



## **Disciplinary Procedure**

### **1. Introduction**

- 1.1 In conjunction with the Disciplinary Policy, this procedure aims to outline how employees and managers can address any alleged misconduct on the part of the employee.
- 1.2 Accompanying both the policy and this procedure is a disciplinary process flowchart and management guidance document.

### **2. Informal Stage**

- 2.1 The term 'disciplinary' is often associated with formal processes and sanctions when discussed in a workplace setting. However, not all infringements of conduct, behaviour or even policies are required to be handled in such manner.
- 2.2 Where a manager becomes aware of a potential disciplinary issue, they will consider whether this can be resolved without initiating the formal disciplinary process. In order to do this, they will carry out an initial, informal exercise to establish the facts of the situation.
- 2.3 If it is deemed that your conduct can be dealt with informally, your manager will then meet with you to discuss the issue. This confidential meeting will explore the problem, providing you with an opportunity to explain your thoughts whilst also identifying the improvement or change required within a timescale. Your manager will make note of this discussion and a copy will be kept on file.
- 2.4 If, however, your manager carries out their initial exercise and deems your misconduct to be of a more serious nature, or your conduct does not improve after informal action, formal disciplinary action may be considered.

### **3. Investigations**

- 3.1 Investigating a potential disciplinary matter is an integral part of any fair formal process. Therefore, where it has been determined that the performance or misconduct cannot be dealt with informally, a full investigation will be carried out.
- 3.2 An investigation is a fact-finding process that requires a manager to be appointed into the role of 'Investigating Officer'. In this role, the manager will be supported by a HR Business Partner in the interest of ensuring that a fair process is followed.

#### *Investigation Meetings*

- 3.3 To help fully determine the facts of the situation, an investigation meeting may be held with those employees who are alleged to have been involved in the potential disciplinary matter. Other witness employees may also be met with as part of the investigation process.
- 3.4 In all meetings, the investigating officer will be accompanied by another manager or a representative from HR who will take a note of the meeting. As an investigation is

not considered to be a formal meeting, you do not have the right to be accompanied at these meetings, unless at the Investigating Officer's discretion, for example as a reasonable adjustment for an employee with a disability.

### *Additional Information*

- 3.5 At any stage of the investigation or disciplinary process, Hanover (Scotland) will access and refer to all relevant management information and/or data, including electronic data, where this will support the process. Any such information or data will also normally be available to the employees concerned.

### *Investigation Timescales*

- 3.6 Any investigation will be undertaken and concluded as speedily as possible and without unreasonable delay. The length and complexity of the investigation will be determined by the circumstances and the nature of the allegations. It would normally be expected to be completed within two weeks, however, may take longer in exceptional circumstances.
- 3.7 If you are unable, or choose not to participate in the investigation, we will proceed without your input. It would be our expectation that you do participate.

### *Investigation Outcome*

- 3.8 Upon conclusion of the investigation, the Investigating Officer will be required to complete an investigation report, which will detail the findings of the investigation, the evidence gathered, and the recommendation based upon this.
- 3.9 The nominated investigator will be neutral and impartial and present their findings in an unbiased, factual, coherent and relevant way. They will recommend one of the following outcomes:
- No further action
  - Informal action
  - Formal disciplinary action

### *Suspension from Work*

- 3.10 As mentioned, a fair and proper investigation is a key part of the disciplinary process and as such, consideration will be given to you and those employees involved. Whilst the investigation is ongoing, you may be redeployed, given alternative duties or suspended for the duration of the process. These are not considered to be sanctions taken under the disciplinary procedure but rather to protect the integrity of the investigation.
- 3.11 Where a suspension is considered appropriate, the period of suspension will be kept to a minimum and be under continuous review. Suspension is a neutral act and does not imply guilt. The suspension period will be kept as short as possible and regularly reviewed. The decision to suspend with pay from work will be confirmed in writing to you. Reasons for suspension may include, but not be limited to:

- Alleged gross misconduct
- Involvement in a potential serious crime
- Where attendance at work could impede a fair investigation
- Have an impact on another employee's health and safety

### **4. Formal Stage**

- 4.1 The formal approach to disciplinary ties in with the outcome of an investigation, as illustrated in Section 3. Following the conclusion of the investigation and submission of the outcome report, a 'Disciplinary Manager' will be appointed to review the report and decide which outcome (see Section 3.4) will be pursued.
- 4.2 If it is decided that formal disciplinary action is to be considered, this does not mean that you will be automatically issued with a warning, but rather be invited to a disciplinary hearing.

#### ***Arranging the Disciplinary Hearing***

- 4.3 The manager hearing the disciplinary will confirm your invite in writing and with reasonable notice to allow you to prepare. You will also receive details about the allegation made against you, of any evidence available, witnesses being called and notification that the outcome of the hearing may result in disciplinary action.
- 4.4 You should make every attempt to attend the disciplinary hearing as invited, including if suspended from work. Further information regarding the need to reschedule your disciplinary hearing can be found in Section 4.5. If you are persistently unable or unwilling to attend the rearranged meeting, the manager has the right to hold the meeting in your absence and make a decision based on the evidence available.
- 4.5 If appropriate, consideration may also be given to the manager asking questions in writing to the employee if they are unable to attend the meeting in person. Reasonable adjustments will also be made for any employees with a disability.

#### ***The Disciplinary Hearing***

- 4.6 The purpose of the hearing is to consider all the evidence available, and make a decision based on this. At the hearing, you will have the opportunity to state your side of the case and to respond to any allegations or complaints that have been made.
- 4.7 The Disciplinary Manager may adjourn the hearing at any time if it is considered that further investigation is required or if more time is needed to consider all the facts before making a decision. No disciplinary action will be taken against you until the facts have been established including the employee's version of events. The investigating officer may also be required to attend and respond to questions at any subsequent hearing.
- 4.8 Witnesses may be asked to attend the hearing and to respond to questions from the disciplinary manager. In exceptional circumstances, witness statements may be

anonymised or redacted in order to protect the identity of the witness, for example when investigating a whistleblowing complaint.

- 4.9 You may be accompanied by a colleague or trade union official. Further information regarding this can be found in Section 4.5. A HR representative will also be present at the meeting and will assume the role of minute taker. You will then be provided with the meeting minutes following the conclusion of the meeting.

### *Decision and Outcome*

- 4.10 Upon consideration of all the presented information, the disciplinary manager will adjourn the meeting and make a decision upon whether a formal sanction is to be issued. Where possible the decision will be given verbally to you, and all decisions will be confirmed in writing upon conclusion of the meeting. You will also be notified of any right to appeal.
- 4.11 If a formal sanction is issued, it will be done in accordance with the below timescales:
- Written Warning – 6 Months
  - Final Written Warning – 12 Months
  - Dismissal
- 4.12 If a warning is issued it shall remain live on your file for the duration of the warning. At the point of expiry, provided the misconduct concerns have been resolved satisfactorily, the warning shall then be considered exhausted.

### *Right of Appeal*

- 4.13 If you are not satisfied with the outcome of the disciplinary hearing, you have the right of appeal at every stage of the process. The appeal should be made within five working days to the contact noted in the disciplinary outcome letter.
- 4.14 This should be made in writing and clearly state the grounds of appeal, i.e. the basis on which you believe the sanction should be overturned, which could include that it was too severe, inappropriate or because new information has come to light.
- 4.15 An Appeal Manager will be appointed and will normally arrange a disciplinary appeal meeting within eight working days of receipt of the notice of appeal. You must take all reasonable steps to attend. The appeal manager will consider the appeal, taking all circumstances into account and a decision will be made on whether the disciplinary sanction is to be upheld or overturned and delivered to you normally within five days of the hearing.
- 4.16 Appeals will be reviewed by a senior manager not previously involved in the case. Employees may submit additional supporting evidence. The decision of the Appeal Manager will be final.
- 4.17 In exceptional circumstances, the sanction may also be increased. The Appeal Manager's decision will be final.

### *Right to be Accompanied*

- 4.18 You have the right to be accompanied by a companion at all stages of the formal disciplinary process. Before any hearing takes place, you should notify the HR representative of the name, status and contact details of your companion. A companion can be either a colleague or a trade union official.
- 4.19 Where possible, the companion will be consulted about a suitable date and time for the hearing. If the companion cannot attend on the proposed date, you can suggest an alternative suitable date so long as it is reasonable and it is not more than five working days after the original date.
- 4.20 Where an employee has a disability, an alternative companion, other than those noted above, may be approved to accompany an employee at a disciplinary hearing. You must make a request to the nominated HR representative before the formal meeting and have approval that, as a reasonable adjustment, the suggested companion is acceptable.
- 4.21 In all cases, the companion should not be someone who may have a conflict of interest or who may prejudice the hearing. As these are internal proceedings, it would not normally be acceptable for legal representation at disciplinary hearings.

### *Disciplinary Procedure for the Chief Executive and Directors*

- 4.22 Should a Director, other than the Chief Executive, face an allegation of misconduct the matter should be investigated by the Chief Executive or external HR professional as appropriate. A Committee Chairperson, as appropriate, would then Chair any resultant disciplinary hearing, with any appeal being heard by the Chairperson of the Hanover. All other details, such as timescales, will be in accordance with this procedure.
- 4.23 Should the Chief Executive face an allegation of misconduct the matter should be investigated by an external HR professional as appropriate. A Committee Chairperson, as appropriate, would then Chair any resultant disciplinary hearing, with any appeal being heard by the Chairperson of the Hanover. All other details, such as timescales, will be in accordance with this procedure.
- 4.24 Whilst every effort will be made to progress matters without delay, the involvement of senior managers and Board Members may lead to slightly longer timescales than those set out in this procedure.
- 4.25 The right is reserved to make use of independent advice and support where appropriate.

## **5. Gross Misconduct**

- 5.1 The following offences will be viewed by Hanover as gross misconduct:
- unauthorised use of the Hanover's assets and equipment

- failure you maintain SSSC registration or removal from register
- insubordination e.g. refusal to carry out duties or obey reasonable instructions, except where employee safety may reasonably be in jeopardy
- breach of the Hanover Code of Conduct
- intentional discriminatory behaviour, sexual harassment, or harassment related to any other of the protected characteristics set out in the Equality Act 2010,(e.g. bullying or violent, dangerous or intimidatory conduct)
- serious breach of rules, policies or procedures, especially those designed to ensure safe operation
- divulging or misusing confidential information
- theft or fraud
- possession or consumption of alcohol or drugs whilst on the premises, or intoxication by reason of alcohol or drugs, which could affect work performance in any way or have an impact on other employees
- unauthorised or inappropriate use of e-mail, Internet and/or computer systems
- falsification of any Hanover records including reports, accounts, expenses claims or self-certification forms
- bringing unauthorised person(s) onto Hanover premises
- serious breach of Health and Safety Rules whilst at work i.e. endangering the safety of oneself or others by disregarding Hanover's health and safety policies and procedures.
- Not maintaining active Scottish Social Services Council (SSSC) registration or Protecting Vulnerable Groups (PVG) membership, which are legal requirements for working in regulated roles with vulnerable groups.

5.2 This list of examples is not exhaustive or exclusive, and offences of a similar nature will be dealt with under this procedure. Gross misconduct will result in the initiation or escalation of the Hanover's disciplinary procedure, and may result in immediate dismissal without notice or pay in lieu of notice.

## 6. Appendices

Appendix A – Disciplinary Process Flowchart

Appendix B – Management Guidance

## 7. Related Policies and Procedures

- Disciplinary Policy

## DISCIPLINARY PROCEDURE

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- Disciplinary Management Guidance
- Grievance Policy and Procedure
- Dignity at Work Policy and Procedure

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### Appendix A - Disciplinary Process Flowchart

