

Healthwatch Hillingdon

Disciplinary Policy and Procedure

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1. POLICY

Healthwatch Hillingdon (HWH) takes seriously its responsibility for ensuring fair and consistent steps are in place to deal with instances of poor performance or conduct. HWH will in its operation of this policy ensure that the employee: -

- is told why management is dissatisfied with their performance and/or conduct;
- is allowed to state his/her case in response to management's declared dissatisfaction;
- the case is considered fully before a decision is made on an appropriate action.

Each employee will have a right to representation by either a colleague or union representative.

Legal representation will not be permitted; the Disciplinary Procedure is an internal process and will be conducted as such.

HWH may choose to commence the disciplinary procedure at any stage depending upon the severity of the case. Equally, HWH may in the case of an employee still on probation, commence the procedure at any stage up to and including the final stage.

2. SCOPE

This policy applies to all employees of HWH.

3. DEFINITIONS

The following list provides examples of the types of performance and/or behaviour which may lead to disciplinary action, this list is not exhaustive:

3.1 Minor offences

- Persistent lateness i.e. poor time keeping
- Failure to deliver work programmes on time
- Poor management of staff

3.2 More Serious offences

- Failure to comply with Policies and Procedures for example reporting sickness absence, putting your own or others' health and safety at risk, etc.

- Working whilst intoxicated or under the influence of drugs or alcohol
- Breaching Equal Opportunities in employment practice
- Offering or receiving bribes

3.3 Gross Misconduct

- Fighting/violent behaviour
- Verbal Abuse
- Sexual Harassment, Racial Harassment, or harassment related to sexual orientation, religion, or belief
- Refusal to obey a reasonable request
- Breaching confidentiality with regard to unauthorised knowing or reckless disclosure of 'sensitive personal information'
- Use of the internet for 'hacking' or downloading illegal material
- Recklessly putting your own or others health and safety at risk, resulting in serious accident/incident.

4. PROCEDURE

4.1 Counselling

If there is evidence that the work performance or conduct of an employee is unsatisfactory, then the normal course of action, in the first instance (except in cases of alleged gross misconduct), will be to counsel the employee. This stage will be undertaken by the Line Manager. The matter will be discussed with the employee in private. Counselling by its very nature does not involve a third party and is intended to bring about the necessary improvement in performance and/or conduct to avoid the need for formal action.

The Line Manager will explore the problem fully with the employee and agree with the employee how to resolve the problem within an agreed time-scale. The employee will be advised that failure to meet the required improvement may result in formal disciplinary action.

Whilst the counselling will not result in the issuing of any formal documentation, the Line Manager will keep a note. The note will include the fact that counselling was given by the Line Manager including the day and time it took place. Failure to reach the specified standard of behaviour and/or conduct will result in disciplinary action.

4.2 STAGE ONE - First Written Warning

Failure to meet the required standard of conduct and/or performance agreed at Counselling Stage or where the employee's actions require formal action, the line manager will commence proceeding under Stage One.

The employee should be given at least five days written notice of the interview, outlining management dissatisfaction, and their right to representation at the interview. Such representation will be restricted to union representatives, colleague, or friend (solicitors/lawyers will not be permitted unless agreed by both parties as appropriate).

Where the employee does not have representation, the employee should be counselled about this entitlement. If the employee wishes to proceed in the absence of representation, this should be recorded. It is advisable that the Board HR lead is either present or advice is sought prior to convening the interview.

At the disciplinary interview, the Line Manager will explain to the employee why his/her conduct/performance falls short of the required standard, and the employee will be given the opportunity to explain his/her behaviour, outlining any mitigating circumstances. The interview will be adjourned for a period in order to consider what action is appropriate, if any. The interview will be reconvened to inform the employee of the decision reached. In the instance of more serious misconduct, for example, theft, fighting, falsifying documents or where witnesses are required to attend, it may be necessary to convene a more formal meeting, as outlined in the appendix - Conducting a Disciplinary Hearing.

The Line Manager, in arriving at his/her decision to award a Stage One Written Warning, must consider whether the issue merits imposing a specific date for reviewing the employee's performance/conduct.

In any event, whether a specific date is set for review or not, the warning will remain on the employee's personnel file for a period of up to 12 months, after which time the warning will have been spent.

The employee should be told that failure to meet the standards expected of them within the agreed time-scale, or a further offence related or otherwise, will result in further disciplinary action.

The employee should also be informed of their rights to appeal. This will usually be to the CEO or Board HR Lead in writing within 5 working days of the warning being issued to the employee.

The letter should outline:-

The fact that a Stage One Written Warning is being issued;

The life of the warning on the employees' personal file, i.e. 12 months;

The nature of the incident(s)/issue, i.e. performance or conduct;
The improvement required;
The time-scale within which improvement is sought;
The form in which monitoring will take place;
That failure to improve or a further offence may lead to disciplinary action being taken;
The employees' right to appeal.

Details relating to the individuals' right to appeal should include the title of the person to whom the appeal should be sent to and the time-scale.

4.3 STAGE TWO - Final Written Warning

Failure to meet the required standard of conduct and/or performance agreed at Stage One, or if it is agreed that the employees' actions are sufficiently serious to warrant the use of Stage Two, the CEO or Board HR Lead will commence proceeding under this stage.

The steps are as outlined in Stage One.

The warning at Stage Two will remain on the employee's personnel file, for a period of up to 24 months. After this period the warning will be considered spent, and removed from the personnel file.

The employee will be told that further instances may result in further disciplinary action. Any further action may ultimately, lead to dismissal, or action short of dismissal. The employee should also be informed of their right to appeal.

4.4 SUSPENSION

In the case of gross misconduct, it may be necessary to suspend the employee on full pay whilst the matter is being investigated for reasons which may include:

- preventing interference with the investigation process;
- where there is a risk to the welfare of other staff and/or service users;
- where the employee is unable to perform their duties for example, due to intoxication.

The suspension is a precautionary measure and is not intended to be a penalty. Suspension is not limited to Stage Three, but may be used at Stage One or Two, where it is deemed necessary for the reasons outlined above.

The CEO or Board HR Lead should where possible, carry out the suspension. The employee should be told the reason for the suspension. The suspension should be confirmed in writing within 48 hours of the event. The employee should be instructed to remain off work unless specifically requested to attend for interview. The period of the suspension should not last any longer than four weeks. However, where it is not possible to achieve this, the period may be extended in writing.

4.5 STAGE THREE - Dismissal

Continued failure to achieve the required standard or in the case of serious or gross misconduct, the CEO or Board HR Lead may instigate action under Stage Three.

The disciplinary interview at this stage will be conducted by the CEO or Board HR Lead. The Disciplinary Interview will be conducted as outline in Appendix 1.

Details relating to the individuals' right to appeal should be outlined to the employee with the title of the person to whom the appeal should be sent to along with the time-scale.

Where the disciplinary matter involves the CEO, the Board HR Lead will be required to hear the case at the disciplinary meeting and the Board HR Lead will act as Investigating Manager. In the event of an Appeal, the Vice Chair and two additional Board members unconnected with the disciplinary meeting will sit to hear the appeal.

Appendix 1 - Guidance Note for Managers

Conducting the Investigation

Unlike poor attendance and certain types of performance, where the evidence is clearly available, an interview will be held with the Line Manager. Where an incident has occurred, the CEO as Investigating Manager will investigate the matter and take witness statements. . Where the disciplinary matter involves the CEO, the Board HR Lead will act as the Investigating Manager.

The Investigating Manager should allow the witnesses and the employee concerned a right to representation during the interviewing process. Once the Investigating Manager has carried out the investigation, ensuring that he/she has spoken to all the relevant parties, received written, signed and dated statements, they will write a management report. The management report will summarise the event(s) or incident(s) which took place, identify key factors and points for consideration. The report will then summarise, conclude, and recommend one of three possible options:

- that there is not a case to answer, and therefore a meeting should not be convened
- that counselling should be carried out
- that a disciplinary meeting should be convened.

Where the decision is taken to convene a disciplinary meeting, the employee should be given a copy of all the relevant paperwork, i.e. a copy of all written statements, the management report, any supporting material to which reference will be made.

Conducting the Meeting

The employee should be encouraged to seek representation. If there is a third party present, then the roles should be clarified at the outset of the meeting as only one person may represent the employee. The representative is not able to answer on behalf of the employee, but may ask questions on their behalf at the appropriate stage in the proceedings.

As described earlier, where the nature of the offence requires the calling of witnesses, or is of a sufficiently serious nature, the meeting will be held in the following format:

The Disciplinary meeting will be chaired by the CEO. Where the disciplinary matter involves the CEO, the Board HR Lead will act as Chair.

The Chair will:-

- a) Introduce those present
- b) Outline the purpose of the meeting
- c) Read out the allegation
- d) Outline the format of the meeting - as follows:

The Investigating Manager will present their case, calling upon witnesses as necessary. Witnesses will attend for only the relevant part.

The employee and/or representative will be allowed to ask questions for clarification.

The Chair will also ask questions as necessary.

The employee will be asked to present their case, calling upon witnesses as necessary.

The Investigating Manager will be allowed to ask questions for clarification.

The Chair will be also asking questions as necessary.

The Investigating Manager will be asked to sum up.

The employee will be asked to sum up.

The meeting will be adjourned at which point the Investigating Manager, the employee and representative will be asked to leave the room, whilst the Chair considers the case. The Chair, having considered the case and having taken into account any previous disciplinary record (disregarding any warnings which have been spent) will decide on an appropriate sanction, if necessary).

The employee and representative and Investigating Manager will be invited back into the room.

The Chair will announce his/her decision, which will include whether or not a warning is to be issued. The employee will be informed of their right to appeal.

The Appeal Meeting

Where the employee has submitted a written appeal against the decision, no action will be taken to implement the penalty, until the employee's case is heard. Where the penalty is upheld, the action will apply from the date originally imposed

The Appeal's meeting will be conducted as follows. It will not be a re-run of the original meeting but will concentrate on the employee's reasons for appeal.

The HWH Vice Chair will Chair the Appeal's meeting or a Board member unconnected with the disciplinary meeting.

All written appeals should be received with 5 working days. The Appeal Meeting should be convened with 10 working days of receiving the written appeal.

The Chair will:-

- a) Introduce those present;
- b) Outline the purpose of the appeal's meeting;
- c) Outline the format of the meeting - as follows:

The employee will be asked to state the reasons for their appeal,

The Investigating Manager will be asked to respond to the employees grounds for appeal.

The Chair will also ask questions as necessary of each party after their respective responses.

The employee will be asked to sum up the main grounds for their appeal.

The meeting will be adjourned at which point the Investigating Manager, the employee and representative will be asked to leave the room. The Chair will consider the case fully taking into account the grounds on which the appeal is being made to decide on the outcome.

The employee and representative and Investigating Manager will be invited back into the room.

The Chair will announce his/her decision. The decision may be one of three decisions:

- To uphold the original decision;
- To down grade the severity of the sanction;
- To overturn the original decision.

There is no further right of appeal.