

Disciplinary and Dismissal Process Policy

Policy Statement

Heydays Care and Support Services aim to ensure that there will be a fair and systematic approach to the implementation of standards of conduct affecting all grades of employee within the organisation. To this end the following procedure will apply.

[Please note that this procedure does not form part of employees' contracts of employment but sets out the process the care service will normally follow unless there is a valid reason for doing otherwise.]

Procedure

Investigation

Where necessary, concerns about misconduct or gross misconduct which may warrant disciplinary action will be subject to investigation to establish the facts of the matter before a decision about action is taken. An investigatory meeting with the employee will take place before proceeding to any disciplinary hearing. In other cases, the investigatory stage will be the collation of evidence by Heydays Care and Support Services for use at any disciplinary hearing. Some of this evidence may already have been presented to the member of staff through informal discussion.

In misconduct cases, where practicable, different people will carry out the investigation and disciplinary hearing.

If there is an investigatory meeting, this will not in itself result in any disciplinary action. Although there is no statutory right for an employee to be accompanied at a formal investigatory meeting, such a right may be allowed at the discretion of management.

Suspension from Work

Heydays Care and Support Services reserves the right, at its discretion, to suspend an employee while the circumstances of any complaint or

allegation are investigated. Such suspension will be on full pay. Suspension from work will not be automatic but will depend on the circumstances.

Suspension does not constitute a disciplinary sanction but is instigated in order to allow Heydays Care and Support Services to investigate the alleged misconduct properly.

In cases where a period of suspension with pay is considered necessary, this period will be as brief as possible, will be kept under review and it will be made clear that the suspension is not considered a disciplinary action.

Covert recordings

The secret recording of the proceedings of relevant meetings is forbidden. To do so would be an act of gross misconduct, likely to lead to the employee's dismissal

Informal Discussion

- Minor breaches of discipline, misconduct, poor timekeeping, etc may result in an informal discussion with the employee's immediate superior.
- Although an informal warning will not form part of the formal disciplinary procedure, it will be recorded.
- It is expected that in most cases an informal discussion will resolve most difficulties. Where an employee commits a more serious act of misconduct or fails to improve and maintain that improvement after an informal warning, the formal steps detailed below may be taken.

Formal Warnings

- A disciplinary hearing conducted by *Dawn Darby (Manager)* will be held. In good time before the hearing the employee will be advised in writing of the reason(s) for thinking that the employee is guilty of misconduct or unsatisfactory job performance, provided with any evidence such as copies of witness statements and informed of the right to be accompanied at the hearing by a work colleague of their choice, or a trade union official. A trade union official means a full-time official or a lay official certified by the union as having experience of, or having been trained in, acting as a companion at disciplinary hearings.

It should be noted that neither spouse/partner nor solicitor are suitable companions.

- At the disciplinary hearing, the employee will be invited to state their case and to answer the allegations against them. If, following the hearing, it is decided that disciplinary action should be implemented, the employee will be told of the decision and given a letter in confirmation of this within 7 days.
- In the case of a first offence, or if further offences have occurred following an informal warning, the employee will, following a disciplinary hearing, be given a first written warning. The written warning will state that it constitutes the first formal stage of the service's disciplinary procedure and:
 - a. the nature of the misconduct or poor performance
 - b. the change in behaviour or improvement in performance that is required
 - c. the time scale for change/improvement
 - d. how long the warning will remain current on the employee's file for disciplinary purposes
 - e. that the employee has the right to appeal against the warning
 - f. that any further misconduct of any kind, or a failure to improve performance to a satisfactory level, will result in a further disciplinary hearing and a final written warning which, if unheeded, may result in dismissal with notice.
- In the case of a more serious offence, or if a further offence occurs within the currency of a first written warning, or if the employee has failed to improve their performance to a satisfactory degree within the agreed timescale, the employee may be given a final written warning. Written confirmation of the warning will be as above for a first written warning. A first written warning may also be given for a first offence if the first offence is, in Heydays Care and Support Services view, sufficiently serious to justify it.

- The final decision to dismiss can only be taken by Dawn Darby (Manager) when satisfied with the facts of the case, the relevance of any mitigating factors and after interviewing the employee concerned.
- Alternative disciplinary actions short of dismissal may be imposed at the discretion of the organisation. These are:
 - g. suspension without pay up to a maximum of five working days or shifts
 - h. demotion to a suitable job, if one is available
 - i. transfer to another section or department or to another unit or branch of the service
 - j. loss of seniority, pay increment or discretionary bonus.

Summary Dismissal

- Employees may be summarily dismissed if it is established, after investigation and hearing the employee's version of the matter, that there has been an act of gross misconduct, major breach of duty or conduct that brings or might bring Heydays Care and Support Services name into disrepute.
- Gross misconduct includes (but is not limited to):
 - a. serious acts of insubordination
 - b. serious breaches of health and safety rules
 - c. theft
 - d. fraud and deliberate falsification of records
 - e. being under the influence of alcohol or drugs during working hours
 - f. serious negligence (even a single error where the actual or potential consequences are extremely serious), which causes, or is likely to cause, unacceptable loss, damage or injury
 - g. flagrant failure to follow Heydays Care and Support Services procedures and regulations

- h. breach of duty regarding non-disclosure of confidential information
- i. deliberate or negligent damage to Heydays Care and Support Services property
- j. disorderly or indecent conduct
- k. fighting on Heydays Care and Support Services premises or threatening physical violence
- l. acts of incitement or of discrimination or harassment on the grounds of sex, gender reassignment, marital status, civil partnership status, pregnancy, colour, race, nationality, national origins, ethnic origins, religion or belief, religious practices, sexual orientation, disability or age
- m. bullying behaviour towards a colleague
- n. misuse of Heydays Care and Support Services computer system, including misuse of e-mail and Internet access
- o. breach of Heydays Care and Support Services Internet social networking policy and procedure
- p. offering or accepting bribes in an attempt to influence behaviour of third parties.

Appeal

- The employee may appeal in writing to Dawn Darby (manager) against any disciplinary action within 5 days of receipt of the letter confirming the action taken. The employee must state the specific grounds for the appeal.
- An appeal hearing will be held and, where possible, will be chaired by a manager who is senior to the disciplining manager and who was not involved in the earlier disciplinary proceedings or decision.
- The employee will have the right to be accompanied at the appeal hearing by a work colleague of their choice or a trade union official.
- Following the hearing, the appeal decision will be confirmed in writing.

- The decision at the end of the appeal is final.
- The decision may include:
 - a. the original decision is upheld
 - b. the original decision is withdrawn
 - c. suspension without pay as an alternative to dismissal
 - d. demotion as an alternative to dismissal
 - e. re-instatement where the employee has been dismissed.