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Welsh Government



Model Disciplinary Policy and Procedures

For the Social Care Sector in Wales

Developed by the Social Care Workforce Partnership, this model policy is intended for social care providers to adopt and adapt for use within their own organisations.

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

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Policy Statement

This policy and procedure aims to:

- Promote a fair, transparent and compassionate approach to managing potential disciplinary issues;
- Minimise avoidable worker harm, in line with the NHS "[When We Do Harm](#)" framework;
- Ensure compliance with the ACAS Code of Practice; and
- Protect the wellbeing of all parties involved.

Where a disciplinary and grievance case(s) are related, it may be necessary to deal with both concurrently. However, if appropriate, a disciplinary procedure may be temporarily suspended in order to deal with the grievance lodged.

All new members of staff will be made aware of this policy and how it operates as part of their induction. However, if you are unsure of how to proceed, advice can be sought from your line manager, Human Resources, or from a trade union representative.

Compliance with ACAS Code of Practice

ACAS the Advisory, Conciliation and Arbitration Service advises that if there is a possibility of a disciplinary within the workplace then an investigation should first be carried out. Investigations are covered by the <https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures>.

Policy Scope

This policy applies to all staff who are employed at *[name of employer]* including part-time and temporary workers, regardless of hours worked or length of service.

The term worker or workers used throughout the policy refers to all staff employed by *[name of employer]*. It therefore applies to those considered to be a worker or an employee of *[name of employer]*.

Policy Principles

This policy provides a formal mechanism to address disciplinary matters raised and aims to bring about a satisfactory resolution in a fair, consistent, transparent, thorough, and prompt manner.

The principles that *[name of employer]* will work to in the application of this policy and procedure are:

- **Person-Centric:** Workers will be treated with dignity and respect throughout.
- **Last Resort:** Formal disciplinary action will be used only when informal resolution is not appropriate or has failed.
- **Fairness and Natural Justice:** This procedure sets out to treat all workers fairly, consistently, impartially, promptly, reasonably and will be applied without discrimination. Workers will be heard in good faith, and there will be no pre-judgement of the issue.
- **Timeliness:** Investigations and decisions will be made promptly to reduce stress and uncertainty.

- **Support and Wellbeing:** All parties, including investigators, will be offered emotional and practical support.
- **Investigation:** No action will be taken until it has been thoroughly investigated.
- **Representation:** Workers at all stages in this procedure will have the right to be represented and accompanied by their trade union representative, full-time union official or work colleague. The worker(s) chosen companion will be allowed to address the meeting in order to:
 - Put the worker's case forward.
 - Sum up the worker's case.
 - Respond on the worker's behalf to any view expressed at the hearing.
 - Confer with the worker during the meeting.
- **Confidentiality:** All documentation and records relating to this procedure including notes of meetings will be treated as confidential, stored securely and only accessed by those individuals essential for dealing with the case. They will be kept no longer than necessary and in accordance with *[name of employer]*'s data protection policy which can be found *[provide link]*. Any breach of confidence may be treated as a disciplinary case of misconduct.
- **Openness:** Copies of meeting records will be made available to the worker, including copies of any formal minutes that may have been taken.
- **Right to appeal** – At all formal stages of this policy the worker has the right to appeal. Any appeal will be heard in an appeal meeting by a senior manager(s) who has had no previous involvement with the case.
- **Recordings:** Audio/ visual recordings of the proceedings by the worker or their companion or by *[name of employer]* are not acceptable at any stage of this procedure, unless agreed by all parties.
- **Equality and Diversity:** This procedure will be applied without discrimination. If someone has an existing mental or physical health impairment which they have previously disclosed, *[name of employer]* will make reasonable adjustments to the process as necessary.

Responsibilities of Managers

Managers should ensure that all workers are aware of this policy and procedure and understand their own and *[name of employer]* responsibilities.

Managers must respond promptly and within the timescales required as part of this disciplinary procedure.

Managers will be given training on how to operate this procedure fairly, effectively and consistently, and in line with its principles.

Responsibilities of Workers

All workers should actively participate in this disciplinary procedure and co-operate with others in ways that help resolve issues.

Trade Union Involvement

Consultation will take place with the recognised trade union on the implementation, development, monitoring, and review of this procedure.

Trade Union representatives will be given training equal to that of managers and supervisors and sufficient time to carry out their duties.

Disciplinary Procedure

Informal Resolution (First Step)

Before initiating formal action **[name of employer]** will consider if an investigation is necessary or could be dealt with by an informal conversation with the worker(s) involved.

In respect of registered workers **[name of employer]** may seek early advice from the regulatory body i.e. Nursing Midwifery Council and/or Social Care Wales in the first instance.

[Guidance for employers - The Nursing and Midwifery Council](#)

[Investigating concerns in your workplace | Social Care Wales](#)

Managers will hold a private, informal conversation with the worker(s) to discuss concerns. Coaching, mediation, or reflective practice may be used.

Discussions will be documented and agreed upon actions put in place but will not be placed on the workers' formal record unless agreed.

Initial Assessment

If informal resolution is not suitable, a **structured initial assessment** will be conducted by HR/Manager and the worker's line manager. In this initial assessment, the following will be considered:

- Intent and context of allegation.
- Previous conduct and informal interventions.
- Potential for learning and restoration.
- Impact on others and the service.

[Appendix A](#) should be completed during the initial assessment – also available here:

[Social Care Initial Fact Finding Document.docx](#)

When carrying out a disciplinary investigation, **[name of employer]** recognises that unless the process is carried out fairly, with compassion and understanding, it can cause irreparable harm to a worker. This may cause long-term absence from work and risks the workers' trust and confidence in the employer, resulting in irreparable damage to the relationship between the employer and worker.

[Name of employer] also recognised that any potential investigation can cause anxiety and stress for the individuals involved, with many left confused, isolated and traumatised due to potential suspension and periods of non-communication with colleagues.

In the event of an investigation being initiated **[name of employer]** will look to ensure that the worker has appropriate access to:

- A named workplace contact.
- Workplace counselling support.
- Contact with a trade union representative, or appropriate external support.
- If an employee is subject to fitness to practice proceedings with Social Care Wales, they can access wellbeing support [here](#).

If an investigation is required, **[name of employer]** will consider all the facts beforehand and decide if the worker is able to continue to work without the need for suspension. **[Name of employer]** will

consider suspension to be a last resort, and only in scenarios where the worker or patient/service user is at risk or the investigation could be harmed, will suspension be implemented.

Even when allegations are so serious, consideration should be given to the impact on the worker as it would be for the care of the patient/service user. The mental health and wellbeing of all concerned should be of paramount importance.

Formal Disciplinary Procedure

If the initial assessment indicates a formal process is needed *[name of employer]* will:

- If possible, appoint a trained, impartial investigator.
- Provide the worker with:
 - A written notice of the investigation within 7 days of the initial complaint/allegation.
 - A clear explanation of the concerns/allegations.
 - Access to support (e.g. union rep, wellbeing services as appropriate).
 - A copy of 'Your guide to a disciplinary investigation' guidance ([Appendix B](#)).

Stage 1 - Disciplinary Investigation Meeting

[Name of employer] will ensure that all disciplinary investigation meetings are:

- Carried out within a reasonable timeframe giving at least five working days' notice of the meeting date, time and venue with regular updates provided to the worker.
- Compassionate; recognising the distress that can be caused by going through this process.
- Flexible and responsive.
- Fair. The aim of an investigation is to find facts not fault. The Investigating officer should seek as much information, evidence, and facts as possible.

[Name of employer] will make provision for any reasonable adjustments to accommodate the needs of a disabled worker and/or their companion.

The worker should take all reasonable steps to attend the meeting on the date/time stated in the employer's letter. However, the meeting will be rescheduled to another time if their companion is not available at the chosen time. In these cases, the worker must propose another date within five working days of the original meeting date.

When the Investigating officer concludes their investigation, they will produce a report explaining the conclusion that they have reached and their recommendation in relation to any further action.

As part of the report, all relevant facts will be taken into consideration and, with advice from HR and/or relevant management, the Investigating officer will typically conclude:

- that there is no case to answer with no further action recommended,
- that there is a case to answer with corrective and supportive action recommended through an informal resolution, or
- that there is a case to answer, and a formal hearing is recommended.

The Investigating officer will include in the investigation report any learning from the case made throughout conducting the investigation.

Stage 2 - Disciplinary Hearing

If the investigation finds a case to answer, a Disciplinary Hearing will be arranged. *[Name of employer]* will ensure that:

- A different impartial Hearing officer is appointed to hear the case.

- The Hearing will be held without unreasonable delay, typically within ten working days after receiving the investigation report.
- In the invitation, the Hearing officer will inform the worker of the following, attaching a copy of the investigation report and the disciplinary policy:
 - The date, time and location of the Hearing.
 - The specific allegations which the Hearing will consider and an indication of the possible consequences in terms of level of disciplinary action.
 - Any other individuals attending the Hearing, for example, the Investigating officer or witnesses.
 - The worker's right to call their witnesses and the deadline for notification of this.
 - The workers' right to be accompanied. If the worker's representative is unable to attend on the date provided, then the Hearing should be postponed for up to 5 working days.
 - The workers' opportunity to submit further or new information, which was not part of the investigation report and the deadline for this.

[Name of employer] will make provision for any reasonable adjustments to accommodate the needs of a disabled worker and/or their companion.

The worker will also be advised of the levels of disciplinary sanction.

- No action.
- Informal advice or training.
- Verbal Warning.
- Written warning.
- Final written warning.
- Action short of dismissal (i.e. demotion).
- Dismissal with notice (only in cases of gross misconduct).
- Summary Dismissal (only in cases of gross misconduct).

The worker should take all reasonable steps to attend the meeting on the date/time stated in the employer's letter. However, the meeting will be rescheduled to another time if their companion is not available at the chosen time. In these cases, the worker must propose another date within five working days of the original meeting date.

Where a worker fails to attend or remain throughout a scheduled meeting through circumstances beyond their control, the meeting or the continuation of the meeting will be arranged for another time, within five working days.

If the worker fails to attend a rearranged meeting without a good reason, a decision will be taken in their absence based on the evidence provided.

At the Hearing, the Investigating officer will present their report, including the evidence gathered. The Hearing officer and the worker (and their Trade Union representative or workplace companion) may ask the Investigating Officer any reasonable and relevant questions.

Relevant witnesses may attend during this part of the Hearing for questioning by all parties. The names of any witnesses being called by the worker must be made available to **[name of employer]** no later than two working days prior to the meeting. It is the responsibility of the worker to organise their own witnesses and ensure they are aware of the date, time and venue of the disciplinary hearing, and to inform **[name of employer]** of any access requirements needed.

The Hearing officer will then invite the worker to set out and present their case in response to the allegations, ask any questions, and explain any mitigating circumstances they wish to be considered.

The Hearing officer may ask the employee questions.

At the end of the Hearing, the Hearing officer will draw their conclusions and make their decision based on the information and evidence available to them. They will take into account any mitigating factors and input provided by all relevant parties and those involved in an advisory capacity. Decisions will be based on their reasonable belief and the balance of probability.

In determining the sanction and any other action, the Hearing officer will consider:

- the nature of the misconduct;
- the seriousness of the misconduct;
- the impact of the misconduct on the employer's business;
- the impact of the misconduct on the employer's reputation and relationship with other stakeholders;
- whether the misconduct is part of a pattern;
- the worker's circumstances such as length of service;
- how the employer has handled any similar cases;
- what is reasonable in the circumstances, considering any relevant mitigation;
- any live warnings the worker already has.

The Hearing officer will decide whether all or part of the allegation(s) is/are either:

- unsubstantiated (not proven); or
- substantiated (proven) and, if substantiated, whether the misconduct is;
 - minor;
 - serious; or
 - gross.

The Hearing officer will determine the level of sanction, if any and may also identify other measures, for example:

- training or development;
- mediation;
- coaching.

The Hearing officer will write to inform the worker of their decision as soon as possible and ideally within ten working days of the Hearing including any adjournments or further evidence review.

If the Hearing officer feels it necessary to extend this time because they need additional reviews, they will inform the worker.

A copy of the letter including any enclosures will be placed on the worker's personnel file. The worker's companion (if they have one) and their line manager will receive a copy of this letter. The Hearing officer will also notify the investigation officer and worker's line manager of the outcome if considered appropriate.

The outcome letter will include the following information where relevant:

- the precise nature of the misconduct;
- the rationale for determining the sanction;
- the improvement which is expected of the worker and timescales to make this improvement;
- the disciplinary sanction applied, and how long that sanction will remain current or 'live';
- the potential consequences of further misconduct within the timeframe that the sanction remains live;

- the worker's right to appeal, and if the worker is to be referred to any external bodies for consideration in line with their registration, NMC, SCW.

Appeals Procedure

Where a worker does not agree with the outcome of a Disciplinary Hearing, they have a right to Appeal.

Any appeal must be made in writing and sent to *[insert specific role and contact details where possible]* within 10 working days of the written decision being received by the worker. The appeal should set out the reason(s) why the worker is not satisfied with the decision taken by the Hearing officer. Grounds for appeal may include:

- New evidence;
- Procedural flaws;
- Disproportionate outcome.

The worker will then be invited to an Appeal Hearing in order that the appeal can be discussed.

The appeal should be heard without delay (ideally within 10 working days) and should be dealt with impartiality by a person(s) within *[name of employer]* who has not previously been involved in the case and has no conflict of interest, along with a representative from HR if applicable.

The person(s) hearing the appeal will be provided with all the material presented at the original hearing.

All workers have the statutory right to be accompanied by a trade union representative, full-time union official or work colleague at the appeal meeting.

Appeal Decision

The outcome of the appeal should be communicated to the worker in writing without unreasonable delay and within 5 working days. In the event of a delay, which may extend beyond 5 days, *[Name of employer]* will explain the reason(s) for the delay to the employee.

Gross Misconduct

Acts that are gross misconduct are those that result in a serious breach of contractual terms, and which may lead to dismissal (with or without notice) or demotion. The following lists some examples of possible gross misconduct, but it is not an exhaustive list. A fair disciplinary process will always be followed, before a decision to dismiss is taken.

- Theft from the employer or any of its clients.
- Serious fraud.
- Physical violence towards a colleague or client.
- Gross negligence.
- A serious breach of safeguarding responsibilities.
- Serious insubordination.
- Serious contravention of health and safety rules.
- Unlawful discrimination.
- Misconduct relating to use of illegal drugs or alcohol.

Criminal Offences

If an employee is charged with, or convicted of a criminal offence, this is not normally in itself a reason for taking disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and clients.

Wellbeing and Aftercare

Following the disciplinary process, appropriate support should be offered to all individuals involved. This includes the employee, investigators, managers, witnesses, and colleagues. Consideration should be given to restorative approaches that help rebuild trust, strengthen relationships, and promote team cohesion.

Monitoring and Review

Disciplinary data should be regularly reviewed to identify patterns and areas for improvement. This includes assessing:

- Any disproportionate outcomes or trends;
- The duration and results of investigations; and
- The impact of disciplinary processes on staff wellbeing.

Insights gained from this review should be used to inform and enhance future policy and practice.

Appendix A

Social Care Sector – Initial Fact-Finding Document

Purpose and Guidance

This document is designed to support managers in the social care sector when concerns are raised about the conduct of a staff member. It enables the collection of initial facts to help the appropriate manager determine the appropriate next steps.

Important:

- Always seek advice from your HR representative or senior manager before proceeding.
- If the concern involves safeguarding, police involvement, or potential gross misconduct, do not conduct a fact-finding discussion. Contact HR immediately.

This process is not a disciplinary investigation. It is intended to ensure concerns are addressed in a timely, fair, and proportionate manner.

Section A: Manager Details

- - Name and Job Title of Manager completing this form
- - Name:
- - Job Title:
- - Date completed:

Section B: Employee Details

- - Name of employee
- - Employee ID or Payroll Number
- - Job Role and Service Area (e.g., Residential Care, Home Support, etc.)

Section C: Incident Overview

- - Summary of concern or complaint
- - Date of alleged incident
- - Date concern was first reported or identified

Section D: Contextual Information

- - Known witnesses (if any)
- - Does the employee hold other roles within the organisation?
- - Is this potentially a performance issue?
- - Brief description of the nature of the concern/allegation
- - Source of the complaint (e.g., service user, colleague, external agency)
- - Is the complainant a whistleblower?
- - Can the source of the complaint be verified?
- - Details of the complainant (if available and appropriate)
- - Any information that disproves the complaint (e.g., staff member was off-duty)
- - Supporting evidence (e.g., care logs, CCTV, rota records)
- - Is this potentially a fraud issue?
- - Does the employee belong to a professional body or adhere to a code of conduct?

Section E: Additional Considerations

- - Is all mandatory training (e.g., safeguarding, manual handling) up to date?
- - Have regular supervision and performance reviews been conducted?
- - Are there any health or personal circumstances that may be relevant (e.g., reasonable adjustments)?
- - Were staffing levels appropriate at the time of the incident?
- - Have similar concerns been raised previously?
- - Has any informal action already been taken (e.g., supervision notes)?
- - Have you spoken to the individual(s) involved?

Section F: HR and Leadership Input

- - HR Representative consulted
- - Name:
- - Date:
- - Head of Service / Director consulted
- - Name:
- - Job Title:
- - Date:

Section G: Decision and Next Steps

- - Recommended action
- - No further action
- - Management meeting and/or learning outcome
- - Apply a different policy (e.g., Capability, Dignity at Work)
- - Formal investigation under Disciplinary Policy
- - Date decision communicated to manager/HR
- - Date decision communicated to employee (if applicable)

Final Notes

- - If a formal investigation is required, contact HR to initiate the disciplinary process.
- - Ensure the employee is informed of available wellbeing support (e.g. Occupational Health, Employee Assistance Programme).
- - If the employee holds other roles, liaise with relevant managers to assess any wider impact.

Appendix B

Social Care Sector – Your guide to a disciplinary investigation *(Please note that a link to this guide will be added as soon as possible)*