presence in the workplace would be detrimental to the investigation or to colleagues or clients.

While suspended, an employee should refrain from contact with colleagues and clients. They should be kept fully informed throughout the investigation process.

The Director would normally take responsibility for suspending a member of staff, advising them of the nature of the allegations, and giving them the opportunity to respond before implementing the decision. The suspension must be confirmed in writing as soon as possible; the target time being within two working days.

### **5. Confidentiality**

It is important that confidentiality is respected at all stages, although it may be an inevitable part of the process to interview colleagues, other agencies or clients. The

employee must be informed of the likelihood of the involvement of other people in the process, and all parties must not discuss the issues outside of the formal meetings.

## **6. Timescales**

In order to minimise disruption and anxiety for all involved, the disciplinary process should be undertaken and completed as quickly as possible. Ideally, the process should take no longer than 15 working days from the date of the initial allegation to the date of the hearing. Appeals should normally be heard within 20 days of receiving the letter of appeal. In both cases extensions of time may be needed for good reason. Such reasons should be stated in writing.

## **7. Appeals**

All appeals must be made in writing by the employee to the employer. An appeals meeting will be arranged as soon as possible, but within 20 days of receipt of the letter of appeal, chaired by a manager more senior than attended the first meeting. The appeal panel should consist in total of three people, comprising senior managers and Board members. The person who made the initial decision must be present to state their position. The employee has the right to be accompanied at the meeting. The final decision and recommendations of the meeting must be notified in writing to both parties.

## **8. Right to be accompanied**

The employee has the right to be accompanied at any stage of the process. The companion would normally be a fellow worker or a trade union official. The Director will have discretion to agree to another person, such as a partner or legal representative, to accompany the employee. Fellow workers or trade union officials do not have to accept a request to accompany a worker. Indeed it would not be reasonable to be accompanied by a colleague whose presence would prejudice the hearing, or who might have a conflict of interest.

## **9. Following a disciplinary hearing**

The outcome of a disciplinary hearing involving performance issues may well involve a structured training programme, or a period of close monitoring. While such support should be carried out sensitively by the manager concerned, the employee should co-operate with the process in order to ensure that satisfactory standards are achieved and maintained.

Inevitably the occurrence of a disciplinary hearing will have an impact on many people, notably the member of staff involved, but also colleagues, and possibly clients. Disruption to the service should be minimised where possible, whilst still acknowledging the feelings that will be engendered.

In some circumstances it may be appropriate to offer counselling to staff, in which case Homemaker should bear any agreed cost.

## **10. Monitoring**

The Board has overall responsibility to ensure that this procedure is applied effectively. The Director will outline all formal disciplinary issues at each Board meeting. Any necessary discussion will take place confidentially within the “staffing” item.

Policy approved by Board: January 2016

Date for next review: January 2018