

## DISCIPLINARY POLICY

<b>Document name:</b>	<b>Disciplinary Policy</b>
<b>Document Classification:</b>	<b>Human Resources</b>
<b>Document No:</b>	HR003
<b>Version:</b>	1.0
<b>Name of originator/author:</b>	Lorraine Gallier
<b>Date created</b>	April 2021
<b>Review Date</b>	April 2022
<b>Reviewed by:</b>	
<b>Responsible committee:</b>	Operational Management Committee
<b>Superseded policy (if applicable):</b>	
<b>Target audience:</b>	Directors, Managers, Clinicians, Staff
<b>Date published to internet site:</b>	
<b>Other relevant documents</b>	Recruitment Policy, Appraisals & Performance Review Policy, Quality Assurance & Monitoring Policy.

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## 1.0 INTRODUCTION

SOS Medical Staffing's Disciplinary Policy and Procedure ensures that all disciplinary matters are dealt with fairly and consistently.

Minor lapses in conduct will generally be dealt with as part of day-to-day management by verbal advice or counselling, but where lapses are more serious or persistent the disciplinary procedure will be invoked.

This Policy and Procedure is designed to assist and encourage all employees to maintain acceptable standards of conduct, performance and attendance, whilst safeguarding the interests of the company, patients, clients, staff and visitors.

The Policy is compliant with legislation contained within the Employment Rights Act 1996 and the Employment Act 2008 and SOS Medical staffing has taken advice from the ACAS Code of Practice on Disciplinary and Grievance Procedures.

Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate. No disciplinary action will be taken without the employee being informed of the nature of the allegations against them and being given the opportunity to respond to such allegations.

## 2.0 SCOPE AND AWARENESS

### Scope of the Policy

This policy applies to all employees of SOS Medical Staffing including all temporary staff undertaking shifts on their behalf.

### Awareness of Policy

All managers are responsible for ensuring that employees are aware of the disciplinary procedure and the standards of conduct and performance as per agency worker handbook

## 3.0 KEY PRINCIPLES AND PROVISIONS

This policy has been written in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures which was introduced by the Employment Act 2008. The main principles of the Code are as follows:

- To set the parameters of Disciplinary and Grievance Procedures with a focus on reasonableness.
- To make employees and/or their representatives aware of its disciplinary procedures, and ensure that the disciplinary procedures are transparent and accessible to employees.
- To manage conduct issues proactively before disciplinary action is required.
- To communicate effectively with the employee in question.
- To investigate issues as thoroughly as is reasonable in the circumstances.
- To hold a disciplinary meeting with the employee and his or her representative before any formal sanction is decided.
- To complete investigations without unreasonable delay and in as timely a manner as possible.
- To keep written records of any meetings that are held in relation to an employee's conduct.
- The employee is entitled to appeal any formal sanction resulting from a disciplinary hearing.

### **3.1 Key Provisions**

SOS Medical Staffing's disciplinary procedure is based on the following principles:

- That the protection and safety of staff, patients and the public is SOS Medical's overriding priority.
- Employees may be accompanied by a Trade Union representative or colleague at formal meetings
- No disciplinary action will be taken against an employee unless the case has been fully investigated by the appointed investigating officer.
- The employee will be advised of the complaint against them and will be given the opportunity to state their case before any decision is made.
- No employee will normally be dismissed for a first breach of discipline except in the case of gross misconduct, when the disciplinary sanction will be dismissal without notice or any payment in lieu of notice
- The procedure may be initiated at the informal or formal stage dependent on the seriousness and nature of the alleged misconduct.
- Disciplinary hearings and investigations are confidential to the individuals concerned and a breach of confidentiality will be regarded as a disciplinary matter in itself.
- Impartiality will be maintained by all those involved in the disciplinary investigation and hearings. A disciplinary hearing will not be conducted by anyone who has been actively involved in the disciplinary investigation.
- Investigations may include precautionary suspension on full pay (section 4.2)

## **4.0 Professional Bodies**

SOS Medical staffing requires employees in registered professions to adhere to their standards of professional practice, and their relevant codes of professional conduct will be referenced in line with this policy

## **5.0 Formal Representation**

Whilst employees do not have the statutory right to be accompanied at informal investigations meeting, SOS Medical will allow for an employee to be accompanied by a Trade union representative or a colleague from the workplace. The employee may request to instead bring someone from outside these categories such as a personal friend or family member.

It is at the investigating manager's discretion whether to approve this request.

At a disciplinary hearing the employee will have the right to be accompanied by a Trade Union representative, friend or colleague not acting in a legal capacity. Investigation meetings and disciplinary hearings may be rearranged once if a Trade Union or employee representative is not available on the first date offered, and must not be unduly delayed.

Where disciplinary action is being considered against an employee who is a Trade Union representative, the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

## **6.0 DISCIPLINARY PROCEDURE**

Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate. No disciplinary action will be taken without the employee being informed of the nature of the allegations against them and being given the opportunity to respond to such allegations.

Employees should be warned that any repeat of the misconduct may lead to formal disciplinary action.

If an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.

The manager should meet informally with the employee to highlight the matter to the employee, providing support and encouragement to improve their behaviour. The aim of the meeting should be to agree joint standards and plan improvement over an agreed timescale, where appropriate.

The manager should write to the employee to confirm the discussion. A letter or record of discussion placed on an employee's file will be removed from the file six months after being added, except where there is an emerging pattern of behaviour (indicated by a second similar incident within the six month period).

Any subsequent letters or records of discussion will be removed following a six month period in which there have been no further incidents of similar behaviour.

Informal meetings to discuss issues are not part of the disciplinary process.

However, the manager may feel during an informal meeting that an investigation is required and hence may end the meeting at any time and follow the formal procedure.

Employees do not have the right to be accompanied at informal meetings.

## **7.0 Suspension**

In some cases it may be necessary to remove an employee from the work place whilst an investigation is carried out.

This can be when, for example:

- It is necessary for the protection of an employee, a patient or the public;
- The allegation is of such a serious nature that it is not acceptable for the employee concerned to remain on duty (e.g., assault/under the influence of alcohol);
- It may be appropriate to remove an employee from the workplace for a period of "cooling off"; (This list is not exhaustive, and further examples can be found in the suspension letter template)
- This can be done by:
  - restricting the employee's access to areas of work or the type of work undertaken;
  - moving the employee to a different work area;
  - changing the employee's work pattern;
  - suspension.

If it is necessary to remove an employee from the workplace for the protection of an employee, a patient or the public, or the allegation is of such a serious nature that it is not acceptable for the employee to remain on duty, the employee may be sent home immediately.

This must be followed as soon as possible by formal suspension. In other circumstances, suspension from duty should only be implemented after the alternatives have been considered and Employee Services consulted.

Suspension is normally carried out by the line manager with advice from Employee Services or the relevant HR Business Partner.

Meet with the employee to discuss the incident and ask the employee to produce a written statement 48 hours before the investigation meeting.

Failing this the statement can be taken verbally at the investigation meeting;

## 8.0 PROCEDURE

- Write to the employee inviting them to an investigation meeting, outlining the allegation and informing them that they can have representation at the meeting.
- Arrange a venue for the investigation meeting and also, where possible, provide a note taker;
- Meet with all witnesses and obtain a verbal account of the alleged incident(s) and request a written statement within 48 hours of the incident happening. They will also collect relevant documents, equipment and/or any other material relevant to the case; Please note during Covid restrictions, written statements will be obtained
- To inform witnesses that their statements will be seen by the individual under investigation, should the case proceed to a formal hearing.
- Be responsible for, as far as practicable, the investigation being concluded in the specified timescale of four weeks maximum.
- Having gathered the relevant facts, present their findings in a management report outlining the full circumstances of the case to an appropriate manager to determine if there is a case to answer.

This report will also include any recommendations following from the investigation;

- Should the case go to a formal disciplinary hearing, the investigating officer will present a summary of their findings at that meeting.
- In the event of “disciplinary” matters arising, each situation will need to be judged on its own merits.
- There may be cases whereby a Client will be required to apply their disciplinary procedure in order to comply with legislation.

## 9.0 Removal from SOS Medical Staffing Register

**Agency Workers may be removed from the Register in the following circumstances:**

- Where an Agency Worker's conduct or standard of work has seriously fallen below the level required by SOS Medical Staffing's Professional Conduct as per Agency Worker's Handbook.
- If it is believed that an Agency worker has acted in an unprofessional manner, SOS Medical Staffing reserves the right to remove you from your assignment and not re-assign until the matter has been investigated and resolved.
- If an Agency worker has a reason to be put onto the "SOS Medical Staffing Alert List".
- If SOS Medical Staffing has been alerted by the NMC, GMC or other regulatory bodies with regard to practicing Agency Workers.

Examples of such conduct are as follows.

This list is not exhaustive:

- Failure to attend a Client having accepted an engagement, or repeated lateness.
- Failure to provide care in a fashion consistent with the Agency worker's Professional Conduct or in a caring and appropriate manner, e.g. sleeping on duty, non-adherence to clinical instruction.
- Failure to carry out reasonable instructions of the Client or SOS Medical.
- Breach of trust involving SOS Medical Staffing or the Client.
- Disclosure of confidential information to a third party relating to either a Client or SOS Medical Staffing

- Misconduct and/or gross misconduct - any behaviour which potentially puts any Client, individual or vulnerable person at risk or puts SOS Medical Staffing at risk including the following (non-exclusive and non-exhaustive) list:
- Being under the influence of alcohol or any substance that will adversely affect your performance.
- Possession, custody or control of illegal drugs while on duty, or the supply of illegal drugs to Clients, their families or representatives
- Theft or stealing from Clients, colleagues or members of the public.
- Other offences of dishonesty
- Abusive or violent behaviour including physical, sexual, psychological, emotional, financial abuse of a Client, a member of their family, or their representative or deliberate act of omission which leads to harm or potential for harm to someone from this group
- Fighting with or physical assault on other workers, Clients or members of the public
- Harassment, bullying and/or discrimination.
- Sexual misconduct at work
- Gross insubordination, aggressive/insulting behaviour or abusive/excessive bad language
- Falsification of a qualification which is a stated requirement of the Worker's employment/registration or which results in financial gain to the Worker
- Falsification of records, reports, accounts, expense claims or self-certification forms whether or not for personal gain
- Failure to observe procedures or serious breach of SOS Medical Staffing's rules
- Unsatisfactory work
- Damage, deliberate or otherwise, to or misuse of a Client's or SOS Medical Staffing's property
- Gross negligence which covers acts of neglect, misuse or misconduct and/or not following requirements of the care plan or care instruction (deliberate or otherwise) which exposes Clients, Client/patients, their representatives, colleagues or branch staff to unacceptable levels of risk and/or danger.
- Conviction of a criminal offence, caution by a police constable or being bound over by a court where this is relevant to the worker's employment/registration or failing to disclose a criminal offence, caution or bind over (including those which would be considered 'spent' under the Rehabilitation of Offenders Act 1976) which occurred before engagement with SOS Medical Staffing
- Inappropriate relationship with Client or customer
- Other acts of misconduct may come within the general definition of gross misconduct. You are advised to read both your Terms of Engagement for SOS Medical Staffing Agency Workers and the Handbook in full, to ensure you fully understand what we ask of you.
- Compliance – if your compliance is not renewed in accordance with the requirements laid down by the SOS Medical Staffing you will be prevented from working.
- Agency Workers cannot work if their health or physical ability impedes them from carrying out their duties effectively.
- Whilst Agency Workers will not be required to relinquish registration at the normal retirement age of 65, they must, like any other Agency worker, be in good physical and mental health.
- They may be requested to undertake a medical examination/assessment, at their own expense, to confirm their fitness for work.

## 10.0 APPEALS

In the event that you are unsatisfied with the manner in which a complaint has been handled, please contact the either of the following Senior Management within the company:

Ankit Goyal – Milton House, 240 A Broadway, Bexleyheath, DA6 8AS

It is the policy of the SOS Medical Staffing to ensure that all agency workers are treated fairly and are kept informed of issues that our agency workers may have concerning their work performance, attendance or conduct. It is the policy of the employment business to obtain full details in writing on all concerns that our agency workers may have and to provide these written statements to our agency workers in order that they can answer all allegations.

We aim at all times to:

- Assist to correct unacceptable conduct or performance
- Place exclusions at individual agency workers, only at the direct request of the client
- Be fair to our agency workers and assist them to prepare their defence.
- To assist to provide corrective training where applicable. SOS Medical Staffing, in the event of allegations of abuse, sexual assault or other serious issue is obliged legally to notify governing bodies such as the CQC, The Regulation and Quality Improvement Authority, The Care Commission and the NMC as well as the police.

Allegations may result in the employment business having an obligation to make a preliminary referral in such cases to the Secretary of State for inclusion on the POVA/POCA registers.

In such circumstances it is usual to exclude you/place you on hold from our live registers whilst the investigation is in progress.

### **Grievances**

If you feel that at any time your issues have not been dealt with fairly or you would like to inform us of anything that you are not happy about you have the right to refer the matter to the nominated Director.

The email address is: [info@sosmedical.co.uk](mailto:info@sosmedical.co.uk)

## **11.0 References/Links**

[www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures](http://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures)