**Disciplinary Policy and Procedure**

**Change History**

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| Issue | Date | Summary of Changes | Initial |
| A | Mar 21 | Revised policy created by Birketts | **ED** |
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**Disciplinary Policy and Procedure**

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# 1. Introduction

1.1 This procedure does not form part of any employee’s contract of employment and HIL may amend it at any time.

1.2 The purpose of this procedure is to maintain standards of conduct and provide for the orderly investigation and resolution of cases of alleged unsatisfactory conduct and other breaches of good discipline in a manner that ensures that HIL’s interests are safeguarded and that employees are treated fairly and equitably.

1.3 The procedure applies to all employees of HIL however it may be departed from at HIL’s discretion (including but not limited to during an employee’s probationary period).

1.4 This procedure applies to formal disciplinary action. Part of the normal function of management is to note and deal with minor matters of unsatisfactory conduct informally on a day-to-day basis. Notes of minor matters of unsatisfactory conduct do not need to be keep on employee files. This procedure sets out the formal steps to be taken if the matter is more serious or cannot be resolved informally.

# 2. Equal Opportunities

2.1 HIL expects employees to adhere to this policy in line with HIL's Equal Opportunities Policy and its obligations under equality legislation. In particular, reasonable adjustments will be made during all stages of the process for disabled employees.

# 3. Investigations and Initial Decision Making

3.1 Before any disciplinary hearing is held, the matter will be investigated. Any meetings and discussions as part of an investigation are solely for the purpose of fact-finding and no disciplinary action will be taken without a disciplinary hearing.

3.2 If following investigation the manager decides that formal disciplinary action is not appropriate in the case, but considers that the employee needs to be aware that their actions or behaviour did not quite meet the required standards, informal action may be taken. This will normally take the form of advice or counselling in which the Manager outlines to the employee how and where their conduct or behaviour was not appropriate. The Manager will outline expectations for the future and the potential consequences if behaviour is not modified. The Manager can keep a note of the discussion and a record can be placed on the employees file, this may take the form of a letter or notes from the meeting.

3.3 If following initial investigations the appropriate manager/supervisor considers that an employee's alleged conduct is sufficiently serious that is considered necessary to remove the employee from the workplace whilst investigations take place due to the potential for the investigation to be compromised if the employee is kept at work, the employee may be suspended immediately in accordance with paragraph 4.

# 4. Suspension

4.1 In some circumstances HIL may need to suspend the employee from work. The suspension will be for no longer than is necessary to investigate any allegations of misconduct against the employee or so long as is otherwise reasonable while any disciplinary procedure is outstanding. HIL will confirm the arrangements to the employee in writing. While suspended the employee should not visit any HIL premises or contact any of its clients, customers, suppliers, contractors or staff, unless they have been authorised to do so.

4.2 It must be made clear to the employee that suspension is not a punishment. It does not imply that a decision has already been made about the allegations and the employee will continue to receive their full salary and benefits during the period of suspension.

4.3 If the employee has equipment which will be needed for the service to continue i.e. keys/mobile phone/laptop then the employee may be asked to return this equipment until the Disciplinary proceedings are concluded/the employee returns to work.

4.4 The suspension will be confirmed in writing as soon as possible (normally within 5 working days), quoting the nature of the alleged offence, the purpose of the suspension, and its anticipated duration.

# 5. Disciplinary Hearing

5.1 If following an investigation the appropriate manager decides that there is in fact a case to answer to then a disciplinary hearing will then need to be convened.

5.2 A disciplinary hearing shall be arranged as soon as practicable in most cases Chair of the hearing will be someone other than the Investigating Supervisor that carried out the investigation stage of the procedure.

5.3 The employee shall be given a minimum of 5 working days’ notice in writing of a formal disciplinary. However, in exceptional circumstances, a disciplinary hearing may be held at shorter notice, subject to the consent of the individual in question. Consideration must be given to the complexity of the case, the weight of documentary evidence involved and the reasonable time required by the employee to consider the evidence and prepare their case.

5.4 Employees have the right to be accompanied to a formal disciplinary hearing by a trade union official or a fellow worker. There is no right to legal representation. The employee must provide the name of their chosen companion (if any) prior to the hearing. A companion is allowed reasonable time off from duties without loss of pay but no one is obliged to act as a companion if they do not wish to do so. If the employee’s companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, HIL may ask the employee to choose someone else. HIL may, at its discretion, allow the employee to bring a companion who is not a colleague or union representative if this will help overcome a disability, or if they have difficulty understanding English.

5.5 The letter giving the date, time and place of the hearing shall also state the nature of the alleged offence, a summary of the information gathered during the investigation (including copies of evidence that will be used in the disciplinary hearing) and, if practicable, the names of any witnesses who will attend together with a copy of their witness statement. In cases where a witness’s identity is to be kept confidential, HIL will give as much information to the employee while maintaining confidentiality. It shall also ask for the names of witnesses whom the employee will call.

5.6 If the employee or their companion cannot attend the hearing they should inform HIL immediately and HIL will arrange an alternative time. The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason, or are persistently unable to do so (for example for health reasons), HIL may have to take a decision based on the available evidence. A hearing will not usually be convened during a period of annual leave that has been pre-booked prior to the investigation taking place. It will not be regarded as acceptable for the employee to take leave which has not been previously booked where this interferes with the setting of a hearing date, unless for serious reasons such as family bereavement, hospital consultants appointments etc.

5.7 At the beginning of a disciplinary hearing the manager/director conducting it shall detail the allegation(s) being made, the evidence gathered and shall inform the employee of any witnesses it is intended should be called during the hearing.

5.8 The employee shall be invited to answer the allegation(s) and to give explanations or make comments or present their own evidence as appropriate. The employee and shall be given the opportunity to question any witnesses that may be called and to call witnesses on their behalf (provided HIL have been given sufficient notice of their attendance). Their companion may make representations and ask questions, but should not answer questions on the employee’s behalf. The employee may confer privately with their companion at any time during the hearing.

5.9 After having heard and examined the evidence the management may adjourn the disciplinary hearing if they need to carry out any further investigations such as re-interviewing witnesses in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

5.10 The disciplinary officer concerned shall decide whether a disciplinary offence has been committed. Where it has, the disciplinary officer shall determine the appropriate disciplinary action to be taken in the light of any other information available.

5.11 The employee will be informed in writing, usually within 1 week, of the disciplinary officer’s decision and the reasons for it. The disciplinary officer may also explain the decision in person.

# 6. Disciplinary Action Available

6.1 The courses of disciplinary action available, depending on the severity of the offence, are as follows: -

* first warning;
* final warning; and
* dismissal.

6.2 An employee will not usually be dismissed for a first act of misconduct unless the disciplining officer decides that it amounts to gross misconduct or the employee has not yet completed their probationary period.

6.3 First written warning: will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee’s disciplinary record.

6.4 Final written warning: will usually be appropriate for misconduct where there is already an active written warning on the employee’s record, or misconduct that HIL considers sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee’s record.

6.5 Dismissal: will usually only be appropriate for any misconduct during the employee’s probationary period, further misconduct where there is an active final written warning on the employee’s record or any gross misconduct regardless of whether there are active warnings on the employee’s record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are:

* + - * 1. theft or fraud;
        2. physical violence or bullying;
        3. deliberate and serious damage to property;
        4. serious misuse of the organisation's property or name;
        5. deliberately accessing internet sites containing pornographic, offensive or obscene material;
        6. serious insubordination;
        7. unlawful discrimination or harassment;
        8. bringing the organisation into serious disrepute;
        9. serious incapability at work brought on by alcohol or illegal drugs;
        10. causing loss, damage or injury through serious negligence;
        11. a serious breach of health and safety rules;
        12. a serious breach of confidence.

This list is not intended to be exhaustive.

6.6 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period. A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. The employee’s conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently HIL may decide to extend the active period. After the active period, the warning will remain permanently on the employee’s personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

6.7 HIL may use its discretion to other courses of action as alternatives to dismissal. Such courses of action will normally be in addition to a final warning and include: -

* demotion (permanent or temporary)
* transfer to another comparable job
* suspension without pay
* reduction in pay
* withholding of an increment

6.8 Whenever disciplinary action under the terms of paragraph 6.4 is being considered, the Chairman of HIL (or representative) shall be consulted before a final decision is reached.

# 7. Appeals

7.1 An employee may appeal against any formal disciplinary action taken under this procedure. An employee wishing to appeal against disciplinary action taken under this scheme must set out their full grounds of appeal in writing within one week of receiving the letter confirming the decision arising from the hearing and send it to HIL’s Chairman along with any supporting evidence.

7.2 The arrangements for the appeal hearing shall be made by the Chairman of HIL. The appeal hearing will, where possible, be held by someone senior to the person who held the original hearing. The employee may bring a colleague or trade union representative with them to the appeal hearing.

7.3 The decision and actions of the appeal will be final and could include the following:

* Uphold the original hearing decision
* Overturn the original hearing decision without any further penalty
* Some other action; reduction in the severity of the disciplinary sanction imposed e.g. changing the level of warning issued or the time for which it is live on the employees file.

7.4 The employee will be informed in writing of the final decision as soon as possible, usually within 1 week of the appeal hearing. There is no further right of appeal.