Title of Policy:	**Employee Discipline**
Section:	**Human Resources**

Purpose

The need to provide detailed information and guidance on how disciplinary issues are to be handled within Carers Choices is an "essential" feature of good employment practice. This policy satisfies this need.

Statement

"Employers and employees should always seek to resolve disciplinary and grievance issues in the workplace. Where this is not possible employers and employees should consider using an independent third party to help resolve the problem. The third party need not come from outside Carers Choices but could be an internal mediator, so long as they are not involved in the disciplinary or grievance issue. In some cases, an external mediator might be appropriate.

Many potential disciplinary or grievance issues can be resolved informally. A quiet word is often all that is required to resolve an issue. However, where an issue cannot be resolved informally then it may be pursued formally".

Code of Practice on Disciplinary and Grievance Procedures

Carers Choices will deal with disciplinary issues in line with best practice and in accordance with this code.

No employee will be dismissed for a first breach of discipline except in cases of gross misconduct.

Procedure and Guidance

Carers Choices will always attempt to solve disciplinary problems informally but will implement this policy in all cases of alleged misconduct where it does not appear that the matter can or should be dealt with in such a way. Issues related to performance and/or capability, bullying, harassment and whistleblowing will be dealt with using policies written specifically to address each subject. This procedure is intended to be used primarily so that employees understand the nature of any shortcomings they may have and are able to comprehend how they can improve their performance and/or behaviour to Carers Choices' satisfaction.

Inform the employee

The first step, upon believing that misconduct has occurred is to inform the employee of the allegations against them, and the available supporting evidence, as soon as possible, and that these allegations are currently under investigation.

Investigation

Before proceeding to a formal disciplinary interview, Carers Choices will investigate, without any undue delay, what has happened. This may involve simply gathering the facts, or additionally, talking to the employee concerned, or to others, such as witnesses to any incident, so that the facts of the case can be obtained. If a formal investigatory meeting is held, the employee will be told of the purpose of the meeting and given time to prepare.

Any discussions with the employee, are, at this stage, purely investigatory, with the sole purpose of collecting facts and forming a conclusion as to how to proceed. It may be the case that after further investigation, it may be sensible to deal with the matter informally, rather than moving forward to arranging a formal disciplinary hearing. If not, Carers Choices will proceed to advise the employee of the intention to hold a formal disciplinary hearing.

Carers Choices does not permit the employee to be accompanied at any formal meeting which is purely investigatory.

Suspension

There may be instances where suspension is necessary while investigations are carried out. For example, where relationships have broken down, in gross misconduct cases or where there are risks to an employee's or Carers Choices' property or responsibilities to other parties.

If, as a result of the investigation process it is considered that the best way to move forward is to temporarily suspend the employee, then this will be communicated to the employee both verbally and in writing. It will be confirmed to the employee that this action is not considered, by itself, a disciplinary sanction, and that the suspension will be for as brief a period as possible, kept under review, and will be with pay.

Informing the employee of the intention to hold a formal disciplinary hearing

Carers Choices will write formally to the employee inviting him/her to a formal disciplinary hearing.

The letter will state:

a) The nature of the alleged misconduct.
b) The purpose of the hearing.
c) Who will attend on behalf of Carers Choices.
d) The right to be accompanied.
e) The possibility of sanctions.
f) The names of any witnesses intended to be called upon at the hearing.

Copies of any written evidence, which may include any witness statements, will accompany the letter. The letter will provide details of the location of the meeting, the date and the time. The date will be determined having allowed sufficient time for the employee to have prepared his/her case, held discussions with their companion, (should one be selected) etc. Where practicable, the person conducting the hearing should not be the person who undertook the investigatory work.

Companions

The employee will have the statutory right to be accompanied at a disciplinary hearing when the resultant action could be:

a) A formal warning being issued.
b) The taking of some other disciplinary action.
c) The confirmation of a warning or some other disciplinary action (appeal hearings).

The statutory right is to be accompanied by a **fellow worker, 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 certified by their union as being competent to accompany a worker. An employee may alter their choice of companion if they wish. This right is particularly helpful where an employee has difficulty in expressing themselves properly. If an employee wishes to exercise his/her right to be accompanied, then he/she must make a reasonable request, which need not be in writing or within a certain timeframe.

The request, however, must be in sufficient time for Carers Choices to deal with the companion's attendance at the meeting.

Employees should also consider how they make their request so that it is clearly understood, for instance by letting Carers Choices know in advance the name of the companion where possible and whether they are a fellow worker or trade union official or representative.

If a chosen companion will not be available at the time proposed for the hearing by the employer, Carers Choices will postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

The Disciplinary Hearing

Preparation

Carers Choices will:

- ensure that all the relevant facts are available, such as disciplinary records and any other relevant documents (for instance absence or sickness records) and, where appropriate, written statements from witnesses.

- check if there are any special circumstances to be taken into account. For example, are there personal or other outside issues affecting performance or conduct?
- be careful when dealing with evidence from a person who wishes to remain anonymous. Carers Choices will take written statements, seek corroborative evidence and check that the person's motives are genuine.
- consider what explanations may be offered by the employee, and if possible, check them out beforehand.
- allow the employee time to prepare his or her case. Copies of any relevant papers and witness statements should be made available to the employee in advance.
- try and get a written statement from any witness from outside Carers Choices who is not prepared to or is unable to attend the hearing.
- allow the employee to call witnesses or submit witness statements.
- consider the provision of an interpreter or facilitator if there are understanding or language difficulties (perhaps a friend of the employee, or a co-employee). This person may need to attend in addition to the companion though ideally one person should carry out both roles.

The Hearing itself

The hearing, where practicable, will be conducted in private and ideally by someone new to the problem, in other words, they were not party to the investigatory process. However, it has to be accepted that this may not be possible, particularly in Companies with a small management structure.

Before the start of the hearing the Chair of the meeting will:

- introduce those present to the employee and explain why they are there.
- introduce and explain the role of the accompanying person if present.
- explain that the purpose of the meeting is to consider whether disciplinary action should be taken in accordance with Carers Choices' disciplinary procedure.
- explain how the meeting will be conducted.

At the meeting the chair will explain the complaint against the employee and go through the evidence that has been gathered. The employee will be allowed to set out his/her case and answer any allegations that have been made.

The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

When a companion is present, he/she will be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing, in private, if necessary. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent Carers Choices from explaining their case. Consideration will be given to adjourning the meeting for any investigation that may be necessary. Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Carers Choices will arrange for someone who is not involved in the case to take a note of the meeting and to act as a witness to what was said.

Decide on appropriate action

After the hearing and after due reflection and deliberation Carers Choices will decide whether or not disciplinary or any other action is justified and reasonable in view of all the circumstances. Carers Choices will inform the employee accordingly in writing.

Written Warnings

Where misconduct is confirmed, it will normally be the case that the employee will be given a written warning. A further act of misconduct within a set period would normally result in a final written warning. If the employee's first act of misconduct is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on Carers Choices. A first or final written warning should set out the

nature of the misconduct and the change in behaviour required (with timescale). The employee will be told how long the warning will remain current. The employee will also be informed of the consequences of further misconduct, within the set period following a final warning. For instance, that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority.

Currency Periods of Warnings

Except in special circumstances, any disciplinary action taken will be disregarded for disciplinary purposes after a specified period of satisfactory conduct or performance. For example, a first written warning will be valid for up to six months while a final written warning will remain in force for 12 months (or more in exceptional circumstances).

Warnings will cease to be 'live' following the specified period of satisfactory conduct. There may be occasions however where an employee's conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter.

Where a pattern emerges and/or there is evidence of abuse, the employee's disciplinary record will be borne in mind in deciding how long any future warning should last.

Dismissal

A decision to dismiss will only be taken by a manager who has the authority to do so. The employee will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal. Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence. But a fair disciplinary process will always be followed, before dismissing for gross misconduct.

In all cases decisions taken as to the level of sanction to be applied (Formal written warning, final formal written warning, or dismissal) will be subject to the test of reasonableness after consideration of all the circumstances.

An opportunity to appeal

Where an employee feels that disciplinary action taken against them is wrong or unjust, they may appeal against the decision. Appeals should be heard without unreasonable delay and ideally at an agreed time and place. Employees are required to let Carers Choices know the grounds for their appeal in writing, and within five days of the date of the letter informing them of the decision to impose a sanction.

Appeal Hearings

Wherever possible, an appeal hearing will be conducted by a manager who has not previously been involved in the case. The employee has a statutory right to be accompanied at an appeal hearing.
Employees will be informed in writing of the results of the appeal hearing as soon as possible.

Special cases

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement. If an employee is charged with or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and customers. In such situations Carers Choices will seek appropriate advice.

Mediation

An independent third party or mediator can sometimes help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome. Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. They can work individually or in

pairs as co-mediators. If, in the judgement of Carers Choices, mediation might usefully be employed in order to reach a satisfactory outcome, then its use may be recommended.

Written records

Carers Choices will retain written records of all formal disciplinary cases and hearings. The records will include:

- the complaint against the employee.
- the employee's defence.
- findings made and actions taken.
- the reason for actions taken.
- whether an appeal was lodged.
- the outcome of the appeal.
- any grievances raised during the disciplinary procedure.
- subsequent developments.
- notes of any formal meetings.

Records will be treated as confidential and be kept no longer than necessary in accordance with the Data Protection Act 1998.

Failure to attend a Disciplinary Hearing

There may be occasions when an employee is repeatedly unable or unwilling to attend a meeting. This may be for various reasons, including genuine illness or a refusal to face up to the issue.

Carers Choices will need to consider all the facts and come to a reasonable decision on how to proceed. Considerations may include the seriousness of the disciplinary issue under consideration; the employee's disciplinary record (including current warnings), general work record, work experience, position and length of service; medical opinion on whether the employee is fit to attend the meeting, and how similar cases in the past have been dealt with. Where an employee continues to be unavailable to attend a meeting Carers Choices may conclude that a decision will be made on the evidence available. The employee will be informed where this is to be the case.

Rules of Behaviour

In order to ensure that everyone understands standards of behaviour expected by Carers Choices, we have drawn up the following examples of rules of behaviour which must be followed by all employees. Breaches of these rules of behaviour may result in formal disciplinary action, such as a formal written warning. Gross misconduct may result in summary dismissal. Dismissal may also occur where an employee ignores a formal written warning and repeats offences.

Timekeeping

Employees are expected to start and finish work at the agreed time and not to abuse rest periods.

Absence

Carers Choices has a written policy on absence from work. This policy details what action he/she must take if they are unable to undertake their scheduled duties, including timely notification.

Health and Safety

All employees are required to undertake their duties with full consideration of their responsibilities to act at all times in such a manner as protect the health, safety and welfare of themselves, fellow employees and those entrusted to their care. Failures in this regard can be serious and Carers Choices will not tolerate any significant abuse of standards of safe practices at work.

Discrimination, bullying and harassment

All employees are required to follow Carers Choices' policies and procedures regarding such matters.

Personal appearance

All employees are required to observe the requirements of Carers Choices' policy on standards of dress and appearance.

Sanctions

Typically, offences related to the above will result in a formal written warning.

Gross misconduct

Set out below are details of behaviour that Carers Choices views as gross misconduct, which is likely to result in dismissal without notice. This list is not exhaustive. Such behaviour includes:

- assault, acts of violence or aggression
- breach of confidentiality, including the unauthorised disclosure of Company information to the media or any other party
- bullying
- causing loss, damage or injury through serious negligence
- conviction of a criminal offence that makes you unable or unsuitable to carry out your duties
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- engaging in unauthorised employment during hours when contracted to work for Carers Choices or during periods of designated leave, for example annual or sick leave, time off for training, etc.
- failure to disclose unspent criminal conviction(s) or any convictions, whether spent or not, in respect of posts exempt under the terms of the Rehabilitation of Offenders Act 1974
- falsification of records or other Company documents, including those relating to obtaining employment; timesheets, overtime or expense forms
- harassment of a serious nature
- making malicious or unfounded allegations of a serious nature
- misconduct at work or away from work of such a serious nature as to bring into disrepute either the employee's position or Carers Choices'
- possession or use of or being under the influence of non-medicinal drugs or alcohol on Company premises or during working hours
- refusal to carry out reasonable management instructions
- serious breach of health and safety policies and procedures

- serious discrimination relating to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)
- serious infringement of safety rules or negligence which causes unacceptable loss, damage or injury
- serious insubordination
- serious misuse of Carers Choices' property or name
- serious or persistent IT misuse
- sleeping during working hours
- smoking on Company or a third party's premises or in a vehicle belonging to Carers Choices
- supplying security access codes to any unauthorised person
- the giving or receiving of bribes or unauthorised gifts
- theft, dishonesty or fraud
- unacceptable use of obscene or abusive language
- unauthorised absence
- unauthorised accessing or use of Company records or data
- unauthorised copying of computer software.
- wilful or reckless damage to Company, employee or third-party property.

Sanctions

An employee guilty of gross misconduct may be dismissed summarily, i.e., without notice. However, a fair disciplinary process will normally be followed in all cases prior to any decision to dismiss.

CQC Registration and Inspection Compliance

Key Questions and Quality Statements applicable to this Policy	Care Quality Commission (Registration) Regulations 2009 applicable to this Policy
Well-Led • Governance, management and sustainability	

• Learning, improvement and innovation	

Legislative Compliance

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 applicable to this Policy	Other legislation relevant to this Policy
Regulation 17: Good governance Regulation 18: Staffing	Data Protection Act 1998 Rehabilitation of Offenders Act 1974

Policy Reviewed on Date of Implementation by the Following Company Officer:

Full name:

Paul Ramsden

Job Title:

CEO

Signature:

P. Ramsden