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### POLICY STATEMENT

All employers are unfortunately forced to administer discipline to staff at some time or another. Homecare D & D Ltd believes that any discipline action taken should be aimed at identifying those problems that caused or contributed to the disciplinary action having to be taken, and to assist in correcting them.

Homecare D & D Ltd believes that it is in the interests of all that disciplinary actions are carried out in a prompt, uniform and impartial way and that the main purpose of disciplinary action is to correct the problem, prevent its recurrence and prepare the employee for satisfactory service in the future.

The disciplinary procedure establishes a process by which breaches of disciplinary standards can be dealt with fairly and consistently. It is our policy to ensure employees adhere to the required standards of conduct, performance and attendance. We reserve the right to vary the disciplinary procedure to take account of your length of service. If you have less than 12 months service we reserve the right to dismiss you without having issued any previous warnings. However you will retain the right to put forward your case and the right of appeal. The Company may commence the Disciplinary Procedure, depending on the circumstances, at any of the following levels.

This policy is intended to set out the values, principles and policies underpinning this organisation's approach to staff discipline. The purpose of this policy is to ensure a fair and systematic approach to the enforcement of acceptable standards of conduct and behaviour amongst all employees.

We aim to ensure:

- a) That no job applicant or employee receives less favorable treatment on the grounds of his or her race, nationality, ethnic origin, religion, religious or philosophical belief, sex, marital status, sexual orientation, gender assignment, disability, age part-time status or trade union activities.
- b) That no applicant or employee is placed at any disadvantage on the above grounds that are not justifiable in law.

This applies to the advertisement of jobs, recruitment, appointment, benefits, training, promotion, discipline and dismissal, conditions of work, pay and every other aspect of employment.

Selection criteria and procedures will be kept under review to ensure that individuals are selected, promoted and treated on the basis of the relevant merits and abilities.

All employees will be given equality of opportunity within the Company and will be encouraged to progress within the organization. To ensure that direct or indirect discrimination is not occurring, recruitment, promotion and other employment decisions will be regularly monitored.

If you feel or consider that you have been disadvantaged because of your race, nationality, ethnic origin, religion or belief, sex, marital status, sexual orientation, gender assignment, disability or age, **do not hesitate** to let the General Manager or a Director know so that the issue can be investigated and resolved. All complaints regarding discrimination will be thoroughly investigated.

If you have a disability for the purposes of the Disability Discrimination Act please let the General Manager know so that reasonable adjustments can be considered.

We actively promote non-discriminatory behavior and do not tolerate any discrimination, victimization or harassment. Anyone found to be acting in such a way will face disciplinary action

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that could include dismissal without notice for gross misconduct. Everyone has a duty to report any such behavior to a member of management

Homecare D&D Ltd works under guidance from Citation who specialize in Employment Law.

### **Categories for Gross Misconduct**

Below is a list of possible acts, which we consider to be gross misconduct, which entitles the Company to dismiss without notice. The list is not intended to be exhaustive as it is impossible to list all offences that may result in disciplinary action.

- a) Theft, fraud and deliberate falsification of records (including time sheets).
- b) Physical violence or serious threats of physical violence.
- c) Serious bullying, harassment or discriminatory behavior.
- d) Grossly indecent or immoral behavior.
- e) Deliberate damage to property.
- f) Serious insubordination or willful refusal to obey a reasonable instruction (including failure to attend a disciplinary hearing without good reason).
- g) Misuse of Company property /software/copyright or name.
- h) Bringing the employer into disrepute.
- i) Being unfit to work through drink or drugs, or being found in possession of unsealed alcohol, illegal drugs, or obscene material at work.
- j) Serious negligence, including reckless driving on business journeys or at any time in a Company vehicle, which causes or might have caused unacceptable loss, damage or injury.
- k) Breach of non-solicitation, confidentiality, or non-competition clauses.
- l) Serious infringement of health and safety rules.
- m) Serious breach of the Company computer policy including abuse of email and internet facilities.
- n) Allowing non-employees to attend service user or supplier premises without authorization from the Company.
- o) Carrying out additional work for service users, or potential service users for own personal gains, without authorization from the Company.
- p) Smoking in areas where smoking is not permitted.
- q) Failure to attend appointments without notifying the Company.
- r) Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998).
- s) Maltreatment of service users.
- t) Accepting gifts from service users or their families.
- u) Failure to report an incident of abuse, or suspected abuse if a service user or colleague.
- v) Unauthorized absence (see section headed 'Absence' above).

### **Serious Misconduct**

This includes acts that fall short of gross misconduct, but which are so serious that they would justify the Company moving straight to issuing a final written warning.

For example:

- a) Leaving the place of work without authority.
- b) Insubordination which is not willful, i.e. openly refuse to do something but agree reluctantly when faced with suspension.
- c) Failure to report damage to Company property.

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- d) Defacing or removing 'no-smoking' signs.
- e) Persistent or serious breaches of Company procedures.
- f) Neglect of duty, etc.

This list is not exhaustive.

### **Misconduct**

This covers minor or less serious breaches of Company rules and procedures such as:

- a) Persistent lateness, absence or sickness.
- b) Minor breaches of procedure.
- c) Verbal abuse or verbal aggression.

Again this list is only a guide and is not exhaustive.

### **Suspension**

If allegations of gross misconduct or serious misconduct are made, the Company may suspend anyone while further investigations are carried out.

Suspension will be on full pay; this does not imply any determination of guilt or innocence, as it is merely a holding measure pending further investigation.

### **DISCIPLINARY PROCEDURE**

The disciplinary procedure is designed to help and encourage all employees to achieve and maintain the standards of conduct, attendance and performance of the Company. It should be seen as a corrective procedure ensuring all employees are treated fairly.

It is important that staff read and understand the following principles and procedures, as they constitute an important part of the terms and conditions of employment.

We believe that the following disciplinary procedures should be followed in order to resolve any problems relating to conduct or performance fairly.

Disciplinary action will normally follow the procedure below. However, the Company reserves the right to vary the disciplinary procedure. The disciplinary procedure may also vary depending on the seriousness of the allegations of misconduct/capability to be addressed:

- a) Staff will be notified in writing of the allegations and no hearing will take place until a minimum of 24 hours has elapsed.
- b) Staff will be provided with information relating to the allegation prior to the hearing.
- c) Staff will have the right to be accompanied at the hearing by a work colleague of their choice or an accredited Trade Union representative.
- d) Staff or their representative may ask questions or make statements; the representative cannot answer questions on behalf of the employee.
- e) Any decision made will be based on a reasonable belief, the balance of probability and on the evidence presented.
- f) The result of any disciplinary hearing will be confirmed in writing.

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- g) Staff has the right to appeal any decision by applying in writing within 7 days of the decision stating your reasons for appealing.

Failure to attend a disciplinary hearing and to do so, without good reason, is deemed to constitute a failure to follow a reasonable management instruction and can amount to gross misconduct. In these circumstances failure to attend will be considered alongside the reasons for the disciplinary hearing and a decision may be made in staff absence.

**Stage One – Verbal Warning**

1. In the case of conduct, performance or attendance not reaching the required standard, the problem will be discussed with staff and will be given the opportunity to provide a satisfactory explanation at a disciplinary hearing.
2. If staff is unable to provide a reasonable explanation and the hearing concludes reasonably that they are at fault, a verbal warning will be issued.
3. A written copy will be given to the staff member and retained on their personnel file for a period of up to 6 months. Staff will have the opportunity to appeal this decision.

**Stage Two – Written Warning**

1. In the case where insufficient improvement has been made following a verbal warning or the conduct is potentially sufficiently serious to warrant bypassing the verbal warning stage, a disciplinary hearing will be held.
2. As a result of this, if the explanation for conduct is unsatisfactory and the hearing concludes that performance or conduct was at fault, staff will be issued with a written warning detailing the complaint and the required improvement or change in behaviour.
3. Again staff will have the right to appeal against the disciplinary decision. A copy of the written warning will be kept on their personnel file for a period of 12 months.

**Stage Three – Final Written Warning**

1. If there is still insufficient improvement or change in behaviour during the term of a prior warning, or where the conduct is potentially sufficiently serious to warrant bypassing stages one and two of the disciplinary procedure, a disciplinary hearing will be held.
2. If there is no satisfactory explanation for the conduct or poor performance at the hearing, a final written warning will be issued.
3. The final written warning will give details of the complaint and warn staff that failure to improve or modify their behaviour may lead to dismissal, or to some other action short of dismissal.
4. Again staff will have the right to appeal against the decision.
5. The final written warning will normally remain on their personnel file for a period of 12 months.

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**Stage Four - Dismissal**

1. If staff still fail to meet the necessary standard of conduct or performance required by the Company, or commit another act of misconduct or their conduct is potentially so serious as to warrant bypassing the first three stages of the disciplinary procedure, a Final disciplinary hearing will be held.
2. Staff will be given every opportunity to offer an explanation for their failure to meet the required standards at the final disciplinary hearing.
3. The Company will ensure that fair and reasonable notice of the time and date of the hearing is given and wherever possible the disciplinary hearing will be held during your normal hours of work.
4. Staff will be given as much information as possible regarding the allegations of misconduct as well as any documentation detailing the shortfall in performance or conduct that will form the basis of the disciplinary hearing.
5. If there is no satisfactory explanation for the conduct or performance then staff may be dismissed with notice, unless it is gross misconduct where they will be dismissed summarily.
6. As soon as reasonably practical staff will be provided with the reasons for their dismissal, the date on which their employment will terminate, and the name of the person to whom they may submit an appeal in writing (see Appeals Procedure).

**Other Possible Sanctions**

The Company reserves the right to consider demotion and commensurate reduction in the salary or to impose the penalty of suspension without pay for up to a maximum of 5 working days as a direct alternative to dismissal.

**Appeals Procedure**

1. The purpose of an appeal hearing is to review any penalty imposed at the disciplinary hearing. It cannot increase the penalty.
2. At each stage of the disciplinary procedure staff will have the right to appeal.
3. If staff wish to do so they should inform the specified person and we ask that this is done within 7 days of the receipt of written confirmation of the disciplinary decision taken against them.
4. Ideally, the appeal should be in writing and include the reason/s why staff feel the decision is unfair or inappropriate in relation to the misconduct addressed at the disciplinary hearing.
5. Staff should also detail any new information or evidence that will support their appeal, including the names of any witnesses. This is to ensure there is sufficient time to investigate any new information before the appeal meeting.

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6. Staff will have the right to be accompanied by a fellow worker or an accredited Trade Union representative at the appeal stage.

The decision of the person dealing with your appeal is final.

### **GRIEVANCE PROCEDURE**

We recognise that from time to time staff may wish to raise issues relating to their employment, or discuss matters that are causing personal concern. It is our policy to encourage free communication between employees and their managers to ensure that any problem or issue arising during the course of employment can be resolved as fairly as possible, as soon as possible.

#### **Informal Stage**

1. In order to achieve a speedy resolution of any problem or issue that staff may have, they should start by having an informal discussion with their line manager. Having an informal discussion can quite often solve the problem.
2. Should staff grievance concern their Line Manager then the matter should be raised with the General Manager.
3. A mediation meeting facilitated by a neutral mediator might be an option at this or a later stage.

#### **Formal Stage**

1. If the matter cannot be resolved by informal discussion or if staff are not satisfied with the outcome of the informal discussion, then they must inform their line manager that they wish to take the matter further and submit a formal written grievance within 14 days.
2. Staff should try to explain fully the nature of their complaint and send the written grievance to the General Manager.
3. Where staffs are unable to formulate a written grievance due to a disability they should see a member of management who will assist them.
4. Every effort will be made to resolve staff grievance at a formal hearing within 7 days. At the hearing, staff have the right to be accompanied by either a work colleague or an accredited Trade Union representative.
5. All grievance proceedings and records will be kept confidential.
6. Staff will receive the outcome of the hearing in writing wherever possible within 7 days of the hearing.

#### **Appeal Stage**

1. Following the grievance meeting, staff will be informed of the person to whom they can send a written appeal if they are still not entirely satisfied or consider to have not been fairly treated.

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2. Staff written appeal should say why they are appealing against the decision and needs to be sent within 7 days of them receiving the outcome of the hearing in writing.
3. At the appeal hearing, staff have the right to be accompanied by either a work colleague or an accredited Trade Union representative.
4. Staff will receive the outcome of the appeal hearing in writing wherever possible within 7 days of the hearing.
5. The decision of the person dealing with the appeal is final.

**TRAINING**

Homecare D & D Ltd disciplinary policy is included in the induction training for all new staff.