|  |
| --- |
| **Bryn a Môr Mission Area**  |
|  **Disciplinary Policy** |

|  |
| --- |
| Adopted by the MAC 08.10.2018Signed: ……………………………………………………. Revd Dot Gosling (Mission Area Leader) |
|  |

**DISCIPLINARY POLICY**

* 1. The Bryn A Môr Mission Area’s Disciplinary Policy is non-contractual and does not form part of your Contract of Employment.
	2. The aims of the Bryn A Môr Mission Area’s Disciplinary Policy are:
		1. To ensure that all employees comply with the Bryn A Môr Mission Area’s rules and procedures;
		2. To ensure a fair and consistent approach when dealing with disciplinary issues;
		3. To bring unsatisfactory conduct or performance to your attention; and
		4. To resolve problems of conduct or performance and wherever possible to avoid dismissal.
	3. The Bryn A Môr Mission Area’s Disciplinary Policy is used to deal with issues of misconduct, gross misconduct and incapability. This policy does not apply to proposed redundancies or the expiry of fixed term contracts.
	4. The Disciplining Manager would normally be:

For all staff - Manager/Mission Area Leader

**Rules of Conduct**

* 1. While working for the Bryn A Môr Mission Area you should at all times maintain professional and responsible standards of conduct. In particular you should:
		1. Observe the terms and conditions of your Contract of Employment. Particularly with regard to:
			1. Hours of work;
			2. Confidentiality.
		2. Observe all Bryn A Môr Mission Area’s policies, procedures and regulations which are included in this Handbook or notified to you from time to time by means of notice boards, e-mail, the intranet or otherwise;
		3. Take reasonable care in respect of the health and safety of colleagues and third parties and comply with the Health and Safety Policy;
		4. Comply with all reasonable instructions given by managers; and
		5. At all times in good faith and in the Bryn A Môr Mission Area’s best interests.

Failure to maintain satisfactory standards of conduct may result in action being taken under this Disciplinary Policy.

**Misconduct**

* 1. The following are examples of matters that will normally be regarded as misconduct and will be dealt with under this Disciplinary Policy:
		1. Minor breaches of policies including the Sickness, Injury and Sick Pay Policy, Internet and Email Policy and Health and Safety Policy;
		2. Minor breaches of your Contract;
		3. Damage to, or unauthorised use of, the Bryn A Môr Mission Area’s property;
		4. Poor timekeeping;
		5. Time wasting;
		6. Unauthorised absence from work;
		7. Refusal to carry out a reasonable instruction;
		8. Excessive use of the Bryn a Mor Mission Area’s telephones for personal calls;
		9. Excessive personal email or internet usage;
		10. Obscene language or other offensive behaviour;
		11. Harassment or discrimination on any grounds;
		12. Negligence in the performance of your duties causing injury or damage to property;
		13. Smoking in no-smoking areas.

The above list is intended as a guide and is not exhaustive.

**Gross Misconduct**

* 1. Gross misconduct is a serious breach of contract and includes misconduct which, in the Bryn A Môr Mission Area’s opinion, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between you and the Bryn A Môr Mission Area. Gross misconduct will be dealt with under this Disciplinary Policy and will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).
	2. The following are examples of matters that are normally regarded as gross misconduct:
		1. Theft of property belonging to the Bryn A Môr Mission Area, a colleague or service user;
		2. Fraud, forgery or other dishonesty, including fabrication of expense claims; time sheets and letters;
		3. Abuse of the sick pay scheme;
		4. Actual or threatened violence, or behaviour which provokes violence;
		5. Failure by a member of staff to report actual or suspected physical or sexual abuse of a child by another member of staff or other person having contact with a child;
		6. Deliberate damage to the Bryn A Môr Mission Area’s buildings, fittings, property or equipment, or the property of a colleague, contractor, customer or member of the public;
		7. Serious misuse of the Bryn A Môr Mission Area’s property or name;
		8. Deliberately accessing internet sites containing pornographic, offensive or obscene material;
		9. Serious insubordination;
		10. Unlawful discrimination or harassment;
		11. Bringing the Bryn A Môr Mission Area into serious disrepute;
		12. Improper use of official position for private gain;
		13. Being under the influence of alcohol, illegal drugs or other substances during working hours;
		14. Causing loss, damage or injury through serious negligence;
		15. Serious breach of health and safety rules;
		16. Serious breach of confidence; OR Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
		17. Accepting or offering a bribe or other secret payment [or other breach of the Anti-Corruption and Bribery Policy];
		18. Accepting a gift from a customer, supplier, contractor or other third party in connection with your employment without prior consent from your manager;
		19. Conviction for a criminal offence that in the Bryn A Môr Mission Area’s opinion may affect its reputation or its relationships with staff, customers or the public, or otherwise affects your suitability to continue to work for the Bryn A Môr Mission Area;
		20. Possession, use, supply or attempted supply of illegal drugs;
		21. Serious neglect of duties, or a serious or deliberate breach of your Contract or operating procedures (even a single error where the actual or potential consequences are extremely serious), which causes unacceptable loss, damage or injury;
		22. Undertaking private work during hours when contracted to work for the Bryn A Môr Mission Area. This does not include voluntary work for and on behalf of the Bryn A Môr Mission Area;
		23. Knowing breach of statutory rules affecting your work;
		24. Unauthorised use, processing or disclosure of personal data contrary to the Data Protection Policy;
		25. Harassment of, or discrimination against, employees, contractors, clients or members of the public, related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age [contrary to the Equal Opportunities Policy or the Anti-Harassment and Bullying Policy];
		26. Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
		27. Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
		28. Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
		29. Making a disclosure of false or misleading information under the Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
		30. Making untrue allegations in bad faith against a colleague;
		31. Victimising a colleague who has raised concerns, made a complaint or given evidence or information under the [Whistleblowing Policy, Anti-Corruption and Bribery Policy, Anti-Harassment and Bullying Policy,] Grievance Policy, Disciplinary Policy or otherwise;
		32. Serious misuse of the information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet)[ contrary to the Internet and Email Policy];
		33. Unauthorised entry into an area of the premises to which access is prohibited.

The above list is intended as a guide and is not exhaustive.

**Dealing with Issues Informally**

* 1. Minor conduct or performance issues can often be resolved informally between you and your manager. These discussions should be held in private and without undue delay whenever there is cause for concern. In some cases an informal verbal warning may be given, which will not form part of your disciplinary record (although it may be noted on your file). Additional training, coaching or advice may be needed and both the employee and manager should be aware that formal steps will be taken under this policy if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

**Confidentiality**

* 1. The Bryn A Môr Mission Area’s aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
	2. You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this policy.
	3. You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless the Bryn A Môr Mission Area believes that a witness’s identity should remain confidential.

**Disciplinary Procedure**

* 1. The Bryn A Môr Mission Area’s formal disciplinary procedure has four clear stages as follows:-
		1. Investigation by the Bryn A Môr Mission Area. Your Contract of Employment will continue whilst the Disciplining Manager considers the allegations made against you and collates any relevant evidence to establish whether disciplinary action is appropriate and if so, for use at any disciplinary hearing. It might be necessary to suspend you from your employment during the period of investigation. The decision to suspend, the reason for it and the attendant conditions and implications will be conveyed to the employee in writing and recorded on his/her personnel file. Suspension will be either with or without pay depending on the circumstances of the case. If you are suspended, your Contract of Employment will continue but you will not be allowed to enter the Bryn A Môr Mission Area’s premises or contact any of your fellow employees or any of the Bryn A Môr Mission Area’s customers/clients without prior permission. The suspension will be for no longer than is necessary to investigate the allegations and should not extend beyond a period of three months. Should the suspension last for more than three months, the decision to suspend and the attendant conditions will be reviewed at that point and subsequently on a monthly basis. Suspension is not a disciplinary penalty and does not imply that a decision has already been made about the allegations. The Bryn A Môr Mission Area will endeavour to complete its investigations without unreasonable delay. If an investigatory meeting is held, the sole purpose is fact finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
		2. Letter. The Bryn A Môr Mission Area will write to you at least five working days in advance of the disciplinary hearing setting out the allegations and performance issues which the hearing will address. The allegations will contain sufficient detail identifying the relevant actions or inactions including relevant dates and times. You will be provided with copies of any documentary evidence obtained in the course of the investigation (including witness statements, and documents if relevant); informed of your right to be accompanied and told what the potential sanctions might be. You will be informed of the date, time and place of the disciplinary hearing. Where the Bryn A Môr Mission Area intends to call relevant witnesses (to give evidence at the disciplinary hearing), you will be given advance notice.
		3. Disciplinary hearings. In most cases of misconduct or poor performance the Bryn A Môr Mission Area will hold a formal disciplinary hearing. Before the hearing you will be given details of those allegations made against you by letter as set out above.

At the hearing you will have an opportunity to set out your case, to respond to those allegations, respond to the investigation evidence and to ask questions of the Investigating Manager or such other person appointed by the Bryn A Môr Mission Area. You will be provided with the opportunity to present relevant evidence (which should be provided to the Bryn A Môr Mission Area at least five working days prior to the disciplinary hearing taking place).

You have the right to call relevant witnesses. This can either be done in writing or in person:

• If you ask written questions of any witnesses, such questions must be provided to the Investigating Manager, who will request this information on your behalf. You should not request this information from/make a direct approach to a witness without the prior approval of the Investigating Manager.

• If you wish to call a witness to give evidence at the disciplinary hearing, such a request must be made to the Bryn A Môr Mission Area at least five working days prior to the disciplinary hearing taking place. The Bryn A Môr Mission Area reserves the right to refuse any such request if a witness does not wish to attend in person or if it decides that the request is unreasonable or inappropriate.

You will be provided with reasonable advance notice if the Bryn A Môr Mission Area intends to call relevant witnesses to give evidence at the disciplinary hearing.

The Investigating Manager or such other person appointed by the Bryn A Môr Mission Area will have the opportunity to sum up their case. The employee and/or his/her representative will also have the opportunity to sum up his/her case. No new evidence may be introduced at this stage.

The decision of the Investigating Manager will normally be announced orally as soon as possible following the conclusion of the hearing and the decision, together with the reasons, will normally be confirmed in writing within five working days of the disciplinary hearing.

The Bryn A Môr Mission Area may need to adjourn the disciplinary hearing if further investigations are required.

* + 1. Appeals. You have the right to appeal after a disciplinary sanction has been applied. You can exercise your right to appeal by writing to the person named in the letter confirming the outcome of the disciplinary hearing within five working days of receiving written notification of the disciplinary sanction. Your letter should state the grounds upon which you are lodging your appeal. Where possible, the appeal hearing will be conducted impartially by a manager who has not been previously involved in the case. If your appeal is against dismissal, the dismissal decision will stand unless or until the appeal officer decides otherwise. The decision of the appeal officer will be notified to you in writing and will be final and binding.

The Bryn A Môr Mission Area may need to adjourn the appeal hearing if further investigations are required.

* 1. At all stages of the disciplinary procedure you will:-
		1. Be given the opportunity to reply to all and any allegations made against you before any decision or disciplinary action is taken.
		2. Have the opportunity to be accompanied to a disciplinary or appeal hearing by a work colleague, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been verified by their union as being competent to accompany you. A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so. You and your companion should make every effort to attend any disciplinary meetings including any appeal hearing. If you or your companion cannot attend at the time specified, you should inform the Bryn A Môr Mission Area immediately, and the Bryn A Môr Mission Area will try, within reason, to agree an alternative time.

If you fail to attend any meetings without good reason, this may be treated as misconduct itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), the Bryn A Môr Mission Area may reach a decision in your absence based on the available evidence.

You are not entitled to be accompanied at an investigatory meeting; however the Bryn A Môr Mission Area may allow you to bring a companion to an investigatory meeting, for example if it would help you to overcome any disability, or any difficulty in understanding English.

To exercise the right to be accompanied, you must first make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for you to ask to be accompanied by a companion whose presence would prejudice the hearing. Nor would it be reasonable for you to ask to be accompanied by a companion who is based at a remote geographical location in circumstances where there is someone suitable and willing to undertake the role who is available on site.

Your companion may make representations to the Bryn A Môr Mission Area to summarise your case, respond on your behalf to any views expressed during the meeting and ask questions. The companion should not answer questions on your behalf, address the hearing if you do not wish it or prevent you from explaining your case. You may confer privately with your companion at any time during the meeting.

* + 1. Have the most appropriate level of management hear any disciplinary matter or appeal. Where the manager in question was directly involved in the issues in dispute or under review, an alternative person with appropriate seniority will deal with the matter. In misconduct cases, where practicable, different people will carry out the investigation and disciplinary hearing.
		2. Be able to request mediation by an independent third party if this is agreeable to the Bryn A Môr Mission Area. Then the disciplinary process will be suspended whilst mediation is ongoing.
	1. Disciplinary action may take one of the following forms:
		1. **Stage 1- First written warning.** A first written warning may be given by the nominated officer. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record. This will be recorded within your personnel file.
		2. **Stage 2- Final written warning:** A final written warning may be given by the disciplining manager. It will usually be appropriate for:
* Misconduct where there is already an active written warning on your record; or
* Misconduct that the Bryn A Môr Mission Area considers sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
	+ 1. **Stage 3- Dismissal.** Dismissal may be authorised by the Bryn a Môr Mission Area. It will usually only be appropriate for:
* any misconduct during your probationary period;
* Further misconduct where there is an active final written warning on your record; or
* Any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in this procedure.
	+ 1. If appropriate the Bryn A Môr Mission Area might give consideration to enforcing some other disciplinary sanction such as suspension without pay, demotion, transfer to some other place or type of work or loss of privileges.
	1. All warnings lapse following the expiry of the period specified by the disciplining or appeal officer at the time of issuing the warning. If no period is specified the default period is 12 months.
	2. Where your conduct is the subject of a criminal investigation, charge or conviction, the Bryn A Môr Mission Area will investigate the facts before deciding whether to take formal disciplinary action.
	3. The Bryn A Môr Mission Area will not usually wait for the outcome of any criminal prosecution before deciding what action, if any, to take against you. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Bryn A Môr Mission Area may have to reach a decision based on evidence available to it.
	4. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the Bryn A Môr Mission Area considers that it affects your suitability to do your job, or if it affects your relationship with the Bryn A Môr Mission Area, work colleagues or the Bryn A Môr Mission Area’s customers, suppliers, clients or prospective customers, suppliers or clients.
	5. If you experience difficulty at any stage of the disciplinary procedure (e.g. for a reason related to a disability or because English is not your first language), you should discuss the situation with your manager as soon as possible.