

Discipline and Grievance Procedure

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1 OVERALL PURPOSE

This Procedure is designed to help and encourage all staff to achieve and maintain the required standards of conduct (including attendance) and job performance that 1st Homecare expects. It is 1st Homecare's responsibility to ensure that disciplinary practices and procedures are effective, fair, well understood and consistently applied. Such procedures are an aid to good management and should not be viewed simply as a means of imposing a disciplinary penalty.

If 1st Homecare considers that you have breached acceptable standards of conduct, attendance or job performance, the following principles and procedures will apply. This procedure applies to all staff of 1st Homecare.

2 FRAMEWORK FOR DISCIPLINARY ACTION

Where there are concerns regarding standards of conduct (including attendance) and/or work performance, it is expected that in the majority of cases prompt and informal discussion between the staff member and the relevant member of management will satisfactorily resolve the problem without the need for further action.

Minor faults or problems will be dealt with informally for example by issuing Non-conformance notices, providing remedial training, and/or through help and advice. Where the matter is more serious, however, disciplinary action will be taken. In taking action, 1st Homecare must act, and be seen to act, in a fair and reasonable manner. 1st Homecare's primary intention is to encourage and support a genuine and permanent improvement in the conduct and performance of all its staff, and this will normally be the basis for disciplinary action.

This Procedure does not apply to termination during or at the end of a probationary period of service (including any extension of such a period), or to termination by agreement between 1st Homecare and a staff member.

3 THE INFORMAL STAGE

In the event of concerns regarding standards of conduct (including attendance) and/or work performance, attempts will usually be made to resolve the concern through prompt and informal discussion between the staff member and the relevant member of management. In the majority of cases, it is expected that this will satisfactorily resolve a problem without the need for further action. At the informal stage one or more steps may include one or more of the following: issuing a Non-conformance notice; asking carers to complete reflective exercises; providing remedial training, and/or offering help and advice.

Poor performance

In the case of poor performance, 1st Homecare will usually attempt to correct the poor performance through one or more of:

- Counselling
- Issuing a Non-conformance notice
- Reflective exercises
- Further or remedial training (if appropriate)
- Setting a programme for improvement
- Setting review dates
- Giving prior warnings to the employee of the likely outcome if performance fails to improve

If this fails to bring about the expected improvement in performance, disciplinary action would normally be started. This will, however, depend on the circumstances – for example, the disciplinary procedure would be begun straightaway in cases where poor performance is so serious as to amount to misconduct.

4 INVESTIGATION

If an investigation is required, no action will be taken against an employee until the case has been fully investigated by the appropriate manager and the facts established. Where appropriate, statements will be obtained from any available witnesses. It may be necessary to hold an investigatory meeting to establish the facts. It is important to note that the investigation precedes any disciplinary action and therefore is not part of the disciplinary procedure. Having investigated the case, 1st Homecare will decide whether disciplinary action is warranted or not. There is no right to be accompanied at an investigatory meeting.

5 PROCEDURE IF DISCIPLINARY PROCEEDINGS ARE TAKEN

5.1 Notice of meeting

If after investigation it appears that there is a disciplinary case to answer, the employee will be advised in writing by letter that a formal face-to-face disciplinary meeting will take place. Normally a minimum of 3 days' notice of this meeting will be given. This period may be shortened by mutual agreement between 1st Homecare and the employee. The letter will contain sufficient information to allow the employee to answer the case against them at the meeting.

5.2 Right to request to be accompanied

Employees have a statutory right to request to be accompanied by a work colleague, a trade union representative or an official employed by a trade union in circumstances where the meeting could result in a formal warning, some other disciplinary action, or the confirmation of either of these. To exercise the right, employees must make a reasonable request to be accompanied. What is reasonable will depend on the case e.g. it would not be reasonable to request to be accompanied by a worker whose presence could prejudice the case. The request must be made in writing to the manager hearing the case who will consider the reasonableness of the request and respond with his or her decision.

5.3 Suspension

Following an alleged offence, normally only if the matter is considered to be gross misconduct, an employee may be suspended from work on full pay until the incident has been fully investigated. The suspension will only be to enable 1st Homecare to investigate the alleged offence fully. Every effort will be made to restrict the suspension to the shortest time possible in the circumstances.

5.4 Right to state case

At all stages of the procedure the employee will be advised of the nature of the complaint against them and given the opportunity to state their case before any decision is made.

5.5 The meeting

The meeting will be heard by an appropriate member of management. The person hearing the meeting may implement this procedure at any disciplinary stage he or she considers appropriate to the alleged misconduct or performance issue in question. The manager will ask a second person to be present to take a note of the meeting.

5.6 Notification of the outcome

The employee will either be informed of the outcome of the meeting at the end of the meeting, after a short adjournment, or if the matter requires further consideration, the employee will be asked to return to the office to be informed of the outcome as soon as a decision has been taken. In all cases the period of time will be kept to a minimum. The decision taken will be confirmed in writing together with – if appropriate - details of the action required to remedy the situation, the likely consequences should further misconduct occur and the time limit for any warning to remain on file. Employees will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct. Staff who are found to have committed an act of gross misconduct are likely to be dismissed without notice or holiday pay.

5.7 Right to appeal

The employee will be given the right of appeal against any disciplinary penalty imposed – see Section 8 below - and will also have the right to a copy of any official notes that are made at the interview.

6 TYPES OF ACTION THAT MAY BE TAKEN

Where after the disciplinary meeting, disciplinary action is considered necessary, the following are the different sanctions that may be applied:

Stage 1 – Verbal Warning

If conduct or job performance does not meet acceptable standards, normally an employee will first be given a formal verbal warning. The employee will be advised of the reason for the warning, that it is the first level of discipline and of the right to appeal. The verbal warning will be confirmed in writing. A note of the verbal warning will be kept on the employee's electronic staff file but it will normally be disregarded for disciplinary purposes after 12 months, subject to satisfactory conduct/job performance, and non-repetition of the offence.

Stage 2 – First Written Warning

If the offence is of a more serious nature, or if a further offence occurs, a first written warning will be given. This will give details of the complaint, state the expected standard or improvement required, set timescales and advise of the right of appeal. It will also warn that more serious disciplinary action may be taken if there is no satisfactory improvement. This warning will be kept on the employee's staff file, and it will normally be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct/job performance, and non-repetition of the offence.

Stage 3 – Final Written Warning

If conduct or job performance fails to improve, or if the matter is sufficiently serious to warrant a final warning but does not justify dismissal, a final written warning will be given. This will give details of the complaint, warn that dismissal will result if there is a repetition of the conduct or if there is no satisfactory improvement, and advise of the right of appeal. The warning will be kept on the employee's staff file and disregarded for disciplinary purposes after 12 months (in exceptional cases the period may be longer) subject to satisfactory conduct/job performance, and non-repetition of the offence.

Stage 4 – Dismissal

If the employee fails to reach the prescribed standards and/or the matter is sufficiently serious, dismissal will normally result. Dismissal is also the direct penalty for acts of gross misconduct (detailed overleaf). Written reasons for dismissal will be given, including the date upon which employment will terminate. The employee will also be reminded of the right of appeal.

7 EXAMPLES OF OFFENCES LEADING TO DISCIPLINARY ACTION

The following is a non-exclusive list of the sorts of offences that will normally lead to disciplinary action being taken:

Misconduct

The following are examples of offences normally regarded as misconduct:

- Poor timekeeping
- Poor attendance
- Refusal to carry out a call
- Refusal to work within availability without prior consent
- Minor damage to 1st Homecare property
- Minor failures to observe policies and procedures
- Unsatisfactory work
- Failing to accurately complete daily record sheets including times of visits
- Failing to use the electronic monitoring system
- Failing to report minor matters (accidents/incidents) that should be reported to the office
- Failing to comply with 1st Homecare's requirements on dress code and personal appearance
- Refusal to obey a reasonable instruction from management
- Failure to report a conflict of interest
- Minor failure to maintain confidentiality
- Minor breaches of security procedures

Gross Misconduct

The following is a non-exhaustive list of examples of offence normally regarded as gross misconduct:

- Abuse of a client in any form, including neglect, physical, sexual, psychological, emotional, or financial abuse,
- Stealing from clients including unauthorised withdrawal of funds from a client's bank account or other financial accounts
- Stealing from 1st Homecare, or other members of staff
- Falsification of information to gain employment with 1st Homecare including falsification of any qualifications
- Falsification of any records, reports, accounts, expense claims
- Fighting with or physical assault on other employees, clients or members of the public
- Deliberate damage to a client's property or 1st Homecare property
- Being under the influence of drugs or alcohol while at work
- Being in possession of or having custody or control of illegal drugs or the supply of illegal drugs to any person
- Serious failures to observe 1st Homecare's policies and procedures, or continued failure to observe them after being told to comply
- Missed call to a client
- Persistent or serious failure to accurately complete daily record sheets including recording of times of visits
- Repeated failure to use the electronic monitoring system
- Persistent or serious failure to report matters (accidents/incidents) that should be reported to the office

- Persistent refusal to obey a reasonable instruction from management or a one-off refusal to obey a reasonable instruction in relation to a serious matter
- Gross negligence exposing clients or others to unacceptable levels of risk and/or danger
- Conviction of a criminal offence or other incident relevant to the employee's employment
- Failing to disclose a criminal offence
- Acts or omissions that bring or may bring 1st Homecare into disrepute
- Serious or persistent breaches of the 1st Homecare Confidentiality Policy
- Serious or persistent breaches of security
- Breach of 1st Homecare's Equality and Diversity, Bullying and Harassment Policy
- Aggressive or insulting behaviour towards clients, management and/or staff
- Failure to treat clients with dignity and respect
- Failing to report safeguarding issues involving clients
- Failing to report a serious conflict of interest or a persistent failure to report a conflict of interest

8 APPEALS

If an employee wishes to appeal against a disciplinary sanction, he or she should inform the member of management who handled the disciplinary meeting in writing within 5 working days of the decision being notified, stating the precise grounds of the appeal. A member of management who was not involved in the disciplinary action taken against the employee, will hear any appeals. His or her decision will be final. At the appeal the decision may be to overturn the disciplinary penalty imposed, to impose disciplinary action at a lower level (but not at a higher level) or to uphold the disciplinary action already imposed. It may be necessary to adjourn the meeting before a decision is made. Employees have the right to request to be accompanied at the appeal by a work colleague or trade union representative or official employed by a trade union, in accordance with the statutory right.

9 SUMMARY OF STAGES OF DISCIPLINARY PROCESS

Step 1

Normally three days' notice in writing of a disciplinary hearing will be given. This notice will outline the reason for the disciplinary meeting.

Step 2

A meeting will take place between the employee and the appropriate member of management, and the employee may make a request to be accompanied as stated above. After the meeting the employee will be informed of the decision and of the steps to take to appeal against it if wished.

Step 3

If the employee wishes to appeal, he or she must inform 1st Homecare in writing. The employee will be invited to a second meeting where another manager or director of 1st Homecare will discuss the appeal and give their final decision.

10 GRIEVANCE PROCEDURE

The purpose of the Grievance Procedure is to ensure, as far as possible, that any work-related grievance you may have, including any complaint about another employee, is dealt with fairly, confidentially and sensitively and that wherever possible a satisfactory outcome is found.

The manager investigating any complaint under this Procedure will consider all the circumstances before reaching a conclusion. Anyone wishing to utilise this procedure can do so freely and without prejudice to their position with 1st Homecare.

At each stage of this grievance process you may exercise the statutory right to request to be accompanied as outlined above in this Procedure.

Step 1

You should normally put your grievance in writing to the Manager or, if your grievance is against the Manager, you should address it to another manager of the same level as your Manager, or else to a director.

On receipt of your complaint, 1st Homecare will respond initially in writing to you within 3 working days, to acknowledge receipt of the complaint.

You will be asked to meet with the relevant manager to discuss your grievance.

Step 2

Your complaint will then be fully investigated by the Company. If it involves another member or members of staff, the manager will gather that member or members' response to the allegations.

Once all relevant information has been gathered, the manager will meet with you again and respond substantively to you. The Company aims to do so within 1 week.

Step 3

If the manager finds that there are no grounds on which to uphold your complaint, he or she will meet with you to discuss the matter and inform you of the outcome.

If the manager finds that there are objective grounds on which to uphold your complaint, he or she will let you know the action that will be taken to rectify the matter. If it involves another member (or members) of staff, 1st Homecare will initially seek to resolve matters informally wherever possible.

Where the matter involves another member (or members) of staff and an informal resolution is not possible, the matter may be dealt with as a disciplinary issue. In so doing, 1st Homecare will follow its Discipline and Grievance Procedure, including the right for the relevant member(s) of staff to request to be accompanied at a hearing and his/her right to appeal any decision taken against him/her.

Step 4

You will be informed of the outcome following Step 3.

If you are unhappy with the decision of 1st Homecare with regard to your grievance, you may appeal against it in accordance with this Procedure.

11 GENERAL

1st Homecare may amend this Policy as may be necessary and any amended version will replace this version. Staff will be informed of the amended version.

Discipline and Grievance Procedure

CHANGE HISTORY

Issue	Date	Description of Change and Reason
1	2012	First Issue
2	February 2014	Second Issue
3	May 2014	Third issue (following visit by CBC Contracts Manager)
4	October 2014	Fourth Issue (missed calls upgraded to gross misconduct)
5	November 2014	Fifth Issue – minor amendments and clarifications and amending formatting
6	June 2016	Sixth Issue – change of address, and overall review – no changes other than minor (spelling or grammatical) ones required
7	February 2017	Seventh Issue – changes to make applicable to both businesses
8	June 2018	Eighth Issue – changes to ordering of contents about informal stage and action to improve performance; amendment to grievance section to clarify that normally grievance should be addressed in the first instance to the Branch Manager.
9	December 2018	Ninth Issue – change to the Grievance Procedure to clarify the process.
10	January 2020	Tenth Issue – inclusion of KL office address, highlighting section as to when this Policy does not apply.
11	September 2022	Eleventh Issue – Minor grammatical changes only

DOCUMENT CONTROL

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