

Sunbeam House Services Policy Document	Title: Disciplinary Policy
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1.0 POLICY STATEMENT:

The delivery of a high quality service requires all employees to adhere to high standards of work performance, conduct and attendance. The purpose of this disciplinary procedure is to ensure that all staff maintains the required standards by making them aware of their shortcomings and identifying how the necessary improvements can be achieved.

Reporting Managers are responsible for making employees aware of the standards of attendance, work and conduct expected from them and for dealing with shortcomings promptly and fairly. In general, the employees immediate Reporting Manager will deal with deficiencies on an informal basis through discussion, counselling and appropriate assistance rather than through the formal disciplinary procedure. If, following the informal counselling stage, the staff member continues to fail to meet the required standards, and then the disciplinary procedure should be invoked. The purpose of the disciplinary procedure is to help the staff member to achieve the necessary improvements and to prevent any recurrence.

2.0 SCOPE:

This disciplinary procedure forms part of the terms and conditions of employment and applies to all employees of Sunbeam House Services. Please refer to appendix 2 for probationary employees.

It is not possible to list in writing every act or omission which will constitute misconduct. Examples of misconduct which could lead to formal disciplinary action (if not resolved through informal proceedings) are as follows:-

- Consistently poor time-keeping.
- Unsatisfactory attendance record.
- Negligence in the performance of duties.
- Breach of confidence not amounting to gross misconduct.
- Being absent without reasonable permission or reasonable excuse.
- Breach of health & safety rules.
- Deliberately withholding information which obstructs the work of the organisation.
- Deliberately bringing the organisation into disrepute.
- Consistent non-cooperation with management or fellow staff members.
- Repeated breaches of the organisations policies.
- Not complying with the terms of the job description.
- Incompetence or poor work performance.
- Breach of internet/email policy.
- Refusal to obey reasonable instructions.
- Negligence.

3.0 ROLES & RESPONSIBILITIES

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THE COMPANY WILL:

Maintain a fair, just and consistent disciplinary process.
 Ensure that all employees are made aware of the standards of acceptable behaviour expected of them.

THE EMPLOYEES ARE EXPECTED TO:

Comply with the various rules and procedures of the Company as amended from time to time. These rules and procedures will be made known to all employees.
 Carry out all reasonable and lawful instructions provided to them.
 Comply with the law.
 Behave in an orderly and lawful manner.
 Treat the Company's property with care and respect and not to use such property for their own benefit.
 Treat all other employees, clients and their property with respect.
 Not to bully, harass, victimise or intimidate any other employees or clients.
 Make themselves available for work in terms of the rules set by the Company and to keep to the specified working hours.
 Perform their duties in accordance with the standards required by the Company.

4.0 PRINCIPLES

The following procedures apply to all stages of the disciplinary procedure:

Every effort will be made by the employee's Reporting Manager to address shortcomings in work standards, conduct or attendance through informal counselling without invoking the disciplinary procedure.

While the disciplinary procedure will normally be operated on a progressive basis, in cases of serious or gross misconduct the Reporting Manager may bypass stages 1, 2 and 3 of the procedure.

No decision regarding disciplinary action will be made until a formal disciplinary hearing meeting has been convened and the employee has been afforded an opportunity to respond.

- The employee will be advised of his or her right to be accompanied by a work colleague or trade union representative at any meeting under the formal disciplinary procedure.
- The employee will be advised in advance of the disciplinary hearing of the precise nature of the complaint against him or her and will be given copies of any relevant documentation.

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- The employee will be afforded the opportunity to state his or her case and challenge any evidence that may be relied upon in reaching a decision.
- The manager will not prejudge the outcome of the hearing and will take into account any mitigating circumstances before deciding on appropriate action.
- An employee may be suspended with full basic pay, pending the outcome of an investigation.
- It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness.
- An employee may appeal against a disciplinary decision or any aspect of the disciplinary proceedings through the disciplinary policy.
- In addition to the issuing of warnings, the staff member may be subject to disciplinary sanctions short of dismissal such as:-
 - Withholding/deferral of an increment.
 - Demotion.
 - Redeployment (which may involve loss of premium earnings).
 - Suspension without pay.

5.0 INFORMAL PROCEDURE:

5.1 PRE DISCIPLINARY PROCEDURE STAGE- INFORMAL COUNSELLING /COACHING

Informal Counselling/Coaching is an informal method of dealing with shortcomings in an employee's standard of work, behaviour, timekeeping or attendance without invoking the disciplinary procedure. The objective of the counselling interview; is that the Reporting Manager will informally make the employee aware that their shortcomings are unacceptable and point out the measures that have be taken to bring about the required improvements.

5.2 THE FOLLOWING PROCEDURE WILL APPLY WHEN CONDUCTING A COUNSELLING/COACHING INTERVIEW:

- The employee shall be given precise details of the specific aspects of the employee's standard of work, behaviour, timekeeping or attendance that require improvement.
- The employee shall be given an opportunity to respond to complaints and careful consideration shall be given to any explanations given.
- Having made the employee aware of deficiencies the employee's standard of work, behaviour, timekeeping or attendance, the Reporting Manager shall

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identify any measures that can be taken to assist the employee and formulate an action plan for achieving the required improvements.

- Details of the counselling/coaching interview and any follow-up action agreed shall be documented and signed by both parties and the reporting manager will keep this record of the incident.

6.0 FORMAL DISCIPLINARY PROCEDURE

Where an employee's standard of work, behaviour, timekeeping or attendance does not meet the required standards or the breach of regulations continues despite pre disciplinary stage - informal counselling/coaching, the matter will be dealt with under the formal disciplinary procedure. The stages of the disciplinary procedure are as follows:

PROTECTIVE MEASURES

Pending the outcome of the investigation, management may take whatever protective measures are necessary to ensure that no client or employee is exposed to unacceptable risk. These protective measures are neither disciplinary measures nor an indication of guilt and may include:

- Reassigning the employee to other duties.
- Providing an appropriate level of supervision.
- Placing the employee off duty with full basic pay.

The views of the employee will be taken into consideration when determining the appropriate protective measures to take in the circumstances but the final decision rests with management.

Placing the employee off duty pending the outcome of the investigation will be reserved for only the most exceptional of circumstances. The employee concerned will be advised that the decision to place him/her off duty is a precautionary measure and not a disciplinary sanction or an indication of guilt.

6.1 STAGE 1. – VERBAL WARNING

An employee who's standard of work, behaviour, timekeeping or attendance falls below the required standards;

- A full investigation is held.
- The employee is entitled to have the work colleague or trade union representative present at the discussion, where the problem will be discussed.
- A meeting will be held where the employee will be informed of the precise nature of complaint and that a continuation of the breach is unacceptable.
- An improvement action plan and a review date will be set.

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- The employee will be advised that the warning constitutes the first stage of the disciplinary procedure. A record of this verbal warning will be retained on the employees personnel file and removed after 6 months subject to their being satisfactory improvement during this period and no recurrence of the incident. The employee will be provided with a record of the warning.
- If there is a repeat or other breach of the regulations or failure to improve by the review date, there will be a re-evaluation and this may result in progression to Stage 2 of the disciplinary procedure.
- The employee will have a right to appeal the verbal warning to a Senior Services Manager. Appeals must be made in writing setting out the grounds for appeal within 7 days of the employee being notified of the decision.

6.2 STAGE 2. – FIRST WRITTEN WARNING

If the employee fails to make the necessary improvements or if the poor work, behaviour, timekeeping or attendance is more serious;

- A full investigation is held.
- The employee is entitled to have the work colleague or trade union representative present at the discussion.
- .A meeting will be held with employee where the employee will be informed of the precise nature of the complaint with a Senior Services Manager to establish what improvements must be shown and the time scale of the achievement/improvement to be realised.
- An improvement action plan and a review date will be set.
- The employee will be advised that the warning constitutes the second stage of the disciplinary procedure. A record of this first written warning will be retained on the employees personnel file and removed after 9 months subject to their being satisfactory improvement during this period and no recurrence of the incident. The employee will be provided with a record of the first written warning.
- If there is a repeat or other breach of the regulations or failure to improve by the review date, there will be a re-evaluation which may result in progression to Stage 3 of the disciplinary procedure.
- The employee will have a right to appeal the first written warning to the Senior Human Resources Manager. Appeals must be made in writing setting out the grounds for appeal within 7 days of the employee being notified of the decision.

6.3 STAGE 3 – FINAL WRITTEN WARNING

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If the poor work, behaviour, timekeeping or attendance is sufficiently serious; or if there is further misconduct or a failure to improve performance during the period of a prior warning;

- A full investigation is held.
- The employee may be suspended with pay to facilitate the investigation. In certain instances, an employee will go directly to Stage 4, i.e. for allegations of misconduct, gross misconduct or breaches of regulations.
- The employee is entitled to have a work colleague or trade union representative present at the interview.
- A meeting will be held with the employee where the employee will be informed of the precise nature of the complaint with the Human Resources Manager to establish what improvements must be shown and the time scale of the achievement.
- An improvement action plan and a review date will be set.
- The employee will be advised that the final written warning constitutes the third stage of the disciplinary procedure. A record of this final written warning will be retained on the employees personnel file and removed after 12 months (this period may be extended in exceptional circumstances) subject to their being satisfactory improvement during this period and no recurrence of the incident. The employee will be given a record of the written warning.
- The employee will be warned that, failure to make the necessary improvement by the next review date, may lead to dismissal or some other sanction short of dismissal under stage 4 of the disciplinary procedure.
- If there is a repeat or other breach of the regulations or failure to improve by the review date, there will be a re-evaluation and a progression to Stage 4 of the disciplinary procedure, whichever is more appropriate.
- The employee will have a right to appeal the final written warning to the/
- Managing Director. Appeals must be made in writing setting out the grounds for appeal within 7 days of the employee being notified of the decision.

6.4 EMPLOYEE SUSPENSION

- The company reserves the right at any stage of this procedure to suspend the employee.
- Suspension will be on full basic pay, and will be for as short a period as possible in order to carry out any investigation of an alleged serious offence or to prevent any recurrence
- During any period of suspension, the employee may be asked to attend management meetings regarding the issue of their suspension and assist

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with management inquiries. Failure to attend any such meetings will result in disciplinary action up to and including dismissal.

- Suspension with full basic pay is a precautionary measure and not a disciplinary sanction and does not involve any prejudgement.
- Suspension will only be imposed after careful consideration and alternative measures, such as reassigning the employee to suitable alternative duties pending the outcome of the investigation, will be considered.

6.5 STAGE 4. – DISMISSAL OR ACTION SHORT OF DISMISSAL

Failure to meet the required standards of work, conduct or attendance following the issuing of a final written warning may result in a decision to dismiss by the Managing Director. Alternatively, the Managing Director may decide to impose a disciplinary sanction short of dismissal. In all cases of alleged serious/gross misconduct;

- A full investigation will be carried out to establish the facts in accordance with the following principles:
- The investigation will be conducted thoroughly and objectively and with due respect for the rights of the employee to natural justice, including a presumption of innocence.
- The investigation will be governed by clear terms of reference.
- Every effort will be made to carry out the investigation without undue delay and to adhere to the agreed timescales. However, the timescales may be extended in exceptional circumstances e.g. due to unavailability of key witnesses.
- The employee will be advised of the right to be accompanied by a trade union representative or work colleague throughout the investigation.
- It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness.

On completion of the investigation, the investigator(s) will submit a written report of their findings and recommendations to senior management and the employee.

If the outcome of the investigation is that there is a reasonable belief that the employee is guilty of the alleged misconduct, a disciplinary hearing may be convened under stage 4 of the disciplinary procedure to determine the appropriate disciplinary sanction.

6.6 SERIOUS/GROSS MISCONDUCT

An employee will not normally be dismissed for a first incident of misconduct, unless it amounts to gross misconduct, in which case summary dismissal without notice and without the need for any prior warnings may take place. The list below is not exhaustive, but is a guide to the type of offence which

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normally results in summary dismissal (i.e. dismissal without notice or pay in lieu of notice):

- Acting in conflict of interest of company
- Abuse, destruction or misappropriation of company or clients funds or property.
- Abuse of the sick leave scheme.
- Breach of confidentiality, abuse or disclosure of confidential information.
- Breach of Safety, Health, and Welfare at Work Act or policies related thereto.
- Bullying/harassment/intimidation of colleagues or clients.
- Circulation to clients or staff of offensive, obscene, indecent or pornographic materials, emails or text messages.
- Conviction of a criminal offence whether committed inside or outside employment which is damaging to the companies interests or brings or could bring the company into disrepute or renders the employee to be unsuitable for work or unacceptable to other employees or clients.
- Downloading/disseminating pornographic material from the internet.
- The wilful and persistent refusal or failure to carry out reasonable and / or lawful instructions. An employee must carry out management instructions even if the employee disagrees with the instruction (i.e. working under protest).
- Providing false or misleading information on the employment application form, at interview stage and/or the recruitment stage for any application for employment regardless of the status of employment when the facts are known.
- Engaging in remunerative employment while absent from work, irrespective of whether the work is covered by a medical certificate or not. (Short term, specific, documented and validated rehabilitation work where social welfare payments are made will not be considered as 'remunerative employment' in this regard)
- Falsification of any correspondence, reports or records, either written or electronic.
- Intoxication or being under the influence of alcohol, non-prescribed drugs or misuse of prescribed drugs.
- Incapacity.
- Misuse of TMS/ID cards, e.g. clocking-in for a colleague, falsification of or interference with time cards and attendance records or any other company documentation or records.
- Physical and/or sexual assault/abuse of a client or colleague.
- Relevant violations of the criminal law.
- Gender, race or disability discrimination
- Sleeping while on duty.

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- Taking industrial action contrary to the procedures outlined in the Dispute resolution policy.
- Theft, breach of trust or other dishonesty.
- Wilful violation of company rules including health and safety precautions and statutory regulations.
- Violent to or assault or threatening behaviour on colleagues, clients or members of the public, whether at work or in certain circumstances where the service is affected.

7.0 APPEAL AGAINST A DISMISSAL DECISION

An employee who wishes to appeal against a dismissal decision may do so within 14 working days of notification of the decision to dismiss. The appeal must be in writing to the Chairman of Sunbeam House Services, and state the ground(s) on which the appeal is being made.

An appeal hearing is not intended to repeat the investigation process but to address specific issues which the employee feels have received insufficient consideration, such as:

- Mitigating circumstances.
- Procedural deficiencies.
- Severity of the sanction imposed.

The appeals hearing will normally be scheduled as soon as is reasonably possible of the appeal being lodged. The Chairman will hear all appeals and their decision shall be final.

Where an appeal against dismissal fails, the effective date of termination shall be the date on which the employee was originally dismissed.

An employee who feels that s/he has been unfairly dismissed may refer a case under the Unfair Dismissals Acts, 1977-2001 within 6 months of the date of dismissal to the Rights Commissioner, the Labour Relations Commission, the Labour Court or the Employment Appeals Tribunal as appropriate.

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APPENDIX 1. - GUIDELINES FOR MANAGERS CONDUCTING A DISCIPLINARY HEARING UNDER THE FORMAL DISCIPLINARY PROCEDURE.

The purpose of the disciplinary hearing is to allow the employee to respond to the allegations before deciding whether or not to take disciplinary action. The employee must be made aware that the outcome of the hearing may result in a disciplinary sanction so that they appreciate the seriousness of the meeting.

However, the decision-maker must not pre-empt the outcome of the hearing, for example, by entering the hearing with the warning already written up. The final decision with regard to disciplinary action can only be made when the employee has had the opportunity to state his/her case and plead any mitigating circumstances.

ROLE OF EMPLOYEE REPRESENTATIVE

The employee representative has an important role to play in supporting the employee and is entitled to assist the employee in presenting his/her case and make representations on his or her behalf. The employee may confer privately with his/her representative if requested.

DISCIPLINARY HEARING FORMAT

A disciplinary hearing should follow a structured format as follows:

- Introduce those present.
- Confirm that this is a hearing under the formal disciplinary procedure. Specify the stage, e.g. stage 2 – written warning.
- Outline the precise nature of the allegation and refer to any supporting evidence, e.g. attendance record (the employee should have been given a copy of any such relevant documentation in advance).
- Allow the employee to respond to the allegation and give an explanation.
- Invite representations on the employee's behalf.
- Close the hearing by summarising the key points raised.
- Allow the employee to have a final say.
- Adjourn the meeting to allow for careful consideration of the facts and any explanations put forward by the employee or his/her representative. Each case should be considered on its merits before deciding on what sanction, if any, to apply.

The outcome of the hearing may be one of the following:

- A formal warning
- No further action on the grounds that the employee has given a satisfactory explanation of events or there were strong mitigating circumstances
- Non-disciplinary action e.g. arrange for the employee to receive coaching/training and set targets for improvement.
- Reconvene the hearing and advise the employee of the decision.

ISSUING WARNINGS UNDER THE DISCIPLINARY PROCEDURE

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The primary purpose of a warning under the disciplinary procedure is to give the employee an opportunity to make the required improvements whilst making clear the consequences of failing to do so. A warning (including a verbal warning) should contain the following information:

- the stage of the disciplinary procedure which has been invoked
- details of the unsatisfactory attendance, conduct or work standards
- details of the improvements required and timescale for improvement
- measures to assist the employee (e.g. training or coaching)
- duration of the warning
- what further action will be taken if the employee does not make the necessary improvements within the agreed timescale or if there are further instances of unsatisfactory attendance/work/conduct during this period.

FOLLOW UP ACTION

The outcome of the hearing should be confirmed to the employee in writing and copied to his/her representative.

The employee's performance/conduct/attendance should be monitored during the review period and agreed support measures (e.g. coaching) should be put in place without delay. A record will be kept on the employees personnel file of all formal warnings – both verbal and written – issued under the disciplinary procedure.

REMOVAL OF WARNINGS

Where a warning is issued under stages 1-3 and the employee makes the required improvements, the letter of warning and all documentation relating to the disciplinary process itself should be removed from the employee's file. Where the employee does not make the required improvements and the matter progresses to the next stage of the disciplinary procedure, all documentation relating to the previous warning should be retained.

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APPENDIX 2. - PROBATIONARY EMPLOYEES

Where employees are required to serve a probationary period, the contract of employment will specify its duration, terms of notice that apply during the period, the possibility of its extension at the discretion of management and a review of the employee's performance during the period of probation, e.g. "A probationary period of 6 months shall apply from commencement of employment, during which the contract may be terminated by either party in accordance with the Minimum Notice and Terms of Employment Act, 1973-2005 and the procedure outlined in Appendix 2 of the Disciplinary Procedure for SHS Employees. The probationary period may be extended at the discretion of management. Confirmation of your appointment as a permanent employee is subject to the successful completion of the "probationary period."

The objective of the probationary period is to monitor new employees' progress in the job in order to establish their suitability for continued or permanent employment. Although a probationary employee must clearly establish his/her suitability for the job, there is a corresponding obligation on the reporting manager to ensure that the employee is given the necessary training and assistance to enable him/her to meet the required standards.

MANAGING THE PROBATIONARY PERIOD

The employee will be advised of the length of the probationary period and that his/her performance, conduct and attendance will be reviewed on an ongoing basis to determine suitability for continued employment.

The Reporting Manager will conduct progress reviews with the employee at regular intervals and keep a formal record of his/her assessment for the period under review. The Reporting Manager will also document any follow-up action that was agreed during the discussion. Where the new employee persistently fails to achieve the required standards, the reporting manager will advise the employee of his/her deficiencies. The objective at this stage will be to help the employee to improve whilst making it clear that failure to do so will result in his/her employment being terminated.

The Reporting Manager will carry out a final overall assessment prior to the end of the probationary period and arrange to meet with the employee to advise him/her of the outcome. In cases where the employee clearly demonstrates his/her unsuitability during the probationary period, his/her employment may be terminated at any stage during the probationary period.

Where the employee does not satisfactorily complete the probationary period, s/he will be given notice that his/her employment will be terminated. The employee will be advised of his/her right to appeal this decision in the normal manner to a higher level of management and the right to union representation during the appeals process. Appeals must be made in

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writing setting out the grounds for appeal within 7 days of the employee being notified of the decision.

In accordance with the employee’s contract of employment, the probationary period may be extended at the discretion of management. However, this provision does not apply automatically to employees who have not successfully completed their probationary period. The probationary period will only be extended in exceptional circumstances.

In cases where an allegation of serious or gross misconduct is made against a probationary employee, the matter will be dealt with in accordance with stage 4 of the disciplinary procedure.

Nothing in this procedure will affect the employee’s statutory rights under the Industrial Relations Acts, 1946-2012 or any other statute.

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