



## Policy Review

The owners of this Policy will review this document should the legislation change or there is a further need to develop the Policy further. However, our Policy review group will annually review this policy to ensure it remains compliant with key changes nationally.

<b>POLICY NAME</b>	<b>Disciplinary Policy</b>	<b>VERSION NO.</b>	1
<b>Date Written</b>	<b>March 2025</b>	<b>Date Signed Off</b>	<b>21/03/2025</b>
<b>Owner (s)</b>	<b>HR</b>	<b>Next Review Date</b>	<b>March 2028</b>

## Revision History.

Version	Date	Page Number	Details of Change	Author

## Contact Information.

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## 1. Policy Purpose & Aim

The purpose of the disciplinary policy and procedure is to help and encourage employees to achieve and maintain acceptable standards of conduct and to maintain satisfactory relationships between employees and Milewood as their employer.

This policy is not intended to apply to issues of poor work performance, which are handled under the Capability Policy. However, in exceptional cases where an employee commits errors and the actual or potential consequences of this are, or could be, extremely serious, for example jeopardise health and safety or relate to financial mismanagement etc, action may be taken under this procedure.

The policy and procedure have been drafted in line with the ACAS Code of Practice on Disciplinary and Grievance procedures (March 2015), adhering to the basic principles of fairness, reasonableness and transparency.

Milewood reserves the right to deviate from the disciplinary policy for any employee who has been employed by the Company for less than two years

This policy and procedure do not form part of any employee's contract of employment and may be amended at any time.

## 2. Objectives

The **objectives** of this policy are to:

- Help and encourage employees at all levels to achieve and maintain acceptable standards of conduct
- Ensure that allegations of misconduct are dealt with speedily, consistently and transparently across every aspect of Milewood activity.
- Ensure that disciplinary action is fair and reasonable in the circumstances of each case and aim to resolve matters without proceeding to Employment Tribunal.
- Ensure that Milewood meets all legislative and regulatory requirements and complies with the ACAS Code of Practice.

The **principles** of this policy are:

- Wherever possible, potential disciplinary issues and minor breaches of discipline will be resolved informally, as part of the day-to-day management of employees, without recourse to formal action.
- No parties involved in a disciplinary process should disclose any confidential information in relation to the disciplinary case, except as required or permitted in accordance with this procedure. Any person who does so may themselves be subject to disciplinary action.

- At every stage in the procedure the employee will be given the opportunity to prepare and present their case before any decision is made.
- An employee will have the right to appeal against any formal disciplinary sanction taken.

### **3. Scope**

- This policy covers all aspects of the conduct of Milewood employees.
- This policy applies to every Milewood employee and covers all premises owned or occupied by Milewood.
- This policy and procedure apply to all employees regardless of length of service. It does not apply to casual workers, agency workers or self-employed contractors.

### **4. Responsibilities**

This policy is overseen by the Head of People & Culture and the Senior Leadership Team.

- All employees are expected to comply with the terms of their Contract of Employment, to follow Milewood's policies and procedures, and to behave in line with Milewood's corporate values and with appropriate legislation.
- All employees are responsible for being aware of this policy and procedure and for achieving and maintaining satisfactory standards of conduct.
- Managers have the prime responsibility for the day-to-day management and discipline within their teams.
- Managers are responsible for implementing the policy and procedure in a consistent, transparent and fair manner and for seeking advice and assistance from the HR team order to avoid possible cases of unfair treatment or discrimination, and to ensure this policy and procedure is adhered to.
- Managers are responsible for recording any steps taken in the implementation of the policy and procedure, including where this involves informal steps only.
- Managers and employees are responsible for resolving issues of conduct informally wherever this is appropriate.
- The HR team are responsible for supporting managers and employees in the correct implementation of this policy and procedure by providing advice and guidance as required.

### **5. Statement of Commitment**

- Milewood will ensure that it deals with any allegations of misconduct in line with accepted best human resource standards and meets the benchmark of fair and consistent treatment of employees set out in the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- Milewood will ensure that this policy is implemented in a transparent, collaborative, and compassionate way that empowers employees.

### **6. The Disciplinary Procedure**

#### **6.1 Informal Discussion**

Informal Discussions, either stand alone or as part of supervision meetings may be used to find solutions to identified problems, so that any shortcomings in conduct can be remedied. The employee is not entitled to

be accompanied at informal meetings. A record of the discussion should be kept by the manager for reference purposes and a copy given to the employee.

## **6.2 Formal Disciplinary Procedure**

If the employee's poor conduct continues, or if the misconduct is sufficiently serious, the formal disciplinary procedure will be followed.

### Disciplinary Investigation

Any disciplinary action will only be taken after a full and prompt investigation. This may involve gathering evidence and conducting interviews with relevant witnesses or colleagues. Milewood will ensure that any appointed Investigating Officer meets the required competencies and reserves the right to utilise a suitable qualified external professional if deemed appropriate.

If it's decided there was no misconduct, the investigating officer should end the investigation. In that case, the officer will inform the employee verbally and in writing that no further action will be taken.

### Investigation Meeting

The investigating officer will seek to meet the employee whose conduct is investigated, in an investigative meeting. They may send out a written invite for the investigative meeting if they deem that appropriate. Such a meeting can take place face to face, or via digital means. When the employee is invited, they will be informed that the meeting forms part of an investigation.

If it's decided there was no misconduct, the investigating officer should end the investigation. In that case, the manager will inform the employee verbally and in writing that no further action will be taken. Except in exceptional circumstances, different officers will carry out the investigation and the disciplinary hearing.

### Disciplinary Hearing

No penalty will be imposed without a hearing.

Milewood will ensure that any appointed Disciplinary Manager meets the required competencies and reserves the right to utilise a suitable qualified external professional if deemed appropriate.

Upon completion of the investigation, the employee will be sent a letter inviting them to the disciplinary hearing. The letter will set out the alleged misconduct and will include relevant evidence which may, where appropriate, include witness statements. The letter will inform the employee that they must attend a disciplinary hearing to discuss the matter, confirming the time, date and location of the meeting (giving the employee a minimum of 48 hours' notice), and their right to be accompanied.

In the event of alleged Gross Misconduct, the letter will include reference to the fact that (summary) dismissal could be one of the potential disciplinary outcomes.

The employee has the right to be accompanied by a Trade Union representative or a colleague. The employee, together with the person that they have chosen as a companion, will be given reasonable time to prepare a response to the allegation of misconduct.

At the hearing, Milewood's case will be explained, and the employee given the opportunity to put forward their response to the allegations that have been made, and to ask questions, and present any further evidence they believe to be relevant.

If any matters come to light during a disciplinary hearing which requires further investigation, the disciplinary manager may choose to adjourn the meeting to enable further investigation.

#### Disciplinary Outcome

After consideration of the information gathered in the investigation and at the disciplinary hearing, the disciplinary manager will make a decision regarding disciplinary action.

This decision may be communicated to the Employee after an adjournment at the end of the Disciplinary Hearing, or at a later stage. This decision will also be communicated to the employee in writing within five working days of the Hearing taking place.

#### Appeal

The employee has the right to appeal against any formal action taken at any stage of the disciplinary procedure.

Appeals should be made in writing within five working days of the disciplinary decision being confirmed in writing, setting out the reasons for the appeal.

Appeals should be sent to the Head of People & Culture, who will refer to an appropriate senior Manager. Milewood will then invite the employee to an appeal meeting which will normally take place within ten working days of receipt of the appeal. The appeal meeting may take place after the disciplinary decision has taken effect.

If the employee is appealing against dismissal and the appeal is subsequently upheld, the employee will normally be treated as having continued in employment pending the hearing of the appeal and will be reinstated with back pay. However, if the appeal is not successful, the original date of the dismissal will stand.

The employee has a statutory right to be accompanied by a companion who could be a workplace colleague, or an official trade union representative, of their choice.

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 view of the procedure that was followed and any new information that may have come to light. This will be at Milewood's discretion depending on the circumstances of the case.

Wherever possible, the appeal will be heard by someone more senior than the person who took the decision to take disciplinary action against the employee. If this is not practicable, the appeal will be heard by another Manager who has not previously been involved in the matter, or a suitable qualified external professional if deemed appropriate. Milewood will inform the employee promptly of the outcome of the appeal, wherever possible within three working days of the hearing and confirm it in writing within ten days of the hearing.

Following the appeal hearing, Milewood may confirm the original decision, revoke the original decision, or substitute a different penalty.

This decision will be final and there is no further appeal.

### **6.2 Considerations regarding steps in the procedure**

Milewood may not undertake certain stages of the procedure if it is deemed that this would be reasonable in the circumstances.

It may be that the nature of the allegations are such that it is appropriate to suspend the employee from work on full pay in order that a thorough investigation can take place. Suspension on full pay does not amount to a disciplinary sanction and does not imply that any decision has already been made about the allegations. Suspension requires permission From the Head of People & Culture and the Director of Operations.

If the employee is still within the probationary period they may not be issued with any warnings before dismissal.

If the employee has difficulty at any stage of the Disciplinary procedure because of a disability, this should be discussed with their Manager or HR as soon as possible.

All disciplinary meetings, including appeals, will be held at a reasonable time and place. The employee must take all reasonable steps to attend. We reserve the right to hold meetings by the use of technology such as Conference Call, Zoom, Microsoft Teams. If, without good cause, the employee is persistently unable or unwilling to attend, Milewood will hear the matter in their absence and make a decision based on the evidence available.

An appropriate level of management will conduct hearings and meetings, accompanied by a representative of HR and/or a note taker as appropriate.

### **6.3 Right to be Accompanied**

In any formal disciplinary procedure meeting the employee has a statutory right to be accompanied by a companion who could be a workplace colleague, or an official trade union representative, of their choice.

A companion who is employed by Milewood is allowed reasonable time off from their duties without loss of pay to attend. If the companion is unavailable at the time a meeting is scheduled and will not be available for more than 5 working days afterwards, a request may be made that an alternative companion is appointed.

The companion may address the meeting to make or sum up the employee's case, or to respond on their behalf to any view expressed at the meeting. The companion may confer with the employee but does not have the right to answer questions on behalf of the employee or prevent anyone from contributing to the meeting.

Meetings may be recorded via an audio recorder, or an appointed note taker. If the employee wishes to record the meeting, they must inform the manager in advance and provide a copy of the recording if requested.

## 7. Disciplinary Actions

Following completion of the investigation and the disciplinary hearing, a decision will be taken regarding disciplinary action. The decision might be:

### No Action Required

When it's decided there was no misconduct, the manager should decide no disciplinary action is required. The manager should inform the employee verbally and in writing that no further action will be taken.

### First Written Warning

- If misconduct was found, the manager may decide to issue a first written warning. A letter will be sent to the employee confirming:
  - the nature of the misconduct that has led to the warning
  - the action or improvement (if any) which is required
  - if appropriate, the timescale for taking any such action.
  - the consequences if the required action is not taken, if there is a failure to improve, or if there is further misconduct.
  - that the warning will remain in place for 6 months.
  - the right of appeal

### Final Written Warning

- The manager may decide to issue a final written warning if:
  - the required improvement is not achieved within the timescale stated in the first written warning; or
  - further misconduct occurs while a first warning is still in effect, whether or not involving a repetition of the conduct which was the subject of a previous warning; or
  - the seriousness of the misconduct merits it, regardless of whether previous warnings have been issued. In this case, the warning is a First and Final written warning.

A letter will be sent to the employee confirming:

- the nature of the misconduct that has led to the final warning, including any prior warning(s) which have been taken into account
- that the warning will usually remain in place for 12 months, however in extreme circumstances it may be appropriate to increase this
- the action or improvement (if any) which is required
- if appropriate, the timescale for implementing any such action
- the fact that this is a final warning and that the next stage of the procedure could be dismissal
- when the warning will cease to have effect, subject to satisfactory conduct
- the right of appeal

#### Action Short of Dismissal

Milewood might look at other disciplinary action depending on the seriousness of the misconduct. For example, instead of dismissal, Milewood could decide to move the employee to a less responsible role.

Such action would need to be agreed and discussed fully with the employee. The employee can have their chosen companion or representative with them for this.

#### Dismissal

Milewood may end the employee's contract ('dismissal'), or terminate the employee's contract with notice, if:

- Misconduct – as set out in Appendix A of this policy is found.

A decision to dismiss must be approved by a member of the Senior Leadership Team or Senior Management Team.

The employee should be informed in writing as soon as possible confirming:

- the reasons for the dismissal
- the date the employment contract will end
- the notice period
- their right of appeal

#### Summary Dismissal

Milewood might terminate the employee's contract with immediate effect and without the right of notice or pay in lieu of notice ('summary dismissal') if:

- Gross Misconduct – as set out in Appendix B of this policy is found

A decision to dismiss must be approved by a member of the Senior Leadership Team or Senior Management Team.

The employee should be informed in writing as soon as possible, informing them of:

- the reasons for the dismissal
- the date the employment contract will be terminated
- their right of appeal

## **8. Confidentiality, data protection and record keeping**

Milewood is committed to dealing with misconduct sensitively and with due respect for the privacy of the individuals involved. All employees must treat as confidential any information communicated to them in connection with a misconduct matter, including investigations.

Implementing misconduct investigations and hearings under this policy involves us processing the personal data of the employees concerned. Milewood use this personal data in order to investigate and deal with misconduct issues. The legal grounds for doing so are that it is necessary:

- to comply with legal obligations (e.g. to implement misconduct proceedings fairly, ensure a safe working environment, etc.)
- for performance of the employment contract (i.e. to enforce employees' obligations not to commit misconduct)

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- in our legitimate interests to deal effectively with misconduct, whether you are the subject of them or are otherwise connected to the issues raised
- in the public interest, for the prevention or detection of crime (e.g. where suspected workplace misconduct may also amount to criminal conduct)

Special category data (see below) and data about criminal convictions or offences may occasionally need to be processed under this disciplinary procedure – for example, where alleged misconduct involves bullying/abuse based on race or sexual orientation, or where a person involved in the procedure requires adjustments to accommodate a disability. Milewood’s additional legal grounds for using such data are that this is necessary:

- to exercise legal rights/comply with legal obligations in relation to employment;
- to establish, exercise or defend legal claims; or in the public interest for the prevention or detection of crime.

***Special category data:*** *personal data about an individual’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health conditions, sex life or sexual orientation, biometrics (if used for identification purposes) or genetics.*

Where Milewood takes witness statements from employees with information about the misconduct as part of the investigations under this procedure, such statements will be treated confidentially and will only be shared with individuals who need to be involved in the misconduct management process. This will ordinarily be:

- HR
- The person/people conducting investigations
- The Managers conducting any formal misconduct hearing or appeal.

In addition, witness statements will be shared with the employee whose alleged misconduct is the subject of disciplinary proceedings, to enable them to prepare for the hearing and respond to the allegations against them.

Milewood will retain records of misconduct issues in accordance with the criteria set out in the Company’s main Employee Privacy Notice and Record Management Policy.

Where a sanction has been imposed this will be kept on the employees’ record but disregarded for disciplinary purposes after a specified period.

More general information regarding data protection, including details of who personal data is shared with, individual rights under data protection law and who an employee should contact if they have any concerns, is contained in the main Milewood Employee privacy notice.

## **9. Status of this Policy**

This policy does not give contractual rights to individual employees. Milewood reserves the right to alter any of its terms at any time, and it will notify the workforce of any changes.

## 10. Other Relevant Milewood Policies & Documents

Staff Handbook  
Milewood’s Equality and Diversity Charter  
Equality & Diversity Policy  
Professional Boundaries Code of Conduct  
Bullying, Harassment and Victimisation Policy  
Grievance Policy  
Whistleblowing Policy  
Violence at Work Policy  
Health & Safety Policy  
Risk Management Policy  
Financial Regulations  
Disciplinary Guidance notes and template letters

### Links to Related Legislation / Best Practice

Equality Act 2010  
Employment Rights Act 1996  
Employment Relations Act 1999  
Health & Safety At Work Act 1974  
Bribery Act 2010  
Code of Conduct (Skills for Care)  
Care Act 2014  
ACAS Code of Practice on Disciplinary and Grievance Procedures

## Authorisation and Signature

This Policy is the authorised version agreed by the Owners. The policy is also Authorized by the CEO of Milewood Health Care and their associated organisations. All employees are expected to follow this policy and failure to do so could result in disciplinary action.

Approved by Owner Head of HR - Signature:	Dan Blackith
Date:	21.03.2025
Approved by Owner, Head of Quality- Signature:	Jill Roberts
Date:	21.03.2025





## Appendix A – Misconduct

Offences under the disciplinary procedure fall into two categories:

- Misconduct
- Gross misconduct

### What is Misconduct?

Misconduct is a less serious breach of the Milewood policies and procedures which would not normally result in dismissal for a first offence. The severity and frequency of the breach will be considered, when determining the level of warning. The following list, which is neither exhaustive nor exclusive, gives some of the offences Milewood deems to be misconduct:

- Failure to disclose any potential conflicts of interest
- Failure to report any criminal conviction or police caution
- Unauthorised absences from work, which have no underlying chronic medical condition and are not disability related
- Minor breach of financial regulations
- Persistent minor breaches of Milewood rules



## Appendix B – Gross Misconduct

What is Gross misconduct?

Gross misconduct is a breach of Milewood policies and disciplinary rules which is so serious that it amounts to a fundamental breach of trust and confidence between the employee and Milewood.

You can be summarily dismissed for a first offence which is considered to constitute gross misconduct. If you are dismissed for gross misconduct, the dismissal is without notice or payment in lieu of notice (summary dismissal).

The following are some of the offences Milewood considers to be gross misconduct. This list is not exhaustive or exclusive:

- Any form of assault or physical violence
- Theft, deliberate malpractice, deception, cover up of deficiencies or falsification of documents or accounts
- Serious breach of financial regulations
- Bringing Milewood into serious disrepute
- Deliberate unauthorised disclosures to a third party of any confidential information or intellectual property
- Failure to comply with the law in all business activities
- Submission of falsified claims for overtime, expenses, advances or allowances or other fraudulent acts
- Falsely reporting or recording sick absence
- Acts of discrimination, bullying, harassment or victimisation of employees, service users or visitors at Milewood which compromise that person's dignity
- Unauthorised Misuse of IT hardware or software
- Serious breach of health and safety procedures
- Incapacity to work due to being under the influence of alcohol or illegal substances
- Using or dealing in illegal substances on Milewood premises
- Willful damage to property belonging to Milewood, its service users, visitors or fellow employees
- Serious insubordination
- Abusive behaviour
- Serious negligence
- Continued absence without leave
- Covert recording of staff, meetings etc – i.e. without express consent

Appendix C – Process Flow

