

COMPANY NAME:

Hillcrest

POLICY NUMBER:

HR03

POLICY TITLE:

Disciplinary Policy and Procedure

This document can be produced in different formats, for example, in larger print or audio-format, and in other languages, as appropriate. We promote equality through seeking to eliminate unlawful and unfair treatment on the ground of any protected characteristic, as appropriate.

Policy: Underpinning and Supporting Documents

This policy should be read in conjunction with the following documents:

Other Policies:

- HR 01 Bullying and Harassment
- HR 25 Performance at Work Policy
- HR 04 Grievance Procedure
- HR 17 Alcohol and Substance Misuse Policy
- HR 35 Social Media Policy

Compliance:

- ACAS Code of Practice

Legislation:

- The Employment Rights Act 1996 and 2025
- The Employment Relations Act 1999
- Data Protection Act 2018

Best Practice:

- The ACAS Code of Practice on Disciplinary and Grievance (11 March 2015 as amended by 2024 guidance and case law)
- Discipline and Grievances at work guide

1. Policy Statement

What is the purpose of this policy?

This policy sets out how Hillcrest deals with disciplinary matters. Its aims are to:

- promote fairness, consistency, and compliance with the ACAS Code of Practice
- ensure employees understand expected standards of conduct and performance
- support a safe and respectful environment for tenants, people we support, and colleagues
- meet the organisation's legal and regulatory duties across all Hillcrest companies

What principles guide this policy?

This policy ensures disciplinary matters are handled fairly, consistently, and in line with employment law and the ACAS Code of Practice.

- Hillcrest is committed to equality, eliminating discrimination, and providing reasonable adjustments where required
- Good conduct, attendance, and behaviour are essential to protect staff wellbeing and support the organisation's objectives
- Disciplinary action may be taken where necessary, with options applied proportionately to the circumstances

Who does this policy apply to?

This policy applies to all Hillcrest staff in each of the Hillcrest companies regardless of role, seniority or contract terms.

What are the regulatory bodies that apply?

While the disciplinary process is the same for all staff, specific regulatory duties apply depending on role. For example:

- SSSC registration and Fitness to Practise rules apply to social care staff
- Care Inspectorate requirements apply to registered care services
- Disclosure Scotland duties apply to **all staff** (with the level of check depending on the role).

- The Scottish Housing Regulator oversees governance, tenant safety, and compliance in social housing

Is there Trade Union recognition?

- Hillcrest recognises UNITE the Union for collective bargaining purposes covering Enterprises - Maintenance Department staff only
- Consultation with UNITE will take place where required, and Enterprises - Maintenance Department staff may be represented by UNITE under this policy
- All other staff are permitted to join a Trade Union, should they wish to do so.

2. Policy: Principles

- Issues should be addressed informally first wherever appropriate
- Employees will not normally be dismissed for a first offence, except in cases of gross misconduct
- All matters will be dealt with promptly, fairly, and consistently
- Employees have the right to be accompanied at disciplinary hearings by a trade union representative or work colleague only
- Reasonable adjustments will be made where required to ensure fair treatment
- This procedure is non-contractual and may be amended as required

3. Policy: Responsibilities

Managers

- Apply this policy fairly and consistently, maintaining confidentiality and impartiality at all times
- Follow the Disciplinary procedure at all times
- Discuss potential cases with HR before taking formal action

- Ensure staff understand the standards of conduct and behaviour expected
- Keep accurate, confidential records of any action taken

Employees

- Follow Hillcrest’s policies and procedures, codes of conduct, and professional standards
- Seek clarification from their manager or HR if unsure about any aspects of this policy
- Recognise that conduct outside work may also be considered under this policy if it affects trust, reputation, or relationships at work

HR

- Advise managers and staff on the implementation of this policy
- Ensure consistent and fair application across the organisation
- Maintain confidential records and support managers through each stage of the process

Policy Document Governance and Management

Author/ Lead:	Carrol Douglas-Welsh	
Version number:	3	
Current version referred for approval to:	Audit and General Purposes Sub-Committee	
Current version approved:	24/02/2026	
Date of next review:	24/02/2031	
Date of Equality Impact Assessment:	04/02/2026	
Date of Privacy Impact Assessment:	Click here to enter a date.	N/A ☒
Date of Environmental Impact Assessment:	Click here to enter a date.	N/A ☒

Procedure Contents

1. Introduction and Definitions.....	6
2. Fact Find and Investigation	7
3. Suspension	9
4. Disciplinary Hearing and Set Up.....	11
5. Right to be accompanied	13
6. Hearing Outcome and Actions	14
7. Appeal	16
8. Notification to External Bodies	17
Procedure Document Governance and Management	22

COMPANY NAME:

Hillcrest

PROCEDURE NUMBER:

HR02

PROCEDURE TITLE:

Disciplinary Policy

This document can be produced in different formats, for example, in larger print or audio-format, and in other languages, as appropriate. We promote equality through seeking to eliminate unlawful and unfair forms of discrimination, as appropriate.

1. Introduction and Definitions

What does this procedure cover?

It sets out how Hillcrest deals with misconduct or behaviour that falls below expected standards.

What counts as misconduct?

Examples include (but are not limited to):

- Persistent lateness or unauthorised absence
- Failure to follow reasonable instructions
- Bullying, harassment, or discrimination
- Theft, fraud, or dishonesty
- Breach of confidentiality or data protection
- Misuse of company systems or social media
- Undertaking paid or unpaid work for another employer, or for personal business interests, during contracted working hours without authorisation
- Actions that damage trust, reputation, or relationships at work

What is gross misconduct?

Serious offences such as theft, violence, or serious breaches of trust. Gross misconduct may lead to summary dismissal (immediate dismissal without notice), following a formal investigation and disciplinary hearing.

What if an employee is charged with a criminal offence?

Hillcrest will assess whether the offence affects their job, trust, or the organisation's reputation. Action will only be taken if relevant. Staff are required to notify their line manager if they are charged with a criminal offence.

2. Fact Find and Investigation

What is a fact-find?

A fact-find is a short, informal check to decide whether there is enough concern to justify a full investigation. It may involve speaking briefly to those involved, reviewing records, or checking whether a policy has been breached.

Do we always start with a fact-find?

No. If the alleged behaviour is serious (for example, potential gross misconduct) or if early evidence already points to a clear issue, the organisation may move straight to a full investigation.

What is an investigation?

A formal investigation is a structured process to gather evidence fairly and objectively, in line with the ACAS Code. Its role is to establish the facts, not to decide the sanction.

- For **Homes and Enterprises - Housing Department staff**, investigations may focus on conduct affecting tenant trust, safety, or wellbeing.
- For **Enterprises - Maintenance Department staff**, investigations may consider behaviour while entering or working in tenants' homes, where safeguarding and professional standards are critical.
- For **Futures staff**, investigations will take account of professional standards, safeguarding, and SSSC registration requirements.

Who carries these out?

- A **fact-find** is usually led by the line manager
- A **full investigation** is led by an impartial Investigating Officer, ideally with no prior involvement. To protect fairness and ensure impartiality, the Investigating Officer may be appointed from outside the immediate team
- Where an investigation is required into the conduct of a Director, an external third party may be appointed as investigating officer as instructed by the Chief Executive or Chair of the relevant Board.

What is HR's role?

HR advises throughout both stages to ensure fairness, consistency, and compliance with the ACAS Code. HR is not the decision maker in an investigation or disciplinary hearing.

How will employees be notified?

- Employees may sometimes be asked to attend an investigatory meeting at short notice. They will always be told at the start of the meeting that it is part of a formal investigation, not a disciplinary hearing
- Notification may be given verbally, and where practicable, it may also be confirmed by email to create a clear record
- The level of detail shared before or during the meeting will be proportionate to the circumstances and may be limited to protect the integrity of the investigation.

Can employees be accompanied?

There is no statutory right to be accompanied at a fact-find or investigatory meeting, however, reasonable adjustments may be allowed where needed, for example for disability or language needs.

What happens after the investigation?

The Investigating Officer, with HR advice, will recommend one of three outcomes to the manager with authority to decide:

1. **No further action** – the matter ends with no record on file.

2. **Informal action** – such as training, guidance, or a file note to set expectations. File notes are not formal disciplinary sanctions.
3. **Formal action** – if there is a case to answer, the employee will be invited to a disciplinary hearing. Written notice, the allegations, and all evidence will be provided at least 5 working days in advance of the hearing to allow preparation.

Will the Investigating Officer be involved later?

Yes. They may attend the disciplinary hearing to present their findings and answer factual questions, but they do not decide the outcome.

Can an investigation be reconvened?

Yes. If, after reviewing the investigation report, the manager with authority to decide next steps believes there is insufficient information to move to a disciplinary hearing, they may ask the Investigating Officer to reconvene the investigation. The request will be documented and supported by HR to ensure fairness and consistency. The employee will be informed if they are required to participate further in the investigation.

3. Suspension

When might suspension be used?

Suspension is a neutral act and not a disciplinary sanction. It will only be used where necessary to protect the integrity of the process or the safety of others.

Typical reasons include:

4. Where there is a potential safeguarding risk to service users, tenants, or colleagues.
5. Where there is a risk that evidence could be compromised.
6. Where the employee's presence could cause disruption to working relationships.
7. Where the allegations are so serious that dismissal is a possible outcome.

How does this apply to different staff groups?

- For **Homes and Enterprises - Housing Department staff**, suspension may be required if tenant trust, safety, or wellbeing could be put at risk.
- For **Enterprises - Maintenance Department staff**, suspension may be appropriate where allegations relate to conduct while entering or working in tenants' homes, particularly if safeguarding, trust, or property security are in question.
- For **Futures staff**, suspension may be required where safeguarding risks arise, or where SSSC Fitness to Practise duties require immediate notification.

How is suspension managed?

- The decision to suspend will be made by a senior manager with HR advice and will be confirmed verbally and, where practicable, by email.
- Suspension will be on **full pay** and kept under regular review. The need for continued suspension will be formally reviewed at least every **two weeks**.
- A neutral HR contact, not involved in the investigation or hearing, will be allocated to the suspended employee. They will check in with the employee weekly during the suspension.
- If an employee goes off sick during suspension, they will move from suspension on full pay to sick pay in line with the sickness absence policy.
- If an employee uses sickness absence to delay the process, the organisation may seek Occupational Health advice on whether they are fit to participate in the process.

What are the rules during suspension?

- The employee must remain available and contactable during normal working hours (Monday to Friday).
- The employee must not have contact with the people we support, tenants, or colleagues unless authorised.
- The employee must not present on Hillcrest premises during suspension without prior permission.
- Reasonable access may be allowed for union representatives or agreed welfare contacts.

How is suspension reported externally?

- For **social care staff**, suspension from a regulated role must be reported to the SSSC immediately as part of Fitness to Practise requirements.
- In care or support services regulated by the Care Inspectorate, suspension may also trigger a regulatory notification.
- In all roles, misconduct involving potential harm to vulnerable groups may lead to a duty to refer to Disclosure Scotland.

4. Disciplinary Hearing and Set Up

How will employees be notified?

- Employees will receive written notice of the hearing, normally at least **5 working days** in advance.
- The notice will include the allegations, the possible outcomes, and copies of the evidence that will be relied upon.
- Employees will be told who will chair the hearing and who else will be present.
- Employees will be advised of their right to be accompanied to the hearing by a Trade Union representative or work colleague.

Who chairs the hearing?

- The hearing will be chaired by a manager who has not carried out the investigation and who can make an impartial decision.
- Wherever possible, the chair will be more senior than both the Investigating Officer and the employee.
- Where this is not practical, a manager of the same level may chair, provided they are independent and authorised to decide the outcome.

Who else will be present?

- An HR representative will attend to advise on process, ensure fairness, and take a note of the meeting.
- The Investigating Officer may attend to summarise their findings and answer factual questions but does not recommend a sanction.
- Witnesses may be called if their evidence is directly relevant.

What happens at the hearing?

- The chair will outline the allegations and the process to be followed.
- The Investigating Officer will summarise the investigation findings.
- The employee will be invited to respond to the allegations, present evidence, and call relevant witnesses.
- The chair and HR may ask questions to clarify points of fact.

Can the hearing be adjourned?

Yes, the chair may adjourn if:

- new evidence comes to light,
- further investigation is required, or
- either party needs time to prepare.

Any adjournment will be for the shortest reasonable period. The employee will have the opportunity to review any new evidence before the hearing reconvenes.

How is the decision made?

- The chair will consider all the evidence, the employee's response, and any mitigating circumstances.
- The decision will be confirmed in writing, normally within **7 calendar days**.

- The outcome letter will state the decision, the reasons, any sanction applied, and the employee's right of appeal.

5. Right to be accompanied

Who can accompany the employee?

Employees have the statutory right to be accompanied by:

- a recognised trade union representative, or
- a workplace colleague (including a Staff Representative).
- For **Enterprises - Maintenance Department staff**, Hillcrest recognises UNITE the Union as the recognised trade union for collective bargaining. Enterprises - Maintenance Department staff may therefore be accompanied by a UNITE representative.
- For **Homes and Enterprises - Housing Department staff** and **Futures staff**, accompaniment may be by a recognised trade union (if the employee is a member) or by a workplace colleague.

What is the role of a companion?

The companion may:

- present the employee's case
- respond to views expressed
- sum up the employee's position
- The companion may not answer questions on behalf of the employee but may confer with them during the hearing.

6. Hearing Outcome and Actions

What outcomes are possible after a disciplinary hearing?

The chair will decide the outcome based on the evidence, the employee's response, and any mitigating circumstances. Possible outcomes include:

1. **No action** – where the case is not proven.
2. **Informal action** – for example, advice, guidance, training, or a file note to set expectations. A file note is not a disciplinary sanction and does not form part of the employee's disciplinary record but may be considered if similar issues arise again.
3. **Formal disciplinary sanction** – a written warning, a final written warning, or dismissal.

What is a written warning?

- Issued where misconduct is found but is not serious enough to warrant dismissal.
- Sets out the standards expected and the consequences of repeat behaviour.
- Remains live for **12 months**, after which it expires.

What is a final written warning?

- Issued for more serious misconduct, or where misconduct occurs while a written warning is still live.
- Remains live for **18 months**, after which it expires.
- Warns that further misconduct may result in dismissal.

When is dismissal appropriate?

- **Dismissal with notice (or payment in lieu)** – for misconduct or repeated misconduct following a live warning, or where the behaviour does not amount to gross misconduct.

- **Summary dismissal (without notice)** – for gross misconduct, where the act is so serious it destroys trust and confidence.

Are there alternatives to dismissal?

- Yes in exceptional circumstances Hillcrest may consider:
 - **transfer to another role, or**
 - **demotion or reassignment to a lower-graded role.**
- These alternatives will only be offered instead of dismissal and require the employee's explicit agreement. If the employee does not agree, dismissal may proceed instead.

How do sanctions apply across staff groups?

- For **Homes and Enterprises - Housing Department staff**, outcomes may consider the impact on tenant trust, safety, financial integrity, and compliance with the Scottish Housing Regulator's standards.
- For **Enterprises - Maintenance Department staff**, outcomes may consider safeguarding and tenant safety when entering homes, compliance with health and safety, and respect for property.
- For **Futures staff**, outcomes may consider safeguarding, wellbeing of service users, and professional standards set by the SSSC.

Examples of misconduct

Detailed examples of misconduct and gross misconduct for each staff group (Homes and Enterprises - Housing Department, Enterprises - Maintenance Department, and Futures) are set out in **Appendix A**. These examples are not exhaustive but illustrate the types of behaviour that may lead to disciplinary action.

How will the outcome be confirmed?

The decision will be given in writing within **7 calendar days** of the hearing. The outcome letter will explain the decision, the reasons, any sanction applied, and the employee's right of appeal.

7. Appeal

Do employees have the right of appeal?

Yes, any employee who receives a disciplinary sanction has the right to appeal the decision.

What are the grounds for appeal?

An appeal may be made on one or more of the following grounds:

1. A significant procedural flaw in how the case was handled.
2. New evidence has become available that could change the outcome.
3. The decision was too severe or disproportionate to the misconduct.

How long does the employee have to appeal?

The appeal must be submitted in writing, normally within **7 calendar days** of receiving the outcome letter.

Who hears the appeal?

- An impartial manager who was not previously involved in the case will hear the appeal.
- The same HR representative who supported the disciplinary hearing will normally also attend the appeal to provide advice on process and consistency. If this is not possible, an alternative HR representative will be allocated.
- For **Enterprises - Maintenance Department staff**, representation by **UNITE** may be chosen. For **Homes, Enterprises - Housing Department, Futures staff**, representation may be by a recognised trade union or a workplace colleague.

How soon will the appeal be heard?

Appeals will normally be arranged and heard within **14 calendar days** of the appeal being received.

What happens at the appeal hearing?

- The employee (and their companion if they choose one) can explain the grounds for their appeal.
- The appeal chair will review the process and decision.
- New evidence, if any, will be considered.

What can the appeal outcome be?

The appeal chair may:

- **Uphold the decision** – confirm the original outcome remains unchanged.
- **Reduce or remove the sanction** – if the original decision was too harsh.
- **Overturn and replace the decision** – this may include a lesser sanction or, in exceptional cases, a more serious sanction. If a more serious sanction is being considered, the appeal will be adjourned, the employee will be informed, and they will be given the opportunity to respond before a final decision is made.

Is the appeal decision final?

Yes, the appeal outcome will be confirmed in writing and is final within the organisation.

8. Notification to External Bodies

General principle

Where misconduct or safeguarding concerns arise, Hillcrest may have a legal duty to notify external regulators. The bodies notified depend on the staff member's role and professional registration.

Futures staff

- **Disclosure Scotland (PVG Scheme membership)** – all social care staff in registered services must be PVG members. If misconduct causes harm or risk of harm to the people we support, a **referral for consideration for listing** must be made. If listed, the employee is legally barred from regulated work.

- **Scottish Social Services Council (SSSC)** – requires notification **immediately on suspension** from a regulated role, as well as for dismissals, resignations during investigations, or serious fitness to practise concerns.
- **Care Inspectorate** – must be notified where conduct raises concerns about service user safety, wellbeing, or compliance with the Health and Social Care Standards.
- **Police and Social Work** – may be advised or involved where an ASP (Adult Support and Protection Order) is in place

Homes and Enterprises - Housing Department staff

- **Disclosure Scotland (Level 1 Disclosure check)** – required for roles in Hillcrest Homes and Hillcrest Enterprises - Housing Department.
- If misconduct involves harm or risk of harm to tenants or vulnerable groups, a **referral for consideration for listing** must be made to Disclosure Scotland.
- **Scottish Housing Regulator (SHR)** – must be notified if staff misconduct or organisational failings raise concerns about governance, tenant safety, or compliance with housing regulatory standards.

Enterprises - Maintenance Department and Trades staff

- **Disclosure Scotland (Level 1 Disclosure check)** – required because staff enter tenants' homes. Referrals must be made if conduct causes harm or risk of harm to tenants or vulnerable groups.
- **Gas Safe Register** – must be notified of serious misconduct or unsafe practices by registered gas engineers.
- **NICEIC or SELECT** – must be notified of serious misconduct or unsafe practices by electricians, depending on Hillcrest's registration scheme.
- Other relevant trade associations – may need to be informed where misconduct affects professional membership or certification.

Corporate and Finance staff

- **Disclosure Scotland (Level 2 Disclosure check for all Finance, Accountancy and Payroll positions; Level 1 Disclosure check for other corporate roles)** – required for all staff in non-care, non-trades roles.
- Referrals to Disclosure Scotland may still be required if misconduct involves harm or risk of harm to vulnerable groups.

- **Other professional regulators** – may apply depending on qualifications (for example, ACCA, CIMA, or CIPFA for accountants, if misconduct breaches professional standards).

Other professional staff

Depending on the role and registration, Hillcrest may also need to notify:

- the **General Teaching Council for Scotland (GTCS)** for teaching staff,
- the **Nursing and Midwifery Council (NMC)** for nurses,
- the **General Medical Council (GMC)** for doctors.

Decision-making and confidentiality

- HR, together with senior management, will decide whether a referral is necessary.
- Only necessary and relevant information will be shared, in line with data protection.
- Unless legally restricted (for example, safeguarding instruction), employees will normally be told if a referral is made.

Appendix A: Examples of Misconduct and Gross Misconduct

The following lists provide examples of conduct that may lead to disciplinary action. They are **illustrative only and not exhaustive**. The seriousness of each case will be judged on its own facts, and sanctions will be applied proportionately, in line with this policy and the ACAS Code of Practice.

Company	Misconduct Examples	Gross Misconduct Examples
Futures	Failure to follow agreed care plans or support procedures	Abuse, neglect, or exploitation of a service user
	Inappropriate language or behaviour towards service users or colleagues	Serious safeguarding breaches, placing service users at risk
	Minor breaches of confidentiality	Harassment, discrimination, or bullying of service users, colleagues, or others
	Unauthorised absence from duty	Falsification of care records or professional documents
	Failure to obtain and provide evidence of appropriate business use insurance when using a personal vehicle (grey fleet) for work purposes, including where staff may be transporting service users	Working under the influence of drugs or alcohol while responsible for service users
		Serious breach of professional standards that could trigger an SSSC Fitness to Practise referral
	Knowingly driving a personal vehicle (grey fleet), including circumstances where special care staff are transporting service users	

Company	Misconduct Examples	Gross Misconduct Examples
Homes and Enterprises - Housing Department	Unauthorised absence from work	Fraud, theft, or deliberate misuse of company or tenant funds
	Inappropriate behaviour towards tenants, colleagues, or contractors	Serious breach of confidentiality or misuse of tenant data
	Minor breaches of data protection or confidentiality	Harassment, discrimination, or bullying of tenants, colleagues, or contractors
	Misuse of company systems, including IT and communications	Falsifying records, tenancy information, or documents
	Failure to follow agreed policies and procedures	Serious breach of health and safety, placing tenants or others at risk



	Failure to obtain and provide evidence of appropriate business use insurance when using a personal vehicle (grey fleet) for work purposes	Working under the influence of drugs or alcohol
	Knowingly driving a personal vehicle (grey fleet) on company business without valid business insurance	

Company	Misconduct Examples	Gross Misconduct Examples
Enterprises - Maintenance Department	Unauthorised absence from work or late attendance at jobs	Theft or deliberate damage to tenant property or company equipment
	Misuse of company vehicles in breach of the Telematics Procedures such as non-compliance with reporting requirements or minor breaches of driving standards	Misuse of company vehicles in breach of Hillcrest's Telematics such as deliberate speeding, dangerous driving, unauthorised personal use where this is confirmed by Telematics data and considered sufficiently serious to constitute gross misconduct
	Failure to follow job instructions or safe working practices	Entering a tenant's home without proper authority or cause
	Rudeness or lack of respect towards tenants or colleagues	Working under the influence of drugs or alcohol
	Minor misuse of company tools, vehicles, or materials	Serious breach of health and safety rules, creating danger for tenants, colleagues, or the public
	Failure to obtain and provide evidence of appropriate business use insurance when using a personal vehicle (grey fleet) for work purposes	Harassment, discrimination, or abusive behaviour towards tenants or colleagues
		Knowingly driving a personal vehicle (grey fleet) on company business without valid business insurance

Procedure Document Governance and Management

Author/ Lead:	Carrol Douglas-Welsh
Version number:	3
Current version referred for approval to:	Head of HR & OD
Current version approved on:	24/02/2026
Date of next review:	24/02/2031
Date of Impact Assessment:	04/02/2026
Date of Privacy Impact Assessment:	Click here to enter a date. N/A ☒
Date of Environmental Impact Assessment:	Click here to enter a date. N/A ☒