

LORETTO DISCIPLINARY POLICY		No. 34
Date of Review: October 2019	Next Review Due: October 2022	Approved: February 2019

1.0 Introduction

A Disciplinary Policy is essential for the organisation to maintain and promote good employee relations. Its main aim is to support and encourage employees in providing a high quality service to tenants and service users at all times. The purpose of the Disciplinary Policy is to tell employees what standards of conduct and behaviour are acceptable and to assist them in achieving them.

It is recognised that in many circumstances an informal approach will be the best method of resolving an issue and this should be used wherever it is appropriate. The formal disciplinary procedure should be used when there is no alternative or informal methods have not resulted in improvement.

The policy has been written with reference to the ACAS Code of Practice for Disciplinary and Grievance Procedures 2009 and the following legislation:

- The Employment Rights Act 1996
- The Employment Relations Act 1999
- The Employment Act 2002

2.0 Principles and Values

2.1 The policy is written in line with the organisation's core values of openness and respect for the individual.

2.2 The policy will clearly state the standards of conduct expected by the organisation and the procedure invoked if these standards are not met.

2.3 Appropriate behaviour and conduct will be communicated to employees from commencement of employment, during induction and continuously through supervision, training and team briefings.

2.4 Emphasis should be placed on an early intervention if issues or concerns arise regarding conduct. Full support should be given to an employee to reach expected standards prior to using the disciplinary procedure.

2.5 The Disciplinary policy will be applied fairly and will not operate to the detriment of an individual due to their gender, race, colour, age, ethnic or national origin, religion or belief, nationality, disability, marital status, sexual orientation or gender reassignment.

3.0 Scope

3.1 The Disciplinary Policy applies to all employees of the organisation, whether permanent, fixed-term, full time, part-time or relief members of staff. Agency staff are expected to adhere to the same standards of conduct and will be made aware of these standards on commencement. Agencies providing a service to the organisation will be expected to follow similar disciplinary procedures, which comply with all relevant legislation.

3.2 The policy applies to issues of misconduct; it does not apply to poor performance which will be dealt with through the Capability Policy.

3.3 Managers dealing with the Disciplinary Policy must be aware of underlying issues, such as ill health or drug or alcohol problems for example. Managers may also wish to refer to other policies such as the Drug and Alcohol Policy, Capability Policy, Dignity at Work Policy or Personal Relationships at Work Policy.

3.4 Misconduct

The information given below is intended as a non-exhaustive guideline to the type of conduct which is not acceptable and is not exhaustive:

Misconduct which would be considered as being of a **less serious** nature:

- absence or poor attendance
- poor timekeeping
- negligence or carelessness in work performance
- misuse of company facilities, such as stationery or telephone
- failure to follow sickness absence reporting procedures
- failure to follow relevant codes of practice, e.g. SSSC and NMC.

Misconduct considered to be of a **more serious** nature (Potential Gross Misconduct):

- theft or fraud
- deliberate damage to property
- physical violence
- inappropriate use of the internet or computer
- serious breach of health and safety rules
- wilful omission of information or false statement to secure employment
- deliberate failure to achieve a qualification within agreed timescale
- wilful disclosure of confidential information to unauthorised persons
- physical/verbal/financial/sexual abuse of people we work for, tenant, visitors or staff
- neglect of duties which resulted in or had the potential to result in serious consequences for people we work for, tenants or staff
- harassment or victimisation of any type, e.g., sexual, racial
- inappropriate relationship with a tenant, people we work for or staff member
- bringing the organisation into disrepute
- attending for duty under the influence of drugs or alcohol, or taking, selling, supplying, dispensing such substances while on duty
- insubordination
- failure to follow relevant codes of practice, e.g. SSSC and NMC.
- Failure to declare a criminal charge
- Failure to declare relevant formal action, such as being the subject of a fitness to practice hearing or receiving a formal sanction or interim suspension order from a regulatory body (e.g. SSSC or NMC) that may affect your suitability to continue to carry out your role and/or remain in employment.

4.0 Responsibilities

4.1 Managers

- To be open and honest with employees throughout the process
- To ensure all employees are aware of expected standards of behaviour
- To ensure all employees are familiar with their rights, responsibilities and duties under the Disciplinary Policy
- To be familiar with the policy and procedure and be able to apply it appropriately, fairly and consistently.
- To act in the best interests of tenants and people we work for
- To ensure that investigations are carried out within reasonable timescales
- To liaise with senior management and human resources appropriately.
- To ensure staff utilise available supports

- To maintain appropriate records throughout the process
- To maintain confidentiality at all times
- To liaise with and make appropriate arrangements for employee representatives
- To ensure all paperwork is completed timeously

4.2 Employees

- To be open and honest with managers, colleagues and representatives throughout the process
- To be aware of expected standards of behaviour and abide by them
- To be familiar with the disciplinary policy and their rights, responsibilities and duties.
- To act in the best interests of tenants and people we work for at all times
- To utilise available supports appropriately
- To maintain confidentiality throughout a disciplinary process
- To participate and co-operate with the investigatory process.

4.3 Human Resources

- To provide support and advice to managers and employees regarding the application of the process
- To provide clear consistent advice to managers throughout investigations and disciplinary hearings.
- To direct employees to appropriate supports
- To liaise with Trade Union officials and representatives
- To ensure that the policy and procedure is applied fairly and consistently
- To monitor and review the application of the policy and procedure and report to Committee within agreed framework
- To ensure investigation and disciplinary files are stored appropriately and securely following completion of the process
- To ensure employees are advised of expiry of sanctions and that this is recorded within personnel files.

4.4 Trade Union Officials/Professional Association Representatives

- To represent the interests of their members
- To co-operate with the employee and the organisation in bringing disciplinary processes to a conclusion within reasonable timescales.
- To recognise that the organisation must make decisions based on the best interests of tenants and service users.

5.0 Representation

Employees may be accompanied by a certified trade union representative or any person currently employed by one of the Wheatley Group companies. If an employee chooses to be accompanied they should make the necessary arrangements themselves.

6.0 Facilities

Managers making arrangements for investigatory meetings or disciplinary hearings should consider any travel required by the employee and their companion or representative.

Managers must also take into consideration any access requirements or additional equipment needed, for example, a loop hearing system. Consideration must be given to the needs of the companion as well as the employee.

In all cases, a private room should be made available for the employee to confer with their companion prior to, during and following the meeting.

7.0 Professional Misconduct

In particular circumstances, Loretto has a duty to advise professional bodies, such as the NMC or SSSC of misconduct. In addition to this, Loretto may be required to advise SCSWIS, Disclosure Scotland or other statutory bodies where there are protection issues for vulnerable adults or children. The employee will be advised where this is necessary. The type of information which Loretto may be required to pass to a third party, is contained within the Communication with Regulatory Bodies Policy. Staff may wish to refer to this policy.

8.0 Criminal Offence

Disciplinary action will not necessarily be taken against an employee charged with or convicted of a criminal offence. Each situation will be considered individually, taking into account, the nature of the offence, the conduct of the employee and the impact the charge has on the employee's suitability for their job, the impact on the organisation or the impact on the individual's PVG Scheme membership.

Employees should note that they are required to inform the organisation of any charge or conviction during the course of their employment. In posts, where it is relevant, a further Disclosure from Disclosure Scotland may be requested. For PVG Scheme members the Organisation will be notified by Disclosure Scotland of any new vetting information.

In circumstances where it is felt that the nature of the incident warrants investigation the normal procedure will be followed. It will not always be necessary to await the outcome of police proceedings or prosecution to take appropriate action.

9.0 Suspension

In some circumstances it may be necessary to consider suspending an employee with pay, during the investigation and disciplinary process. Suspension should only be carried out, following consideration by an Area Care Manager or Head of Section. The Investigation procedure provides further information as to when this may be appropriate. Suspension is not a form of disciplinary action.

10.0 Sanctions

Where it is necessary to hold a Disciplinary Hearing then the outcome of that hearing may be that a Disciplinary sanction is issued. The potential outcome of a Hearing may be as follows:

<u>Outcome</u>	<u>Duration of Sanction</u>
No sanction issued	
First written warning	6 months
Final written warning	12 months
Dismissal (summary or with notice)	

A first written warning may be issued for misconduct of a less serious nature.

A final written warning may be issued for misconduct of a less serious nature, but where there are already current written warnings on file or for misconduct of a more serious nature, where there are mitigating circumstances or where it does not warrant dismissal.

Dismissal may be the outcome for a misconduct of a more serious nature or where there is a current final written warning on file for misconduct of a less serious nature.

(Please refer to the flowchart at Appendix 1B).

11.0 Appeals

An employee who receives a sanction at a Disciplinary Hearing will be given the opportunity to appeal. An appeal should be made in writing to the relevant member of the Coordinating Management Group or the Director of Loretto, whichever is appropriate, within 5 working days of receipt of the outcome of the Disciplinary Hearing. An appeal may be made on the following grounds:

➤ the employee thinks the findings of the Disciplinary Officer or the sanction issued is unfair

- new evidence has come to light
- the employee believes the disciplinary procedure was not used correctly

In the case of a dismissal, the appeal will be chaired by the Director or a member of the Co-ordinating Management Group, whichever is most relevant. An appeal hearing will normally be convened within 2 weeks of receipt of the letter of appeal, unless the appropriate Appeal Chair is absent due to annual leave or sickness. The letter of appeal should outline the grounds for appeal.

The decision of the Appeal Chair will be confirmed in writing to the employee. The appeal is the final stage of the internal appeals procedure.

12.0 Authorisation

The organisation recognises the impact Disciplinary Policies and Procedures have on employees and therefore only appropriately trained managers will have the authority to chair Disciplinary Hearings and issue sanctions. Appointed Investigating Officers may carry out investigations at all levels in the organisation. Disciplinary Officers will not be requested to call an employee of a higher grade to a Hearing. Levels of authorisation are as follows:

Investigation

An Investigatory Officer may be a Health and Wellbeing Team Leader, Staff Nurse, Health and Wellbeing Manager, Senior Officer or above.

Level of Sanction

First written warning

Level of Management

Health and Wellbeing Manager or above or Senior Officer or Head of Section (Head Office)

Final written warning

Health and Wellbeing Manager or above or Senior Officer or Head of Section (Head Office)

Dismissal

Health and Wellbeing Manager or above or Head of Section (Head Office)

Appeals

Warning

Area Care Manager or Head of Service or member of the Co-ordinating Management Group

Dismissal

Director or member of the Co-ordinating Management Group

In the case of a member of the Co-ordinating Management Group being required to attend a Disciplinary Hearing, the following arrangements will apply:

<u>Post</u>	<u>Hearing</u>	<u>Appeal</u>
Head of Care	Director	Management Committee
Head of Housing	Director	Management Committee
Director of Loretto	Management Committee	

13.0 Grievance

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

14.0 Confidentiality of Information

Any allegations made, statements received and reports will be dealt with confidentially and only made available to those involved in the process.

All employees when asked for a statement will be advised that others involved in the process will have access to them.

Statements may not be anonymous unless there are exceptional circumstances which would justify this and where it would not compromise the investigation or disciplinary hearing.

Wheatley Group Services (WGS) Human Resources (HR) Team will provide guidance to managers on any request for anonymity in relation to the particular case.

15.0 Record-Keeping

It is in the interests of both employers and employees to keep written records of the disciplinary process. At the very minimum, records should include:

- details of the alleged misconduct
- the employee's defence
- findings, reasons and action taken
- whether an appeal was lodged
- outcome of any appeal
- any subsequent developments

The standard format for records is attached on Appendix 11 of the Procedure.

Disciplinary files will be held securely by the Manager responsible for each stage of the procedure. On completion of the procedure, files will be passed to HR for secure storage in line with the Data Protection Act 1998.

Employees will not be allowed to tape record investigatory meetings and disciplinary hearings however they will receive a copy of the minutes following the meeting/hearing. The employee will be given the opportunity to comment on the minute. If there is disagreement as to the content, then the employee's comments may be attached to the minutes in the file.

The Disciplinary file will be destroyed after a period of one year, unless there are on-going legal proceedings.

Copies of sanctions issued will be placed in employees' personal files. On expiry of the sanction, the employee will be informed by the HR Team. The letter will remain in the employee's file after the warning has expired and will remain as part of the employee's record with the organisation. It will not be used for Disciplinary purposes.

16.0 Monitoring and Review

Following completion of investigation and disciplinary processes, a review will take place with the Managers involved in the process. The aim of each review will be to consider the implementation of the policy, to reflect on the actions taken and to develop knowledge and skills. Changes to work practices may be made as a result of a review.

The implementation of the Disciplinary Policy and Procedure will be monitored by the HR Team. A report will be presented to the Coordinating Management Group on an annual basis.

The HR Team will monitor:

- the number of investigations
- the number of disciplinaries
- the nature of the allegations
- the outcomes
- the fairness and consistency of the outcomes
- the number of appeals
- outcome of appeals
- number of Employment Tribunal cases
- the diversity of those involved in investigations and disciplinaries

The Policy will be contained within the Wheatley Group Services HR Team Policy Review timetable.

17.0 Training

It is recognised that for the policy and procedures to be implemented in a fair and consistent manner, that all Managers involved in the process should be trained to an appropriate level. Training will be arranged for all Managers on implementation of the policy and will be included in development plans for first line management.

Should a recognised trade union have staff representatives, then the organisation will work with the Union to ensure the representatives are trained to an appropriate standard and are fully conversant with the policy and procedures.