



# DISCIPLINARY POLICY

**Version Control – V2**

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The purpose of the disciplinary policy is to encourage all employees to achieve and maintain high standards of conduct, attendance and job performance whilst ensuring consistent and fair treatment of all employees. This policy provides a framework to ensure that disciplinary issues relating to alleged misconduct are dealt with by a fair process in a consistent manner. Whenever you need help or guidance to be able to carry out your duties, Diverse Abilities will make every effort to help you. However, if it is thought that you may have committed an act of misconduct, the disciplinary policy will apply.

This policy is non contractual.

## **Procedure**

If your behaviour appears to conflict with the smooth running of the organisation, or you act in a way towards your colleagues, the people we support, or anyone else involved with the organisation in a manner that is not appropriate, the following procedure will apply. In all instances, the organisation reserves the right to start disciplinary proceedings at an appropriate level based on the seriousness of the alleged act of misconduct, the adverse effect of the act on the organisation or your level of responsibility. At all stages a full investigation will be carried out before it is decided whether a disciplinary hearing is appropriate. A disciplinary hearing will be heard by your Manager or a member of the Senior Management Team.

## **Suspension from duties**

Diverse Abilities reserves the right to suspend you from work whilst a case is being investigated or until a disciplinary meeting can be held. Suspension will only be considered if we believe it's needed to protect any of the following:

- the investigation – for example if we are concerned about someone damaging evidence or influencing witnesses
- the business – for example if there's a genuine risk to the people we support, property or business interests
- other staff
- the person under investigation

## **Suspension with Pay**

It may be necessary to suspend you, with pay, whilst an investigation is carried out. If this is the case then you will not be allowed to access any of the organisations facilities, unless you have the prior consent of a member of the Senior Management team.

Suspension from duties will only be done if there is no other option and does not mean you have done anything wrong. We will consider

- Your wellbeing and the mental health of anyone considered for suspension
- plan what support they'll provide to anyone they suspend

## **Suspension without Pay**

In certain circumstances, such as cases relating to criminal proceedings, suspension without pay may be imposed.

In all cases of suspension, every effort will be made to ensure that the period of suspension will be kept to a minimum, but enough time will be required for a full and proper investigation. A

decision to suspend is not a form of disciplinary action, and will not prejudice any future action under the Disciplinary Procedure.

### **Investigation**

Diverse Abilities will carry out necessary investigations of potential disciplinary matters without unreasonable delay to establish the facts of the case. In some cases this will require the holding of an investigatory meeting with the employee before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the employer for use at any disciplinary hearing.

In cases of misconduct, where practicable, different people should carry out the investigation and disciplinary hearing. If there is an investigatory meeting this should not by itself result in any disciplinary action.

### **Formal meetings**

If you are asked in writing to attend a formal disciplinary meeting, you will be given copies of any relevant documents to ensure you are able to prepare for your meeting and the possible outcome of the meeting. You will be given 3 to 5 days' notice to attend a disciplinary hearing.

### **Content of disciplinary meetings**

At a formal disciplinary meeting you will have the opportunity to fully state your case. You will be given a reasonable opportunity to ask questions, present evidence and give evidence of further relevant witnesses. You will also be given an opportunity to raise points about any information provided by witnesses.

Where appropriate, the meeting will be adjourned so that all facts of the case can be considered or to allow for further investigation before a decision is made.

As soon as possible and reasonable, the meeting will be reconvened and the reasons for the decision will be explained to you. The decision will later be confirmed to you in writing. In some circumstances, the meeting will not be reconvened, and you will be notified of the decision in writing.

Diverse Abilities will always consider any mitigating (relevant) circumstances that you present during the disciplinary investigation or hearing, prior to a decision being made.

### **Right to be accompanied**

You have the statutory right to be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative must have been certified by their union as being competent to accompany a worker. You may also alter your choice of companion if you wish. As a matter of good practice, in making their choice workers we ask you to bear in mind the practicalities of the arrangements. For instance, you may choose to be accompanied by a companion who is suitable, willing and available on site rather than someone from a geographically remote location.

To exercise the statutory right to be accompanied you must make a reasonable request. What is reasonable will depend on the circumstances your case. A request to be accompanied does not have to be in writing or within a certain timeframe. Requests for companions should be made in writing in advance of the meeting, detailing their name and whether they are a trade union official or colleague.

If your chosen companion will not be available at the time proposed for the hearing we agree to postpone the hearing to a time proposed by the worker provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

Your companion will be allowed to address the hearing to put and sum up your case, respond on behalf of you to any views expressed at the meeting and confer with you during the hearing. The companion does not, however, have the right to answer questions on your behalf, address the hearing if you do not wish it or prevent the employer from explaining their case.

### **Disciplinary Penalties**

After the meeting the chair will decide whether or not disciplinary or any other action is justified and inform the employee accordingly in writing.

### **First Written Warning**

If your conduct is not meeting an acceptable standard, you will normally be given a first written warning. This will give details of the nature of the complaint, the improvement required and within what timescale. It will also advise you of the consequences should there be further offences or if insufficient improvement is made.

A First Written Warning will remain on file for 6 months.

### **Final Written Warning**

If you are suspected of committing the same or a further act of misconduct, you will be asked, in writing, and following a full investigation, to attend a disciplinary hearing to discuss the situation. You will be advised that as a result of the meeting you may be issued with a final written warning for misconduct.

If an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.

A Final Written Warning will remain on file for 12 months.

### **Dismissal**

Following a further act of misconduct or a single act of apparent gross misconduct, a full investigation will be carried out to establish the facts and you will be asked in writing to attend a disciplinary hearing to discuss the situation. You will be advised that, although no pre-judgment has been formed, this meeting may result in your dismissal for misconduct. The decision to dismiss an employee will only be done by a member of the Senior Management Team.

### **Escalation of the procedure**

Should you already have a formal warning for misconduct on file, any subsequent act of misconduct, if found, is likely to result in an escalation of the procedure. This means that different acts of unrelated misconduct could result in the procedure being escalated. This will not be the case if the previous warning has expired.

### **Alternatives to a warning or Dismissal**

As an alternative to a warning or dismissal for misconduct, Diverse Abilities reserves the right to take any or all of the following actions:

- A change in duties within the job role and/or
  - A demotion to another role and/or
  - A reduction in salary / benefits in line with a revised role, duties or an entirely new position
- None of the above will constitute a breach of contract

In the event that the organisation takes any of the above action, it may also issue a warning in parallel.

### **Right to appeal**

You have the right to appeal at any stage of the misconduct disciplinary procedures. Any such appeal should be put in writing, usually within 5 working days of receipt of the letter confirming the outcome of the disciplinary action.

An appeal hearing will be organised usually within 10 working days of notification of the appeal. You will be given an opportunity to state your case at the appeal hearing and a full investigation will be carried out prior to a decision being made. You may be accompanied by a Colleague or an accredited Trade Union representative at the appeal hearing.

You will be notified of the outcome of the appeal usually within 14 working days of the conclusion of the appeal interviews. However, on occasions, further investigation may be required before a decision can be made. If this is the case then you will be informed with an explanation of the delay.

This decision will be final and there will be no further right to appeal within the organisation.

### **Examples of Misconduct**

Below are examples of where disciplinary action might be taken. This list gives examples only and is by no means exhaustive.

- Lateness / Poor timekeeping
- Failure or persistent failure to submit timesheets on time
- Failure or repeated failure to provide appropriate sickness absence documentation
- Poor attitude demonstrated towards work
- Failure to follow company guidelines or policies
- Persistent absence
- Abuse of Company facilities
- Maladministration of medication
- Rudeness to colleagues
- Failure to follow a persons Care Plan

## **Gross Misconduct**

There are certain actions that may constitute misconduct serious enough to justify dismissal without notice or pay in lieu of notice. The organisation reserves the right in each situation to decide what constitutes gross misconduct. The following are likely to result in summary dismissal on the grounds of gross misconduct. This list is not exhaustive.

- Failing to follow a Care Plan resulting in injury/illness/hospitalisation
- Negligence
- Deliberately damaging or destroying any Diverse Abilities property or failing to return property when requested to.
- Failure to disclose information relating to a conflict of interest
- Contravention of the Organisations rules regarding cash handling procedures
- Unauthorised possession of cash or property belonging to the organisation, other employees or people who we support.
- Being unfit for work as a result of alcohol or illegal drugs or substances
- Criminal offences against the organisation, another employee or a person we support.
- Conviction of a criminal charge – if relevant to the employees employment.
- Use of violent, threatening or insulting behaviour towards other people or the use of obscene language.
- Fighting or assaulting any other person during the course of employment
- Disorderly behaviour likely to cause damage injury or waste of resources.
- Deliberate and serious contravention of Health and Safety procedures
- Possession, sale, transfer and use of any illegal drugs or other prohibited materials on organisation property and/ or during any Diverse Abilities activities.
- Deliberate harassment (including sexual and racial harassment) or deliberate discrimination of any other member of staff, supplier or client.
- Any act of fraud eg. Working whilst claiming company sick pay, making false statements on your application form, falsification of legal or company documentation, including falsification of timesheets, and/or holiday or petty cash forms.
- Falsification of accounting systems
- Failure to disclose any relevant information or providing misleading information on employment application.
- Unauthorised absence
- Conduct outside of work that has a direct bearing on your job or which affects employees or the people we support or amounts to a breach of trust, or brings the organisations name into disrepute.
- Deliberate (or serious) breach of GDPR regulations
- Sleeping whilst on Duty (except on Sleep shifts)
- Loss of driving licence where driving is an essential part of the job
- Significant failure to follow clear Company guidelines, rules or policies
- Breaching confidentiality including sharing information about the organisation, staff or others that we support
- Bringing unauthorised persons into any service
- Negligent workmanship, such as to endanger life or cause major damage to property.
- Action or behaviour which is directly against the best interests of the organisation or the people it supports

- Inappropriate relationships with people we support including family members and/or people responsible for their care
- A significant breach of the implied trust and confidence that must exist between the Company and employee.
- Breach of the no smoking rules
- A serious maladministration of medication

**What will happen if you are sick during the disciplinary process?**

If you are required to attend a disciplinary interview in respect of alleged misconduct or gross misconduct and you are absent for reasons of sickness at the time when the meeting is due to be held, the meeting will be postponed to a date normally within the next 5 working days. However if you are still unwell and there is no indication of when you might return a hearing will need to be arranged within an appropriate timescale. It is hoped that you would be well enough to attend this meeting yourself, but if not, you may submit a written representation and, if you wish, appoint a representative to attend on your behalf. This should be a Colleague or an accredited trade union representative. If you do not attend or submit written representation, the hearing will go ahead in your absence and a decision will be made on the basis of the information available. Your right to appeal will not be affected by this.