



**M.J. Hickey Plant Hire Ltd**

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***DISCIPLINARY POLICY***  
***VERSION 2018:01***

***M.J.HICKEY (PLANT HIRE) LTD UNIT 11***  
***BRISTOL WAY SLOUGH SL1 3TD***



## 1. BACKGROUND

- 1.1. *It is good personnel and employment practice to have disciplinary rules and a procedure for dealing with disciplinary matters. In addition, there is a legal requirement placed upon companies to have appropriate mechanisms in place to deal with disciplinary and dismissal issues. M J Hickey Plant Hire Ltd will behave accordingly to good practice and the relevant ACAS Code of Practice.*

## 2. STATEMENT

- 2.1. *This policy has been established to ensure a fair and consistent way of dealing with employees whose conduct and performance is unsatisfactory through willful or careless behaviour. The procedure should not be viewed as a means of imposing sanctions, rather it is designed to emphasise and encourage improvements in individual conduct being mindful at all time for the Health & Safety of themselves and others.*

## 3. GUIDING PRINCIPLES

- 3.1. *The disciplinary policy will be applied fairly and consistently to all staff employed by the company regardless of sex, race, creed, ethnic origin, age, marital status, disability, sexual orientation, length of service, status or number of hours worked.*
- 3.2. *All involved in this policy are reminded of the importance of confidentiality and must ensure that all information, whether verbal or written, is kept strictly confidential; and not passed on to any persons who are not involved in the procedure. Disciplinary action may result from breaches of confidentiality.*
- 3.3. *Except for informal verbal warnings, disciplinary action can only be taken after a full investigation and a disciplinary hearing. Minor incidents will be dealt with informally by the manager speaking to the individual concerned, and making a note for the personal file.*
- 3.4. *The aim of any disciplinary action should be to identify the action employees must take to improve their conduct. This should be achieved by staff receiving a clear indication of what standard of conduct they are required to meet.*
- 3.5. *This policy will be implemented in accordance with the principles of natural justice, namely:*
  - *The employee should be informed of the allegation(s) made against them*
  - *The employee must be given an opportunity to explain, offer a statement in mitigation or challenge the allegation*
  - *The panel conducting the disciplinary hearing should be impartial and should not have been involved in the preceding stages.*



- 3.6. *All employees have the right to be accompanied by a Trade Union representative or work colleague during the investigation, at the disciplinary hearing and at any subsequent appeal stages.*
- 3.7. *A decision to suspend an employee prior to a disciplinary hearing should be based on sound grounds.*
- 3.8. *It is management's responsibility to conduct a thorough investigation and to prove its case to the reasonable satisfaction of the disciplinary panel. It is the panel's responsibility to decide, on the balance of probabilities, whether the specific allegations have been proven (i.e. it is more likely to have happened than not).*
- 3.9. *All staff that have been subject to formal disciplinary penalties (except verbal warning) will have the right to appeal against the decision.*
- 3.10. *No disciplinary action other than an informal verbal warning will be taken against any recognised Trade Union official until the circumstances of the case have been discussed with the appropriate full time official of the Trade Union concerned. A Trade Union official is a shop steward or officer of a Trade Union recognized by the Authority for collective bargaining and consultation purposes.*

#### 4. AVOIDING DISCIPLINARY ACTION – INFORMAL ACTION

- 4.1. *The policy provides a formal mechanism for dealing with issues of misconduct and willful poor performance. There may be some cases where the misconduct/willful poor performance is considered trivial and can be satisfactorily dealt with under the normal process of day to day supervision. It is important that these problems are brought to the immediate attention of the employee.*
- 4.2. *The discussion should focus on identifying any underlying problem inside or outside the workplace.*
  - 4.2.1. *In such cases it is imperative that the matter does not turn into a formal disciplinary process as this may unintentionally deny the employee certain rights, such as the right to be accompanied.*
- 4.3. *The employee should be informed of what improvement is needed, how performance or conduct will be reviewed and over what period. The employee should be told that if there is no improvement or there is a repeat of the misconduct then their actions will lead to the application of the formal disciplinary procedure.*
- 4.4. *Where there is repeated misconduct, it is appropriate to take formal action. The manager must make it clear to the employee that formal disciplinary action will then be triggered.*



- 4.5. *The formal procedures should be applied immediately in cases of serious/gross misconduct.*

## 5. FORMAL STAGE - DISCIPLINARY INVESTIGATION

- 5.1. *If the misconduct requires formal action or informal warnings have proved ineffective, then a preliminary investigation must take place.*
- 5.2. *The criteria must be met before commencing a disciplinary investigation, if an incident has taken place which is contrary to the interests of the Company, or employees are willfully conducting their duties below the required standards.*
- 5.3. *The investigation should usually be conducted by the immediate line manager. However, the level of detail to be uncovered by the investigation may vary according to the circumstances of the case.*
- 5.3.1. *Investigating the alleged misconduct properly and carefully before events are forgotten and memories fade, making careful notes of facts and statement;*
- 5.3.2. *Giving individual(s) involved an opportunity to offer an explanation;*
- 5.3.3. *Taking an objective view of the information resulting from the enquiries. (i.e. is there a case to answer and is the matter best dealt with informally by supervision and advice or formally under this procedure);*
- 5.3.4. *Deciding whether it is necessary to suspend the employee for a brief period.*
- 5.4. *Generally, employees who are the subject of such investigations will be informed that they are going to be interviewed by managers as part of that investigation. However, in some cases because of the seriousness of the offence it will be necessary to investigate first - and interview the employee at the end when the investigation is almost complete. Employees should also be advised of their right to be accompanied by a Trade Union representative or work colleague. A full note of any interview(s) should be taken.*
- 5.5. *The manager conducting the investigation will ensure any other individual(s) being interviewed are aware of its purpose and that any information obtained may be used in the course of any subsequent disciplinary hearing. A full note of any interview(s) should be taken together with any appropriate witness statements.*
- 5.6. *In all cases of alleged gross misconduct (unless there is a serious viable alternative) an employee will be suspended.*

### SUSPENSION

- 5.7. *The purpose of suspension is to protect the employee and the Company from the possibility of any accusation of wrongdoing while a disciplinary matter is under investigation.*



*Suspension from work does not imply guilt and is not intended as a disciplinary measure in itself but more as a precautionary measure.*

*5.8. Suspension of an employee should only take place in serious cases where it is clearly detrimental to allow the employee to remain at work pending the investigation and disciplinary hearing and where there are no serious suitable alternatives, e.g. a temporary redeployment to another office/location. In general terms suspension should occur when:*

*5.8.1. There is a risk that the person against whom allegations are made might interfere with witnesses, and thus prevent a fair and full investigation;*

*5.8.2. There is a danger that the alleged offence might occur again.*

*5.9. Employees should normally be suspended where there is a suspicion or allegation that would constitute gross misconduct if proven.*

*5.10. Once the decision to suspend the employee is agreed then the employee must be told both verbally and in writing.*

*5.10.1. The reason for the decision;*

*5.10.2. That the employee must not attend the work location or communicate with colleagues on any work matters until required to do so by management; and*

*5.10.3. That an interview will take place, as part of the investigation which may result in disciplinary action being taken.*

*5.11. The period of suspension should be for as short a period as possible.*

*5.12. A nominated person with no involvement in any stage of the investigation or any subsequent disciplinary action will keep in weekly (or agreed time period) contact with the employee to confirm what stage the process has reached.*

*5.13. Whilst on suspension the employee must be available to assist with or participate in the disciplinary process at the instruction of management.*

*5.14. Where a disciplinary hearing is not appropriate the manager must ensure that this is communicated to the employee who should be instructed to return to work immediately.*

## **6. THE DISCIPLINARY HEARING**

*6.1. A letter advising the employee of a disciplinary hearing will contain the following:*

*6.1.1. Names of any management witnesses who will be attending in person at the hearing;*

*6.1.2. The employee's right to be accompanied by a Trade Union representative or work colleague;*

- 6.1.3. *Reference to the employee's right to call her / his own witness/es and present written submissions, and that the information must be supplied at least two working days prior to the hearing;*
- 6.1.4. *Copy of the disciplinary procedure and the possible outcome of the hearing (e.g. if dismissal could be considered);*
- 6.1.5. *That employees should confirm their availability to attend at least two working days prior to the hearing;*
- 6.1.6. *A second copy of the disciplinary procedure for use by the representative;*
- 6.1.7. *Consequences of non-attendance (i.e. that the hearing may proceed without the employee).*
  
- 6.2. *Whenever possible the letter should be hand delivered to the employee. Where this is not possible (e.g. the employee is suspended), the letter should be sent to the home address by Recorded Delivery.*
  
- 6.3. *Employees are expected to attend the hearing. However, if they fail to attend or are unable to attend, then the decision whether to postpone the hearing to a new date or to hear it in the absence of the employee must be taken by the company.*
  
- 6.4. *Notes of the meeting , together with any paperwork associated with the hearing should be retained by the company in a secure place.*
  
- 6.5. *Arrangements should be made to ensure the Hearing is free from interruption and has adequate seating. Where possible, rooms or areas should be set aside in which any witnesses appearing at the hearing can wait pending the call for them to give their evidence.*

#### WITNESS ATTENDANCE AT HEARING

- 6.6. *It is the responsibility of the person presenting the management case to arrange the attendance of their witnesses and to bring any relevant material.*
  
- 6.7. *Where the employee who is the subject of the disciplinary hearing calls witnesses it is the responsibility of the company to arrange their release from work so that they can attend. It is the employee's responsibility to obtain those witnesses' agreement to speak on their behalf and to bring any relevant material.*
  
- 6.8. *Under no circumstances should management try to influence the decision of those staff who act as witnesses for the employee.*
  
- 6.9. *Whilst every effort should be made to ensure the availability of the witnesses, this may not always be possible. However, the fact that an employee has been denied an opportunity of questioning witnesses on a "face to face" basis will be borne in mind by the disciplinary panel when deciding, the weight to be attached to the written evidence submitted by the witness.*



- 6.10. *The hearing will be conducted by a panel of two managers, one of whom should, if practicable, from the department of the employee, Legal specialists may also advise the Panel.*
- 6.11. *Panel members should possess the necessary level of authority to impose disciplinary action within the range of possible penalties should the allegation(s) be proven. Where dismissal is the most appropriate penalty.*

### THE HEARING PROCESS

- 6.12. *The Management case against the employee will be presented, including the calling of witnesses. Witnesses should appear one at a time and may only be present whilst giving evidence or being questioned.*
- 6.13. *The employee (and / or representative) may ask questions of the person presenting the management case and any witnesses. The panel and its advisers may also ask questions of the above parties. Questions must relate to evidence presented at the hearing.*
- 6.14. *The employee will be asked to present his/her case, including the calling of witnesses. Witnesses should appear one at a time and may only be present while they are giving their evidence or being questioned.*
- 6.15. *The management may ask questions of the employee and any witnesses. The panel and its advisers may also ask questions of the above parties. Questions can only relate to any evidence presented at the hearing.*
- 6.16. *Again the employee can re-examine the witnesses but must not introduce any new evidence at this stage. Witnesses will then withdraw from the hearing after giving their evidence but may be asked to remain available for possible recall in the event further clarification / information is needed.*
- 6.17. *The employee (or her / his representative) will then be invited to sum up their case on the same basis as above.*
- 6.18. *If recall is necessary to provide clarification / information both parties shall return even though only one may be concerned with the point giving rise to doubt.*
- 6.19. *Once a decision is reached on the facts of the case and, if proven, an appropriate penalty selected, then the employee's personal file should be consulted to see if there are any current warnings on file. If there are, the company need to take this into account before making their final decision as to the appropriate penalty. The employee (and their representative) should be recalled and told of the decision of the panel.*
- 6.20. *Where disciplinary action is appropriate, it should accord with the range of penalties and guidance given in Section 9. The note taker will be present to record the outcome.*



## 7. DISCIPLINARY ACTION

- 7.1. *The severity of the sanction imposed will relate to the gravity of the misconduct and, before reaching a decision, consideration should be given to:*
- 7.1.1. *the gravity of the offence and the evidence given at the hearing;*
  - 7.1.2. *the employee's explanation for the occurrence;*
  - 7.1.3. *whether, on the balance of probabilities (i.e. that it is more likely to have happened than not), the panel consider the allegation /s have been proven;*
  - 7.1.4. *the employee's disciplinary record and general service;*
  - 7.1.5. *any mitigating circumstances;*
  - 7.1.6. *whether the proposed penalty is reasonable in all the circumstances;*
  - 7.1.7. *the penalty applied in similar cases in the past, although each case must be treated on its individual circumstances*
- 7.2. *Dismissal - this must be confirmed in writing stating the findings of the hearing and the reasons for dismissal. An employee's contract of employment can be terminated in the following instances:*
- 7.2.1. *If a further instance of misconduct occurs during the currency of a Final Written Warning;*
  - 7.2.2. *For a first incident of gross misconduct.*
- 7.3. *Dismissal for misconduct will normally be with pay in lieu of notice.*
- 7.4. *Dismissal for gross misconduct will normally be effected immediately and without pay in lieu of notice (i.e. summary dismissal).*

### *Informing the employee of the decision*

- 7.5. *Wherever possible the employee and / or their representative will be informed personally by the company and should be clearly told the reasons for the decision and be left in no doubt about the action to be taken under the disciplinary procedure.*
- 7.6. *In all cases, details of any disciplinary penalty should be given in writing to the employee and her / his representative as soon as possible and normally within three working days of the end of the hearing. It should specify, as appropriate:-*
- 7.6.1. *The findings of the company regarding the nature of the misconduct;*
  - 7.6.2. *The period of time given for improvement and the improvement expected;*
  - 7.6.3. *The disciplinary penalty and, where appropriate, how long it will last;*
  - 7.6.4. *The likely consequences of further misconduct or poor performance,*
  - 7.6.5. *The timescale for lodging an appeal and how it should be made.*





- 7.7. *A copy of the letter should be placed on the employee's personal file.*
- 7.8. *Exceptionally there may be circumstances where the misconduct is so serious (verging on gross misconduct) that it cannot realistically be disregarded for future disciplinary purposes. In such circumstances it should be made very clear that the final written warning can never be disregarded and that any recurrence will lead to dismissal.*



## APPENDIX 1

### EXAMPLES OF GROSS MISCONDUCT AND BREACHES OF DISCIPLINE

*This list is neither exclusive nor exhaustive and there may be other breaches of discipline requiring appropriate action, including summary dismissal, which do not readily fall within it. There is not priority in the order of listing examples of breaches of discipline or gross misconduct.*

#### NEGLECT OF DUTY

*When an employee:*

- 1. fails to discharge or properly discharge the obligations which statute or her / his contract of employment place upon him/her, or*
- 2. by carelessness or neglect suffers any loss, and/or causes any loss, damage or injury, to occur to any person or property or*
- 3. fails to report to the appropriate manager / supervisor any matter which it is his/her duty to report; or*
- 4. fails to make any entry which it is his/her duty to make in any book or document; or*
- 5. fails to properly account for, or to make a prompt and true return of, any money or property which comes into her / his possession in the course of her / his duties.*

#### UNAUTHORISED EMPLOYMENT

*Engaging in unauthorised employment during hours when contracted to work for M J Hickey Plant Hire Ltd.*

#### DISOBEDIENCE TO ORDERS

*When an employee disobeys or omits or neglects to carry out a lawful order or instruction (whether in writing or not), including failure to observe the operational rules and instructions within the employment whilst operating plant machines.*

#### ABUSIVE CONDUCT

*When an employee's conduct towards a fellow employee or a member of the public is abusive or constitutes harassment, including racial or sexual harassment.*

#### SITE SPECIFIC

- 1. Circumventing security procedures*
- 2. Reporting to work whilst under the influence of drugs or alcohol. (See company's Drugs and Alcohol policy)*



3. *Failing a drug or alcohol test*
4. *Refusal to take a drug or alcohol test*
5. *Refusal to submit to a search of outer clothing, personal bags, lockers, toolboxes, vehicles etc.*
6. *Being in possession of un-prescribed drugs and or alcohol on site*
7. *A serious breach of safety rules, regulations and or procedures*
8. *Leaving the workplace in a dangerous or untidy condition.*
9. *Taking photographs or making videos without prior permission*
10. *Vandalism or damage to property or equipment*
11. *Driving on site in excess to the speed limit*
12. *Driving on site while using a mobile phone, radio or equivalent*
13. *Using plant or equipment or motor vehicles without permission*
14. *Using plant or equipment or other vehicles without a proper accreditation or license*
15. *Removing or attempting to remove equipment or material from the site without the owner's prior written permission*
16. *Failing to report an accident that resulted in injury to persons or damage to property*
17. *Assisting others to gain unauthorised access to the site*
18. *Making unauthorised press disclosures without the express prior permission of the contractor*
19. *Unauthorised presence on site.*

#### **HEALTH AND SAFETY AT WORK**

*Breach of duty or non-compliance with any statutory duties and / or obligations imposed upon employees under legislation and the regulations made there under relating to the health and safety of employees at work.*

*Non-compliance with the companies/ or relevant sites Safety Policies and any safe working practices or advice issued from time to time.*

#### **MISCONDUCT IN RELATION TO OFFICIAL DOCUMENTS**

*When an employee without prior authority and, or proper cause destroys or mutilates any record or document made, kept or required for the purposes of the company or alters or erases or adds to an entry in such a record or document.*

#### **IMPROPER DISCLOSURE OF INFORMATION**

*When an employee without proper authority communicates to any person information which was given, received or obtained in confidence as an employee of the Council.*

#### **CORRUPT OR IMPROPER PRACTICE**

*When an employee improperly uses, or attempts to so use, or permits any other person to use her / his official position for her / his own private advantage or for the private advantage of some other person.*

#### **FALSEHOOD**



*When an employee:*

- 1. knowingly, recklessly and / or through neglect makes any false, misleading or inaccurate verbal or written statement in any record or document made, kept or required for the purposes of the company; or.*
- 2. has knowingly, recklessly, and / or through neglect falsified any information used in support of an application for any post in the employment of the Company.*

### **DAMAGES PROPERTY**

*When an employee:*

- 1. wilfully, recklessly and / or without due care and attention causes any waste, loss or damage to any property of the company, or fails to take proper care of it; or;*
- 2. fails to report to his/her appropriate manager and / or any other designated supervisor any loss or damage to any such property issued to, or used by him/her or entrusted to his/her care.*

### **BEING UNDER THE INFLUENCE OF DRINK OR DRUGS**

*When an employee renders himself / herself unfit for duties which he/her is, or will be, required to perform, through the use of drink or drugs (except in the case of drug dosages which have been medically prescribed and used as directed).*

### **CONDUCT AT WORK LIKELY TO OFFEND DECENCY**

*Examples will include offensive swearing, exposing oneself or sexual misconduct*

### **BEING AN ACCESSORY TO A DISCIPLINARY OFFENCE**

*When an employee connives at, or knowingly and / or intentionally becomes an accessory to any act of indiscipline, and this has been established through the findings of an earlier Hearing.*

### **NEGLECT OF HEALTH**

*When an employee, without justification, neglects to carry out any instructions of a Medical Adviser appointed by the company while absent from work on account of sickness and / or ill-health, commits any act or adopts any conduct calculated to retard his/her return to duty.*

### **ASSAULT**

*Assault on another person or threats of violence*

### **CONDUCT**

*Action which brings M J Hickey Plant Hire Ltd into disrepute*