



ABBNEYFIELD POLICY & PROCEDURE/GOOD PRACTICE GUIDELINES

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| Policy Ref: | S008P |
| Owner: | Abbeyfield Oxford Society |

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| Effective date: | May 2015 |
| Next review date: | May 2018 |

| TITLE | DISCIPLINARY |
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| 1 Background | Abbeyfield Oxford Society is committed to avoiding formal disciplinary procedures wherever possible by addressing issues as soon as they arise. Where some form of informal or formal action is needed, Abbeyfield will ensure that issues are raised and dealt with promptly, fairly and consistently and that disciplinary action will only be undertaken in accordance with the provisions of this policy and procedure. |
| 2 Objectives | The purpose of this policy is to set down the procedures to be followed to address unacceptable conduct. |
| 3 Scope | <p>This policy applies to all Abbeyfield Oxford Society staff</p> <p>This policy does not apply where the cause of an employee's poor conduct or performance in their job is considered to be one of competence, in which case the Capability Policy should be used. If the problem is one of irregular attendance, the Absenteeism Policy should be used.</p> <p>Special arrangements apply to employees in their initial probationary period. See 6.6 below.</p> |
| 4 Policy 4.1 | <p>Roles and Responsibilities</p> <p>Investigating Manager The Investigating Manager will normally be the employee's line manager unless they are otherwise involved in the Investigation, in which case a Trustee should be asked to carry out this role.</p> <p>Disciplinary Chair The Disciplinary Chair will normally be a Trustee and they will be responsible for chairing the Disciplinary Hearing and deciding on appropriate action at the conclusion of the Hearing.</p> <p>Appeal Chairman</p> |

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| | <p>This will normally be the Chairman of Trustees or another Trustee. It is essential that the Appeal Chairman remains independent of the Disciplinary Investigation and Hearing.</p> <p>Human Resources Trustee (if applicable) The role of the HR trustee will be to advise managers, trustees and employees on all aspects of the disciplinary process.</p> |
| <p>4.2</p> | <p>Informal Action It is clearly to the benefit of all concerned to avoid the use of the Disciplinary Procedure. Therefore informal action will be considered, where appropriate, to resolve issues of minor misconduct or unsatisfactory performance.</p> <p>In these instances, the employee's line manager will arrange an informal meeting to discuss the issues of concern. The line manager will:</p> <ul style="list-style-type: none"> • Set out clearly the area of concern in relation to the conduct or performance. • Ensure the standards required of the employee are understood • Advise how their conduct or performance will be reviewed and over what period. • Confirm in writing what has been discussed and decided. <p>A copy of this letter should be kept on the employee's personal file. This does not constitute disciplinary action and should be regarded as part of informal performance management and supervision.</p> |
| <p>5 Procedure 5.1</p> | <p>Investigation Once a complaint or concern is raised, an investigation may be carried out to establish the facts and whether there is a case to answer. The requirement for an investigation will depend on the nature of the complaint or concern. If an investigation is required the extent of the investigation will depend on the seriousness of the matter.</p> <p>Once the decision is made to conduct a formal investigation, the employee will normally be sent a formal letter by the Investigating Manager, informing them of the allegations to be investigated and, where appropriate, inviting them to an investigatory interview. A copy of this Policy and Procedure will normally be enclosed so that the employee is fully informed of the procedure and what to expect.</p> <p>The investigation will be carried out by an Investigating Manager and may include taking statements from and usually meeting with relevant parties including, where appropriate, any witnesses to the incident(s) of misconduct.</p> |

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| | <p>Where the nature of the allegation(s) requires it, a report will be compiled by the Investigating Manager and sent to the Disciplinary Chair.</p> <p>Employees are required to co-operate fully and promptly in any investigation. This will include informing the Investigating Manager of the names of any relevant witnesses, disclosing any relevant documents and attending investigation interviews if required.</p> |
| <p>5.2</p> | <p>Suspension</p> <p>If an investigation is required, no disciplinary action will be taken until the allegation(s) have been thoroughly investigated. However if appropriate, and subject to approval by the Chairman of Trustees, the employee may be suspended on full pay whilst the investigation is being conducted. (Zero hours employees will be paid by calculating the average of the last 3 calendar months' salary.)</p> <p>Suspension is not punitive, does not imply guilt and will only be imposed after careful consideration. The period of suspension will be kept to a minimum, and in normal circumstances should not last more than ten days. The suspended employee must make themselves available at all times during working hours and for attendance at any investigatory meeting or Hearing as required.</p> <p>If the employee is to be suspended, they will be sent a letter confirming suspension pending investigation.</p> |
| <p>5.3</p> | <p>Sickness during the Disciplinary Process</p> <p>Abbeyfield recognises that going through a disciplinary process can be difficult and aims to minimise distress as far as possible. Where an employee is sick during the disciplinary process, it will continue in accordance with this procedure as it is recognised that concluding the process as quickly and carefully as possible may aid the employee's recovery.</p> <p>Employees who are sick during the process must submit a GP certificate covering the full period of sickness absence.</p> |
| <p>5.4</p> | <p>Outcome of the Investigation</p> <p>The Investigating Manager's report will normally make one of the following recommendations to the Disciplinary Chair:</p> <ul style="list-style-type: none"> • That the matter be referred to a Disciplinary Hearing • That the matter be dealt with informally • That the matter be referred for action under either the Capability or Managing Sickness Absence Policies • That the allegations are not substantiated and therefore the |

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| | <p>allegations should be dropped and no further action taken. The Disciplinary Chair will make a decision and will arrange for that decision to be communicated in writing to the employee.</p> <p>If the recommendation is for no further action, any records collected as part of the investigation should be destroyed.</p> |
| <p>6 Hearing 6.1</p> | <p>Disciplinary hearing</p> <p>Where it is concluded that a Hearing is necessary, a letter will be sent to the employee on behalf of the Disciplinary Chair. A minimum of 5 days' notice of the date of the Hearing will be given. If the employee or their representative is not able to attend on the date given, an alternative date will be offered. If the employee fails to accept the alternative date provided, the Hearing may go ahead and a decision may be made in their absence.</p> <p>The letter should include copies of any witness statements and should state:</p> <ul style="list-style-type: none"> ◆ the nature of the complaint and other relevant information; ◆ the possible disciplinary sanctions that may be taken; ◆ the date, time and venue for the meeting; ◆ the right to be accompanied by a companion (see below) <p>The Hearing will normally be carried out by the Disciplinary Chair. However, where the allegations are serious and/or complex, it may be appropriate for another Trustee also to be involved.</p> <p>If the employee or their representative wishes to submit written information to the hearing, or to involve any witnesses, he/she must inform the Chair a minimum of 3 days before the date of the Hearing. Witness evidence can be in the form of written statements only, by witnesses in person, or by a combination of the two. No witness will be obliged to attend.</p> <p>Summary notes will be taken of the meeting. Abbeyfield reserves the right to record the meeting. The summary notes/recording will be transcribed and two copies of the minutes will be provided to the employee who should sign one and return it to the Administrator to be kept on file. If the employee does not agree with the record he should indicate any points of difference and these too will be kept on file.</p> |
| <p>6.2</p> | <p>Right to be Accompanied</p> <p>The employee has the right to be accompanied at the formal stages of this procedure (Disciplinary Hearing and Appeal Hearing) by a work colleague, a Trade Union representative or an official employed by a</p> |

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| | <p>Trade Union. The companion may assist the employee at all stages of the procedure.</p> <p>The companion may address the hearing to put and sum up the employee's case; respond on behalf of the employee to any views expressed at the hearing and confer with the employee. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing unless the employee so wishes, or prevent the case against the employee being explained.</p> |
| <p>6.3</p> | <p>Conducting the Disciplinary hearing</p> <p>The Hearing will normally be conducted in accordance with the process set out below:</p> <ul style="list-style-type: none"> • The employee, their representative and the Investigating Manager will be present throughout the duration of the Hearing • The Investigating Manager will summarise the content and conclusions of the Investigation and will answer questions from the employee and/or their representative and from the Chair • Witnesses present will summarise their statement and take questions from the employee, their representative and the Chair. Witnesses will normally attend to provide their statement and answer questions, then leave the hearing • The employee and/or their representative will present their case (including any mitigating circumstances) and will take questions from the Investigating Manager and Chair • The Investigating Manager and the employee/representative will then sum up their cases • An adjournment may be requested by any party to the Hearing and will be granted at the discretion of the Chair – in these circumstances the adjournment will be for a stated period of time • At the end of the Hearing, the employee, their representative and the Investigating Manager will withdraw to allow the Chair to deliberate and reach a conclusion. Where possible, the Chair will make a decision on the same day and inform the employee verbally, but he/she reserves the right to delay a decision depending on the time available, complexity of the case and other reasonable consideration • The employee and their representative will be informed if the decision of the Hearing is to be delayed and told when the decision will be reached • If the employee fails to attend the Hearing without reasonable explanation, it will normally proceed in their absence |
| <p>6.4</p> | <p>Decision</p> <p>The Disciplinary Chair will communicate his/her decision verbally in the first instance and will then confirm it by letter, normally within 5 working days, stating:</p> |

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| | <ul style="list-style-type: none"> • The sanction (if any) and reasons for it • The potential consequences of further/continued misconduct • The duration of any warning • The right of appeal • Where the decision is to dismiss, the date of dismissal and the arrangements for leaving <p>Where an allegation of harm or abuse is substantiated or proven the matter will be referred to DBS for listing. Only a Registered Provider may make a referral.</p> |
| <p>6.5</p> | <p>Disciplinary sanctions</p> <p>In some cases, the outcome of the Disciplinary Hearing may be that, on the balance of probabilities, there is no or not enough evidence to uphold the allegations and the allegations will therefore be formally revoked and no further action taken; all documentation relating to the investigation will be destroyed.</p> <p>Where the allegations are upheld in part or in full, the levels of disciplinary sanction are as follows:</p> <ul style="list-style-type: none"> • Formal verbal warning (recorded) • First written warning • Final written warning • Dismissal <p>The level of sanction decided upon should be consistent with the nature and seriousness of the disciplinary issue. It is not necessary to ‘work through’ the levels of warning - a first disciplinary offence could attract any level of warning dependent on the nature of it.</p> <p>Formal verbal warning (recorded)</p> <p>If conduct does not meet acceptable standards, the employee will normally be given a formal verbal warning. A brief note of the warning will be placed on the employee’s personal file. The warning will usually be disregarded after 6 months subject to satisfactory conduct.</p> <p>First Written Warning</p> <p>If the offence is a first act of misconduct or if a verbal warning has been given to the employee within the preceding 6 months, the Chair may issue a first written warning which will be held on the employee’s personal file for a period of 12 months.</p> <p>Final Written Warning</p> <p>If the offence is more serious or if the employee has received a first written warning within the preceding 12 months, the Chair may issue a final warning which will be held on the employee’s personal file for a period of 18 months.</p> |

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| | <p>Dismissal</p> <p>If the offence constitutes gross misconduct or if the employee has been issued with a final written warning within the preceding 18 months, the Disciplinary Chair may decide to dismiss the employee. In cases of gross misconduct, the employee may be summarily dismissed without notice or pay in lieu of notice. In all other cases of dismissal, the employee is entitled to notice in accordance with statutory rights and the contract of employment.</p> <p>Offences of Gross Misconduct</p> <p>Examples of gross misconduct under the terms of this policy may include:</p> <ul style="list-style-type: none"> • Unauthorised removal, use, misappropriation or theft of property belonging to Abbeyfield, a resident or fellow employee, • Other serious offences of dishonesty, fraud or corruption • Acts of violence including physical assault or fighting with a client or fellow employee, either at work or otherwise • All forms of serious harassment, bullying or discrimination • Falsification or omission of any information as part of the application for employment, including medical information, criminal convictions, references, qualifications, employment record etc. and falsification of any documents during the course of employment • Sexual misconduct at work • Malicious damage to property • Being under the influence of illegal drugs or alcohol at work • Disclosure of confidential matters to unauthorised person(s) • Acceptance of bribes or inducement • Serious breaches of health and safety rules or conduct which may endanger the safety of others • Any refusal to carry out a reasonable management instruction or serious disregard for managerial authority • Serious breach of confidence (subject to the Public Interest Disclosure Act 1998) or bringing Abbeyfield into disrepute. <p>This is not an exhaustive list and all allegations will be considered according to the particular circumstances.</p> |
| <p>6.6</p> | <p>Misconduct during the probationary period</p> <p>Failure by an employee to meet the required standards of conduct during the initial probationary period will generally lead to termination of contract. This will be with notice, except in cases of gross misconduct.</p> <p>A fair procedure will be followed, including the right to be accompanied, the right to an impartial investigation and hearing where the employee will have the opportunity to respond fully and a right to appeal.</p> <p>Employees will be given the opportunity to reach required standards of</p> |

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| | <p>conduct in all but the most extreme cases. However, there will be no obligation on the Society to issue repeated warnings prior to termination of the employment contract.</p> |
| <p>7 Appeals 7.1</p> | <p>Right of Appeal The employee has the right of appeal against any disciplinary sanction issued. Any appeal should be lodged in writing to the Chairman of Trustees within 5 days of the decision of the Disciplinary Hearing having been received by the employee. The Chairman will decide whether to hear the appeal him/herself or to appoint as Appeal Chairman another Trustee who was not involved in the Disciplinary Hearing.</p> <p>The Appeal Chairman will arrange for an Appeal Hearing to take place where possible within 10 working days after receipt of the appeal. Where the allegations are of a serious or more complex nature, it may be appropriate for two Trustees to hear the appeal.</p> <p>A letter will be sent to the employee confirming the details for the Appeal Hearing.</p> <p>The grounds on which an appeal will be heard are:</p> <ul style="list-style-type: none"> • New evidence has come to light which was not available at the time of the Disciplinary Hearing • The Disciplinary Procedure was not followed • The level of disciplinary sanction was not reasonable i.e. the severity of the sanction was not consistent with the seriousness of the offence • The decision taken by the Disciplinary Panel was not supported by the evidence presented to it. <p>It is not the purpose of the Appeals process to re-examine the evidence which led to the original decision and therefore, except in exceptional circumstances, there will be no need for witnesses to re-appear at the Appeal Hearing or for the same written material to be re-considered.</p> |
| <p>7.2</p> | <p>Appeal Hearing The appeal hearing will normally be conducted in accordance with the process set out below:</p> <ul style="list-style-type: none"> • The employee and/or their representative will be present throughout the duration of the Hearing and will put their case for the appeal to the Appeal Chairman. • The Disciplinary Chair may be required to explain the decision of the original Hearing. • An adjournment may be requested by any party to the Appeal Hearing and will be granted at the discretion of the Appeal |

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| | <p>Chairman – in these circumstances the adjournment will be for a stated period of time.</p> <ul style="list-style-type: none"> • At the end of the Appeal Hearing, the appellant and their representative will withdraw to allow the Appeal Chairman to deliberate and reach a conclusion. • Where possible, the decision should be made and communicated verbally the same day; however, the Appeal Chairman reserves the right to delay a decision depending on the time available, complexity of the case and other reasonable consideration. In that case the appellant and their representative will be informed of the delay and told when the decision will be reached • Within 5 working days of the decision it will be confirmed in writing to the appellant and their representative: the letter will include the reasons for the decision. • Summary notes will be taken of the meeting. Abbeyfield reserves the right to record the meeting. The notes/recording will be transcribed and two copies of the minutes provided to the appellant who should sign one and return it to the Administrator to be kept on file. If the appellant does not agree with the record he/she should indicate any points of difference and these too will be kept on file. |
| 7.3 | <p>Appeals against Dismissal</p> <p>Where an appeal against dismissal fails, the date of termination will be the date on which the employee was originally dismissed. During the appeal stage, the appellant will remain dismissed from Abbeyfield Oxford Society. If an employee is reinstated following dismissal, they will be treated as being continuously employed for the whole period, including the period between dismissal and reinstatement.</p> |
| 8 | <p>“Spent” warnings</p> <p>While the potential disciplinary action outlined in the formal verbal warning, first written warning, or final written warning will expire at the end of the specified period, a copy of the 'spent' disciplinary warning will be retained on the employee's personal file for reference.</p> <p>While it will usually be disregarded for future disciplinary purposes, there may be circumstances when an employee's overall disciplinary record should be taken into consideration.</p> |
| 8 | <p>Grievances raised during the Disciplinary process</p> <p>Where an employee raises a grievance during the disciplinary process, then the process may need to be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.</p> |
| 9 Review | Every 3 years, subject to any regulatory or legislative updates. |