

group policies and procedures

# disciplinary & appeals policy

|  |  |
| --- | --- |
| Category | HR |
| Author | Castleman Healthcare Ltd |
| Responsible Director | Sue Richards |
| Date of issue | September 2016 |
| Next review date | July 2017 |
| Document ref & version | Disciplinary & Appeals Policy 2016 |

**Related policies and guidance**

1.

**Document revision and approval history**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version | Date | Author | Approved by | Comments |
| Final | Sept 2016 |   | SR |  |
|  |  |  |  |  |

#  1 INTRODUCTION

Castleman Healthcare Ltd seeks to promote fair, reasonable and consistent employment practices and aims to encourage improvement in individual conduct and performance.

The purpose of the Disciplinary Procedure is to deal with conduct or performance that falls below the standard that the Castleman Healthcare Ltd expects from the staff it employs. The procedure enables Castleman Healthcare Ltd to make employees aware of any conduct or performance, which falls below the required standard, and when this happens, aims to give the employee the opportunity to improve their conduct or performance accordingly.

This disciplinary procedure supersedes all other disciplinary procedures currently in force with Castleman Healthcare Ltd and applies to all employees. The Disciplinary Procedure is non-contractual.

# 2. Investigation

Before any disciplinary action is taken, an investigation to establish the facts will be conducted. This may include gathering witness statements, CCTV footage or information relating to poor performance, such as absence records.

An Investigatory Meeting may also be conducted with you so any evidence and basis for the investigation can be put to you for the opportunity to explain their actions.

As the Investigatory Meeting is entirely a fact-finding exercise and it does not form part of Castleman Healthcare Ltd’s formal disciplinary procedure, you are not entitled to be accompanied at this meeting.

If the investigation indicates that there is a case to be heard, then Castleman Healthcare Ltd will invite you in writing to attend a Disciplinary Hearing. You will be told of the allegations against you, given advance notice of the Hearing and offered the opportunity to be accompanied.

# 3. Conduct of the Disciplinary Hearing

The Disciplinary Hearing will be conducted by the Director of HR & People who will be accompanied by a senior member of staff or other designated person to take notes at the hearing.

**You will be informed of the allegations, misconduct or performance issues to be discussed;**

1. You will be given the opportunity to reply to any allegations made against you and to outline any mitigating circumstances for consideration;
2. The Hearing will then be adjourned for all the facts to be considered;
3. You will be advised of the time scale in which improvement is to be achieved and the likely consequences if there is no improvement;
4. You will be informed in writing of any disciplinary penalty imposed;
5. You will be advised of your right to appeal.

# 4. Accompaniment at a Disciplinary Hearing

**You have the right to be accompanied at a Disciplinary Hearing by one of the following:**

1. A current employee of Castleman Healthcare Ltd
2. A Trade Union Official who is an employee of a Trade Union
3. A Trade Union Official holding written certification as to having experience or training in acting as an accompanying person at hearings.

Your companion can address the hearing and confer freely with you. However, they will not be permitted to answer questions on your behalf.

Any entitled person requested to accompany you at a Disciplinary Hearing. They will be permitted working time off for the purpose.

If your chosen companion cannot attend the Hearing at the time proposed by Castleman Healthcare Ltd, the Hearing will be postponed. You will be asked to propose a new meeting time, agreed with your companion. The time suggested must be reasonable and no later than seven working days after the cancelled Hearing date.

# 5. Forms of disciplinary action

In the normal course of your work you may be made aware, informally, of any minor shortcomings in your conduct or performance. In cases of poor job performance, Castleman Healthcare Ltd may initially discuss this informally with you to establish the reasons for the poor performance and identify and agree a mutually acceptable way forward, which may include re-training, coaching or changing work procedures.

After establishing the facts, your Manager may consider that there is no need to resort to the formal Disciplinary Procedure and that it is sufficient to talk the matter over with you. Such informal oral warnings may not need recording, or alternatively your Manager may consider it appropriate to issue an informal counselling letter outlining the areas needed for improvement or for the matter to be corrected without initiating a formal procedure.

Only if such shortfalls in performance or conduct persist, or if the matter is more serious, will Castleman Healthcare Ltd's Disciplinary Procedure be brought into operation.

Where disciplinary action is considered necessary, the measures taken will depend upon the seriousness of the offence. In most cases, these measures will occur sequentially as detailed in this document, however in exceptional circumstances, where the nature of the offence dictates, the Disciplinary Procedure may be initiated at any stage.

**Formal Oral Warning**

This is the first stage in the formal Disciplinary Procedure. If, after establishing the facts, your Manager is satisfied that you have failed to meet the standards required by Castleman Healthcare Ltd, a Formal Oral Warning will be issued to you in writing. The Warning will remain on your personal record for six months.

Where appropriate, the person giving the Warning will inform you of the steps which must be taken to improve your conduct, targets to be met and a time limit for improvement. It will be made clear that any further misconduct or failure to meet these targets will result in further disciplinary action being taken. You will be informed of your right of appeal and how and where this should be made.

**First Written Warning**

Where the matter is one of a more serious nature, or where you have failed to meet the required standards after receiving a Formal Oral Warning, you may be given a First Written Warning by your Manager, which will be recorded to you in writing. The Warning and a note of any related disciplinary interview will remain on your personal record for twelve months.

The Warning will state the nature of the complaint, targets to be met and where appropriate, a time limit for improvement. It will be made clear that any further misconduct or failure to meet these targets will result in further disciplinary action being taken. You will also be informed of your right of appeal, and how and where this should be made.

**Final Written Warning**

For more serious misconduct offences, or where you have failed to meet the required standards after previously being warned, you may be given a Final Written Warning by your Manager, which will be recorded to you in writing.

The Warning will remain on your personal record for twelve months. In exceptional circumstances, the Warning may be retained on your personal record for more than twelve months. Where this is the case the reason for this will be detailed in writing to you.

The Warning will state the nature of the complaint, targets to be met and where appropriate, a time limit for improvement. It will be made clear that any further misconduct or failure to meet these targets may result in your dismissal. You will be informed of your right of appeal, and how and where this should be made.

**Procedural Dismissal**

Where you have failed to meet the required standards after due warnings have been given, you may be dismissed. Procedural Dismissals can only be authorised by a member of management.

The dismissal will be detailed in writing to you, recording the reasons for the dismissal and informing you of your right to appeal, and how and when this should be made.

**Examples of misconduct**

Examples of misconduct which may lead to either a Formal Oral Warning, a First Written Warning or a Final Written Warning and ultimately, to a Procedural Dismissal include, but are not limited to, the following:

1. Failure to obey a reasonable management instruction;
2. Poor work performance, including inefficiency and/or carelessness and/or indifference to work;
3. Breach of Castleman Healthcare Ltd's policies and practices;
4. Poor time keeping;
5. Unauthorised absence/unacceptable levels of absenteeism;
6. Improper use of Castleman Healthcare Ltd's equipment;
7. Failure to take reasonable care of Castleman Healthcare Ltd/clients’ property, such as to cause loss, damage or destruction through negligence;
8. Failure to report damage to the Castleman Healthcare Ltd/clients’ property as soon as possible;
9. Breach of Health and Safety Policy.

**Summary Dismissal for gross misconduct**

Certain issues are regarded by Castleman Healthcare Ltd as being so serious that they justify Summary Dismissal (i.e. dismissal without notice or pay in lieu of notice) without prior warning. Summary Dismissals can only be authorised by a member of management.

Following the investigatory and disciplinary process, the dismissal will be detailed in writing to you, recording the reasons for your dismissal and informing you of your right to appeal, and how and when this should be made.

**Examples of gross misconduct**

Matters which may justify Summary Dismissal (i.e. dismissal without notice or pay in lieu of notice) include, but are not limited to, the following:

1. Dishonesty, fraud, theft or misappropriation of monies or property belonging to Castleman Healthcare Ltd, employees or clients, or collusion with others in the furtherance of such activities;
2. Deception, e.g. making untrue statements to Castleman Healthcare Ltd on application forms, in statements relating to qualifications; falsifying references, documents relating to sickness/absence; falsifying expenses or records etc.;
3. Falsification of Castleman Healthcare Ltd’s documentation for your own or others’ gain;
4. Willful or negligent behaviour likely to cause loss to Castleman Healthcare Ltd, its employees or clients including removing Castleman Healthcare Ltd’s equipment/materials without permission or damage to Castleman Healthcare Ltd property;
5. Violent or seriously disruptive behaviour;
6. Serious insubordination:
7. Refusal or persistent failure to obey a reasonable management instruction;
8. Misuse of Castleman Healthcare Ltd’s property including misuse of the computer system and abuse of Castleman Healthcare Ltd's telephones for personal calls;
9. Actions that could seriously offend a client or detract from Castleman Healthcare Ltd's good name and reputation;
10. Any act of bullying and/or harassment;
11. Any act of discrimination;
12. Being at work under the influence of drink, illegal drugs or other intoxicants;
13. Breach of Castleman Healthcare Ltd’s Smoking Policy or smoking in unauthorised places;
14. Unauthorised absence, including unauthorised holiday;
15. Engaging in work relating to Castleman Healthcare Ltd's business for any other person or company without Castleman Healthcare Ltd's prior permission;
16. Breach of Castleman Healthcare Ltd's confidentiality rules (subject to the Castleman Healthcare Ltd confidentiality agreement);
17. Breach of trust and confidence;
18. Serious breaches of Castleman Healthcare Ltd's Health and Safety rules;
19. Persistent and deliberate disregard of the Castleman Healthcare Ltd's rules and procedures;
20. Accessing and transmission of explicit or inappropriate material via Castleman Healthcare Ltd’s communication network (e.g. Fax, PDA, Telephone, Computers).

**Other Action Short of Dismissal**

There may be exceptional cases where management takes the view that it is in the interests of Castleman Healthcare Ltd and the employee not to dismiss.

The following penalties may be used as alternatives to dismissal. They are not time limited and may be used individually or in combination:

1. A temporary demotion may be appropriate where it is felt that your performance can be improved in the short term with training. It will be accompanied by a clear warning of the consequences of a failure to achieve the required improvements.
2. A permanent transfer or demotion to an alternative post may be appropriate where your performance is unlikely to improve over the short/medium term. In the case of a demotion it may be appropriate to consider a reduction in salary. Any reduction in salary must be notified in writing and the appropriate contractual notice must be given to you.

# 6. Paid Suspension

Where your alleged misconduct is being investigated, it may be considered appropriate to suspend you pending completion of the investigation. Where this is deemed necessary you will be informed of this measure. This will normally be with pay, however Castleman Healthcare Ltd reserves the right to suspend without pay where the disciplinary procedure is delayed through no fault of Castleman Healthcare Ltd.

Paid Suspension is not a disciplinary measure; it is simply a measure which it may be appropriate for Castleman Healthcare Ltd to take whilst an allegation is being investigated.

# 7. Appeal Procedure

You may appeal against any formal disciplinary measure, including dismissal. There is no right to appeal against an informal oral warning.

All appeals must detail in writing the grounds on which you are making the appeal. Your appeal should be addressed to the person identified in your letter following your disciplinary measure being taken. The appeal procedure is as follows:

1. You should appeal in writing within five working days of the Warning being issued to the person identified in your outcome letter.
2. An appeal against some level of warning will normally be heard by your Manager, if he/she was not the disciplining manager, but Castleman Healthcare Ltd may direct that an alternative manager hears the appeal where appropriate or where your immediate manager is unavailable.
3. An appeal against a procedural dismissal or summary dismissal will normally be heard by the Director of HR & People if he/she was not the disciplining manager, or the Chair of the Castleman Healthcare Ltd Board.
4. The appeal will normally be heard within five working days of appeal notification being received. Where it is not possible to arrange a mutually convenient date within this period, the appeal will be heard at the earliest opportunity.

**Outcome of the appeal**

The outcome of the appeal will be confirmed to you in writing and will take one of the following forms:

1. The original decision will be upheld and any disciplinary sanction confirmed.
2. The original decision will be overruled and any disciplinary sanction withdrawn.
3. 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).

Depending on the circumstances of the case, the opportunity would normally be offered for an adjournment of the appeal to consider a reply to any new evidence, before a decision is taken. In all cases, Castleman Healthcare Ltd's decision is final.

If you are dismissed in your probationary period for any reason including the receipt of unsatisfactory references, you do not have the right of appeal against dismissal.

# 8. Managers with authority to dismiss or suspend

**Managers with the Authority to Dismiss**

1. The Director of HR & People
2. The Chair of the Board for Castleman Healthcare ltd or a delegated Director in his/her absence

**Managers with the authority to Suspend**

1. The Director of HR & People
2. The Chair of the Board for Castleman Healthcare ltd or a delegated Director in his/her absence

**Managers with the authority to issue Final Written, First Written and Oral Warnings**

1. Senior Management
2. The Director of HR & People
3. The Chair of the Board for Castleman Healthcare ltd or a delegated Director in his/her absence

# 9. Communication Support

In line with the Castleman Healthcare Ltd’s commitment to equal opportunities all communication support needs will be addressed, i.e. should an interpreter be required, it is the responsibility of the manager concerned to arrange for this. However, it is the responsibility of the employee to make any requirements known to the manager. If requested by the employee any documentation used during the disciplinary process will be translated.