



Dudley Mind Disciplinary Policy and Procedure

1) Policy

1.1 This policy and procedure exist to help and encourage all staff to achieve and maintain our standards/rules of conduct, attendance and performance. The aim is to ensure any breach of company rules and standards are dealt with in a manner that is consistent and fair.

1.2 The main principles are as follows:

- The key purpose of any disciplinary action will be to seek to correct any breach (Disciplinary action should be seen to be corrective and not punitive).
- Where possible, matter will be dealt with informally prior to any disciplinary action being taken.
- This procedure may be implemented at any stage if the colleague's alleged misconduct is found to warrant such action.
- Where breaches of discipline occur, managers will gather all the facts prior to a disciplinary hearing. A reasonable amount of time should be given to employees in advance of a disciplinary hearing in order that they have time to prepare. This should be at least 24 hours unless both parties agree otherwise. Any notes of the hearing will be retained and made available to the employee together with any other supporting evidence, unless a threat of intimidation exists. Hearings will be arranged during normal contractual hours or at a mutually agreed time.
- At every stage employees will be advised in writing of the nature of the complaint against them and be given the opportunity to state their case before any decision is taken.
- At all formal stages during the disciplinary process, employees have the right to be accompanied by a work colleague or a trade union official. (See Appendix 1).
- An employee will have the right to appeal against any action taken against them within the agreed timescale.

2) Scope

This policy applies to all Dudley Mind employees.

3) Procedure

3.1 Informal Procedure

Minor faults will be dealt with informally and a letter of concern issued in the first instance. Depending on the nature and seriousness of the offence management have discretion to proceed to any stage of the procedure.

3.2 Letter of concern

3.2.1 A letter of concern is an informal attempt to correct a situation and prevent it from getting worse without having to use the disciplinary procedure.

3.2.2 Where improvement is required, the employee will be given clear guidelines as to:

- what is expected in terms of improving shortcomings in conduct or performance
- the time scales for improvement
- when this will be reviewed
- the employee must also be told, where appropriate, that failure to improve may result in formal disciplinary action.

3.2.3 The letter of concern will be given to the employee and a copy retained in their personnel file.

3.2.4 It is imperative that any advice should be followed up and improvements recognised and recorded.

4) Investigation

4.1 No disciplinary action will be taken against an employee until there has been an investigation of the circumstances.

4.2 Formal investigations should be carried out by the most appropriate manager who is not directly involved with the incident being investigated. This manager may involve others to assist with the investigation process.

4.3 All the relevant facts should be gathered promptly as soon as is practicable after the incident. Statements should be taken from witnesses at the earliest opportunity. Any physical evidence should be preserved and/or photographed if reasonable to do so.

4.4 The employee will then be invited to attend an investigatory meeting. This would be chaired by the appropriate Line Manager who would be accompanied by the HR Officer. The investigating manager would be asked to present his/her findings in the presence of the employee who has been investigated. The employee has a right of representation at this investigation (see Appendix 1).

4.5 Following the full presentation of the facts, and the opportunity afforded to the employee to state his side of the case, the manager conducting the investigation will decide which of the following options are appropriate:

1. take no further action against the employee
2. issue a letter of concern to the employee
3. proceed to a disciplinary hearing

4.6 The employee will be notified of the decision by letter as soon as is reasonably practicable after the investigation meeting.

4.7 Dudley Mind may suspend the employee on full pay whilst the investigation is carried out.

5) The formal disciplinary procedure

5.1 Hearing

5.1.1 For more serious offences or repeated failure to meet the required standards advised in informal meetings, formal action may be taken.

5.1.2 No formal disciplinary action will be taken without a disciplinary hearing.

5.1.3 Employees will be invited in writing to attend a disciplinary hearing relating to the matter at an agreed time and date convenient to both the employee and the Organisation. The employee will be advised in writing of the alleged offence at least 48 hours before the disciplinary hearing date and given any documentation to be used at the hearing.

5.1.4 At the disciplinary hearing the employee will be given the opportunity to state their case and will have the right to be accompanied by either a fellow worker or trade union representative of their choice.

5.1.5 If the employee fails to attend the hearing without good reason this would be classed as failure to follow a reasonable management instruction and you may be invited to a further disciplinary hearing. The Organisation will make a decision and where applicable issue any resulting penalty. However, if the employee has a good reason to postpone the date of the disciplinary hearing this will be acceptable as long as the postponed date is within 5 working days of the original date, and is convenient to both the employee and the Organisation.

5.1.6 At disciplinary hearings the HR Officer will be present and will act as note-taker. Alternatively the HR Officer will bring an independent note-taker.

5.1.7 The colleague will be given a copy of the notes taken and asked to sign a copy of any warning letter issued to confirm their understanding of the disciplinary decision. If the employee refuses to sign this will be noted on file.

5.1.8 Following a disciplinary hearing considering all the facts, any mitigating circumstances, the case presented by the employee and/or accompanying representative, the outcome could be that no formal action is taken or that one of the following penalties is applied:

Stage 1 – Verbal warning

5.2.1 If, despite informal discussions and/or a letter of concern the employee continues to fail to meet acceptable standards or if the breach is deemed

serious enough, the employee will normally be given a formal verbal warning. S/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of their right to appeal.

5.2.2. The manager conducting the hearing will make a note of the verbal warning and any agreed action plan, which will be kept on the employee's personal file.

5.2.3 This warning will lapse after 6 months, subject to satisfactory standards being maintained.

Stage 2 – Written Warning

5.3.1 If there is no improvement or if a further breach of misconduct occurs, or if one act of misconduct is deemed serious enough, a written warning will be given to the employee. The employee may also receive a written warning if a serious breach of a different nature occurs.

5.3.2 The manager will issue the warning, which will give details of the breach, the improvement required and the timescales for improvement. It will warn that action under Stage 3 may be considered if there is no satisfactory improvement or any further breach and will advise of the right of appeal.

5.3.3 A copy of this written warning will be kept on file but will lapse after 12 months, subject to satisfactory standards being maintained.

Stage 3 – Final Written Warning

5.4.1 If there is still a failure to improve standards or there are further act(s) of misconduct or a breach of a different nature occurs or if one act of misconduct is deemed serious enough, then a final written warning will be given to the employee.

5.4.2 The warning will give details of the breach, will warn that dismissal may result if there is no satisfactory improvement within a given timescale or if there is repeated misconduct and will advise of their right to appeal.

5.4.3 A copy of this final written warning will be kept on file but will lapse after 12 months, subject to satisfactory standards being maintained.

Stage 4 - Dismissal

5.5.1 If there is still a failure to improve or further misconduct occurs of the same or of a different nature the employee may be dismissed.

5.5.2 The employee will be provided as soon as is reasonably practicable with a letter confirming the reasons for dismissal, the date on which their employment will terminate, any payments to which they may be entitled and their right of appeal.

5.5.3 The Chief Executive may summarily dismiss the employee if, on completion of the investigation and disciplinary hearing, it is established that the employee has been guilty of gross misconduct.

5.5.4 Summary Dismissal will be without notice and will be confirmed to the employee in writing, giving full details of the reason for dismissal. The employee's right to appeal will also be stated.

6) Levels of Authority

6.1 Dudley Mind will ensure that the appropriate management levels will conduct all disciplinary hearings in accordance with the levels of authority listing.

6.2 The HR Officer will be consulted about procedures prior to any stage of the disciplinary process being implemented.

6.3 The people who will carry out the various stages of the procedure are as follows:

Stage 1 – Verbal Warning	Line Manger
Stage 2 – Written Warning	Line Manager, or their line manager
Stage 3 – Final Written Warning	Chief Executive/Operations Manager
Stage 4 – Dismissal	Chief Executive

6.4 In the case of disciplinary action for management the Chief Executive will assume responsibility. In the case of disciplinary action for the Chief Executive the Board Officers will assume responsibility.

7) Gross Misconduct

7.1 If after investigation the Organisation believes that the employee has committed an offence of gross misconduct the normal consequence will be summary dismissal.

7.2 Listed below are examples of Gross Misconduct and may warrant a Dismissal. It is stressed however that this list is not exhaustive.

- Theft, or attempted theft including unauthorised possession of any property belonging to Dudley Mind, or to any employee or client
- Abuse of service users or staff
- Breaches of confidentiality, prejudicial to the interest of the Dudley Mind
- Being unfit for duty because of the misuse/consumption of drugs or alcohol.
- Refusal to carry out a management instruction which is within the individuals capabilities and which would be seen to be in the interests of the Company.
- Breach of confidentiality / security procedures.
- Assault or attempted assault, breach of the peace or verbal abuse.
- False declaration of qualifications or professional registration.
- Wilful neglect or fraudulent use of, or damage of Dudley Mind property.
- Smoking in un-designated areas
- Sleeping whilst on duty
- Criminal offences affecting the Organisation's reputation, the employee's suitability for the duties s/he is employed by the

Organisation to perform or his or her acceptability to other employees or service users (whether committed at work or outside the course of employment).

- Serious breach of Dudley Mind Health and Safety procedures
- Misuse of internet/email as described in the Dudley Mind Code of Conduct
- Serious acts of insubordination
- Deliberate falsification of Dudley Mind documents
- Discrimination, harassment or bullying of colleagues or service users, breach of Dudley Mind grievance and/or equality and diversity policies
- Bringing the organisation, its employees or service users into serious disrepute
- Any other serious breach of procedures or policies leading to a loss of trust and confidence.

8) Examples of misconduct

- Unauthorised or persistent absence or absence without valid reason, notification or authorisation
- Poor timekeeping
- Failure to comply with the employer's rules on notification and evidence of sickness absence
- Failure to meet required performance standards
- Incompetence.
- Unreasonable standards of dress or personal hygiene.
- Failure to work in accordance with Company regulations and procedures.

This list is not exhaustive.

9) Suspension

9.1 Suspension is not disciplinary action. The purpose of suspension is manifold and can be used when it is necessary to remove a member of staff from the workplace pending an investigation for example, to allow time for a 'cooling down period' for both parties, for their own or others protection, to prevent them influencing or being influenced by others or to prevent possible interference with evidence.

9.2 Only the Manager in charge of that individual, at that time or their superior, have the authority to suspend an individual.

9.3 An employee suspended from duty will be on full pay and will receive written confirmation within three working days of :

- the reason for the suspension
- the date and time from which the suspension will operate.

10) Appeals

10.1 Every employee has the right to appeal against the outcome of a disciplinary hearing.

10.2 The basis of an appeal should normally relate to one of the following areas:

- that the Organisation's procedure had not been followed correctly.
- that the resulting disciplinary action was inappropriate or too severe.
- that the need for disciplinary action was not warranted.
- that new information regarding disciplinary action, has arisen

10.3 Appeal Procedure

10.3.1 An appeal should be put in writing within 10 calendar days of the disciplinary hearing decision and should clearly state the reasons for appeal.

10.3.2 The Appeal Hearing will take place as soon as is reasonably practicable after the appeal letter has been received.

10.3.3 At an Appeal Hearing the employee will have the opportunity to state their case and will be entitled to be accompanied by a fellow employee or trade union representative.

10.3.4 The decision will be communicated to the employee outlining the reasons behind the decision within 5 working days of hearing the appeal or as soon as is reasonably practicable after (subject to the complexities of investigation into the facts). It is Dudley Mind's policy that the decision made at the appeal hearing will be final.

11) Changes

Dudley Mind reserves the right to change the provision of the Disciplinary Procedure by amendment, addition or deletion or substitution of new procedures from time to time at its discretion. Employees will be consulted and notified of any changes by appropriate means.

Appendix 1

Right To Representation

All employees have a statutory right to be accompanied at formal disciplinary and grievance meetings by either a fellow worker or a trade union representative.

Employees under 18 and employees with special needs may also be represented by a parent or guardian and any reasonable adjustments which are deemed necessary will be made.

It is not reasonable for the companion to be someone:

- Whose presence would prejudice the Disciplinary Hearing
- Who might have a conflict of interest

The fellow worker or trade union representative does not have to accept a request to accompany. A fellow worker who has agreed to accompany is entitled to a reasonable amount of paid time off to fulfil their responsibility. If for any reason the chosen representative is not available, the hearing will be postponed to an alternative time proposed by the employee, which is reasonable, and within five working days of the original hearing date.

The companion must keep all information related to the case confidential at all times unless a breach is necessary under the Confidentiality Policy.

The companion has the right to:

- Request an alternative date or time of the hearing (subject to conditions above)
- Put the employee's case to the hearing
- Sum up the employee's case
- Confer with the employee throughout the hearing

The companion does not have the right to:

- Answer questions on the employees behalf
- Address the hearing if the employee does not wish it
- Prevent the employer from explaining their case