



# Family Nursing & Home Care

**Non-contractual**

**FN&HC Disciplinary Policy and Procedure**

**March 2015**

## Document Profile

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## **1.0 Statement of Intent**

This policy is designed to help and encourage all employees to achieve and maintain appropriate standards of conduct. The guidelines have been produced to create a system of consistency and fairness to all employees. The Association however reserves the right to change and amend the stages of the procedure should it feel necessary and as appropriate to the circumstances.

## **Principles**

- (a) No disciplinary action will be taken against an employee until the case has been fully investigated.
- (b) The Association may decide to suspend any employee while investigations are taking place. The employee will be informed of the reason for suspension.
- (c) On completion of the investigation the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
- (d) At all stages, the employee will have the right to be accompanied by another member of staff or a Staff Association Representative during the disciplinary interview.
- (e) No employee will be dismissed for a first breach of discipline except in the case of Gross Misconduct when the penalty will be dismissal without notice or payment in lieu of notice.
- (f) An employee will have the right to appeal against any disciplinary penalty imposed. The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

## **Scope/Responsibility**

This applies to all employees and specifies actions to be taken by staff and managers.

## **Process**

Minor faults will be dealt with informally but where the matter is more serious, the following procedure will be used:

### **STAGE 1 – Oral Warning**

If conduct or behaviour does not meet acceptable standards, the employee will normally be given a formal ORAL WARNING. They will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of their right of appeal. A brief note of the oral warning will be kept but it will be disregarded for disciplinary purposes after six months, subject to satisfactory conduct and performance.

### **STAGE 2 – Written Warning**

If the offence is a serious one, or if a further offence occurs, a WRITTEN WARNING will be given to the employee by their Manager. This will give details of the complaint, the improvement required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept by the Manager but it will be disregarded for disciplinary purposes after one year subject to satisfactory conduct and performance

### **STAGE 3 – Final written warning or disciplinary suspension**

If there is still a failure to improve and conduct or performance is still unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal (in effect both first and final written warning), a FINAL WRITTEN WARNING will normally be given to the employee. This will give details of the complaint, will warn that dismissal will result if there is not satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept by the Manager but it will be disregarded for disciplinary purposes after 1 year (in exceptional cases the period may be longer) subject to satisfactory conduct and performance.

Alternatively, consideration will be given to imposing a penalty of a disciplinary suspension with or without pay for up to a maximum of five working days.

#### **STAGE 4 – Dismissal**

If conduct or performance is still unsatisfactory and the employee still fails to reach the prescribed standards, DISMISSAL will normally result. Only a senior manager can take the decision to dismiss. The employee will be provided with written reasons for dismissal, the date on which employment will terminate and the right of appeal, within seven days.

#### ***Dismissed employees who:-***

- a) have been employed for a period of four weeks or more, or
- b) *have been dismissed whilst they are pregnant or on maternity leave*

*are entitled to a written statement of the reasons for dismissal and this shall be supplied by the Association within seven days of being dismissed.*

#### **GROSS MISCONDUCT**

The following list provides examples of offences which are normally regarded as Gross Misconduct:

- Theft, fraud, deliberate falsification of records
- Fighting, assault on another person
- Bullying or harassment of another person
- Deliberate damage to Association property
- Being under the influence of alcohol
- Being under the influence of, or taking, or in possession of illegal drugs
- Serious negligence which has the potential to cause unacceptable loss, damage or injury
- Serious act of insubordination
- Unauthorised entry or misuse of computer records
- Misuse of Association computers
- Failure to carry out reasonable and proper instructions of Management
- Disclosure of confidential information
- Periods of unauthorised absence without proper medical cause
- Commit a serious breach of the terms and conditions of their contract of employment, including, but not limited to, breaches of confidentiality, trust and integrity.
- Grossly neglect to carry out their duties.
- Failure to conduct themselves in a manner consistent both with their position in the Association or with the general standard of behaviour set out above

whether during the hours of work or not which may bring the Association into disrepute

- Failure to complete the Employment Application Form accurately and truthfully in all material respects

***This list is not exhaustive.***

### **Right of appeal**

The employee will have the right of appeal against any decision taken and sanction imposed. The employee should appeal in writing to the Director within three working days of the disciplinary decision stating the basis of the appeal.

Appeals must be based on the following;

- The information used to make the decision was incorrect
- The penalty was inconsistent with previous decisions taken
- The penalty was too harsh for the offence committed

The employee will be informed of the Appeal meeting within five working days and the Appeal meeting will normally be held within ten working days.

The decision of the Appeal panel is final.

### **Additional information**

In the event that the employee is unable to attend a disciplinary or appeal meeting for any reason including ill health, they may submit a written statement stating their case to be considered or request that a colleague represent them.

A decision may be taken in the employee's absence up to and including dismissal.

### **Gross Misconduct**

For the purposes of carrying out any investigation the employee may be suspended from work on full pay. Normally this is for no more than five working days while the Association investigates the alleged offence. Suspension is not an indication of guilt as is intended to facilitate the investigation and give protection to both parties. If, on completion of the investigation and the full disciplinary procedure, the Association is satisfied that on the balance of probabilities gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

### **Quality Standards Applicable**

#### **No. 9 – Requirements Relating to Workers**

People are kept safe, their health and welfare needs are met, staff who are fit, appropriately qualified and physically and mentally able to do their job.

#### **No. 16 – Supporting Workers**

People are kept safe and their health and welfare needs are met because staff, are competent to carry out their work and are properly trained, supervised and appraised.