


Document Name	Policy on Disciplinary Procedure			
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1.0 Introduction

- 1.1. Silvergrove Home Care believes that Disciplinary rules and procedures are important in any workplace to set out the boundaries of acceptable conduct and to ensure fair and equitable treatment of staff who transgress these boundaries.
- 1.2. Silvergrove Home Care believes that fairness and transparency are promoted by developing robust policies and procedures and ensuring managers and staff understand the content and how to work within the processes.
- 1.3. It is important for staff and managers to see this policies and procedures not as a punitive tool, rather a structured mechanism to enable managers and staff to address shortfalls in conduct in a fair and equitable manner.
- 1.4. The purpose of this policy is not to restrict the rights of anyone, but rather to help people work together harmoniously according to the standards Silvergrove Home Care have established for efficient and effective services for all our stakeholders.

2.0 Scope

- 2.1. This policy applies to all staff directly employed by Silvergrove Home Care This also includes students on placement and contractors attending the home for out serviced services.
- 2.3. Cases of misconduct perpetrated outside of work by staff may also be managed through this policy. The circumstances should be considered on their merits; the Home Care Manager and Service Provider must give careful consideration as to whether an individual's role and/or the reputation of the Silvergrove Home Care has been unduly affected as a result of the act of misconduct.

3.0 Definition

3.1. **Conduct** is defined as an individual's behaviour; therefore, misconduct is when behaviours are demonstrated that are not appropriate or unacceptable. Examples include:

- Solo Hoisting
- Sleeping on Duty
- Theft
- Falsifying Documentation
- Elder Abuse
- Repeated Absences
- Alcohol and Drug Use
- Practising outside your scope
- Poor Medication Practices
- Negligence

This list is not exhaustive.

3.2. For the purposes of this policy and procedure misconduct is broken down into two distinct categories, misconduct and gross misconduct.

Misconduct constitutes behaviours that transgress acceptable boundaries and can be managed incrementally to address shortfalls.

Gross misconduct constitutes behaviours that exceed acceptable boundaries and will be managed succinctly, potentially leading to an individual's dismissal.

4.0 Roles and Responsibilities

4.1. Silvergrove Home Care aims to ensure consistent and fair treatment for all members of staff.

4.2 Silvergrove Home Care aims to have a skilled and knowledgeable workforce, who fully understands the behaviours expected of them, through regular appraisal and development opportunities.

4.3. Home Care Managers roles, responsibilities and accountabilities require them to:

- be aware of the policies and procedures and how to use them to manage issues as they arise
- work within the policies and procedures ensuring fairness and consistency
- ensure staff have an up-to-date job description, which reflects their roles and responsibilities.
- ensure staff have their annual appraisal and setting objectives to ensure staff know what is expected of them.
- where conduct issues start to emerge, the Home Care Manager must ensure that the individual is made aware at the earliest possible opportunity to allow them to correct their behaviour;
- ensure that conduct issues are managed effectively to ensure they do not effect resident care or safety, staff morale and service deliver.

- 4.4 All Silvergrove Home Care employees have roles and responsibilities to:
- familiarise themselves with the policies and procedures to ensure they understand Silvergrove Home Care expectation of them;
 - ensure they have an up-to-date job description, which accurately reflects the role they have been employed to do.
 - ensure they have an annual appraisal with their line manager, which assess performance against the job description competencies for their role;
 - raise concerns as soon as possible, if they feel they are struggling in their role or within their team, seek support from their line manager;
 - raise concerns if they believe others behaviour is transgressing boundaries, especially if it may impact on patient or staff wellbeing or safety;
 - when issues are identified engage with their HOME CARE MANAGER/ Line Manager to bring about a resolution as quickly as possible;

5.0 Policy Principles

- 5.1. Silvergrove Home Care encourages managers and staff, wherever possible, to resolve conduct concerns as quickly and informally as possible.
- 5.2. Should managers pursue formal disciplinary action they will ensure that staff are kept fully informed of the allegations against them, the progress of the investigation and the processes to be followed.
- 5.3. Dependant on the nature of the disciplinary issue Silvergrove Home Care may be obliged to inform professional bodies. For Example, An Bord Altranas if a nurse's fitness to practice is under review.
- 5.4. If an individual chooses to resign from Silvergrove Home Care and refuses to engage during the Disciplinary process there may be occasions e.g. safeguarding concerns, where the case will continue and be heard in their absence. If the case is found against the former staff member, then Silvergrove Home Care may be obliged to refer the case to the relevant professional body. We therefore encourage staff to maintain their engagement with the process wherever possible.
- 5.5. Wherever possible Silvergrove Home Care will attempt to preserve employment and consider redeployment opportunities.

6.0 Process

6.1. General

- 6.1.1. As already stated, Silvergrove Home Care will try to resolve conduct issues informally wherever possible. There are times however when this is not possible and the policy provides an overview of the process to be followed. The associated Procedure will provide more detail about how the process is conducted.

6.2. Overview of Procedure

- 6.2.1. There are three stages to the disciplinary procedure:
- Stage 1 - Informal Stage

- Stage 2 – Formal Stage
- Stage 3 – Appeal

An overview of the stages are provided in the following sections,

6.3. **Stage 1 - Informal Stage**

- 6.3.1. The informal stage of this policy should be used to ensure that the Home Care Manager and member of staff have established open and honest communication about the issues. Talking about the problem, before entering a formal process, can frequently bring about a speedy resolution.
- 6.3.2. The Home Care Manager should recognise that staff may find this process stressful and put in place mechanisms to monitor their wellbeing. Whilst, at this informal stage, there is no right to representation for the member of staff, the line manager may wish to consider their involvement to facilitate an open and honest dialogue. This should not however be allowed to unnecessarily delay the informal process.
- 6.3.4. The manager should make clear, to the member of staff, that the meeting is forming part of the Disciplinary process, provide them with a copy of the policy and procedure and talk through how the process works. The manager should explain that they will be given every opportunity to meet the required standards.
- 6.3.5. The informal stage of this policy is not time-bound, whilst some instances of misconduct can be managed via a conversation or by establishing an action plan and monitoring, others will need to be progressed more quickly. The decision on how to progress should be taken following the informal discussion between the line manager and the member of staff.
- 6.3.6. Care should be taken to identify whether concerns raised about a member of staff's behaviour are related to conduct or capability

6.4. [Stage 2 - Formal Stage](#)

- 6.4.1. The decision to progress from an informal Disciplinary process into the formal Procedure will be made by the Director of Nursing. Once the decision has been made, the line manager will become the Commissioning Manager and seek an investigation into the issues of poor conduct. They will appoint an Investigating Officer, unconnected with the case, to carry out an investigation.
- 6.4.2. In some cases, the line manager may not be considered the most appropriate person to become the Commissioning Manager, in these circumstances a peer or more senior manager may take the role. HR advice may be sought externally if the Home Care Manager believes it is required.
- 6.4.3. The Commissioning Manager will base their decision on how to proceed on the outcome and conclusions of the investigation.

6.4.4 Suspension

- 6.4.5 If whilst the investigation is conducted, it is considered unwise to allow the employee to continue working, they may be suspended from work for as short a period as possible. Suspension does not constitute disciplinary action and does not imply guilt. The employee will receive full pay and will lose no rights whilst the investigation proceeds apart from in exceptional circumstances. If an employee does not comply with the terms of their suspension, such as being contactable or attending meetings, then pay will be stopped. A decision to suspend an employee will be made by the Director of Nursing. The decision may also be made during the investigation if circumstances arise that indicate it is unwise to allow the employee to continue working. The suspension must be carried out in private with a witness present, stating the content of the allegation(s). The suspension will be confirmed in writing as soon as is reasonably practicable. The suspension will be regularly reviewed, and every effort will be made to minimise the period of suspension.
- 6.4.6 During the suspension the employee should not undertake any paid for any other employer. They should not attempt to enter Silvergrove property or make contact with colleagues whilst suspended from work unless to attend meetings associated with the investigation. If employees have any concerns about risk, malpractice or wrongdoing that they think is harming the service we deliver, our patient care or our staff they can raise this under the Whistleblowing Policy. If the employee or their representative wishes to contact colleagues to request their attendance at a hearing or to obtain information relevant to the case, prior consent should be sought from the Director of Nursing.
- 6.4.7 The employee must not undertake interviews with witnesses themselves. The employee is required to make him / herself available for any meetings they are requested to attend as part of the investigation. They are also required to be contactable as failure to do so may deem the employee to be absent without leave and as a result the employee could face a further allegation for AWOL
- 6.4.8 Employees are permitted to take holiday during suspension provided they seek prior permission from their manager. This period of absence will be recorded as annual leave and deducted from their leave entitlement accordingly. Where an employee has pre booked annual leave during suspension and decides not to take it without informing Silvergrove Home Care, there will be no entitlement to claim back the leave.

6.5 Hearings

- 6.5.1 A Disciplinary hearing panel will consist of a manager of appropriate seniority and authority, who will chair the hearing. The Chair must have had no previous connection with the case. There will also be a note taker present.
- 6.5.2 Both parties will have the opportunity to present their case to the Disciplinary Panel, prior to any decisions being made. The individual has the right to representation by a work colleague (unrelated to the case or themselves).
- 6.5.3 Formal hearings are essentially meetings between Silvergrove and the individual member of staff. Discussions should therefore be principally between these two parties. The role of the work colleague should be to support the individual by offering relevant supplementary information that adds value to the hearing and, if requested by the individual, present the initial case and sum up. Any questions put directly to the individual should be initially dealt with by them.
- 6.5.4 Silvergrove will look to provide a maximum of two (2) alternative dates/times in the event of the individual and/or representative being unable to attend the first date set. If necessary, the hearing will take place in the individual's absence on the second alternative date.

6.5 Stage 3 - Appeal

- 6.5.1 The member of staff has the right to appeal against decisions made at each of the formal stages.

6.6 Counter Claims

- 6.6.1. Should the member of staff submit grievance or bullying and harassment claims against the line manager during the informal or formal aspects of the disciplinary processes, the allegation will not stop the Disciplinary process. The allegations will be subject to a parallel Workforce Investigation in-line with the appropriate policy and procedure. The outcome and conclusion of the investigation will also be dealt with in-line with the associated policies and procedures

7.0 Involvement of Gardai and Criminal Offences

- 7.1 Where alleged misconduct concerns a potential criminal offence; it may be necessary to inform the Garda. In such cases, the Home Care Manager should contact the Gardai to inform them of the alleged misconduct and notify the employee that the Gardai have been contacted.
- 7.2 Criminal and disciplinary investigations must be conducted separately and by different people. The two investigations have different purposes, standards of proof in determining guilt and different outcomes and therefore it is not appropriate for one process to cover both. In the case of parallel criminal and disciplinary processes, there must be close liaison the Gardai and Home Care Manager since one process may impact on the other. This may include the sharing of information where lawful and at the appropriate time. Criminal offences outside employment shall not be

treated as automatic reasons for dismissal or action short of dismissal. The main consideration shall be whether the offence has any relevance to the individual's duties as an employee that makes the individual unsuitable for their work.

8.0 Trade Union Representatives

8.1 Silvergrove do not recognise and will not engage with a trade union.

9.0 Right to be Accompanied

9.1 All employees have the right to be accompanied during investigation meetings, disciplinary hearings and appeals or employee where there is no conflict of interest. It is the responsibility of the employee to arrange representation, and this request must be 'reasonable' in that the representative should not have a conflict of interest or be likely to disrupt the hearing. Witnesses also have the right to be accompanied by a colleague during meetings and disciplinary hearings, but their representative should not be a colleague who also has direct involvement in the same investigation in the interest of avoiding bias.