

**Policy Title:** Discipline, Competence & Performance Management Policy **Classification:** Human Resources

**Monitored by:** HR Manager

**Approved by:** GM Operations

**Effective Date:** January 2022

**Review Date:** January 2024

**Objective:** To ensure any issue relating to discipline, competence or performance management is dealt with in an impartial and professional way, preserving the working and interpersonal relationships as far as possible.

**Commitment:** HCK is committed to a positive, prompt, consistent and fair resolution of issues, in a way that respects the mana and dignity of those involved. We will follow current employment legislation and the Kindergarten Teachers' Collective Agreement (KTCA) at all times.

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### Related documents

- Disciplinary Procedure (attached)
- Complaints Policy
- Complaints Procedure
- Privacy Policy
- Kindergarten Teachers' Collective Agreement (KTCA)
- Employment Relations Act 2000

### Policy Detail:

1. Where practicable, an issue, concern or complaint should be resolved directly between the parties involved.
2. Disciplinary issues should be addressed in a timely fashion.
3. A complaint constitutes an allegation only until it has been fully investigated.
4. All formal complaints/allegations abide by the Complaints Policy and Complaints Procedures in reaching a decision on any complaint/allegation.
5. Natural justice requires that the employee concerned is aware of HCK's concerns and the potential outcome as soon as is practicable, so they can make informed decisions about representation and their responses.
6. Where a complaint or competency issue is raised, HCK management will investigate it in accordance with the principles of natural justice and in a manner that is fair to the employee concerned, HCK, and all other staff and stakeholders.
7. When HCK has followed the procedures for dealing with complaints and competency issues, and the situation is not resolved, it may be sufficiently serious to require disciplinary action. The Disciplinary Procedure (attached) will be followed.
8. Disciplinary action may consist of:
  - A first written warning
  - A second written warning (final)
  - Dismissal.

### Review:

This policy will be reviewed biennially.

## Disciplinary Procedure

The Disciplinary procedure comprises the following steps:

1. Decision Maker  
The Decision Maker in relation to any disciplinary process shall be the GM Operations or their nominee. In any instance of a disciplinary process commenced against the GM Operations, the Decision Maker shall be the President of the Governing Board or their nominee, who must be another member of the Board.
2. Preliminary investigation  
In the first instance where an allegation or concern has been raised, the Decision Maker may nominate a Senior Manager to undertake a preliminary investigation to see whether there appears to be any substance to the allegation or concern.
3. Advice to Employee Concerned  
Where it appears that an allegation or concern has substance, the employee concerned will be advised by the Decision Maker of the nature of the allegation, the potential outcome if the behaviour is established, the right to be represented and the fact that the matter will be fully investigated by the Investigator.
4. Suspension  
An employee may be suspended with or without pay and shall remain available for discussions and to attend an investigation meeting with the person investigating the matters which are subject to investigation. Suspension will only occur where the concern or allegation appears to be serious and suspension is considered appropriate while the issue is investigated. Suspension is not in itself a disciplinary measure.
5. Formal Investigation  
A formal investigation will then be carried out. Investigative discussions may be held with all persons considered by the Decision Maker able to assist in the investigation.
6. Invitation to Meeting  
The employee concerned will be advised of the time of an investigation meeting to discuss the matter. The employee is entitled to be represented (eg: NZEI) and/or have a support person present at the investigation meeting.
7. Employee's Explanation  
During the investigation meeting, the employee concerned will be given the opportunity to provide an explanation and ask any questions and may be requested to answer questions by the person investigating.
8. Due Consideration  
The Decision Maker will consider the explanation of the employee. Further investigation will be conducted if required.
9. Decision  
If the Decision Maker determines that the allegation or concern is not substantiated, no action will be taken against the employee.  
If, on the balance of probabilities the Decision Maker determines that the allegation is substantiated, then they shall decide on the appropriate form of disciplinary action.  
In the case of Serious Misconduct, the employee may be dismissed without notice.  
Less serious misconduct or substandard work performance may result in formal warnings; if further misconduct occurs or performance does not improve, dismissal may ultimately occur. Two formal warnings are often given prior to dismissal on notice, but this will depend on the circumstances – in some cases, a final

warning or dismissal may be the appropriate outcome even though the employee has not had prior warnings.

*Note: A formal warning, a final warning or dismissal may be the outcome, depending on the circumstances and seriousness of the issue. Consideration will be given to any other current warning relating to the employee.*

#### 10. Implementation

The Decision Maker will advise the employee of the outcome. The Decision Maker's decision will be confirmed in writing. A copy of all warnings will be kept on the employee's personnel file.

#### **Poor Performance or Competency**

Where there are concerns about competency or performance, the Decision Maker shall put in place assistance and guidance to help the employee improve their performance/competence.

They will be entitled to be advised about what specific matters are causing concern, what the standards are and what corrective action is required to meet them, and the time frame for doing so.

Unless the performance/competence issues are so serious that they constitute negligence or Serious Misconduct, the employee will be entitled to know what the standards are, and to be given reasonable time to improve their performance/competence. This could be by the way of a Performance Improvement Plan (PIP).

If the employee continues to not meet the required standards after advice and guidance has been provided, disciplinary action is likely to occur.

#### **Misconduct**

Misconduct may include, but is not limited to:

- Failing to follow policies, standards and HCK procedures
- Not meeting performance standards
- Wasting time or resources
- Poor timekeeping or failing to advise of necessary absences from work
- Low level rudeness towards or lack of compatibility with another staff member, parent or child
- Failing to report a workplace accident or a hazard at work.

*Note: The above list gives examples of Misconduct only and is not intended to be complete list. Misconduct may result in formal warnings, and ultimately dismissal if further Misconduct occurs.*

#### **Serious Misconduct**

Serious Misconduct may include, but is not limited to:

- Conduct which is threatening to the physical or emotional wellbeing of children, staff or visitors to HCK
- Conduct that flouts statutory obligations of the employee and/or HCK
- Conduct that shows disregard for the reasonable and lawful instructions of HCK
- Conduct which intentionally or through negligence threatens the health and/or safety of children, staff or visitors to HCK
- Conduct that results in conviction for a criminal offence which could impact on a teacher's suitability for working with children, whether that conduct occurred at work or outside of work
- Conduct involving being in unauthorised possession of HCK property or property belonging to another staff member, parent or child, or destruction of or damage to property belonging to others
- Falsification of documents, removal or destruction of documents, providing false information to HCK
- Being at work under the influence of alcohol or drugs, or using drugs or alcohol at work
- Unauthorised absence from work
- Conduct which brings or has the potential to bring the Association into disrepute.

*Note: The above list gives examples of Serious Misconduct only and is not intended to be a complete list. Serious Misconduct may result in summary dismissal.*