

# Staff Disciplinary Policy

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## Purpose and Scope

This policy is designed to help and encourage all employees to achieve and maintain the appropriate standards of conduct, behaviour, attendance and performance necessary to the conduct of Healthwatch Rutland's affairs and for the well-being of all employees.

Healthwatch Rutland believes that management has a positive role to play in encouraging employees to perform professionally and to expected standards.

This policy does not apply to redundancy dismissals or the non-renewal of fixed term contracts. Healthwatch Rutland's staff policies and procedures are available on the website and apply to all employees. The aim is to ensure consistent and fair treatment for all.

## Principles

Initially, informal action will be considered, where appropriate, to resolve problems. No formal disciplinary action will be taken against an employee until the case has been fully investigated. Employees will be advised of the nature of the complaint against him/her. Disciplinary action may be considered when an issue is of a serious nature, or after a number of minor complaints have arisen. Advice will be sought from an HR advisor before any formal disciplinary action is taken.

Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting. At the hearing, the complaint will be explained to the employee, together with the evidence gathered, as presented by the investigating officer. The decision will be made by a panel consisting of a Board Member not previously involved in the proceeding, who will act as Chair; the Chief Executive or a delegated representative of the Board; and a member providing advice on human resources and process.

Employees will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. At all stages of the procedure, the employee will have the right to be accompanied by a Trade Union representative or work colleague/friend not acting in a professional capacity. No employee will be dismissed for a first breach of discipline, except in cases of gross misconduct, when the penalty may be dismissal without notice or payment in lieu of notice. An employee will have the right to appeal against any disciplinary action.

Healthwatch Rutland recognises the rights of staff with regard to their role in testing and questioning received wisdom and current opinion.

Any disciplinary action against the Senior Post Holders (appointees of the Board) will be dealt with by a nominated panel of the Board.

The procedure may be implemented at any stage if the alleged misconduct warrants this.

This policy and procedure may be subject to alteration to reflect future changes in legislation or Trade Union negotiation.

## **Informal Process and Investigations**

If a line manager is concerned over an employee's conduct, this will first be addressed through normal daily processes, including one-to-one meetings, catch-ups or, if considered appropriate by Healthwatch Rutland, mediation. If a line manager is unable to resolve a problem informally, an investigation may be required to establish the facts relating to any allegations before deciding whether to proceed with a disciplinary hearing. The employee will not normally have the right to bring a Trade Union representative or work colleague to informal discussions with the line manager. However, to overcome any disability or difficulty in language, this may be permitted at Healthwatch Rutland's discretion. Where the line manager conducts a formal investigation, the employee has a right to be accompanied by a Trade Union representative or work colleague. The nature of the investigation will depend on the case, but it may include fact finding interviews and examination of relevant documents. Where the line manager has been involved directly in an alleged incident, a line manager who has had no involvement in the case, or an individual delegated by the Board will investigate the matter.

## **Formal Procedure**

1. At each stage of the procedure the Chair will write to the employee, if appropriate, inviting them to a meeting to discuss the problem. The letter will provide the employee with the reason for the meeting and give a minimum of 5 working days' notice. The line manager will also notify the employee of their right to representation at the hearing by either a Trade Union representative or a work colleague. Any evidence which either the line manager, or the employee wishes to submit as evidence should be provided 3 working days before the meeting.
2. In exceptional circumstances, the panel may decide to extend warnings beyond the normal periods identified below. The panel may also take expired warnings into account when considering the reasonableness of any sanction given. Any expired sanctions, within a reasonable period of time, would have to have a direct bearing on the current allegation and would only be considered when making a decision about the penalty.
3. The Chair, with appropriate Human Resources advice, will notify the employee of the panel's decision and the reasons in writing, normally within 10 working days. The notification will include details of any sanction or review period and for how long any sanction is applicable. It will include the employee's right to appeal within 10 working days from the date of the letter confirming the disciplinary decision.
4. At Healthwatch Rutland Board's absolute discretion, where a grievance procedure is instigated and is linked to a disciplinary procedure, the two procedures may be more effectively resolved through their merger. In these circumstances, the decision would be heard by a panel. The employee's rights will not be affected and this will be confirmed to the relevant parties prior to any

hearing taking place. A record of the hearing, together with the minutes and outcome will be kept on file.

## **Suspension and Gross Misconduct**

5. In the case of an employee suspected of an act of gross misconduct, they may be suspended from work on full pay pending a disciplinary hearing. Suspension would be confirmed in writing, setting out the grounds on which the decision has been taken. The investigation must be carried out within a reasonable time, typically within 3 weeks; or if an extension is required, an explanation will be provided to the employee with alternative proposed timescales. During the period of suspension, the employee will not be entitled to access any of Healthwatch Rutland's premises or resources without the prior consent of Healthwatch Rutland. An employee suspended for more than 3 weeks may appeal in writing against the suspension to the Board or the Chief Executive, as appropriate. The suspension shall remain valid during the process of the appeal. If, on completion of the investigation and the full disciplinary procedure, Healthwatch Rutland is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

## **Written Warning (first stage of the formal procedure)**

6. Following a meeting, if conduct is found not to meet acceptable standards, a first warning for misconduct may be issued. This will be in writing and set out the nature of the misconduct and the change in behaviour required, as well as the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is a repetition of the same or similar behaviour. A record of the warning will be kept by the Chief Executive on the employee's personnel file, but it will be disregarded for disciplinary purposes after a specified period, which is normally 6 months.

## **Final Written Warning (second stage of the formal procedure)**

7. If the first offence is sufficiently serious, or if there is further misconduct during the currency of a prior warning, a final written warning may be given to the employee, following a meeting with the Chair. This will give details of the nature of the misconduct, the improvement required and the timescale. It will also warn that failure to improve conduct may lead to dismissal, or some other action short of dismissal, and will refer to the right of appeal. A copy of this final written warning will be kept by the Chief Executive on the employee's personnel file, but will be disregarded for disciplinary purposes normally after 12 months, subject to achieving and sustaining satisfactory conduct or performance.

## **Dismissal (third stage of the formal procedure)**

8. If the first offence is sufficiently serious, or if there is a further act of misconduct, the final step in the procedure may be dismissal with notice. Dismissal decisions can only be taken by the Healthwatch Rutland Chair, or his/her delegated representative, and the outcome of any meetings and reasons for dismissal will be provided in writing to the employee, including the date on which the employment will terminate, and notice of the right to appeal.

## **Alternative Sanctions Short of Dismissal**

9. In appropriate cases, Healthwatch Rutland may consider some other sanction short of dismissal, such as demotion, a transfer to another department or job, loss of seniority or a reduction in pay. These sanctions may be used in conjunction with a written warning and may be authorised by the Chair of Healthwatch Rutland, or his/her appointed representative.

## **Appeals**

10. An employee who wishes to appeal against a disciplinary decision must do so in writing to the Chief Executive within 10 working days. Two appropriate Board members will hear the appeal and their decision is final. At the appeal, any disciplinary penalty imposed will be reviewed.
11. In the appeal letter, the employee should state the basis of their appeal. This may be new evidence, or that there has been a failure in procedure which has affected the outcome.
12. An appeal will not suspend or delay any disciplinary penalty already in progress and will be held within a reasonable time frame.
13. Appeals against dismissal will be heard by a sub-committee of the Board of Healthwatch Rutland. Appeals against all other disciplinary penalties will be heard by an Appeal Panel. There will be no further right of appeal.