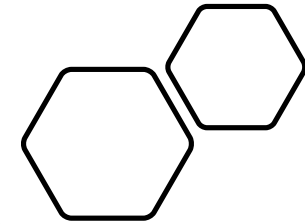


STAFF REPRESENTATIVES' GUIDE TO ILOAT PROCEEDINGS

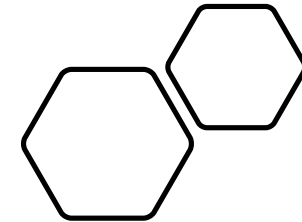
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OUTLINE

1. Overview of different internal procedures
2. Analysis of the ILOAT appeal procedures, requirements, timeline and strategies
3. ILOAT new procedural requirements and court etiquette
4. Procedure vs Merits: Basic requirements of a case
5. Different types of cases
6. Practical problems with assessments
7. Group Exercise



1. DIFFERENT INTERNAL PROCEDURES

- Starting point: updated Staff Rules and Regulations, HR Manual and any other internal policies.
- **Administrative disputes:** Employee vs IO in relation to administrative decision affecting the terms of employment or working conditions of the employee. Has to be a decision that affects the particular individual, not a general policy.
- **Disciplinary proceedings:** IO vs Employee. Victim/person reporting is a witness only, i.e. the case is not Victim vs Employee who allegedly committed misconduct. Victim does not have any rights.
- **Prohibition against misconduct:** ad hoc policy in IOs

1.1 ADMINISTRATIVE DISPUTES

Informal resolution

Check if staff rules suspend deadline for formal process/by consent

Should be encouraged by staff representatives

Request for review

File within **deadline** provided for in the staff rules from date of notification of decision or incurring loss – usually 30, 60 or 90 days

Submit letter or form (if available), clearly indicate subject of request to Head of HR/IO Director

Internal appeal

Appeal of the final decision (usually a form is available) – check deadlines!

Appeal Board procedures apply

First time that the Administration files a written response

Generally proceeds on the papers rather than by oral hearing

Appeal body submits report to the Head of IO within a **given time frame**

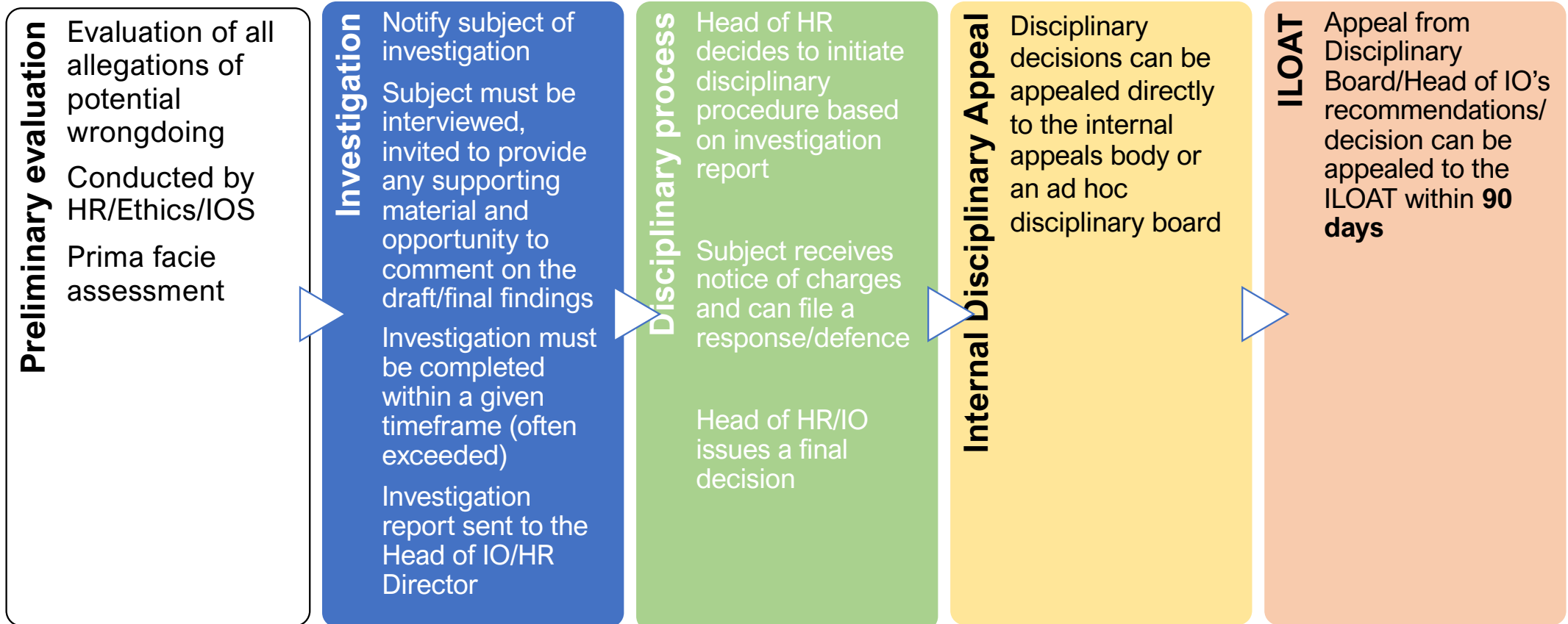
Head of IO makes a decision on the report = final decision appealable to ILOAT

ILOAT

Appeal against Head of IO's decision filed within 90 days

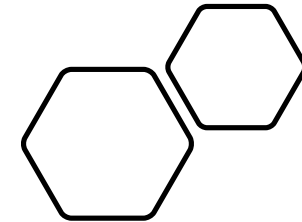
Only available when all internal remedies exhausted – cannot skip any previous steps otherwise likely to be ruled irreceivable

1.2 DISCIPLINARY PROCEEDINGS



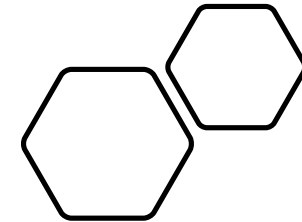
2. ILOAT APPEAL PROCEDURES, REQUIREMENTS, TIMELINE AND STRATEGIES:

- Receivability
- Complaint (form, brief, filing)
- Reply
- Rejoinder and Surrejoinder
- Applications (to intervene, for interpretation, for execution, for review)
- Timeline
- Complainant and legal representative

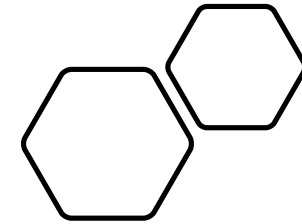


3. ILOAT NEW PROCEDURAL REQUIREMENTS AND COURT ETIQUETTE:

- Changes in the Statute
- New filing requirements
- Mass complaints
- The judges - the President – the Registrar
- Workload and duration of a case
- Communications with the Tribunal



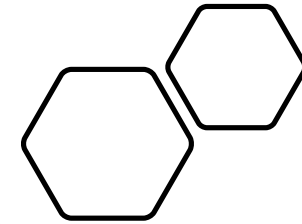
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4. PROCEDURE VS MERITS

- What are the key dates?
- What is the disputed decision/conduct?
- What is the ultimate outcome?



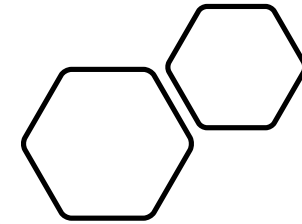


5. DIFFERENT TYPES OF CASES

- Are there any applicable rules that have been contravened?
- What is the legal position on the specific issue?
- Advice from external counsel



"I figure this attorney client privilege goes both ways, so if there's anything you'd like to get off your chest..."



6. PRACTICAL PROBLEMS

- Evidence
 - Documents, witnesses and audio recordings
- Interim measures
 - Administrative leave in disciplinary proceedings
- Ultimate outcome
- Reinstatement



QUESTIONS?

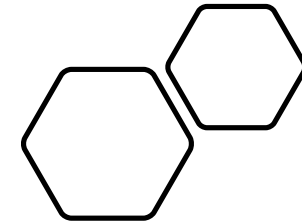


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7.1 GROUP EXERCISE

- A staff member misses the deadline to appeal a decision to HR and files a complaint to the internal appeal board. What advice should you give them and why?
- A staff member is not notified of an investigation until they receive an invitation to attend the interview. They are only told the allegations in the interview, not in writing and not in advance. After the interview, they are given the transcript and invited to provide any comments within 3 weeks. Has there been any breach of due process?



7.2 GROUP EXERCISE

- A staff member's post is abolished in a restructuring while they are on a performance improvement plan (PIP). The staff member alleges that the PIP is the real reason that their post was abolished. What evidence does the staff member need to present to the ILOAT?
- A staff member's contract is due for renewal in 3 months' time. They make a confidential misconduct complaint against their supervisor but are concerned their contract will not be renewed and come to you for advice. What do you tell them?

