Discipline Policy

1. Introduction

This policy sets out how Monitor will deal with employee conduct which falls below the expected standard. It is Monitor’s aim to use the policy as a means of encouraging employees to improve standards of conduct wherever possible.

The policy sets out examples of misconduct and the disciplinary sanctions which might be imposed. It also sets out the procedures which apply when disciplinary action becomes necessary. They are designed to ensure fair and consistent treatment of staff.

The policy has been developed with regard to the statutory ACAS Code of Practice for Disciplinary and Grievance Procedures April 2009. Monitor intends to follow the accompanying detailed booklet: ‘Discipline and grievances at work: the ACAS guide’, wherever appropriate.

2. Scope

This policy applies equally to all full time and part time employees on a permanent or fixed-term contract.

This policy applies to cases of misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or genuine poor performance. In those cases reference should be made to the appropriate policies.

This procedure does not form part of any employee’s contract of employment. Monitor may change it from time to time and may depart from it depending on the circumstances of any case.

3. Examples of Misconduct & Gross Misconduct

Examples of misconduct that may lead Monitor to take disciplinary action include, but are not limited, to:

- wilful or negligent failure to comply with Monitor’s policies or working practices;
- unauthorised and/or unreasonable absence or consistently poor time keeping;
- negligence or irresponsibility in carrying out duties;
- abuse of status or responsibilities;
- refusing a reasonable request to vary responsibilities in line with business needs;
- refusing to carry out reasonable instructions;
- intransigent or unreasonably negative attitude to management or fellow employees, or other disruptive behaviour;
• any act or attempt to commit any act which may endanger persons or property or which breaches the law or any safety rule;
• inappropriate use of foul or abusive language in the workplace;
• lying or wilful deception;
• consumption of alcohol on Monitor’s premises (with the exception of alcohol at a Monitor sponsored event);
• being under the influence of intoxicating substances on Monitor’s premises; and
• divulging to or discussing with unauthorised personnel or third parties any confidential information.

Examples of gross misconduct include, but are not limited, to:

• any act that irreparably breaks the mutual trust and confidence between Monitor and an employee;
• any persistent and/or serious breach of any of the rules which form part of the employment contract including the Internet, E-Mail and Telecommunications Policy;
• any act that brings or is likely to bring Monitor’s reputation and public standing into disrepute;
• a failure to disclose to Monitor private interests that conflict, or potentially conflict with, or adversely affect or potentially adversely affect, Monitor’s interests or in any way weaken public confidence in the conduct of Monitor’s service;
• any form of abuse, bullying or harassment on grounds of a person’s sex, race, age, nationality, national or ethnic origins, sexual orientation, sexuality, religion, religious belief or disability as described in the Harassment Policy;
• failing to co-operate with, or providing dishonest, misleading or untrue statements or answers during any internal proceedings;
• gross negligence;
• wilful disregard of health and safety rules;
• wilful unauthorised disclosure or misuse of any confidential information;
• theft or any attempted theft of property belonging to Monitor or any employee or any third party;
• forgery, falsification of records or expense claims or other acts of dishonesty;
• unauthorised possession or attempted unauthorised possession of, copying, alteration, wilful damage to or retention of Monitor’s property;
• using or attempting to use Monitor’s property or any other property on Monitor’s premises, for any purpose other than that for which it was intended and for which you have authorisation;
• actions constituting a criminal offence whether at or outside work which make it inappropriate for you to remain in employment;
• conviction of a criminal offence or behaviour (e.g. theft) which makes you unsuitable for work or unacceptable to other employees;
• breach of Monitor’s Equality and Diversity Policy;
• the use, handling or possession of illegal drugs on or off Monitor’s premises;
• falsification of documents, contracts, records, expenses or defrauding or attempting to defraud Monitor;
• improper use of your official position for private gain or the private gain of some other person, including soliciting and accepting gifts or gratuities that may be considered to be bribes;
• conducting private business on Monitor’s premises or in paid time, unless official permission is obtained from the appropriate senior manager beforehand;
• wilful breach of Monitor’s financial regulations or standing orders;
• retrieval, transmission or storing of offensive or pornographic material using Monitor’s property or whilst at work.
Please note that any act of misconduct may amount to ‘gross’ misconduct if sufficiently serious. The circumstances and severity of the misconduct will be taken into account.

4. **Disciplinary sanctions**

Monitor will not normally impose disciplinary sanctions without first going through the formal discipline procedures as set out in section 5.

If an act of misconduct is found to have been committed, you may be given:

- a first written warning;
- a final written warning;
- notice of dismissal; or
- some other sanction short of dismissal e.g. demotion or loss of seniority.

The decision to impose a sanction will take account of your disciplinary and general record, length of service, actions taken in any previous similar cases, your representations and whether the intended disciplinary sanction is reasonable in all the circumstances. Monitor aims to act consistently in dealing with similar incidents of misconduct but each case will ultimately be assessed on its own merits.

Please note that verbal warnings are not considered to be a formal disciplinary sanction.

In limited circumstances and only in cases of gross misconduct, Monitor may dismiss an employee summarily for a first offence i.e. without having issued prior written warnings and without a notice period.

However, before taking any such action, Monitor will investigate as necessary to establish the facts of the case (during which time you may be suspended) and, wherever possible and reasonable, will hold a meeting with you. You will receive confirmation in writing of a decision to summarily dismiss you and you may appeal this decision. If you do appeal, you will not be permitted to resume working until the matter has been decided.

4.1 **First written warning**

On the first occasion where you are found to have committed misconduct, you will normally be given a first written warning setting out the nature of the misconduct, the improvements required within a specified timescale, and the consequences of a failure to improve to acceptable standards.

First written warnings will remain on your human resources (HR) file for 6 months from the date of issue.

4.2 **Final written warning**

Final written warnings may be issued where:

- after a first written warning, there is a failure to improve by the timescale specified in the warning;
there are further acts of misconduct after a first written warning; or
it is your first occasion and the misconduct has or could have a serious or
harmful impact on Monitor (but falls short of gross misconduct)

The final written warning will set out the nature of the misconduct, the
improvements required within a short specified timescale, and the consequences
of failure to improve to acceptable standards.

Final written warnings will remain on your HR file for 12 months from the date of
issue.

4.3 Dismissal or other sanction

Dismissal with notice (or with a payment in lieu of notice) or some other sanction
short of dismissal may be imposed if:

- conduct remains unsatisfactory after a final written warning;
- if there are further acts of misconduct after a final written warning; or
- if the act was one of gross misconduct.

The decision to dismiss may only be approved by the Director of Human Resources
and a member of Monitor’s Senior Management Team.

Where you are subject to a sanction other than dismissal, such as demotion, a record
of this will remain on your HR file for 12 months from the date of issue.

Discipline Procedures

5.1 Informal Procedure

Wherever appropriate, Monitor will seek to resolve minor misconduct issues
informally via your line manager. Your line manager will explain the change in
behaviour that is required and the timescale within which the improvement must be
made. You may be issued with a verbal warning. Verbal warnings are not considered
to be formal disciplinary sanctions. If your behaviour has not improved by the end of
the timescale, you may be given further verbal warnings. The number of verbal
warnings is a matter for Monitor’s discretion. Alternatively, Monitor may invoke the
formal procedure set out below.

5.2 Formal Procedure

Where informal resolution has not achieved the desired outcome or if the alleged
misconduct warrants more serious action, the formal procedure will be invoked. The
procedure is broadly divided into these stages:

1. investigation;
2. written statement;
3. disciplinary meeting and decision, and
4. appeal and decision.
5.3 Investigation

An investigation may be carried out to determine whether there is sufficient evidence of the alleged misconduct. Where this is necessary, it will take place without unreasonable delay.

HR will select an investigating manager and will direct the overall nature and extent of the investigation. The investigating manager will be an employee of appropriate seniority with no prior involvement in the matter. You and other employees involved are expected to co-operate fully with an investigation and will be asked to maintain the confidentiality of any discussions held.

The investigating manager is responsible for the thorough investigation of the matter. This may involve interviewing witnesses and collating documentary, electronic, video or audio evidence. It is likely that you will be asked to attend an investigatory meeting. Please note that you have no right to be accompanied at an investigatory meeting but Monitor may, in its discretion, permit you to be accompanied by a colleague or other companion.

Suspension

It may be necessary to suspend you - with full pay unless your contract of employment says otherwise - during the conduct of the investigation and subsequent disciplinary procedures.

Suspension is a neutral act in this context and does not imply wrongdoing. It is not a disciplinary sanction.

The period of suspension will last for the minimum period that Monitor considers reasonable in the circumstances taking into account the length of time required to investigate properly. During any period of suspension you will be kept informed of its likely duration.

If, following the investigation, disciplinary action is considered unnecessary, no further steps will be taken. A note that the allegations were unfounded will be recorded on your HR file.

If however, further explanation is required from you and Monitor determines that dismissal or some other disciplinary action may be necessary, then the formal procedure will continue.

5.4 Written statement

You will receive a written statement from Monitor detailing the alleged misconduct and the possible outcomes.

The statement will also invite you to a disciplinary meeting to discuss the situation. It will be set to take place without unreasonable delay but with enough time for you to prepare a response to the allegations. You will be advised of the date, time and place of the meeting.

It will also set out who will be attending the meeting on behalf of Monitor and any witnesses that Monitor intends to call during the meeting. You will be advised of your right to be accompanied (see below under ‘Your Right to be Accompanied’).
Together with the statement, you will be given a copy of this Discipline Policy and copies of any documents which will be relied upon.

5.5 Disciplinary meeting and decision

HR will select an employee of appropriate seniority not previously involved in the matter (‘independent manager’) to conduct the meeting. HR will attend to ensure the steps described in this policy are followed and to take a record of the meeting.

You and your companion should make every effort to attend. If you persistently refuse to attend meetings without good excuse, Monitor may go ahead with the meeting and make a decision on the available evidence.

At the opening of the meeting, the independent manager will:

- confirm that you have received a copy of this policy and the statement;
- explain the reasons why the meeting has been arranged; and
- outline the role of your companion or note that you do not wish to be accompanied.

The independent manager will then go through the allegations against you and the evidence gathered in support of those allegations. You will be given a reasonable opportunity to respond and you may raise points about information provided by the witnesses called by Monitor. You may ask questions, present evidence and call your own relevant witnesses.

As soon as possible after the meeting, the independent manager will consider the evidence and complete any further investigations that are necessary. The independent manager will then come to a decision. If the decision is to dismiss, this must be approved by the Director of Human Resources and a member of Monitor’s Senior Management Team.

You will receive a letter informing you of the decision, the reasons for it and other necessary details as soon as possible and usually within 5 working days of the meeting. If this is not possible, you will be told why and when to expect a response. You will also be notified of your right to appeal.

5.6 Appeal meeting and decision

You may appeal against any disciplinary sanction taken against you. Please note however that a disciplinary sanction may take effect before you appeal.

Your appeal must set out your reasons and must be submitted in writing to HR within 5 working days of the original decision. Monitor may give you more time to lodge an appeal if reasonably necessary.

You will receive a written acknowledgement from HR and you will be invited to an appeal meetings set to take place without unreasonable delay and, where possible, within 5 working days of receipt of your appeal.

If you raise matters which require further investigation, the meeting may be put back until after this is completed. You will be given reasonable opportunity to consider new information prior to the meeting and you will be given copies of any new evidence which will be relied upon.
Again, you have a right to be accompanied (see below under ‘Your Right to be Accompanied’). If you persistently refuse to attend appeal meetings without good excuse, Monitor may go ahead with the meeting and make a decision on the available evidence.

An independent manager who is a member of Monitor’s Senior Management Team and who was not previously involved in the matter will conduct the meeting. HR will attend to ensure the steps described in this policy are followed and to take a record of the meeting.

The meeting may be a complete rehearing of the matter or it may be a review of the fairness of the original decision. This will be at Monitor’s discretion depending on the circumstances of your case. A hearing may be adjourned if Monitor needs to gather any further information.

During the appeal meeting, you will be asked to:

- state your grounds of appeal, and
- present any factual evidence in support of this.

Following the appeal hearing Monitor may:
- confirm the original decision;  
- revoke the original decision; or
- substitute a different decision and the sanction.

The independent manager will inform you, in writing, of the outcome of your appeal as soon as possible and usually within 5 working days of the date of the meeting. If this is not possible, you shall be told why and when to expect a response. The appeal decision is final and no further appeals may be made to Monitor.

If the original decision was to dismiss you and your appeal against the decision is successful, you will be reinstated with no loss of continuity of service or pay.

6.0 Your Right to be Accompanied

You have a legal right to be accompanied at a disciplinary meeting or an appeal meeting by a work colleague, a trade union representative or an official employed by a trade union.

Your companion is allowed to:

- put forward and summarise your case;
- ask questions of clarification;
- respond to views on your behalf; and
- confer with you.

Your companion does not have the right to answer questions for you or to prevent Monitor from putting forward its case or to address the meeting if you do not wish it.

If you wish to be accompanied you must make a reasonable request to HR in advance of the meeting. Please note that your companion has the right to decline to attend. If they choose to accompany you, they will be allowed reasonable time off from duties without loss of pay.
In some circumstances your choice of companion may not be allowed, for example, if they have a conflict of interest or could prejudice the meeting. In those cases, you may be asked to choose someone else.

It is your responsibility to inform your companion of the date, time and place of the meeting. If your companion is not available at short notice, the meeting may be delayed for a short period. Monitor reserves the right to ask you to choose someone else if the meeting would have to be delayed for over 5 working days because your companion is unavailable.

Monitor may, in its discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family).

This policy is for guidance only and does not form part of your contract of employment. It has been in operation since August 2004 and was last updated in September 2011.
## Discipline Policy - Who is involved at each stage.

<table>
<thead>
<tr>
<th>Role level</th>
<th>Investigation Stage</th>
<th>Hearing/Decision Stage</th>
<th>Appeal Stage?*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Role level 3&amp;4</td>
<td>An employee of appropriate seniority with no prior involvement in the disciplinary matter will be appointed as the investigating manager.</td>
<td>An employee of appropriate seniority with no prior involvement in the disciplinary matter will be appointed as the independent manager.</td>
<td>Member of Monitor’s Senior Management Team with no prior involvement in the disciplinary matter.</td>
</tr>
<tr>
<td>Role level 2</td>
<td>An employee of appropriate seniority (at least same level) with no prior involvement in the disciplinary matter will be appointed as the investigating manager.</td>
<td>Member of Management Committee not previously involved in the disciplinary process will be appointed as the independent manager.</td>
<td>Member of Monitor’s Senior Management Team with no prior involvement in the disciplinary matter.</td>
</tr>
<tr>
<td>Leadership group</td>
<td>An employee of appropriate seniority (at least same level) with no prior involvement in the disciplinary matter will be appointed as the investigating manager.</td>
<td>A member of Monitor’s Management Committee with no prior involvement in the disciplinary matter will be appointed as the independent manager.</td>
<td>Chief Executive/Chairman</td>
</tr>
<tr>
<td>Senior Management Team</td>
<td>Appropriate independent member of the Senior Management Team with no prior involvement in the disciplinary matter will be appointed as the investigating manager.</td>
<td>Chief Executive/Chairman will act as the independent manager.</td>
<td>The Board – Non Executive Director with no prior involvement in the disciplinary matter.</td>
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</tbody>
</table>

HR will select employees of appropriate seniority to undertake the roles of investigating and independent manager

*All appeals must be submitted in writing to HR within 5 days of the original decision.*