

PP03 Disciplinary Policy and Procedure

Serendipity Healthcare Ltd
Unit 5 Millennium Way, Dunston, Chesterfield, Derbyshire, S41 8ND



1. Purpose

- 1.1 The purpose of this policy and procedure is to ensure the safe and effective operation of the business and business and the fair and equal treatment of all its employees to ensure continuing high standards.
- 1.2 Serendipity Healthcare Ltd views the Discipline Policy and Procedure as a positive contribution to the success of the business for both the organisation and its employees
- 1.3 Serendipity Healthcare Ltd is committed to encouraging its employees to maintain the required standards of behaviour so as to deliver the best service for Service Users and ensure a healthy and productive working environment.
- 1.4 T Support Serendipity Healthcare Ltd in meeting the following Key Lines of Enquiry:

Key Question	Key Lines of Enquiry
SAFE	S1: How do systems, processes and practices keep people safe and safeguarded from abuse?
SAFE	S2: How are risks to people assessed and their safety monitored and managed so they are supported to stay safe and their freedom is respected?
WELL-LED	W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?
WELL-LED	W3: How are the people who use the service, the public and staff engaged and involved?

- 1.5 To meet the legal requirements of the regulated activities that Serendipity Healthcare Ltd is registered to provide:
 - Employment Right Act 1996
 - General Data Protection Regulation 2016
 - Data Protection Act 2018

2. Scope

- 2.1 The following roles may be affected by this policy:
All staff
- 2.2 The following Service Users may be affected by this policy:
Service Users to the extent they are affected by any act of misconduct

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2.3 The following stakeholders may be affected by this policy:

Commissioners
Local Authority
NHS

3. Objectives

- 3.1 To ensure that managers are aware of the disciplinary process, the sanctions available and the steps to be taken at each stage.
- 3.2 To ensure transparency for staff who are subject to the disciplinary process.
- 3.3 To ensure that any party involved in the disciplinary process considers any alternative sanctions that may be available
- 3.4 To ensure that Serendipity Healthcare Ltd follows best practice and acts in accordance with the ACAS Code of Conduct when required.

4. Policy

4.1 When May Action Be Taken Under this Process?

Action will be taken where Serendipity Healthcare Ltd believes your behaviour, actions or omissions constitute misconduct. The seriousness of the misconduct matter will determine the severity of any sanction imposed. Misconduct can range from minor misconduct through to gross misconduct, the latter justifying dismissal without notice.

Serendipity Healthcare Ltd reserves the right to disapply all or part of this policy where the circumstances dictate that this is appropriate. This policy is non-contractual and does not form part of an employee's terms and conditions of employment.

4.2 Minor Conduct Issues

Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file. 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).

4.3 Confidentiality

Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential, any information communicated to them in connection with an investigation or disciplinary matter.

You and anyone accompanying you (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure.

4.4 Investigations

The purpose of an investigation is a fact-finding exercise. It is an opportunity for Serendipity Healthcare Ltd to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary

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from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.

You must co-operate 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 investigative interviews if required.

Before any formal disciplinary action is taken, the relevant person will carry out a full investigation to establish the facts. The investigation will normally include a meeting with you. Investigatory meetings are not disciplinary meetings and you will not necessarily be offered the right to be accompanied.

Even in the most serious allegations of gross misconduct (see below), a full investigation will be held. In any alleged case of gross misconduct, you may be suspended pending the outcome of the investigation if there is no alternative option available to Serendipity Healthcare Ltd to protect the effectiveness and independence of the investigation.

Before any disciplinary meeting, you will be:

Told in writing of the allegations/complaints against you, and the basis of those allegations

Given a reasonable opportunity to consider your response to that information

Offered the opportunity to be accompanied by a work colleague or a trade union representative

You must take all reasonable steps to attend the meeting. At the meeting, you will be given a full opportunity to comment on the allegations, to put forward any defence or arguments you want, and to comment on what disciplinary sanction (if any) is appropriate

4.5 **Informal Warning**

After establishing the facts, we may consider that there is no need to resort to the formal procedure, and that it is sufficient to talk the matter over with you. A note of the informal warning may be kept on your personnel file. However, they are there for background and would not normally be taken into account in the event of subsequent disciplinary procedures.

The purpose of an informal warning is to provide an opportunity for improvement or for the matter to be corrected without the necessity for formal disciplinary procedures to be enacted.

4.6 **Suspension**

In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate any allegations of misconduct against you or so long as is otherwise reasonable while any disciplinary procedure against you is outstanding. We will confirm the arrangements to you in writing. While suspended, you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by your manager.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary and benefits during the period of suspension.

4.7

Any data collected as part of this policy will be processed in accordance with current Data Protection legislation, the Privacy Notice issued to staff and the Data Security and Data Retention Policy and Procedure at Serendipity Healthcare Ltd.

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- 4.8 This policy does not form part of an employee's contract of employment and it may be amended at any time. Serendipity Healthcare Ltd may also vary this policy, including any time limits, as appropriate in any case.

5. Procedure

5.1 Formal Disciplinary Process

If Serendipity Healthcare Ltd consider there are grounds for taking formal action against you, you will be required to attend a disciplinary hearing. You will be provided with a notification of hearing and we shall provide you with the following information:

- A summary of the evidence gathered as part of an investigation
- A copy of all relevant documents to be used at the hearing; and
- Copies of any witness statement

As part of the disciplinary hearing, we will look to confirm the following with you:

- Details of the conduct issues and the evidence which suggests your conduct or behaviour has fallen below the standards required
- Provide you with an opportunity to ask questions and to present evidence on your own behalf
- Establish the likely causes of your conduct issues
- Identify whether any further measures can be taken to assist with your conduct issues
- Discuss the standard of conduct expected of you; and
- Issue you with an appropriate warning

5.2 Right to be Accompanied.

At all stages of the formal disciplinary process, you have the right to be accompanied by a single companion who is either:

- A work colleague; or
- A full-time official employed by a trade union

Your representative has the right to explain and sum up your case, and to respond to any views expressed at the hearing. They may not answer questions on your behalf. If your representative cannot attend on the date we have set for the hearing, you must inform us immediately and we will arrange an alternative time for the hearing to take place. A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so. If your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.

5.3 Procedure at the Disciplinary Hearing

The hearing will be chaired by a manager of the appropriate seniority. A note-taker will also be present and this person will be confirmed to you prior to the hearing date. As stated above, you may bring a companion with you to the disciplinary hearing.

At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions but should not answer

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questions on your behalf. You may confer privately with your 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.

We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened. We will inform you in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing.

5.4 **Stage 1: Written Warning**

If it is decided that your conduct or performance is unsatisfactory your manager may give you a Written Warning.

This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that further disciplinary action will follow if the required standards are not met or if there is further misconduct. You will be informed of your right of appeal, and how and where this should be made. A record of the warning and related discussions will then be placed on your personnel file. It will normally cease to have effect after 12 months.

If your conduct is sufficiently serious, we may omit stage 1, and proceed straight to stage 2.

5.5 **Stage 2: Final Written Warning**

For more serious matters, or where you have failed to meet the required standards after already receiving a formal warning which has not yet expired, you may be given a Final Written Warning. This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that you will be dismissed if the standards are not met or if there is further misconduct.

Again, you have the right to appeal. A record of the warning and a note of all related discussions will be placed on your personnel file. A final written warning will normally cease to have effect after 12 months.

5.6 **Stage 3: Dismissal**

If there is still no improvement in your conduct, where further misconduct occurs whilst the final written warning is active, or your conduct amounts to gross misconduct, you may be dismissed. You will be invited to a stage 3 disciplinary hearing and we will discuss a range of options with you including dismissal, redeployment or extension of a final written warning. Where dismissal is appropriate, this will normally be on full notice and/or payment in lieu of some or all of your notice unless your conduct amounts to gross misconduct, in which circumstances, you will not be entitled to notice.

This will be confirmed in writing and will include details of the appeals procedure.

5.7 **Dismissal Without Notice ('Summary Dismissal')**

We regard certain issues as serious enough to warrant 'summary dismissal' without prior warning. These issues would constitute gross misconduct, that is a single act of misconduct that is sufficiently serious to break the employment contract between us. Matters that may justify summary dismissal, include, but are not limited to:

Actions which may harm the well-being of a Service User ("abuse")

Acts of dishonesty where your conduct affects your ability or suitability for continued employment with us; for example, theft, fraud, the deliberate falsification of records or expenses, a relevant criminal warning or conviction, or inclusion on the DBS register

Serious insubordination or rudeness to customers or suppliers; deliberate damage to property

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A serious breach of Health & Safety policies
Physical violence or aggressive behaviour
Indecent or immoral acts
Being under the influence of, or possessing, alcohol or illegal drugs during employment hours (unless you have been authorised to, and have been entertaining clients, in which case a reasonable amount of alcohol consumption is permitted)
Bringing Serendipity Healthcare Ltd into serious disrepute
Any breaches of confidentiality requirements in your contract of employment, other than minor breaches
Harassment or bullying, other than minor breaches
Breaches of our Equality and Diversity Policy and Procedure, other than minor breaches

Wilful misrepresentation at the time of appointment, including:

Previous positions held
Qualifications held
Falsification of date of birth
Declaration of health; and
Failure to disclose a criminal conviction/caution within the provision of the Rehabilitation of Offenders Act

Abuse of the protected disclosure provisions

Deliberate disclosure of privileged confidential information to unauthorised people

Negligent or deliberate failure to comply with the legal requirement for the policy and procedure
Concerning medicines at Serendipity Healthcare Ltd

Working whilst contravening an enactment or working in such a way that is in breach of rules laid down by statutory bodies, e.g. erasure from the register of the Nursing & Midwifery Council

Serious breach of data protection and/or failure to adhere to the policy
Failure to notify Serendipity Healthcare Ltd of an actual or suspected data breach; or
Covertly recording internal meetings with Serendipity Healthcare Ltd without consent

5.8 Other Disciplinary Matters

Matters which may justify invoking the disciplinary procedure but which do not amount to gross misconduct include, but are not limited to, the following:

Refusal to obey a legitimate instruction
Refusal to answer a question during the course of a properly constituted investigation
One occasion of absence without permission, or persistent absence
Poor timekeeping
Failure to report damage to our property
Failure to carry out your duties adequately
Breach of our policies, procedures and practices
Improper use of our equipment
Harassment or bullying (in ways that are not deemed serious enough to constitute gross misconduct)
Breaches of our equal opportunities policy (in ways that are not deemed serious enough to constitute gross misconduct)

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Actions bringing Serendipity Healthcare Ltd into disrepute (in ways that are not deemed serious enough to constitute gross misconduct); and
Minor breach of data protection or minor failure to adhere to the Data Protection and Confidentiality Policy and Procedure

5.9 Alternatives to Dismissal

In some cases, we may at our discretion, consider alternatives to dismissal. These may be authorised by a manager of sufficient seniority and will usually be accompanied by a final written warning.

Examples include:

- Demotion
- Transfer to another department or job
- A period of suspension without pay
- Loss of seniority
- Reduction in pay
- Loss of future pay increment or bonus; or
- Loss of overtime

5.10 Right to Appeal

If you are not satisfied with a disciplinary decision, you may appeal, in writing, within five working days. Arrangements to hear the appeal will normally be made within five working days of receiving your written request. If the decision you are appealing against was a decision to dismiss you, the appeal may be heard after the dismissal has taken place.

All appeals must set out the grounds on which you are making the appeal.

We will invite you to an appeal hearing and remind you of your right to be accompanied.

The appeal hearing will, where possible, be held by someone other than the person who held the original hearing.

The outcome of the appeal will be confirmed to you in writing and will take one of three forms:

- The original decision will be upheld, in which case any disciplinary sanction will be confirmed
- The original decision will be overruled, in which case any disciplinary sanction will be rescinded; or
- The original decision will be substantially confirmed but a less severe sanction will be substituted for that originally imposed (usually in cases of appeals based on extenuating circumstances)

There is no further right of appeal.

In the event that you have been dismissed, the date of dismissal will not be delayed pending the outcome of an appeal. In the event that your appeal is successful and the decision to dismiss you is revoked, you will suffer no loss of continuity or pay.

6. Definitions

- 6.1 Gross Misconduct
Misconduct which is so serious as to justify dismissing the employee without notice
- 6.2 Representative
A fellow employee or Trade Union Representative
- 6.3 Demotion
Moving an employee to a lower level job role or removal of some duties
- 6.4 ACAS Code of Practice

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The non-statutory guidance from the Arbitration and Conciliation Service which outlines how an employer should approach a disciplinary process with an employee. A failure to follow the ACAS Guidance can lead to an uplift of up to 25% in any Employment Tribunal award

Last Reviewed:
6th January 2021