

POLICY AND PROCEDURE



SoLO
Life
Opportunities

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Charity No. 1102297
England Company No.
5025939

Disciplinary

Category: Staff

INTRODUCTION

There will be occasions when an employee's conduct or performance does not fit within SoLO Life Opportunities' (SoLO) values or their job purpose. This is the policy that covers disciplinary action taken against staff whose actions give SOLO cause for concern.

This policy only relates to staff who are employed by the organisation under a contract of employment and does not relate to:

- Agency workers – addressed through their own agency's disciplinary processes
- Volunteers – addressed through the terms of the volunteer agreement

SoLO wishes to ensure that all staff are treated well, fairly and with respect. SoLO expects that its staff will work within the scope of their job description, in a manner which will enhance the experience offered to our learning disabled members, and support colleagues and volunteers. It is the intention of SoLO to deal with any disputes in a fair way which gives all parties equal opportunity to be heard and for their concerns to be expressed and dealt with appropriately.

SoLO has an expectation that staff and volunteers will behave in a way that evidences the values that are the foundation of the organisation. These values can be seen in the SoLO Values Statement and are issued to all staff and volunteers upon joining the organisation, reinforced within Induction Training.

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Our staff and volunteers are the face of the organisation and, as such, their behaviour will have a huge impact on the quality of the service delivered and the way in which the SoLO services are perceived by the wider public.

SoLO will deliver training to staff and volunteers around appropriate behaviours. However, the organisation expects them to take personal responsibility to familiarise themselves with the policies which set out the framework and expectations regarding conduct, responsibilities and procedures. The consequence of failing to comply can have serious implications for SoLO and its members and, subsequently, could attract various penalties including dismissal. If anyone feels that they are being asked to do something which contravenes a policy they should raise the matter with a Senior Manager. If staff witness behaviour of other staff or volunteers that falls short of SoLO's values, they would be encouraged to alert a Senior Manager to this as soon as possible.

1 POLICY STATEMENT

- 1.1 The aims of this Disciplinary Procedure and the attached standards of behaviour are to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

2 WHO IS COVERED BY THE PROCEDURE?

The procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

3 WHAT IS COVERED BY THE PROCEDURE?

- 3.1 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate SoLO policy or procedure.

- 3.2 Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 3.3 You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.
- 3.4 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your line manager as soon as possible.

4 CONFIDENTIALITY

- 4.1 Our 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.
- 4.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 4.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

5 INVESTIGATIONS

- 5.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.

- 5.2 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 5.3 You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.
- 5.4 You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

6 CRIMINAL CHARGES

- 6.1 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.
- 6.2 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.
- 6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

7 SUSPENSION

- 7.1 In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so.
- 7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary and benefits during the period of suspension.

8 NOTIFICATION OF A HEARING

- 8.1 Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary

hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:

8.1.1 a summary of relevant information gathered during the investigation;

8.1.2 a copy of any relevant documents which will be used at the disciplinary hearing; and

8.1.3 a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

8.2 We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually seven days, to prepare your case based on the information we have given you.

9 THE RIGHT TO BE ACCOMPANIED

9.1 You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell us who your chosen companion is, in good time before the hearing.

9.2 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.

9.3 If your choice of companion is unreasonable we may ask you to choose someone else, for example:

9.3.1 if in our opinion your companion may have a conflict of interest or may prejudice the meeting; or

9.3.2 if your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.

9.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a

member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

10 PROCEDURE AT DISCIPLINARY HEARINGS

- 10.1 If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), we may have to take a decision in your absence based on the available evidence.
- 10.2 The hearing will be chaired by a Senior Manager who has not been involved in the investigation. You may bring a companion with you to the disciplinary hearing (see paragraph 9).
- 10.3 At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.
- 10.4 You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise.
- 10.5 We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.6 We will inform you in writing of our decision and our reasons for it as soon as possible after the disciplinary hearing. Where possible we will also explain this information to you in person.

11 DISCIPLINARY PENALTIES

- 11.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all

employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

- 11.2 **Stage 1 - First written warning.** A first written warning may be authorised by a Senior Manager. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.
- 11.3 **Stage 2 - Final written warning.** A final written warning may be authorised by a Senior Manager. It will usually be appropriate for:
 - 11.3.1 misconduct where there is already an active written warning on your record; or
 - 11.3.2 misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
- 11.4 **Stage 3 - Dismissal.** Dismissal may be authorised by a Senior Manager who may seek advice from the CEO. It will usually only be appropriate for:
 - 11.4.1 any misconduct during your probationary period;
 - 11.4.2 further misconduct where there is an active final written warning on your record; or
 - 11.4.3 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 the standards of conduct attached to this procedure.
- 11.5 **Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal. These may be authorised by a Senior Manager and will usually be accompanied by a final written warning. Examples include:
 - 11.5.1 Demotion.
 - 11.5.2 Transfer to another department or job.
 - 11.5.3 A period of suspension without pay.

- 11.5.4 Loss of seniority.
- 11.5.5 Reduction in pay.
- 11.5.6 Loss of future pay increment or bonus.
- 11.5.7 Loss of overtime.

12 THE EFFECT OF A WARNING

- 12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 12.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. Your conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently we may decide to extend the active period.
- 12.3 After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

13 APPEALS AGAINST DISCIPLINARY ACTION

- 13.1 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the SoLO Trustee Board within one week of the date on which you were informed of the decision.
- 13.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.
- 13.3 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.
- 13.4 We will give you written notice of the date, time and place of the appeal hearing. This will normally be as soon as possible after you receive the written notice.

- 13.5 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.
- 13.6 Where possible, the appeal hearing will be conducted impartially by a member of the SoLO Trustee Board who has not been previously involved in the case. You may bring a companion with you to the appeal hearing (see paragraph 9).
- 13.7 We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 13.8 Following the appeal hearing we may:
- 13.8.1 confirm the original decision;
 - 13.8.2 revoke the original decision; or
 - 13.8.3 substitute a different penalty.
- 13.9 We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

APPENDIX ONE - STANDARDS OF BEHAVIOUR

GROSS MISCONDUCT

Gross misconduct may result in summary dismissal and will include actions such as:

- Assault or harm to a colleague or member
- threatening behaviour to a colleague or member
- misappropriation of funds (theft) from organisation or members

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- racist, sexist or extreme bullying behaviour to a colleague or member
- sexual abuse of a colleague or member
- bringing the organisation into serious disrepute
- serious incapacity whilst on duty brought on by alcohol or illegal drugs
- serious negligence which causes or might cause unacceptable loss, damage or injury.

The above list is not intended to be exhaustive. Each disciplinary case will need to be assessed on its own facts.

MISCONDUCT/UNACCEPTABLE CONDUCT

Misconduct/Unacceptable conduct could result in dismissal, but may incur performance targets to be met and reviewed. Unacceptable conduct includes acts such as:

- harassment, bullying of colleagues or members
- petty theft
- timekeeping
- misuse of telephone or email facilities
- misuse of office stationery and postage or project resources
- carelessness in respect of health and safety
- unauthorised absence
- unsatisfactory work performance due to illness or disability or other factors
- refusal to undertake tasks specified within job description
- breach of confidentiality
- unauthorised use of organisation's property

The above list is not intended to be exhaustive. Each disciplinary case will need to be assessed on its own facts.

WHAT SORT OF ACTS COULD TRIGGER THE SoLO DISCIPLINARY PROCEDURE?

Most issues can be resolved within the workplace and the best place to do that is during a supervision session with their Line Manager. Areas of concern can be discussed and actions can be decided between the staff member and their Line Manager. The following is a list of triggers for disciplinary action (this is not exhaustive, but gives examples)

Working with members and their families

SoLO's reputation depends on the quality of the service provided and how staff conduct themselves. Respect is paramount when supporting our

members and their wishes should always be central to what SoLO does. Staff should act in a professional and caring manner and comply at all times with the Equal Opportunities and Diversity Policy.

Staff administering personal care, medication, or physical intervention or hoisting must have received the recognised training before doing so and follow the guidelines laid out in the relevant procedures. (See links with other policies)

SoLO will involve families in creating the personal profile for each member which should be regularly reviewed and tailored to the needs of the individual.

Staff, with the exception of the Project Leader, should have their mobile phones switched off during project hours unless express permission has been given by a manager. Under no circumstances can photographs of members be taken on personal cameras or 'phones. Only the office camera can be used and the photographs can be downloaded only in the SoLO office.

Working with fellow employees

To achieve a quality service, employees must co-operate and work together effectively. All staff are expected to work conscientiously, as directed by the Project Leader/Manager, and carry out duties in accordance with current policies and procedures.

SoLO expects staff to respect each other and be tolerant to differences. Where differences and relationships have a detrimental effect on the quality of services, it is expected that these will be raised in an appropriate way. Gossiping, discussions behind people's backs and other methods of communication will be actively discouraged and may result in disciplinary action.

Discrimination or bullying will not be tolerated and perpetrators will be disciplined. All staff have the right to raise a formal grievance or submit a complaint about another member of staff (managing bad behaviour) where informal action has not resolved an issue.

Data Protection

All information gathered through working with SoLO should be treated sensitively and only shared on a "need to know" basis in accordance with Data Protection law. Clerical records must be retained securely both in the office, and out on project, and must be disposed of correctly by shredding.

Electronic records must be password protected, and care should be taken when emailing or texting information.

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Staff should be particularly wary of speaking about personal information in a public place where their conversation can be overheard, and should ensure that any sharing of information uses professional tone and content.

Social Networking & other media

SoLO employees are expected to act with integrity and not bring the name of SoLO into disrepute. Any postings which are disrespectful or offensive to SoLO, including derogatory remarks about fellow staff members will not be tolerated.

SoLO requires staff members to gain their Line Manager's permission to have members as 'friends' on their social networking sites and consideration should be exercised when accepting members as friends due to the content of other material on individual's pages which may not be appropriate for SoLO members to view. Further details are contained within the Media and Social Networking Policy.

Computer Systems

Within the office Internet and emails can be accessed in personal time providing it does not interfere with an individual's work. Staff must not access any information on the internet that is offensive, pornographic or could cause embarrassment to SoLO.

All memory sticks must be checked for viruses before using with SoLO equipment and passwords for PCs/Laptops should be kept confidential.

Health and Safety

All staff are expected to follow health and safety rules as outlined in the specific Health and Safety Policies to protect themselves, colleagues and members. Any potential danger should be reported to a manager and all incidents should be recorded. During off site visits staff should carry their ID card which should be retained securely at all times.

Dress Code

Staff should dress appropriately for their duties, for instance, avoiding high heels or open toe shoes, tying long hair back, and in the case of females ensuring modesty by not wearing low tops or short skirts. On the majority of projects SoLO T shirts should be worn, but where this is inappropriate due to the nature of the scheme, for instance Icebreakers, clothing should be clean and not contain unsuitable logos.

Drugs & Alcohol

Any employee or volunteer suspected of being under the influence of drugs or alcohol whilst on project will be asked to leave and disciplinary action will commence. In respect to staff or volunteers, in the course of their work with SoLO, who are working directly with our members, driving a vehicle or taking responsibility for a SoLO activity (whether that is in-house or external) the consumption of alcohol is prohibited.

Language

SoLO expects staff and volunteers to use appropriate language when working or volunteering on project. This includes the use of terminology which should be acceptable in relation to learning disability. It is recognised that terminology changes over the years and SoLO will seek to educate staff and volunteers accordingly.

Safeguarding

All employees and volunteers will undergo Safeguarding/Vulnerable adults training within 13 weeks of commencing work or as soon as is reasonably possible and adhere to the procedures detailed within those policies. Confidentiality must be maintained at all times, only sharing information with those individuals who need to be involved.

Relationships

Relationships between staff and members or volunteers and members are not acceptable and will be deemed as gross misconduct. Relationships between staff and volunteers should be declared and, where there is a conflict of interest, this might result in staff or volunteers being re-deployed to other projects.

Property of SoLO

All equipment should only be used for its designated purpose and should be handled with care. Any loss or damage should be reported to a manager straight away.

Purchases made on behalf of SoLO must be agreed in advance and will be reimbursed on submission of a genuine receipt and completed expense form.

Attendance

All employees are expected to make reasonable effort to report for duty on time and failure to do so without authorisation could result in disciplinary

action. If, for any reason an employee cannot attend work they should notify their manager at the earliest opportunity.

Volunteers are also expected to make reasonable effort to be on time and be reliable. Where volunteers are consistently late or unreliable, SoLO reserves the right to terminate their role within the organisation.

Absences will be recorded and monitored, and action taken in accordance with the relevant policy. If a member of staff is suffering from sickness and diarrhoea they should refrain from work for at least 48 hours.

Criminal Convictions

If an employee is charged with, or convicted of a criminal offence they must report it immediately to their line manager.

Acceptance of gifts

It is inevitable that members and families will want to give gifts from time to time. As detailed in the relevant policy, such gifts can be accepted but if the value is over £20, they should be discouraged. In no way should the acceptance of a gift be perceived as putting an obligation on SoLO.

Outside interests

The majority of SoLO employees have other jobs outside of their role for SoLO which is acceptable so long as that other role does not pose a conflict of interest, or bring SoLO into disrepute. When staff are considering other paid employment they are required to discuss the role with their line manager.

Transport

It is inappropriate for SoLO employees/volunteers to offer lifts to a member **outside of their normal working duties**, unless this has been brought to the attention of their line manager and has been agreed with the parents / carers.

If transporting members as part of their official duties the employee/volunteer must have Business Insurance.