



centre for psychotherapy and counselling

## DISCIPLINARY PROCEDURE

### PREAMBLE

Wellspring undertakes to deal with any disciplinary matter in a manner and at a level appropriate to the seriousness of the alleged misconduct. "Misconduct" describes any act or behaviour by a member of staff that adversely affects or is incompatible with the duties or remit of his or her post.

Disciplinary proceedings will not normally be initiated unless the member of staff has previously received an explanation of the unsatisfactory nature of his or her conduct. Every reasonable assistance will be given to staff, through counselling, advice or training, to help them to improve, and an explanation will be given as to what the staff member needs to do to meet the expected standard.

Where the issue is not resolved, or the matter is very serious (such as an allegation of gross misconduct or when a complaint against a staff member has been upheld) an investigation shall take place, generally by members of the Board of Directors (excluding any who have already participated in the investigation of a complaint against the staff member, or who have any dual relationship with the staff member).

### INVESTIGATION

1. When an allegation of misconduct is made an investigation will take place, normally by members of the Board of Directors, in order to ascertain the facts.
2. The member of staff will be notified of the initiation of the investigation and will be sent a copy of the *Disciplinary Procedure*. They will be advised of their right to be accompanied by a friend, colleague or other representative at any investigative meeting.

3. The member of staff will be provided with a report of the outcome of the investigation and will be advised whether the matter is proceeding. Except in cases of minor misconduct, the member of staff will be given an opportunity to provide a written commentary on the report. If no comment is received within ten working days, the matter will proceed as if the member of staff had denied the allegation(s) of misconduct.

4. The report and the written commentary will provide the basis of the documentation considered during the disciplinary proceedings.

## **FINDINGS**

1. Minor faults will be dealt with informally.

2. Where the matter is more serious but falls short of constituting possible good cause for dismissal the following procedure shall be used:

### **Oral Warning**

(a) Where the performance of a member of staff does not meet acceptable standards or where a member of staff has allegedly engaged in minor misconduct, he or she will be expected to attend a disciplinary meeting, normally conducted by the Clinical Manager or by a member of the Board of Directors.

(b) Where it is concluded that disciplinary action is necessary an oral warning will be given. The staff member will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and that there is a right of appeal. A brief note of the oral warning will be kept but it will be spent after 12 months, subject to satisfactory conduct and performance.

### **Written Warning**

(a) If performance continues to be unsatisfactory, if a further offence occurs, or if the offence is a serious one, the member of staff will be summoned to a disciplinary meeting normally conducted by a member of the Board of Directors.

(b) Where it is concluded that disciplinary action is necessary, a written warning, which may be a final written warning, will be issued to the member of staff. This will record details of the complaint, the improvement required and the time scale. It will warn that if there is no satisfactory improvement there will be a Disciplinary Hearing and will advise of the right of appeal. A copy of this written warning will be

kept on file but it will be disregarded for disciplinary purposes after two years subject to satisfactory conduct and performance.

## **APPEALS**

A member of staff who wishes to appeal against any disciplinary decision must inform the Board of Directors in writing within one week of the decision's being communicated to them. The Chair of the Board or a designated representative who has not been involved in the original disciplinary action will hear the appeal and decide the case as impartially as possible. Their decision will be final.

## **DISCIPLINARY HEARINGS**

1. Where improvement does not follow a written warning, where there are allegations of gross misconduct, or where a complaint against a staff member has been upheld, a Disciplinary Hearing will take place.
2. Where a disciplinary hearing is to take place, Wellspring will give the member of staff notice in writing at least 10 working days in advance of the proposed date of the hearing.
3. The member of staff will be informed in writing
  - of the allegations, along with the report of the investigation and any commentary on it submitted by the member of staff;
  - of the date and place of the hearing and the name of the Board Member who will be conducting the disciplinary hearing, who may agree an alternative date;
  - that the member of staff has the right to be accompanied at the hearing by a colleague or other representative.
4. If a member of staff fails to attend a Disciplinary Hearing of which he or she has received due notice, Wellspring will give him or her at least 10 working days notice of a further meeting. The member of staff will be advised that if he or she again fails to attend or to give satisfactory reasons for being unable to do so, the Hearing will normally proceed in his or her absence.
5. A request for an adjournment will not normally be refused provided that it is for the purposes of further investigation, obtaining witnesses, seeking further

evidence, or checking of facts. Such an adjournment will not normally be for more than five working days.

6. Within five working days of the Hearing, the member of staff will be advised in writing:

- whether the allegation of misconduct has been established to the satisfaction of the Hearing;
- if the allegation has been sustained, whether a warning is being given and if so the nature of the warning;
- the period during which the warning, if given, shall remain on file;
- the consequences of a recurrence of the same or similar action;
- the right of appeal and the associated procedures;
- any steps which the member of staff is required to take in order to improve his or her performance.

All warnings will be conveyed in writing by the Board of Directors.

#### **FURTHER DISCIPLINARY ACTION**

Where a member of staff engages in further misconduct, of whatever nature, during the period during which a final written warning is on record, he or she shall be subject to further disciplinary action which may include the initiation of proceedings leading to dismissal. If the matter under consideration falls short of the initiation of dismissal procedures, the Board of Directors will conduct a hearing which may lead to the extension for twelve months of the duration of the final written warning. In the event of further misconduct during this period, dismissal procedures will be initiated.

#### **GROSS MISCONDUCT**

(a) While alleged gross misconduct is being investigated, the staff member may be suspended. A decision to dismiss will be taken only after full investigation and Disciplinary Hearing.

(b) If it is confirmed that a member of staff has committed an offence of the kind listed below, this will constitute good cause for dismissal.

## **MISCONDUCT CONSTITUTING GOOD CAUSE FOR DISMISSAL**

"Good cause", in relation to dismissal, means:

(a) conviction for an offence regarded as rendering the person convicted unfit for carrying out their duties or remit;

(b) conduct of an immoral, scandalous or disgraceful nature incompatible with such duties. This would include theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying and gross insubordination;

(c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office;

(d) physical or mental incapacity;

(e) serious breach of ethical guidelines as laid down by BACP, COSCA, or the staff member's accrediting or registering body.

In this last case Wellspring reserves the right to inform the staff member's accrediting or registering body if there is conduct leading to dismissal on these grounds.

**Revised Aug./07**