

sAGE UK EXETER

Controlled Document

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Document Description

This document sets out the procedures which will be followed when dealing with allegations of misconduct or poor performance.

Implementation & Quality Assurance

Implementation is immediate and this framework shall stay in force until any alterations are agreed.

All aspects of this document shall be open to review at any time. If you have any comments or suggestions on its content please contact Chief Executive Officer at info@ageukexeter.org.uk

Disciplinary and capability procedure

1. ABOUT THIS PROCEDURE

- 1.1 This procedure is intended to help maintain standards of conduct and performance and to ensure fairness and consistency when dealing with allegations of misconduct or poor performance.
- 1.2 Minor conduct or performance issues can usually be resolved informally with your line manager. This procedure sets out formal steps to be taken if the matter is more serious or cannot be resolved informally.
- 1.3 This procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.
- 1.4 This procedure does not form part of any employee's contract of employment and we may amend it at any time.

2. INVESTIGATIONS

- 2.1 Before any disciplinary hearing is held, the matter will be investigated. Any meetings and discussions as part of an investigation are solely for the purpose of fact-finding and no disciplinary action will be taken without a disciplinary hearing.
- 2.2 In some cases of alleged misconduct, we may need to suspend you from work, with pay, while we carry out the investigation or disciplinary procedure (or both). While suspended, you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless authorised to do so. Suspension is not considered to be disciplinary action.

3. THE HEARING

- 3.1 We will give you written notice of the hearing, including sufficient information about the alleged misconduct or poor performance and its possible consequences to enable you to prepare. You will normally be given copies of relevant documents and witness statements.
- 3.2 You may be accompanied at the hearing by a trade union representative or a colleague, who will be allowed reasonable paid time off to act as your companion.
- 3.3 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.
- 3.4 We will inform you in writing of our decision, usually within one week of the hearing.

4. DISCIPLINARY ACTION AND DISMISSAL

The usual penalties for misconduct or poor performance are:

- (a) **Stage 1: First written warning or improvement note.** Where there are no other active written warnings or improvement notes on your disciplinary record, you will usually receive a first written warning or improvement note. It will usually remain active for six months.
- (b) **Stage 2: Final written warning.** In case of further misconduct or failure to improve where there is an active first written warning or improvement note on your record, you will usually receive a final written warning. This may also be used without a first written warning or improvement note for serious cases of misconduct or poor performance. The warning will usually remain active for 12 months.
- (c) **Stage 3: Dismissal or other action.** You may be dismissed for further misconduct or failure to improve where there is an active final written warning on your record, or for any act of gross misconduct. Examples of gross misconduct are given below (paragraph 6). You may also be dismissed without a warning for any act of misconduct or unsatisfactory performance during your probationary period.

We may consider other sanctions short of dismissal, including demotion or redeployment to another role (where permitted by your contract), and/or extension of a final written warning with a further review period.

4.1 Grounds for Dismissal

Staff are advised that there are five grounds for dismissal. These are as follows:

- a) The employee's conduct
- b) The capability or qualifications of the employee for performing work of the kind he or she was employed to do (this includes sickness).
- c) A legal restriction making continued employment impossible
- d) Redundancy
- e) Some other substantial reason justifying the dismissal of an employee from that position

5. APPEALS

- 5.1 You may appeal in writing to the CEO within one week of being told of the decision.
- 5.2 The appeal hearing will, where possible, be held by someone senior to **OR** other than the person who held the original hearing. You may bring a colleague or trade union representative with you to the appeal hearing.

5.3 We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. There is no further right of appeal.

6. GROSS MISCONDUCT

6.1 Gross misconduct will usually result in dismissal without warning, with no notice or payment in lieu of notice (summary dismissal).

6.2 The following are examples of matters that are normally regarded as gross misconduct:

- a) theft or fraud;
- b) physical violence or bullying;
- c) deliberate and serious damage to property;
- d) serious misuse of the organisation's property or name;
- e) deliberately accessing internet sites containing pornographic, offensive or obscene material;
- f) serious insubordination;
- g) unlawful discrimination or harassment;
- h) bringing the organisation into serious disrepute;
- i) serious incapability at work brought on by alcohol or illegal drugs;
- j) causing loss, damage or injury through serious negligence;
- k) a serious breach of health and safety rules;
- l) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- m) a serious breach of confidence.

This list is intended as a guide and is not exhaustive

7 REPORTING OBLIGATIONS

7.1 Referral to the Independent Safeguarding Authority (ISA) – Statutory Obligations

7.2 Age UK Exeter has a legal duty to notify the ISA of relevant information, so that individuals who pose a threat to vulnerable groups can be identified and barred from working with these groups.

7.3 The referral is usually made when:

- a) An individual is dismissed/removed on the grounds of misconduct (whether or not in the course of his or her employment) which harmed, or placed a child or vulnerable adult at risk of harm, or
- b) An individual has resigned or retired in circumstances such that the organisation would have dismissed him or her, or would have

considered dismissing him or her, on such grounds if he or she had not resigned or retired, or

- c) On such grounds, an individual is transferred to a position within the organisation which is not a direct care position

Revision History

Revision date	Summary of Changes	Other Comments
30.12.2021	New document using the HR Express template provided. This document replaces POL37. No changes to the original policy other than its name from Disciplinary Procedures to Disciplinary and Capability Procedures	Approved by the Board of Trustees 10 February 2022. Next review due January 2024