

Disciplinary Policy



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1. Introduction

In the interests of good employment relationships, the Company has developed certain rules and procedures which must be observed. It is important that you understand the rules and procedures and the consequences of any misconduct and/or poor performance which may be dealt with through this disciplinary procedure. We do, of course, hope that there will be no cause to use the procedure, however if it is considered necessary this procedure will be invoked.

2. Investigations

Disciplinary action will not be initiated until a potential disciplinary matter(s) has been carefully investigated. Investigations in themselves are not a disciplinary measure and their goal is only to establish facts and gather evidence to ascertain whether disciplinary action is appropriate. Key points to note are:

- You should take reasonable steps to attend an investigation meeting if you are asked to do so.
- You are expected to co-operate fully during an investigation process and act in the best interests of our young people by being open, honest and professional. Failure to co-operate unreasonably during an investigation could be deemed a disciplinary offence in its own right.
- You are not entitled to bring a companion to an investigatory meeting.
- It is not a requirement to receive notice or be invited to an investigatory meeting in writing.
- The investigation may not always involve a meeting and could refer to the gathering and collation of relevant evidence.

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3. Suspension

In some cases it may be necessary to suspend you, with pay, pending completion of the investigation stage. This type of suspension is not a disciplinary measure and is designed only to aid in the thorough and fair investigation of any allegations. You will be paid only your contracted hours during this time, with no consideration given to overtime or other enhancements that you would have attracted whilst working.

There may be times when the Company is required to suspend you without pay. This will only be done when it is reasonable and the details of this will be explained to you. Whilst on suspension you are only allowed to communicate with your designated point of contact, usually the investigating manager. You should not attempt to make contact with other employees, contractors or young people or enter the work premises without express permission from the Company to do so; this could be deemed a disciplinary offence in its own right.

Whilst suspended you are expected to cooperate fully with any investigation and make yourself available for any meetings which might be required. Failure to adhere to these expectations during a suspension could mean that your pay will be suspended. Investigatory meetings during suspension will not require notice or written invitations.

4. Delays during Investigations

Investigations will be conducted without unreasonable delay. Where the allegation is sufficiently serious it can be that the Police or appropriate safeguarding agency instruct us not to investigate until they have provided permission for us to do so. If there are delays as a result of any such referral you will be informed as such.

5. Invitation to Disciplinary

If as a result of the investigation it is decided that there is a disciplinary case to answer, you will be notified of this in writing and you will be invited to attend a disciplinary hearing. Your invitation should include:

- Date, time and location of the disciplinary hearing.
- Details of the allegations of misconduct or poor performance.
- Any supporting evidence that will be referred to including possible witness statements.
- An indication of the possible outcomes.
- At least 24 hours' notice of the meeting.
- Details about your right to be accompanied.

NB. Any minutes or notes provided as part of the investigation are not intended to be word for word transcripts but should be a reflective account of the discussions that took place. If you wish to dispute something significant within the minutes then please provide your disciplinary chairperson with the details of this prior to the disciplinary meeting with adequate time for them to address the dispute.

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6. The right to be accompanied

Some key points to note about your right to be accompanied at a disciplinary hearing are:

- Your companion must be either a willing colleague employed by ELC or a trade union official.
- Any union official will be required to provide identification to confirm their role within the union.
- It is your responsibility to arrange their attendance if you would like to be accompanied. Your invitation may request that you inform the chair person in advance about the presence of a representative.
- Your chosen companion will be allowed to put across and sum up your case, respond on your behalf to any views expressed at the meeting and confer with you during the hearing. Your companion does not have the right to answer questions on your behalf, address the hearing if you do not wish it or prevent the disciplinary officer from explaining their case.
- You cannot bring a companion that may prejudice the case in any way or a companion whose geographical location or availability delays the hearing unreasonably so.

7. The Disciplinary Hearing

At the hearing the allegations made against you will be explained to you as will the evidence. You will be given the opportunity to explain your defence or mitigation, ask any questions, present any evidence and to call any relevant witnesses. If you do wish to call relevant witnesses, you must give the Disciplinary Chairperson good notice of this so that arrangements can be made. We cannot guarantee that any witness will be willing and/or able to be present at the hearing but we will make every effort to facilitate this and/or will take written questions from yourself or your representative to put to the witness on your behalf. You should make every effort to attend the meeting at the date and time outlined in your invitation letter. If for some unavoidable reason the date is not practical for you and/or your representative then you may request to have the meeting deferred. Where the reasons for this request are reasonable an alternative date will be arranged. This will only be agreed to once and the rescheduled hearing should take place within 5 working days of the original scheduled date, except in exceptional circumstances as agreed by the disciplinary chairperson.

If you fail to attend a disciplinary hearing without good cause a decision may be made in your absence on the basis of the evidence available.

After the hearing, the outcome will be confirmed to you in writing.

8. The Outcomes

The range of outcomes are as follows:

- No further action.
- Training and supervision (or other recommendations outside of the disciplinary sanction scale)
- Demotion (or loss in seniority)

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- First written warning
- First and final written warning
- Final written warning
- Dismissal (with notice or without)

The seriousness of the offence and the presence of other live warnings on your file will define the level of sanction that is appropriate.

The outcome letter will confirm the allegations upheld and any required improvements or change in behaviour with the appropriate timescales. It will also advise for how long the warning will remain live. Whilst it is live, further such instances of misconduct are likely to induce an escalation of a disciplinary sanction.

Any minutes provided with the outcome letter will be reflective accounts of discussions and not word for word transcripts. If you have a significant dispute about any such minutes this should be submitted within 5 working days of receiving the minutes or they will stand as a matter of record.

9. Gross Misconduct

You should note that some acts of misconduct are so serious that they are regarded as “Gross Misconduct” which will result in “Summary Dismissal”. This means that you will forfeit your right to any notice or payment in lieu of notice.

Examples of gross misconduct include (N.B. this is not an exhaustive list of offences and are shown only to provide an illustration):

- Serious professional misconduct
- Abusive, objectionable or insulting behaviour or language
- Falsified, misleading or inaccurate care records and related documentation
- Mistreatment or abuse of young people
- Loss of registration by the relevant professional or statutory body
- Serious misuse of the Company’s e-mail, internet or internal mailing facilities
- Theft of others' property whether belonging to the Company, employees, visitors, customers or service users
- Fighting/Physical Assault
- Sleeping while on duty
- Absent without authorisation
- Deliberate damage to Company property, material or equipment
- Gross immorality or indecent behaviour
- Supplying/possessing and/or taking illegal drugs or alcohol on the premises
- Presenting yourself for work under the influence of alcohol or drugs
- Smoking in prohibited areas
- Serious cases of non-compliance with health and safety instructions
- Harassment or discrimination of any kind

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- Serious cases of refusal to carry out reasonable management instruction
- Failure to comply with the Company's "whistle-blowing" policy
- Unauthorised release of Company/commercially sensitive information
- Undertaking private work on Company premises without prior authorisation
- Negligence or neglect of duty resulting in any loss which might expose the Company to a serious claim or legal proceedings
- Solicitation and/or acceptance of money, gifts, services or other inducements for personal gain or the gain of family or friends
- Borrowing money from residents/service users
- Wrongful administration of drugs or medication or attempt to administer drugs or medication contrary to a prescription
- Instructing an unqualified employee to administer medication
- Coercing or instructing a colleague to counter-sign a MAR sheet contrary to a service user's prescription
- Failure to lock and secure a medication/drugs trolley whilst leaving it unattended for any period of time
- Failure to disclose any criminal conviction or police caution awarded to you prior to or during the course of your employment

10. Right to Appeal

You have the right to appeal against a decision taken if you feel that it was wrong or disproportionate. Any appeal should be put in writing and submitted within 5 working days of receipt of confirmation of the disciplinary sanction.

The letter of appeal should set out the grounds of the appeal and should be submitted to the person specified in the disciplinary sanction or dismissal letter. There are three main reasons for appeal:

- New evidence is now available that you think should be considered.
- There was a fault with the disciplinary process itself which you think was unfair.
- The sanction issued was too harsh (you should provide reasons why you think so).

You could be asked to further clarify your grounds of appeal if you do not provide enough detail in light of the above.

Appeals will normally be considered by someone who has not previously been involved in the case and who has not been party to the disciplinary decision.

The outcome of the appeal will be confirmed by letter after the appeal hearing. The decision to uphold or revoke the original sanction issued will then be final.

11. Equality Impact Statement

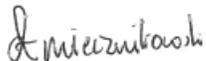
All relevant persons are required to comply with this policy and must demonstrate sensitivity and competence in relation to diversity in race, faith, age, gender, disability and sexual orientation. If you, or any other groups, believe you are disadvantaged by this policy please contact the Group Director for Education and Learning. Enhanced Children's Services will then actively respond to the enquiry.

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This policy is written by Lukasz Miecznikowski

Date: 16th of May 2019

Signed 

This policy is quality assured by Jason Goddard, Group Director for Education and Learning.

Signed: 

Date: 16th of May 2019

The policy is quality assured by Governor: