



SOMERSET & WESSEX EATING DISORDERS ASSOCIATION

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Policy Title:	Disciplinary Procedure				
Owner	Sam Best				
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<p>The aim of this disciplinary procedure is to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.</p> <p>This procedure is compiled with reference to and in conformity with the ACAS Code of Practice on Disciplinary & Grievances Procedures (“the Code”).</p> <p>Any disciplinary action shall be taken in a manner, which conforms as far as possible with the Code.</p> <p>It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts. The following principles apply to the management of disciplinary issues, as far as circumstances will allow (except for informal warnings). Employees should note that these principles place obligations on them, as well as on the Charity:</p> <ul style="list-style-type: none"> • Issues should be raised and dealt with promptly and there should be no unreasonable delay in the timing of meetings, decisions or confirmation of those decisions. • both parties should act consistently. • The Charity should carry out any necessary investigations, to establish the facts of the case. • The Charity should inform the employee of the basis of the problem, provide him or her as appropriate with any evidence and give him or her with an opportunity to put their case. • Employees are to be given the opportunity to be accompanied at any formal disciplinary meeting by a trade union representative or work colleague. • The Charity shall allow employees to appeal against any formal decision made, in accordance with this Disciplinary Procedure. <p>General Principles</p> <p>This procedure applies to all employees, regardless of length of service. It does not apply to agency workers or self-employed contractors.</p> <p>Minor conduct issues can normally be resolved informally between the employee and his or her manager. These discussions should be held in private and without undue delay whenever there is cause for concern. In some cases an informal verbal warning may be given, which will not appear on the employee’s personnel records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).</p>					

Except in cases of gross misconduct or during an employee's probationary period, he or she will not normally be dismissed for a first act of misconduct. Instead, the employee will normally be given a warning and a chance to improve.

If an employee has difficulty at any stage of the procedure because of a disability, he or she should discuss the situation with his or her Manager as soon as possible.

The Charity aims, during an investigation or disciplinary procedure, to deal with matters sensitively and with due respect for the privacy of any individuals involved.

Employees are not permitted to make any electronic recordings of any investigative meetings, disciplinary or appeal hearings. The employee's representative, or any companions or witnesses who accompany him or her to any meetings or hearings are also not allowed to making electronic recordings. Employees and the person accompanying them will however be entitled to make notes.

Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless, at our discretion, it is believed that a witness's identity should remain confidential.

Witnesses must treat as confidential any information given to them in the course of an investigation, including the identity of any employees under investigation.

Investigations

The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee before deciding whether to proceed with a disciplinary hearing. This may involve reviewing any relevant documents, interviewing the employee and any witnesses, and taking witness statements.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held, if holding an investigation is deemed appropriate.

Employees must cooperate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending any investigative interviews.

The amount of investigation required will depend on the nature of the allegations and will vary from case to case.

Suspension

Where the employee's continued presence in the office would hinder an investigation the Charity may need to suspend them from work while an investigation or disciplinary procedure is on-going. The suspension will be for no longer than is necessary to investigate the allegations and the Charity will confirm the arrangements to you in writing and undertake regular reviews of the suspension.

While suspended employees should not visit our premises or contact any of our clients, volunteers, customers, suppliers, contractors or employees, unless they have been authorised to do so by us.

Suspension of this kind is not a disciplinary sanction and does not imply that any decision has already been made about an employee's case. Employees will continue to receive their full basic salary and benefits during the period of suspension.

Formal Disciplinary Procedure

Written information

Following any investigation, if the Charity considers there are grounds for disciplinary action, it will inform the employee in writing of the allegations against him or her and the basis for those allegations. This will normally include:

- a summary of relevant information gathered during the investigation;
- documents which will be used at the disciplinary hearing; and
- any relevant witness statements which will be used at the hearing, except where a witness's identity is to be kept confidential, in which case the Charity will give the employee as much information as possible while maintaining confidentiality.

Employees will have a reasonable opportunity to consider any information before the hearing.

Disciplinary hearing

The Charity will give the employee written notice of the date, time and place of the disciplinary hearing, which will normally be held between two days and one week after he or she receives the written notice.

An appropriately appointed manager decided by the CEO will chair the hearing. You should let us know as early as possible if there are any relevant witnesses you would like to attend the hearing or any documents or other evidence you wish to be considered.

Employees have the right to bring a companion to any meetings under the procedure. The companion may be either a trade union representative or a work colleague.

Employees must take all reasonable steps to attend the hearing. Failure to attend a hearing without good reason may be treated as misconduct in itself. If an employee or his or her companion cannot attend at the time specified he or she should inform us immediately and the Charity will seek to agree an alternative time. Unless in exceptional circumstances, only one adjournment will be permitted.

The purpose of the disciplinary hearing is to consider the evidence and to enable the employee to respond to any allegations that have been made against him or her. If the employee has a companion, he or she may make representations to us and ask questions, but should not answer questions on the employee's behalf. Employees may confer privately with their companion at any time during the hearing.

You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise.

The disciplinary hearing may be adjourned by the Charity if it needs to carry out any further investigations. For example, the Charity may decide to re-interview witnesses in the light of any new points that have been raised at the hearing. Employees will be given a reasonable opportunity to consider and respond to any new information obtained before the hearing is reconvened.

Within one week or as reasonably practicable thereafter of the disciplinary hearing the Charity will inform the employee in writing of our decision (including details of any misconduct that the Charity considers has been committed and the disciplinary sanction to be applied) together with the reasons for our decision. The Charity will also inform the employee of his or her right of appeal.

Appeals

If an employee wishes to appeal he or she should do so in writing, stating the full grounds of appeal, within 5 working days of the date on which he or she was informed of the decision.

The Charity will give the employee written notice of the date, time and place of the appeal hearing. This will normally be between two days and one week after he or she receives the written notice. In cases of dismissal the appeal will be held as soon as possible.

Where practicable, the appeal hearing will be conducted by a manager who is senior to the person who conducted the original disciplinary hearing and who has not previously been involved in the matter. Employees may bring a companion with them to the appeal meeting.

The appeal will usually be heard by way of a review of the original disciplinary decision, rather than a complete rehearing of all the evidence.

If an employee raises any new matters in his or her appeal the Charity may need to carry out further investigation prior to the appeal hearing. If any new information comes to light on our side, the Charity will provide the employee with the details and he or she will have a reasonable opportunity to consider this information before the hearing.

Following the appeal hearing the Charity may:

- confirm the original decision; or
- revoke the original decision; or
- substitute a different disciplinary sanction.

Within one week or as reasonably practicable thereafter of the appeal hearing the Charity will inform the employee in writing of our decision. That decision shall be final and there will be no further right of appeal.

The date on which any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, the employee will be reinstated with no loss of continuity or pay.

Disciplinary Sanctions

In the case of minor offences an employee will normally be given a formal verbal warning. They will be advised that the warning constitutes the first formal stage of the disciplinary procedure and that a note will be placed on their personnel file recording that warning. The nature of the offence and the likely consequences of further offences or a failure to improve will be explained to them.

In the case of serious offences or a repetition of earlier minor offences the employee will be given a written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period.

In the case of a further repetition of earlier offences, if the employee still fails to improve or if the offence, whilst falling short of gross misconduct, is serious enough to warrant only one written warning, the employee will be given a final written warning setting out the precise nature of the offence, containing a statement that any recurrence will lead to dismissal or whatever other penalty is considered appropriate and specifying, if appropriate, the improvement the Company requires and over what period.

In the case of gross misconduct, or if all previous stages of the warning procedure have been exhausted, the employee will normally be dismissed, but only after consideration of other possible disciplinary action including (but without limitation): demotion or transfer; loss of seniority or salary increment; suspension with or without pay.

Warnings will be kept on record for a period of one calendar year, whereupon they will be removed if there has been no repetition of the offence. The Charity reserves the right however to consider expired warnings when deciding on the appropriate level of any disciplinary sanction. In cases of gross misconduct, dismissal will normally be without notice.

Examples of Misconduct

The following are non-exhaustive examples of the sorts of offences which, if committed, will normally lead to formal disciplinary action being taken:

Minor offences (oral warning): poor job performance involving sub-standard work; unpunctuality; one-off absenteeism, or any minor breach of our rules, procedures or policies.

Serious offences (written warning): negligence resulting in minor loss, damage or injury; failure to comply with a specific instruction; irresponsibility in relation to our employees; activities or impropriety in relation to the employee's tasks; or any breach of confidence relating to our affairs; repeated absenteeism without good reason.

Gross misconduct (dismissal): negligence resulting in serious loss, damage or injury; assault or attempted assault; theft; malicious damage to property; wilful disregard of duties or of instructions relating to the employment; deliberate and serious breach of confidence relating to our affairs; the use for personal ends of confidential information obtained by the employee in the course of his or her employment; falsification of records; being under the influence of drink or drugs during working hours; being rude or abusive to our service users or our employees; conduct violating common decency; conviction on a criminal charge relevant to the employee's employment; discriminatory or bullying behaviour; bringing our name into disrepute. If there is immediate danger to the individual, then the emergency services should be called prior to the above steps being taken.

Accidents and injuries

All accidents involving children/vulnerable adults must be recorded. This must be done initially through your line manager who must then forward information to the COO. If the child/vulnerable adult is a client of another agency the accident must also be reported to their line manager/carer or parent. The First Aid Box can be found on top of the filing cabinet in the office Level 1.

Record Keeping

There should be a written record of any accidents or concerns. This confidential information will be kept in a locked cabinet by the COO, and will be kept for as long as deemed necessary, in line with Data Protection principles. The Accident book can be found with the First Aid Box on top of the filing cabinet in the office on Level 1.

Implementation

SWEDA will ensure that all workers have access to a copy of this policy as part of their induction process.

SWEDA expects and requires Trustees and managers to support their staff in carrying out this policy.