



Delivery of Professional Medical Services

DISCIPLINE & CONDUCT POLICY

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1. INTRODUCTION

A-cute will seek to ensure through its managers that any shortcomings of staff in relation to duties and responsibilities of their posts or their behaviour are brought to their attention the earliest opportunity.

A-cute aims to nurture a healthy culture. All staff are expected to model their behaviours to support A-cute with its aims to become an employer, partner and provider of choice.

Staff will be informed and aware of the standards required of them and what is expected of them in terms of performance, conduct and their role.

Managers will support and encourage all employees to achieve and maintain the highest possible standards of performance and conduct.

A-cute recognises three categories of misconduct:

- Minor
- Serious
- Gross

All information received and divulged throughout the Discipline and Conduct procedure is to be regarded as highly confidential to those involved in the disciplinary process and otherwise may only be used where a further and separate investigation is required as a result of allegations made during a hearing. For example, allegations of bullying, harassment or other misconduct perpetrated by another employee.

Apart for exceptional circumstances, which have potentially serious implications on service delivery and/or reputation, no employee will normally be dismissed without a first warning.

Where it is stated that information will be provided in writing (on either side); this includes email – which are legally acceptable since they originate from a personal account.

2. PURPOSE AND SCOPE

Where it is stated that information will be provided in writing (on either side); this includes email – which are legally acceptable since they originate from a personal account.

To promote the equitable and consistent treatment of staff where breaches of discipline are alleged and to ensure that disciplinary cases are managed consistently in a non-discriminatory, fair and timely process in line with current 6 legislation and employment case law.

To ensure that all members of staff are fully advised of the substance and nature of the allegations before a formal investigation is undertaken and/or disciplinary action is taken against them.

It should be noted that any incident involving A-cute vehicles must be reported to the Driving Standards Manager, who will also have a role as a specialist investigator.

3. PROCEDURE

Please see the flow chart on Appendix 2 for the appropriate procedure to be undertaken.

4. EQUALITY STATEMENT

A-cute is committed to promoting positive measures that eliminate all forms of unlawful or unfair discrimination on the grounds of age, marriage and civil partnership, disability, race, gender, religion/belief, sexual orientation, gender reassignment and pregnancy/maternity or any other basis not justified by law or relevant to the requirements of the post. A-cute will therefore take every possible step to ensure that this procedure is applied fairly to all employees regardless of the protected characteristics whether full or part-time or employed under a permanent or a fixed-term contract or any other irrelevant factor.

Where there are barriers to understanding, e.g., an employee has difficulty in reading or writing, or where English is not their first language, additional support will be put in place wherever necessary to ensure that the process to be followed is understood and that the employee is not disadvantaged at any stage in the procedure.

5. STAGES OF THE POLICY

The initial stage is very important in the effective implementation of a policy focussing on the improvement and maintenance of high standards of conduct. The intention should always be to gain a full understanding of the situation and to resolve an issue at the earliest opportunity and wherever possible a resolution should be sought through an informal process.

5.1 Informal Stage

This would normally be in circumstances where performance or behaviour falls short of the required standard or could be considered as minor misconduct. In this situation, the manager would establish the facts of the situation and make a decision as to whether it is appropriate to deal with the matter informally or whether the formal disciplinary process needs to be invoked. The manager/ supervisor should have an informal discussion about the key points, objectives and measures set and a review process (see Appendix 2). It is important that the employee is reminded of the standard of conduct or behaviour that is expected and the consequences if improvement is not achieved. Informal action could also involve close supervision, coaching, monitoring, or training with the aim of improving the standard of behaviour.

To ensure the consistent application and approach across the organisation.

If the manager considers it reasonable to do so in the circumstances, they may issue the employee an improvement note to ensure clarity on the conduct issue, the action required of both the employee and the manager, including details of the improvement required and the timescale. NB Informal warnings are not issued –an improvement note should be issued. It is important that during the monitoring period, the manager ensures the provision of day-to-day supervision and support as discussed at the meeting and ensures that the employee is appropriately supported to help them achieve and maintain the required standard. The employee is required to fully co-operate during this period, to achieve and then maintain the improvement outlined. The normal improvement period would be three months although in some circumstances this may be extended to a maximum of six months. During the whole of the monitoring period regular supervision is provided. If the improvement note and support does not achieve the required effect, it can be escalated to the formal process.

6. FORMAL DISCIPLINARY PROCESS: STANDARD PROCESS

6.1 There will be situations where the facts of the case are very clear and not disputed by any party. In these circumstances it is beneficial for all concerned to have the matter dealt with and resolved as quickly as possible to reduce disruption and any unnecessary stress. To ensure that such issues are dealt with in a timely manner and negate the need to escalate unnecessarily, a manager involved at the informal stage would also be able to deal with it formally. This would normally be applicable in cases of minor misconduct or errors and would not apply to any conduct considered to be serious or gross misconduct.

- The facts of the situation must be established.
- The employee is informed.
- The employee has an opportunity to put their case and to be accompanied at any meeting.
- A decision is taken on appropriate action and the employee has the right of appeal.

6.2 In such cases, where the facts are not disputed, the manager, can hold a hearing, giving shorter notice than for a full hearing but with not less than 48 hours' notice. The employee will be given written information about the facts that have been established and may be accompanied to the meeting. They will have an opportunity at the meeting to present their case and any mitigating circumstances.

6.3 The manager will make a decision on an appropriate action, having taken into account all the information provided and the approach and attitude of the employee. The employee will be advised of their right to appeal and the decision and outcome. If a manager considers more information is required in order for them to make a fair and reasonable decision, they may request and investigation is undertaken.

7. LEVELS OF WARNING/OUTCOMES

7.1 First Written Warning - if the conduct is sufficiently serious, repeated minor offences or if there has been no improvement following informal discussion, it may be appropriate to issue a first written warning, which will normally remain active for 6 months. The warning will stipulate the change in behaviour required, the period for which the warning will remain active and the likely consequences of further misconduct in that active period. The progress of the employee will be regularly monitored through regular supervision. Where conduct has improved but there remain some areas where further improvement is required, the company may decide to extend the active period as an alternative to taking further formal action. This would only be actioned after a discussion with the member of staff and they are clear about what further improvement is required. An extension would be in line with the normal improvement period of three months which may, in specific circumstances, be extended to a maximum of six months. After that, there should be no further extension of the original warning and the next appropriate step should be considered in line with this policy. After the active period of a warning, it will generally be disregarded.

7.2 Final Written Warning - if the conduct is sufficiently serious or if there has been no improvement following the issuing of a first written warning which is still active, it may be appropriate to issue a final written warning. Final written warnings will normally remain active for a period of 12 months. The warning will stipulate the change in behaviour required, the period for which the warning will remain active and the likely consequences of further misconduct in that active period. In very exceptional cases, due to the seriousness of the

misconduct, this period may be extended in line with the process outlined in the previous paragraph. After the active period of a warning, it will generally be disregarded.

7.3 Dismissal - - if the conduct is sufficiently serious or if there has been no improvement following the issuing of a final written warning which is still active, it may be appropriate to dismiss the employee. Dismissal will also be considered when the matter is so serious it amounts to gross misconduct (see Appendix 3) and warrants dismissal for a first offence. In cases of gross misconduct, the company reserves the right to summarily dismiss staff.

Dismissal with notice will be appropriate for situations where previous warnings have failed to elicit acceptable standards of conduct from the employee, or in extremely serious circumstances.

Dismissal without notice will only be used in cases of gross misconduct.

8. THE RIGHT TO BE ACCOMPANIED

8.1 At all stages of the formal procedure, all employees are entitled to be accompanied by a work colleague not acting in a legal capacity. Employees are responsible for arranging their representation.

8.2 Managers will advise employees of this when an allegation of misconduct is made against them, but it is the employee's responsibility to arrange for their companion to be present at any stage of the formal procedure and to notify the investigating manager of their identity and role at least 3 days before the meeting or hearing.

9. RESPONSIBILITIES

Please refer to responsibilities outlined in Appendix 1.

10. APPEALS

10.1 Employees have one right of appeal at each formal stage of this policy.

10.2 Appeals against formal reviews

Employees wishing to appeal against a formal review must give notice of appeal to the line manager of the manager issuing the review.

Appeals must be lodged, in writing, to the named HR Representative within 14 calendar days of date of the hearing.

The notice of appeal must clearly outline the grounds for appeal and include any additional supporting information the employee wishes to be considered. Those reasons should fall within one or more of the following categories:

- Inadequate investigation and insufficient substantiation of issues.
- Procedural irregularity and unfairness.
- Unreasonable action.

NB: this list may not be exhaustive.

10.3 Appeals against dismissal

Employees appealing against a decision to dismiss have a single right of appeal.

Appeals must be lodged in writing to the Managing Director within 14 days of the date of the hearing.

The notice of appeal must clearly outline the grounds for appeal and include any additional supporting information the employee wishes to be considered.

11. REFERRAL TO STATUTORY, REGULATORY OR PROFESSIONAL BODIES

There may be instances where the manager and professional adviser decide that it is appropriate to notify a relevant statutory professional body that disciplinary action is being taken against an employee.

In the majority of cases, such referral will only apply in cases of serious/gross incompetence and/or where the individual is being dismissed. Should this be necessary, the HR Adviser to the panel will ensure that the relevant professional body is consulted and/or notified as appropriate and in accordance with the professional bodies' code of ethics/conduct. Staff must be informed that their professional body has been notified and of any subsequent action.

12. RECORD-KEEPING AND MONITORING

A written record of all decisions taken in accordance with this policy will be retained on the employee's personal file.

If in the exceptional circumstances, a note taker is not available, the proceedings (investigation interviews, meetings and hearings) may be recorded provided that all participants agree, to ensure that a full and accurate transcript of the hearing can be produced. A copy of the recording will be available as required but will only be transcribed in the event of an appeal process being instigated. The recording of any meeting can only be done by mutual agreement. Any covert recording done of a meeting or hearing would be considered serious misconduct and will be dealt with under this policy.

All documentation will be treated confidentially and in accordance to the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) and SCAS' Lifecycle Policy. There must be a full written record consisting of letters, emails, transcribed phone calls or (signed and dated) meeting notes. The contents and outcomes of informal meetings should also be confirmed in writing and retained. NB: Notes made relating to any disciplinary or conduct issues must be stored securely and placed in the HR personal file which is retained in a secure place.

Employees may access any documentation held on them in accordance with the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) and notify any inaccuracies to those responsible.

13. RELATED POLICIES & GUIDANCE

Please read this policy in conjunction with the following:

Capability Policy

Dignity at Work Policy

Freedom to Speak Up

APPENDIX 1: RESPONSIBILITIES

1. Manager is responsible for:

- Leading by example, exhibiting behaviour which meets the Trusts standards at all times, and which are in line with the Trust's values.
- Investigating complaints or allegations concerning members of staff promptly and taking appropriate action.
- Providing employees with sufficient communication, information and education to enable them to effectively carry out their duties.
- Making every effort to resolve issues on an informal basis where appropriate.
- Supervising and guiding staff on a day-to-day basis, instilling a culture of encouragement and support and identifying areas and opportunities for improvement at an early stage and setting realistic and measurable targets for standards of conduct and work performance, clearly explaining those standards to staff.
- Meeting and monitoring staff regularly to ensure that once acceptable standards have been achieved these are maintained, taking appropriate action if standards begin to deteriorate.
- Putting in place robust appraisal and supervision arrangements and identifying any training needs to enable staff to achieve the standards expected of them throughout their employment.
- Making employees aware of their rights and entitlement under the policy immediately an allegation of misconduct is made.
- Completing and providing all relevant and/or appropriate documentation in accordance with these procedures.

2. Employee is responsible for:

- Ensuring that they are aware of, comply with and maintain expected standards of conduct in accordance with the company's policies, procedures and relevant professional codes of conduct and the behaviour that constitutes a disciplinary offence, including gross misconduct, under this policy.
- Notifying their manager of any issues which could make it difficult for them to comply with standards of conduct expected of them.
- Participating in informal and formal reviews of their individual performance in accordance with the appropriate policy and procedure.
- To co-operate with any investigation that is undertaken in order to establish facts and information around an incident or situation and any subsequent hearing.
- Complying with education, training and coaching provided to help them maintain their skills, and knowledge.

- Ensuring confidentiality is maintained at all times when involved, either directly or indirectly, with any element of this policy.
- Organising a companion if they choose to be accompanied at a formal meeting or hearing. The procedures (including investigation) outlined within this policy cannot be unduly delayed if the companion has not been notified in good time.

APPENDIX 2: DISCIPLINARY PROCEDURE

1. Informal Discussion

1.1 Many conduct / performance matters can and should be dealt with through informal discussion and this will ordinarily be the first step in tackling an employee's poor conduct/performance. The formal disciplinary procedures should only be used where such discussion has not produced a change in behaviour or where a clear and/or serious breach of discipline occurs.

1.2 Staff must be made aware that a failure to respond to informal discussions could lead to formal disciplinary action being taken.

1.3 Informal action will be inappropriate in circumstances where there is a potential case of serious/gross misconduct. Such issues should be dealt with at a first or final formal hearing in accordance with the formal procedure.

1.4 The manager will establish the facts to ascertain whether an informal discussion, a shortened formal meeting (see section 7 of the policy) is appropriate or whether a more detailed investigation needs to be undertaken.

1.5 Careful consideration must be given to the individual's role, remit and duties; in particular, the service provision responsibilities and/or any staff managed or supervised by the individual. The key considerations must be:

- the significance of the matter in question
- whether or not the individual was acting in accordance with Trust strategy, policy or Management guidance
- the extent of the individual's direct actions
- the detrimental effect / scope of the actions
- the reasonableness of the individual's actions

1.6 The manager must record the fact that the meeting has taken place and confirm in writing the key points discussed, including the objectives set, support put in place, timescales for improvement and method for review and monitoring. Furthermore, employees must be reminded of the consequences of continued poor conduct and that this may lead to a formal action being taken in accordance with section 6 of the policy.

1.7 Consideration must be given if an improvement note would give greater clarity and structure to achieve improvement.

1.8 The manager must confirm the outcome of the meeting and associated action plan within 7 calendar days of the meeting.

1.9 The objectives/action plan will be continuously reviewed by the manager during the review period. Where an employee's conduct/performance improves to the required standards the employee must be notified in writing, clarifying that the employee needs to maintain satisfactory

levels of performance and failure to sustain improvements in a period of up to 6 months may result in further/formal action being taken. A copy of this letter will be retained on the individual's personal file.

2. Formal stages

Consideration must be given as to whether it is appropriate to use the standard process as outlined in section 7.

3. First Formal Hearing

3.1 Where an informal approach has not achieved an acceptable or sustained improvement in conduct/performance, an informal discussion is not appropriate in the circumstances or the standard process is not applicable, an appropriate manager, should consider convening a formal review meeting.

3.2 Following a full investigation, the manager should arrange to meet with the employee, giving them at least 10 calendar days' written notice of the meeting. The letter must outline the purpose of the meeting, the employee's right to representation along with the fact that the outcome of the meeting might result in a formal warning letter being issued.

3.3 The letter must include a copy of all documentary evidence, records and reports relevant to the review. Depending on the nature of the issue it may be appropriate to submit such documentation in the format of a 'case file'.

3.4 The Manager will be accompanied and advised by an HR Representative at this meeting and/or a professional adviser if appropriate

3.5 During the review meeting the employee will be given the opportunity to respond to the perceived poor conduct/performance and put forward any mitigating factors and/or any new problems which may be contributing to the poor conduct/performance.

3.6 The outcome of the review meeting will be confirmed in writing to the employee within 7 calendar days of the meeting. This letter must include, as a minimum, the level of formal warning given, details of the actions agreed, timescales for improvement, methods for review and monitoring, and the employee's right of appeal. Furthermore employees must be reminded of the consequences of continued poor conduct/performance and that this may lead to a further final formal hearing.

4. Final/Formal Hearing

4.1 If, after informal and formal stages have been exhausted and the member of staff continues to fail to reach the required standards in the specified period OR informal action/formal review is inappropriate, eg in the event of serious/gross misconduct

4.2 The manager responsible for the early stages in this policy or the investigating officer must document their findings in the form of a case file identifying pertinent issues and providing supporting factual evidence.

4.3 Dependent upon the circumstances, the case may also include written statements of complaint or concern, verbal statements taken at interview, work records, professional advice or opinion and may refer to information contained on the individual's personal file.

4.4 The manager responsible for the former stages in the policy will attend the hearing to present their report and their account of the performance review process and/or subsequent investigation.

4.5 The formal hearing will take place in accordance with Best Practice Guide to Formal Hearings & Appeals.

5. Serious/Gross Misconduct/Dismissal

5.1 An employee will not normally be dismissed because of a failure to perform to the required standard unless review and an opportunity to improve have been given.

5.2 However, where an employee commits a single act of serious and/or gross misconduct a formal review may not be appropriate and dismissal action may be taken in such circumstances in accordance with section 8 of this policy. In such cases, a full investigation will be required in accordance with this policy.

5.3 During the investigation a period of suspension or restriction of duties may be necessary.

APPENDIX 3: OFFENCES WHICH CONSTITUTE GROSS MISCONDUCT

Gross Misconduct is behaviour considered to be very serious because of its nature and consequences and that it fundamentally breaches and destroys the contractual relationship between employer and employee. It makes any further working relationship and mutual trust impossible and justifies the company in no longer continuing with employment of that individual. The following list summarises the types of offences that may constitute gross misconduct.

Other conduct not included may be so self-evidently unacceptable as to justify dismissal without notice and without prior disciplinary warnings.

- Violence or other exceptionally offensive behaviour
- Any act or omission with intent to deprive the company of money or goods belonging to the company, due to it or in its safekeeping.
- Wilful damage to A-cute property or equipment.
- Dishonesty, eg, fraud including falsification of timesheets, qualifications, expense claims, misappropriation or theft of articles or money belonging to patients, other employees, visitors, contractors, voluntary organisations or the company.
- Any deliberate or reckless act or omission constituting a serious risk to the health and safety of any person including smoking in areas of fire or other hazard, vehicles or premises.
- Ongoing refusal to carry out a reasonable management instruction or continued wilful contravention of A-cute Policies and/or procedures.
- Causing harm or wilful neglect of patients.
- Breaches of confidentiality, unauthorised disclosure of information, this may include social media
- Conduct likely to give offence to patients, other employees, visitors or the general public.
- Physical assaults on patients, other employees, visitors or members of the public.
- Sexual or racial harassment of other employees, visitors or members of the public.
- Being in attendance at work whilst under the influence of or affected by abuse of substances, e.g., alcohol or drugs, other than those medically prescribed.
- Criminal conduct outside work which is relevant to the employee's job and which makes them unsuitable for the duties and responsibilities of their post.

- Undertaking paid work for a different employer without prior permission that then affects an employee's ability to undertake the full range of their work responsibilities.
- Failure to declare any 'conflict of interest' which could be seen to result in actual or potential or material gain. 24
- Unauthorised entry to the A-cutes' Information Technology systems/unauthorised use of software or files.
- Knowingly making false or malicious allegations against other company employees.
- Unauthorised absence from work for which no acceptable reason has been given.