



HYDE PARK SOURCE

Disciplinary Procedure

This policy is applicable to all Hyde Park Source employees.

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Introduction

In any business, there is a need for rules and standards. It is important that any breaches of our rules, or failure to achieve and maintain satisfactory standards of conduct, attendance or job performance, are dealt with effectively, fairly and consistently.

This procedure is non-contractual, and sets out the procedure HPS will normally follow, although we reserve the right, at our discretion, to vary, replace or terminate the procedure at any stage.

Scope of this procedure

This procedure applies to all employees, other than those in their probationary period. It does not apply to dismissals due to long-term ill-health, redundancy or the non-renewal of fixed-term contracts on their expiry.

Aims of this procedure

This procedure aims to help and encourage all employees to achieve and maintain satisfactory standards of conduct and performance and to ensure (as far as possible) consistent and fair treatment for all.

Core principles

Core principles - general

The following core principles should be followed by those dealing with disciplinary matters:

- No disciplinary action will be taken without a full and proper investigation.
- In misconduct cases, where practicable, different people will carry out the investigation and disciplinary hearings. An investigatory meeting will not by itself result in any disciplinary action. The investigating manager will endeavour to establish the facts promptly before memory fades, and take statements from any witnesses. Note the right to be accompanied by a friend or union representative does not apply to meetings held at the investigatory stage.
- Where the issue is one of unsatisfactory attendance, the matter will be dealt with under this procedure. However, HPS recognises that short-term absences due to health conditions may not be the result of a deliberate act on the part of the employee, and in such circumstances the matter may be referred to as an "incapability" issue to reflect this distinction.
- Each step in the procedure will be taken without unreasonable delay, the timing and location of any meetings will be reasonable and any meeting will be held in as private a location as possible without interruptions.
- A fair disciplinary process will always be followed, up to and including cases of dismissal for gross misconduct
- Where appropriate, and depending on the severity of the offence, HPS may omit any of the stages within the disciplinary procedure detailed below. It should be noted that, despite ongoing disciplinary action, an individual may be dismissed for another unrelated disciplinary matter if sufficiently serious. It is recognised that the circumstances of each case will be different and that each case therefore should be treated on its merits.
- A right to appeal will apply at every formal stage of this procedure.

Core principles - suspension

The following should be noted regarding suspension:

- Except for paid suspension (used purely as a precautionary measure to allow a fair and impartial investigation to take place, and without any prejudgement of the outcome of any subsequent disciplinary hearing), no action will be taken against an employee until a disciplinary hearing has been held.

Core principles - invitation to hearing

When inviting an employee to a disciplinary hearing:

- The employee will always be given written notice at least 5 working days in advance of the invitation to any disciplinary hearing of which they are the subject, and will be advised of the nature of the complaint against them, the circumstances that have led to HPS contemplating the need for disciplinary action or dismissal and the procedure to be followed. Full copies of any written evidence will normally be provided more than 1 working day prior to the hearing, although we may withhold the identity of a witness or redact witness evidence, if we believe it to be appropriate and necessary to protect the witness.
- If either the employee or their chosen companion is unable to attend any meeting under this procedure for a reason that was not foreseeable at the time the meeting was arranged, then Hyde Park Source will attempt to rearrange the meeting for a date within five working days of the original planned date. However, the employee is expected to take all reasonable steps to attend the hearing on the appointed date and at the appointed time. Where an employee is persistently unable or unwilling to attend an agreed disciplinary meeting, without good reason, a decision may be made in the employee's absence based on the evidence available.

Core principles - at the hearing

The following should be borne in mind at the hearing:

- At all formal stages of this procedure, the person chairing the meeting is advised to be accompanied by a suitable employee of HPS who will act as a witness and take full notes of everything that is said. Where no internal person of sufficient seniority or confidential status is available, or where preferred, an external party may be invited to attend in this capacity.
- Under no circumstances should any meeting or conversation be recorded without the prior permission of those present.
- The employee will have the right to be accompanied, either by a friend, a representative of a trade union (who must be certified in writing by that union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings) or an official employed by a trade union. The employee should tell the person conducting the hearing in advance whom they have requested to act as a companion. If the employee does not wish to be accompanied this should be noted.
- The companion is there to act as a witness to what was said, to provide moral support and to assist and advise the employee in presenting their case. They may address the hearing (provided the employee wishes this), ask questions on behalf of the employee and confer with the employee but not answer questions on behalf of the employee, nor may the companion prevent the employer from explaining its case.
- If the employee is disabled, reasonable adjustments will be made to ensure (as far as possible) that they are not disadvantaged at the hearing. This may include the provision of further assistance (e.g. a signer or other support) where necessary.

- The person conducting the disciplinary hearing will outline the complaint against the employee and go through the evidence that has been gathered. The employee will be given the opportunity to present any information in their defence, explain or comment before any decision is made. Either party may ask questions, call witnesses, submit witness statements and also question any witnesses called by the other party. If the employee wishes to call any witnesses, they should notify the person conducting the hearing in advance. Witnesses cannot be compelled to attend.
 - A disciplinary hearing may be adjourned at any stage by the person conducting the hearing, in order to calm a tense situation, to check out facts or to take advice. Such adjournments will be kept brief wherever possible in order not to hold up the resolution of the hearing but may be extended where particular information needs to be checked in the interests of fairness or consistency.
 - An adjournment may also be appropriate if a grievance is raised during the disciplinary proceedings that has a bearing on the matter to be decided. When grievances arise out of Disciplinary matters, they must be completed before any further Disciplinary matters are considered.

Core principles - making a decision

It is important to remember that the circumstances of each case will be different and that each case therefore should be treated on its merits.

- Before making any decision on disciplinary action, we will take into account the employee's disciplinary and general record, any similar precedents, any mitigating circumstances or explanations given by the employee, what would be reasonable under the circumstances and whether any training, additional support or adjustments to the role or workload are necessary.
- An employee who is given a disciplinary warning or improvement note will be told where their performance or conduct falls short of what HPS considers to be satisfactory, what improvement is required, and over what timescale this is to be achieved. For employees who are under-performing, a review date will be set and we will also confirm any support, including any training that we will provide to assist the employee.
- A decision to dismiss will only be taken by someone with the authority to do so. The reasons for dismissal will be confirmed in writing, together with the date on which the employment will end, the appropriate period of notice and the right of appeal.

Core principles - after the hearing

After the hearing, the following should be noted:

- Any warning or improvement note will be confirmed in writing to the employee. It will identify the next stage in the procedure (should the employee fail to reach a satisfactory standard or commit a further act of misconduct), specify for how long the warning will stand, and will inform the employee of their right of appeal.
- If the employee's standard of work or conduct remains unsatisfactory, and, after warnings, remains below the level that is acceptable, they may be dismissed.

Informal counselling

HPS recognises that cases of minor misconduct or poor performance may best be resolved through informal counselling, goal or target setting, advice or training and these do not form a formal part of this procedure.

Where an improvement is required, we will ensure that the employee understands what is

required, how this will be measured, and over what period. Any agreed action plan should be confirmed in writing.

Where a sustained improvement is not apparent, or where matters are more serious or the issue is one of misconduct, the formal disciplinary procedure will be used.

Suspension

HPS reserves the right to suspend the employee at any stage of this procedure. Suspension will be on full basic pay and will be for as short a period as possible in order to carry out any investigation of an alleged serious offence or to prevent any recurrence. Such suspension is not disciplinary action and does not involve any pre-judgement.

If suspended, the employee must be available to attend any fact-finding interview called during the suspension period. Contact will be maintained with the employee throughout the period of suspension to keep them informed of the investigation. An employee who is suspended will only be allowed to contact HPS through a nominated person.

Stages of the formal disciplinary procedure

Our procedure contains the following stages:

- **verbal warning** - for unsatisfactory performance or misconduct of a relatively minor nature
- **first written warning** (or improvement note) - for incidents of misconduct or unsatisfactory performance
- **final written warning** - for further continued unsatisfactory performance or further misconduct or if an incident of serious misconduct occurs
- **dismissal with notice** - for continued unsatisfactory performance or conduct

Gross misconduct and summary dismissal

Certain offences may be regarded as so serious as to render the employee liable to summary dismissal without prior warning (see examples above). A dismissal for gross misconduct will only be made following a disciplinary hearing and will be confirmed in writing, giving the reasons for dismissal, confirming that the employment terminates immediately without notice or pay in lieu of notice, and outlining the employee's right of appeal.

Penalties other than dismissal

There may be circumstances where we consider alternative disciplinary action to dismissal to be appropriate. Such action could include suspension without pay, demotion (which may result in a reduction in pay for the employee), or transfer to another position which may result in a reduction in pay.

Duration and removal of warnings

Warnings will remain 'active' for the following periods unless a different period is confirmed in writing to the employee:

- **verbal warning** - six months from the date the warning is first notified to the employee (either verbally or in writing or such other period as may be specified)
- **first written warning or improvement note** - twelve months from the date the warning is first notified to the employee (either verbally or in writing) or such other period as may be specified
- **final written warning** - twelve months from the date the warning is first notified to the employee (either verbally or in writing), or indefinite, depending on the circumstances resulting

in the warning

Following completion of the appropriate period, the warning will no longer be active and will normally be disregarded for the purposes of any future disciplinary action.

Records of disciplinary warnings will however be retained on file for purposes of disclosure as required by regulation 11 of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

A copy of the written confirmation of any warnings, improvement notes, dismissal, suspension or other disciplinary penalty (plus any appeal documentation) will be given to the employee and a copy placed on the employee's personnel file. Such documentation will be regarded as confidential.

Appeals

An employee who feels that a disciplinary warning, improvement note or dismissal is unfair may appeal against this. Such appeals should be lodged, in writing, without unreasonable delay (we would expect this to be within seven calendar days of the decision being notified to the employee). The employee should clearly state the grounds on which the appeal is made (e.g. the finding is unfair, the penalty too harsh, new evidence comes to light, or because of a procedural defect).

The person conducting the appeal is advised to be accompanied by a suitable employee of HPS or HR advisor who will act as a witness and take full notes of everything that is said. Where no internal person of sufficient seniority or confidential status is available, or where preferred, an external party may be invited to attend in this capacity.

The employee may, if they so wish, be accompanied by a friend, a trade union representative (who must be certified in writing by that union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings) or by an official employed by a trade union at any appeal hearing. The employee should tell the person conducting the appeal hearing in advance whom they have chosen as a companion. As with a disciplinary hearing, the companion will be able to address the hearing, ask questions on behalf of the employee and to confer with the employee but not to answer questions on behalf of the employee.

If either the employee or their chosen companion is unable to attend an appeal meeting arranged under this procedure for a reason which was not foreseeable at the time the meeting was arranged, we will attempt to rearrange the meeting for a date within five days of the original planned date.

If the employee is disabled, reasonable adjustments will be made (as far as possible) to ensure that they are not disadvantaged at the hearing. This may include the provision of further assistance where necessary.

The grounds of the appeal will be considered when deciding the extent of any new investigation: it may be that a complete re-hearing will be held should there be any suspected procedural defects.

The employee will be notified of the appeal decision in writing: whatever decision is taken at the appeal hearing will be final.

Probationary employees

Employees who are still within their probationary period are not covered by this procedure. If a probationary employee is not performing satisfactorily or there are incidences of minor misconduct, they will normally be seen informally by their line manager, informed of any shortcomings in performance or conduct, offered training and support (where appropriate) and warned that failure to improve will result in dismissal.

If there is doubt about the employee's ability to reach a satisfactory standard, the probationary period may be extended, in which case the employee will be told of this and a new date set for the expiry of the probationary period.

If the employee is unable to reach and/or maintain a satisfactory standard of performance or conduct, they will normally be invited to a formal meeting (with the right to be accompanied) prior to a decision being taken concerning his or her continued employment.

A probationary employee who commits an act of gross misconduct will be summarily dismissed.

Absence during disciplinary proceedings

HPS recognises that disciplinary situations can be stressful for both the employee involved and also any other employees who are asked to give witness statements or to participate in the procedure in any way. However, we believe that in most cases this stress is best alleviated, and working relationships maintained, by completing the disciplinary procedure quickly.

Where an employee is unfit for work, this does not necessarily mean they are unfit to attend an investigatory meeting or a disciplinary hearing and employees must make every effort to co-operate with the Company in completing the disciplinary process.

If an employee is absent due to illness or other reasons such as maternity/adoption/paternity/shared parental or other leave, we will consider, in consultation with the employee (and/or their GP in the case of illness), whether there are any reasonable adjustments that can be made to enable the case to be progressed (e.g. by allowing the employee to make further written submissions, by conference call or by holding the meeting at a different venue).

If, after an attempt to contact the employee, we reasonably believe that they are unlikely to attend a meeting in the near future or to provide any further information, the Company may decide the matter without the employee's further input, based on the evidence and information available to HPS. Unless the employee has already been informed of this, we will write to inform the employee of our intentions to proceed in their absence before taking any decisions.

Implementation, monitoring and review of this procedure

This procedure takes effect immediately. The management of HPS have overall responsibility for implementing and monitoring this procedure, which will be reviewed on a regular basis following

its implementation and may be changed from time to time.

Any queries or comments about this procedure should be addressed to a line manager.

Appendix

Examples of general misconduct

The following is a non-exhaustive list of examples of offences which amount to misconduct falling short of gross misconduct:

- ◆ unauthorised absence from work
- ◆ unsatisfactory time-keeping or attendance
- ◆ unsatisfactory job performance
- ◆ time wasting
- ◆ failure to follow a reasonable management instruction
- ◆ minor contravention of health and safety regulations
- ◆ disruptive, abusive, truculent or provocative behaviour
- ◆ unauthorised use of our telephone, email and/or internet facilities
- ◆ minor damage to our property
- ◆ leaving work without authority
- ◆ failing to follow our absence notification procedures
- ◆ persistent absence/sickness
- ◆ taking extended breaks
- ◆ disrupting our business by receiving and making what we consider to be excessive personal telephone calls, irrespective of whether this is on a personal mobile phone or our telephones

Examples of gross misconduct

An employee will not normally be dismissed for a first incident of misconduct, unless it amounts to gross misconduct, in which case summary dismissal without notice and without the need for any prior warnings may take place.

The list below is not exhaustive but is a guide to the type of offence which may normally result in summary dismissal (i.e. dismissal without notice or pay in lieu of notice):

- ◆ theft, fraud or falsification of records e.g. HPS documentation, expense claims or attendance/sick records, shared parental leave declarations etc.
- ◆ being under the influence of alcohol during working time, or reporting for work whilst under the influence of alcohol
- ◆ being in possession of, or under the influence of, or attempting to deal in, non-medically prescribed drugs
- ◆ assault or fighting, either on our premises or whilst engaged on our business or where the act committed irrevocably damages the required trust and mutual confidence between HPS and the employee
- ◆ violent, abusive or intimidating conduct
- ◆ act of unlawful discrimination, harassment, bullying or offensive behaviour
- ◆ misuse of property belonging to HPS or of our name
- ◆ malicious damage to property belonging to HPS, our clients/customers or other employees
- ◆ flagrant disregard of our procedures, rules and regulations
- ◆ any action in serious breach of legislative requirements which may affect our business
- ◆ gross negligence
- ◆ use of foul language or any act that violates commonly accepted standards of behaviour
- ◆ actions which damage the reputation of HPS or bring it into disrepute - this includes taking part in activities which result in adverse publicity to ourselves, or which cause HPS to lose

faith in the employee's integrity

- ◆ any action constituting a criminal offence which makes the employee unsuitable for employment with HPS
- ◆ unauthorised use or disclosure of confidential information
- ◆ the inclusion of incorrect or misleading information on the employee's job application documentation (including CV, letter of application or our application form) or the provision of false references
- ◆ serious breach of Health and Safety rules, whether or not this resulted in an accident
- ◆ the acceptance or giving of anything that could be construed as a bribe
- ◆ acts of dishonesty
- ◆ undertaking private work on our premises and/or during working hours without express permission
- ◆ accepting gifts from outside organisations which have not been approved by HPS
- ◆ smoking in an unauthorised area where this constitutes a serious risk to health and safety
- ◆ inappropriate use of the Internet or computer misuse in breach of our policies. This includes deliberately accessing sites containing pornographic, offensive or obscene material and/or downloading, displaying, archiving, storing, distributing, purchasing, intending to purchase, editing or recording such material, or the inappropriate use of social media
- ◆ bribery or corruption
- ◆ loading unauthorised software
- ◆ the taking of unauthorised copies of software for use within the office or outside
- ◆ the unauthorised use of another employee or user's password or keys to gain access to confidential information
- ◆ contacting (formally or informally and by any means) any of our past, current or prospective suppliers, customers or clients for any purpose other than for the legitimate business interests of HPS - this includes (but is not limited to) any activities which we consider may be linked to an intention of setting up in a competing business or working for a competitor after leaving our employment