



Delivering Quality Healthcare

<b>Policy Title</b>	Disciplinary Policy: 24	<b>Date Implemented or Date of Last Review</b>	10/05/2020
<b>CQC KLOE Reference</b>	Well Led	<b>Date of Next Review</b>	09/05/2021

## 1. INTRODUCTION

- 1.1. KOPE-MEDICS believes that we offer our clients a high standard of care, arising from the cooperation of our workforce who maintain high standards of conduct, attendance and job performance.
- 1.2. The purpose of this procedure is to ensure the safe and effective operation of the business and the fair and equal treatment of all its temporary workers to ensure continuing high standards.
- 1.3. KOPE-MEDICS views the disciplinary procedure as a positive contribution to the success of the business for both the organisation and its temporary workers.
- 1.4. No disciplinary action will be taken against a temporary worker until the case has been fully investigated. All stages of the procedure will be implemented without undue delay.
- 1.5. At every stage in the procedure the temporary worker will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decisions are made.
- 1.6. The temporary worker will have the right when the 'formal procedure' is being invoked, to be accompanied by a work colleague or a Trade Union representative (as defined in the Employment Relations Act 1999) during a disciplinary interview.
- 1.7. The temporary worker will always be informed in writing of any disciplinary action to be taken and the reason for it, indicating the specific areas of improvement required within a specific period.

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- 1.8. No temporary worker will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty will be dismissal without notice and without payment in lieu of notice.
- 1.9. The temporary worker will have the right to appeal and should follow the Appeal Procedure.

## **2. PROCEDURE**

- 2.1. All formal disciplinary action will be conducted by the Registered Manager or a person nominated by them. Appeals will normally be conducted by the Registered Person. We reserve the right to suspend individuals during formal disciplinary action.
- 2.2. Any suspension will be on a paid basis and does not mean that we have prejudged the issue.
- 2.3. Before any formal disciplinary action is taken, the relevant person will carry out a full investigation to establish the facts.
- 2.4. The investigation will normally include an initial investigatory meeting. The Investigatory meetings is not a disciplinary meeting and you will not necessarily be offered the right to be accompanied.
- 2.5.** Even in the most serious allegations of gross misconduct (see below), a full investigation will be held. In any alleged case of gross misconduct you are likely to be suspended pending the outcome of the investigation.

## **3. BEFORE ANY DISCIPLINARY MEETING**

- 3.1. You will be advised in writing of the allegations/complaints against you, and the basis of those allegations;
- 3.2. Given a reasonable opportunity to consider your response to that information;
- 3.3. Offered the opportunity to be accompanied by a work colleague or a trade union representative (see right to be accompanied, below);

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- 3.4.** You must take all reasonable steps to attend the meeting. At the meeting, you will be given full opportunity to comment on the allegations, to put forward any defence or arguments you want, and to comment on what disciplinary sanction (if any) is appropriate.

#### **4. INFORMAL WARNING**

- 4.1. After establishing the facts, we may consider that there is no need to resort to the formal procedure, and that it is sufficient to talk the matter over with you.
- 4.2. A note of the informal warning may be kept on your personnel file; however, they are there for background and would not normally be taken into account in the event of subsequent disciplinary procedures.
- 4.3. The purpose of an informal warning is to provide an opportunity for improvement or for the matter to be corrected without the necessity of formal disciplinary procedures.

#### **5. FORMAL DISCIPLINARY PROCESS**

##### **5.1. Right to be accompanied**

- 5.1.1. You have the right to be accompanied at any disciplinary hearing by a single companion who is either:
- 5.1.2. A work colleague; or,
- 5.1.3. A full-time official employed by a trade union; or,
- 5.1.4. A lay official, so long as they have been certified in writing by their union as having experience of, or as having received training in, acting as a worker's companion at disciplinary or grievance hearings.
- 5.2. Your representative has the right to explain and sum up your case, and to respond to any views expressed at the hearing. They may not answer questions on your behalf. If your representative cannot attend on the date we have set for the interview, we will always postpone the interview for up to five days and may (at our discretion) postpone it for longer.

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## **6. STAGE 1: WRITTEN WARNING**

- 6.1. If it is decided that your conduct or performance is unsatisfactory your manager may give you a Written Warning.
- 6.2. This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that further disciplinary action will follow if the required standards are not met or if there is further misconduct.
- 6.3. You will be informed of your right of appeal, and how and where this should be made. A record of the warning and related discussions will then be placed on your personnel file. It will normally cease to have effect after 6 months.
- 6.4. If your conduct is sufficiently serious, we may omit stage 1, and proceed straight to stage 2.

## **7. STAGE 2: FINAL WRITTEN WARNING**

- 7.1. For more serious matters, or where you have failed to meet the required standards after being warned, you may be given a Final Written Warning. This will state the nature of the complaint, the required standards that must be met and, where appropriate, a time limit for improvement. It will also state that you will be dismissed if the standards are not met or if there is further misconduct.
- 7.2. Again, you have the right to appeal. A record of the warning and a note of all related discussions will be placed on your personnel file. A final written warning will normally cease to have effect after 12 months.

## **8. STAGE 3: DISMISSAL**

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- 8.1. Where there has been gross misconduct (in which case, stages 1, and 2 may be omitted) or where you have failed to meet the required standards after due warnings have been given, you may be dismissed.
- 8.2. In extenuating circumstances we may apply another sanction such as disciplinary transfer, disciplinary suspension without pay or demotion.
- 8.3. This will be confirmed in writing and will include details of the appeals procedure.
- 8.4. In cases of gross misconduct, the dismissal will be without notice (or pay in lieu of notice).

### **9. DISMISSAL WITHOUT NOTICE ('SUMMARY DISMISSAL')**

- 9.1. We regard certain issues as serious enough to warrant 'summary dismissal' without prior warning. These issues would constitute gross misconduct, that is the action would break the contract between us.
- 9.2. Matters that may justify summary dismissal, include, but are not limited to:
  - 1.1.1. Actions which may harm the well-being of a client ("abuse");
  - 1.1.2. Acts of dishonesty where your conduct affects your ability or suitability for continued employment with us; for example, theft, fraud, the deliberate falsification of records or expenses, a relevant criminal warning or conviction, or inclusion on the DBS register;
  - 1.1.3. Serious insubordination or rudeness to customers or suppliers; deliberate damage to property;
  - 1.1.4. A serious breach of Health & Safety policies;
  - 1.1.5. Physical violence or aggressive behaviour;
  - 1.1.6. Indecent or immoral acts;
  - 1.1.7. Being under the influence of, or possessing, alcohol or illegal drugs during employment hours (unless you have been authorised to, and have been entertaining clients, in which case a reasonable amount of alcohol consumption is permitted);
  - 1.1.8. Bringing KOPE-MEDICS into serious disrepute;

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- 1.1.9. Any breaches of confidentiality requirements in your contract of employment, other than minor breaches;
  - 1.1.10. Harassment or bullying, other than minor breaches;
  - 1.1.11. Breaches of our Equal Opportunities Policy, other than minor breaches;
  - 1.1.12. Wilful misrepresentation at the time of appointment, including:
  - 1.1.13. Previous positions held; Qualifications held; Falsification of date of birth; Declaration of health; Failure to disclose a criminal conviction/caution within the provision of the Rehabilitation of Offenders Act.
  - 1.1.14. Abuse of the protected disclosure provisions;
  - 1.1.15. Deliberate disclosure of privileged confidential information to unauthorised people;
  - 1.1.16. Negligent or deliberate failure to comply with the legal requirement for The Agency's policy & procedure concerning medicines;
  - 1.1.17. Working whilst contravening an enactment or working in such a way that is in breach of rules laid down by statutory bodies, e.g. erasure from the register of the Nursing & Midwifery Council.
- 1.2. Except in the most serious cases of gross misconduct (see below), a full investigation will be held and, if necessary, you will be suspended pending the outcome of the investigation.
- 1.3.** In the event of gross misconduct, disciplinary action could take the form of a demotion, or a downgrading, with subsequent financial loss as well as loss of status, rather than a dismissal. This decision will be taken at our discretion.

## 2. OTHER DISCIPLINARY MATTERS

- 1.1.1. Matters which may justify invoking the disciplinary procedure but which do not amount to gross misconduct include, but are not limited to, the following:
- 1.1.2. Refusal to obey a legitimate instruction;
- 1.1.3. Refusal to answer a question during the course of a properly constituted investigation;

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- 1.1.4. Absence without permission, or persistent absence;
- 1.1.5. Poor timekeeping;
- 1.1.6. Failure to report damage to our property;
- 1.1.7. Failure to carry out your duties adequately;
- 1.1.8. Breach of our policies, procedures and practices;
- 1.1.9. Continued poor work performance, or a persistent failure to keep up-to-date with technical developments and Improper use of our equipment;
- 1.1.10. Harassment or bullying (in ways that are not deemed serious enough to constitute gross misconduct);
- 1.1.11. Breaches of our equal opportunities policy (in ways that are not deemed serious enough to constitute gross misconduct)
- 1.1.12. Actions bringing KOPE-MEDICS into disrepute (in ways that are not deemed serious enough to constitute gross misconduct).

## 2. WHAT YOU CAN EXPECT DURING THE DISCIPLINARY PROCESS

- 1.1.1. At each stage of the disciplinary process:
- 1.1.2. You will be told of the expected standard of performance/behaviour, and the nature of the shortfall in expected standards will be identified;
- 1.1.3. You will be given the opportunity to reply to any allegations made against you, and to outline any mitigating circumstances you wish to be considered;
- 1.1.4. All the facts will then be considered. Occasionally we may ask you back for a further interview;
- 1.1.5. You will be told of the disciplinary sanction being imposed (although this may be done in writing). This will include details of any timescale within which improvement is to be achieved and the likely consequences if there is no improvement; and
- 1.1.6. You will be advised of the right to appeal.

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## 2. RIGHT TO APPEAL

2.1. If you are not satisfied with a disciplinary decision, you may appeal, in writing, within five working days.

- 1.1.1. Arrangements to hear the appeal will normally be made within five working days of receiving your written request. If the decision you are appealing against was a decision to dismiss you, the appeal may be heard after the dismissal has taken place.
- 1.1.2. All appeals must set out the grounds on which you are making the appeal.
- 1.1.3. We will invite you to an appeal hearing, and remind you of your right to be accompanied.
- 1.1.4. The outcome of the appeal will be confirmed to you in writing and will take one of three forms:
- 1.1.5. The original decision will be upheld, in which case any disciplinary sanction will be confirmed;
- 1.1.6. The original decision will be overruled, in which case any disciplinary sanction will be rescinded;
- 1.1.7. The original decision will be substantially confirmed but a less severe sanction will be substituted for that originally imposed (usually in cases of appeals based on extenuating circumstances).
- 1.1.8. There is no further right of appeal.

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