

Disciplinary Policy & Procedure

Version:	1.0
Date approved:	25 th May 2023
Date of last update:	25 th May 2023
Period for review:	Annually
Policy Scope:	Organisation wide
History of changes:	-

Please note that any reference made to employees or colleagues throughout this document does not include volunteers.

1. Purpose and Scope

This purpose of the disciplinary policy and procedure is designed to encourage all employees to achieve and maintain set standards of conduct, attendance and job performance. The aim is to ensure consistent and fair treatment for all in the organisation.

The policy and procedure applies to all employees. For newly appointed employees who are in their probationary period, the charity retains the discretion to vary the procedure accordingly in respect of formal warnings, up to termination for a first breach of conduct rules.

The disciplinary procedure is normally only used where other interventions have failed to produce the required improvement or when the conduct matter is sufficiently serious to require immediate formal action.

2. Principles

- 2.1 Informal action will be considered, where appropriate, to resolve problems before recourse to formal procedure.
- 2.2 All employees will be treated in line with the charity's equality and diversity policy.
- 2.3 For formal action, the employee will be advised of the nature of the complaint against him/her and an investigation will normally be undertaken before any formal action is taken.
- 2.4 The employee will have the right to be accompanied by a work colleague throughout the formal stages of the procedure.
- 2.5 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
- 2.6 Where deemed appropriate, a disciplinary meeting may be held to assess allegations of gross misconduct or continued and/or serious poor performance. The employees will be given the opportunity to state his or her case at a disciplinary meeting before a decision is made.
- 2.7 An employee will have the right to appeal against any disciplinary action.
- 2.8 All information will be retained on a confidential basis.
- 2.9 The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

- 2.10 Where the employee raises a grievance against any disciplinary action in relation to him/her, the grievance procedure is not normally available to the employee whilst the disciplinary matter is being considered unless the investigating manager decides there are grounds for hearing it first.
- 2.11 If an employee is charged with, or convicted of a criminal offence, this will not necessarily in itself be a reason for disciplinary action. However, consideration will be given to what effect the charge or conviction has on the employee's suitability to do his/her job, their relationship with the charity, work colleagues, beneficiaries and other parties, and whether there is damage to HYCC's reputation.

3. Procedure

3.1 Informal Action

Informal action is appropriate in cases of minor misconduct. The line manager should hold a confidential discussion with the employee, let the employee know that his/her conduct is unsatisfactory and make him/her aware of exactly what is expected. Where possible the manager will resolve minor issues with a staff member informally and swiftly.

The employee should be informed that if the required standards and achievements are not achieved or maintained, the matter will be dealt with formally, and advised about the possible consequences. The manager should keep brief, confidential notes of any informal action.

3.2 Investigation

Before formal disciplinary action is taken, a full investigation into the allegation(s) will normally take place. The purpose of the investigation is to determine whether there is a case to answer at a formal disciplinary meeting. The investigator is usually the employee's line manager, unless the trustees feel this is inappropriate in the particular case. Proceedings are treated in confidence and records kept as confidential as practical. Following the investigation consideration will be given as to whether the matter is closed or further action is needed; including further attempts at informal action.

3.3 Formal Action

3.3.1 *Written Warning*

A written warning is given if the seriousness of the misconduct or performance is such that the matter cannot be suitably dealt with through informal means. This will set out the details of complaint, the improvement that is required, the timescale, and inform the employee that a final written warning will be considered if there is no sustained satisfactory improvement or change. A record of the improvement note will be kept for 6 months, but will then be considered spent if significant improvement has been demonstrated.

3.3.2 *Final Written Warning*

A final written warning is given if the offence is sufficiently serious or if there is an unspent warning already on file. This will give details of the complaint, the improvement required and the timescale. The warning also states that if there is any further misconduct, or if following review, there is continued unsatisfactory conduct the employee is likely to be dismissed. A copy of this written warning will be kept but will be disregarded for disciplinary purposes after 6 months subject to achieving and sustaining satisfactory conduct or performance.

In circumstances where an employee's conduct is satisfactory throughout the period a warning is in force, but lapses very soon thereafter, or there is evidence of a pattern of satisfactory conduct only when a warning is in force, this will be taken into consideration in deciding how long any future warning should last.

3.3.3 *Disciplinary Meeting*

Where deemed appropriate, a disciplinary meeting may be held to assess allegations of gross misconduct or continued and/or serious poor performance. The chair of the meeting will be an appropriate senior manager or trustee.

The chair of the disciplinary meeting will ensure the employee is told in writing no fewer than 5 working days before the meeting is to be held. Written notification will include a) the specific nature of the issue, b) that the employee may be accompanied by workplace colleague at the meeting, c) the names of any witnesses and those in attendance at the meeting, d) a link to the disciplinary policy and procedure and any written evidence to be considered, e) that the employee may provide evidence, and g) that all relevant documentation should be provided to the chair 36 hours in advance of the meeting.

The employee and his/her colleague should make every effort to attend. If the employee fails to attend the hearing without good cause, a decision may be taken in his/her absence based on the information available.

In addition to the chair, those in attendance at the meeting normally include the person who conducted the investigation, and a note taker. The chair will explain the issue, go through the evidence gathered. The employee will be allowed to answer any allegations made and have a reasonable opportunity to ask questions.

The outcome of the hearing is normally communicated to the employee within five working days.

3.3.4 *Dismissal*

Dismissal may be recommended as a disciplinary action following a disciplinary hearing, or if, a) following review there is continued unsatisfactory conduct or failure to improve performance, b) the employee is found to have committed an act of gross misconduct (see 3.4). Dismissal decisions can only be taken by the appropriate senior manager (normally the

chair of the disciplinary meeting), and the employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

3.3.5 *Action short of dismissal*

If there is still further misconduct or failure to improve performance the final step in the procedure may be other action short of dismissal such as demotion or disciplinary suspension or transfer. If imposed, the employee will receive details of the disciplinary action and the reasons for it in writing, the date on which the disciplinary action will be made effective, and the right of appeal.

3.4 **Gross Misconduct**

3.4.1 Gross misconduct is regarded as a fundamental breach of contract that makes it impossible for the charity to continue employing the employee. If, after investigation, it is discovered that an employee has committed gross misconduct the normal consequence will be dismissal without notice or pay in lieu of notice.

3.4.2 Examples of acts which constitute gross misconduct (these are not exhaustive or exclusive) include:

- theft, fraud corruption and deliberate falsification of records or any serious breach of the anti-bribery and anti-corruption policy
- bullying and gross insubordination, physical violence or intimidation
- deliberate and serious damage to property
- serious negligence which causes unacceptable loss, damage or injury
- incapacity for work due to being under the influence of alcohol or illegal drugs
- failure to disclose a sexual, familial or other significant relationship with or between any HYCC beneficiary, HYCC trustee or HYCC employee.

While the alleged misconduct is being investigated, the employee may be suspended, during which time he/she will be paid their normal pay rate. Suspension is not automatic, nor in itself, disciplinary action.

3.5 **Appeals**

3.5.1 To appeal against a disciplinary decision the employee must do so in writing to the Board of Trustees within five working days. Appeals against dismissal and action short of dismissal are heard by two to three trustees. The employee may choose to have a workplace colleague present.

3.5.2 The appeal process is a review of the disciplinary decision taken based on one or more of the following grounds; a) that new evidence is available which was not previously presented, b) the decision on the disciplinary action is flawed on procedural grounds, c) the disciplinary decision taken was not reasonable in the circumstances.

- 3.5.3 The appeal hearing will be arranged as soon as practical. All relevant documentation should be submitted to the chair of the appeal panel 36 hours before the appeal hearing. The hearing will be chaired by a trustee.
- 3.5.4 The appeal board may reach the following decisions: a) uphold the disciplinary action or; b) remove the disciplinary action entirely or; c) impose a disciplinary action of their own, short of dismissal, which they consider appropriate. The decision of the appeal board will be confirmed in writing within five working days of the appeal hearing. The decision of the appeal board is final.

Handling Discipline – an overview

- HYCC will always follow the ACAS *Code of Practice on Disciplinary and Grievance Procedures*
- HYCC appreciates that it may be helpful to consider mediation at any stage

