

Disciplinary Policy

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1. INTRODUCTION

1.1 The Disciplinary Policy applies to the following individuals in accordance with all legal requirements and ACAS guidance: -

- All staff directly employed by NHS Coventry and Warwickshire Integrated Care Board ('the ICB').
- Individuals covered by a letter of authority, honorary contract or Work Experience agreement who undertake duties on behalf of the ICB and where the policy explicitly applies within their document of engagement

Agency workers are required to abide by the ICB's policies and procedures to ensure their health, safety and welfare whilst working for the ICB. Whilst they are not covered by this policy, any breach of conduct which would otherwise be dealt with under this policy will be raised with their relevant employing agency in order that consideration may be given by the agency to applying their own disciplinary measures as appropriate.

1.2 The policy aims to encourage employees to achieve and maintain the required standards of conduct, performance and attendance. It ensures fairness and consistency in the treatment of individuals. In cases where an employee fails to attain the required standard the disciplinary policy will be instigated and this may result in disciplinary action.

1.3 Disciplinary issues concerning the Governing Body members will be referred to the Governing Body of the ICB. Cases will be progressed in accordance with the Scheme of Delegation in Section 3, with advice as necessary from NHS England and Human Resources.

2 PRINCIPLES

2.1 Alleged breaches of conduct, performance or attendance will be fully investigated before any disciplinary action is taken and wherever possible, the manager will attempt to resolve the matter through informal discussion with the employee.

2.2 Managers considering whether an issue should be progressed to a disciplinary hearing should seek advice from a ICB HR Representative. Any continuing HR involvement in any specific case will depend on the severity of the alleged breach of discipline. Examples listed under 'Gross Misconduct' in Appendix 1 will normally be deemed serious enough to warrant immediate instigation of an investigation under the formal disciplinary process.

2.3 All cases of suspected fraud within the ICB must initially be referred to the Chief Finance Officer and Local Counter Fraud Specialist prior to a full investigation being initiated as required under the Standing Financial Instructions. This is to assess the case and exercise discretion as to the need to involve others or whether to allow the matter to be dealt with internally. If the latter is preferred, the following procedure will apply (Please also refer to the Whistleblowing policy as such instances may be raised under that policy).

2.4 No disciplinary action will be taken against a trade union representative without firstly discussing with the relevant full time officer.

2.5 Employees will be informed in writing of the issues causing concern and will be given the opportunity to present their views before any decision is made at a disciplinary hearing.

2.6 Employees are entitled to be accompanied at all formal meetings by a Trade Union Representative or work colleague.

2.7 If the employee has been requested to attend a disciplinary hearing they must inform the Chair of the Disciplinary Panel of their chosen companion, at least 2 working days in advance of the meeting.

- 2.8 The employee may not insist on being accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest. It would also be unreasonable for an employee to ask to be accompanied by a colleague from a remote location when someone suitably qualified was available on site. Should there be any dispute regarding the chosen companion that cannot be resolved, the matter will be escalated to the Associate Director of Corporate Affairs.
- 2.9 Employees are required to attend all meetings relating to the disciplinary process. If they, or their companion, are unable to attend the arranged meeting, they must give notice and reasons why they are unable to attend. The meeting will then be rescheduled to a mutually convenient time, within 10 working days of the original date wherever possible. However, where an employee fails to attend such meetings without reasonable grounds, then the meeting may be held in their absence. The employee will be informed of this in writing.
- 2.10 If an employee has a valid objection to the person appointed to undertake the investigation or to hear the case, they must raise this objection in writing, clearly stating their reasons, to the HR Business Partner responsible for support to the ICB.
- 2.11 The level of disciplinary action to be taken will be determined according to the seriousness and nature of the alleged misconduct. Once the formal disciplinary procedure has been initiated subsequent misconduct within the warning period may lead to further, and perhaps more serious, disciplinary action, which may ultimately lead to dismissal.
- 2.12 Warnings are active from the date of issue for the periods detailed below, except in exceptional circumstances.
- 2.13 No employee will be dismissed for a first instance of misconduct: however, summary dismissal may occur in the case of Gross Misconduct.
- 2.14 The employee will have the right of appeal against any disciplinary warning or sanction issued in the formal stages of the procedure.
- 2.15 The ICB will ensure that all managers who are responsible for disciplinary issues are suitably trained and have the necessary knowledge and skills.
- 2.16 Should an employee raise a complaint either under the Grievance Policy or the Harassment and Bullying at Work Policy whilst subject to action under this policy, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where an initial investigation into the complaint, conducted by another manager, finds that the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently. If the grievance complaint is found to have no bearing on the matters being investigated under this policy, then the disciplinary proceedings will continue from the point at which they were suspended. In any event, advice should be sought from a HR Representative
- 2.17 Data is held and destroyed in accordance with the provisions of the Data Protection Act 2018 and General Data Protection Regulations.
- 2.18 All matters relating to any part of this procedure will be treated in strict confidence. Any breach of this confidentiality may render those responsible liable to disciplinary actions. However, it must be remembered that legislation requires the accused to be made aware of the allegations against them and the name(s) of those making the allegations, along with witnesses.

3 ROLES & RESPONSIBILITIES

3.1 Line Manager Responsibilities

- To ensure that employees are aware of the Disciplinary Policy and inform staff of the disciplinary rules and issues relating to misconduct and gross misconduct which will result in disciplinary action
- To be clear with employees, the rules, regulations and standards of conduct which they are expected to observe or achieve through effective day to day supervision
- To ensure that the informal stage is used wherever possible prior to any formal action being taken. Consider if Wellbeing Assessment and Action Plan needs to be completed – found within the ICB’s Managing Absence Policy
- To involve the appropriate HR Adviser where potential misconduct has been identified
- To consult with a senior HR Advisor if considering suspension of an employee
- To keep appropriate written documentation relating to incidents of alleged misconduct.

3.2 Employee Responsibilities

- To be responsible for their own conduct and demonstrate an appropriate standard of behaviour in the workplace at all times
- To engage with any action taken in line with the policy
- To submit witness statements when requested in a timely way and attend investigation meetings when required
- To arrange their own representation/support for formal meetings. Where a representative is unavailable, the employee should seek an alternative.

3.3 Human Resources Responsibilities

- To assist managers in the fair and consistent application of the policy
- To provide advice to employees and managers concerning individual conduct issues
- To support the Investigating Officer in conducting the investigation and presenting the management case at a disciplinary hearing
- To provide an update to employees on suspension every 2 weeks with regard to progress or any actual or potential delays with the investigation
- To provide advice and guidance to the panel of a disciplinary hearing or appeal
- To liaise with the Local Counter Fraud Service (LCFS) about allegations of potential fraud.

4 SCHEME OF DELEGATION

The following scheme of delegation has been developed relating to the management of the formal stages of the Disciplinary Policy. The following table details the lowest grade of officer who will normally have delegated authority to take the specified action/disciplinary action. Exceptionally there may be circumstances where a deputy is given delegated authority to act in place of the designated officer. The designated officer shall consult with Human Resources and may arrange to be accompanied by another senior manager or representative.

CATEGORY OF STAFF	WRITTEN WARNING	FINAL WRITTEN WARNING	DISMISSAL	SUSPENSION
Accountable Officer	ICB Chair in Consultation with NHSE	ICB Chair in Consultation with NHSE	Governing Body	ICB Chair in Consultation with NHSE and HR
Governing Body Member	Accountable Officer	Accountable Officer	Sub-Committee of Governing Body	Accountable Officer in Consultation with NHSE and

				HR
Directors	Accountable Officer	Accountable Officer	Sub-Committee of Governing Body	Accountable Officer in Consultation with NHSE and HR
Employees directly reporting to a Director	Director	Director	Accountable Officer	Director in consultation with HR
All other employees	Line Manager	Line Manager	Director	Director in consultation with HR

5 PROCEDURE

5.1 If an employee fails to meet the required standards of performance or conduct, they may be subject to this disciplinary procedure. At all stages the employee will be told of the reason for using the procedure. Management will ensure that the changes in performance or conduct required and the timescales involved are reasonable, achievable and where possible agreed by all parties. Please refer to the Managing Work Performance policy for further information and guidance. Further misconduct, or expiry of the review period without improvement, may lead to progressive disciplinary action which may ultimately result in dismissal. This procedure may also apply where cases of unacceptable conduct take place outside the working environment.

Informal Stages

5.2 During this informal stage, there is no right to be accompanied by a staff side representative or workplace colleague to meetings with the line manager.

5.3 In cases of suspected minor misconduct in relation to conduct or behaviour, the following process will be followed: -

5.4 The employee's line manager will speak to the individual, in private, as soon as possible after an issue comes to light. This will be a two-way discussion aimed at establishing the circumstances and to establish the facts of the case as far as possible. Where it is deemed that a potential disciplinary issue has arisen, the line manager will gather the facts promptly and record them in writing.

5.5 If, during the discussion, it becomes evident that there is no problem the manager will confirm to the employee that no formal disciplinary action will be taken. If there is any doubt, the line manager should seek advice from an HR representative. Confirmation of the decision should be placed in writing to the employee by the line manager.

5.6 Where an improvement in conduct is required, the manager will make sure the employee understands what needs to be done, and over what period of time. The required improvement and the length of the review period will be confirmed in writing following the meeting, and the letter will also include the consequences of a failure to improve. A copy of this letter will be held on the individual's personal file.

5.7 Further meetings will be held to review progress during, and at the end of, the review period. Notes of all meetings will be taken and agreed, and retained on the individual's personal file.

5.8 During the initial discussion, if it becomes clear that the matter may be more serious, the meeting will be adjourned, and the employee advised that an investigation will be instigated under the formal stages of the disciplinary procedure. This will be confirmed in writing by the line manager and the formal Disciplinary process will be initiated. Where there has been a clear breach of professional conduct, the relevant professional body should be informed; the line manager should obtain HR

advice as necessary.

Suspension

- 5.9 If the decision is taken that a formal investigation is needed, the manager should consider whether it is necessary or not to suspend the individual under investigation. This does not constitute disciplinary action or sanction. Suspension should be invoked where the alleged offence is considered gross misconduct, and: -
- The employee's presence constitutes a serious risk to themselves, patients, employees or NHS property.
 - The employee's presence would hinder a full and proper investigation taking place
 - The employee is under charge or suspicion of a criminal offence which significantly affects their status, role or responsibilities within the ICB.
- 5.10 If appropriate, suspension should be initiated as soon as possible after the matter to be investigated comes to light and/or the need for suspension is identified. Suspension will always be on full pay and should be for as brief a period as possible. It is expected that suspension will be no longer than 4 weeks, but may be extended in exceptional circumstances. Employees who are suspended will be informed in writing of the reasons for the suspension. The necessity or otherwise for suspension, will be agreed between the manager and an HR Representative.
- 5.11 The Investigating Officer must write to the suspended employee at two-weekly intervals to inform them of progress or delays to the investigation, and if it is necessary to extend the suspension period beyond 4 weeks.
- 5.12 The person suspended must make themselves available throughout the suspension period for investigation meetings etc. unless on pre-booked annual leave, which they would be entitled to take. If they fall sick, the individual must notify their line manager in the normal way and the sickness absence will be managed under the Absence Management policy.
- 5.13 The employee must maintain confidentiality at all times, and should not speak to anyone not formally connected to the investigation (they may for example talk to their TU representative), regarding any aspects of the investigation.
- 5.14 During the suspension period the employee may not work in any other posts they may hold within the ICB. Additionally, if the work they undertake for the ICB is related to a post they hold with another employer, the ICB may take the decision to inform the other employer of the suspension from duty. Under a duty of care, in certain exceptional circumstances, it could be necessary for the ICB to inform other agencies including professional and regulatory bodies where there may be an impact on patient/client care or health and safety. The employee is obligated to advise the ICB if they are employed in any other posts with other organisations.
- 5.15 If, following investigation, it is concluded that no further action is necessary, a briefing session will be held between the individual, their trade union representative or work colleague if required, and their manager prior to a return to work.

Formal Stages

- 5.16 An employee is entitled to be accompanied at formal investigation meetings by a Trade Union Representative or a workplace colleague.
- 5.17 Before any disciplinary hearing is held, an investigation will take place to establish the facts of the case. This will be undertaken by an Investigating Officer (IO) who will be a manager from within the ICB, at least one grade above the employee being investigated. The IO will normally be the line

manager of the employee for cases of misconduct where no previous warnings have been issued to the individual. Otherwise the IO will normally be an alternative ICB manager at a similar grade level to the employee's line manager. The IO will be accompanied and supported by an HR Representative.

- 5.18 The IO and HR Representative will initially meet with the employee. This will normally be in the form of a fact finding meeting where notes will be taken. However, with advice from the HR Representative, other forms of evidence may also be considered, e.g. attendance records to confirm the presence of an individual at work on a date relating to the allegations raised, or when the issue raised occurred.
- 5.19 Further meetings may be arranged by the IO as necessary with relevant witnesses, who may also ask to be accompanied by a trade union representative or workplace colleague.
- 5.20 Normally the investigation process should take no longer than 4 weeks. Where it is not possible to complete the process within this timescale, the reasons for the delay will be recorded and the expected date for completion of the investigation process communicated in writing to all parties involved.
- 5.21 Should the individual subject to investigation become absent through ill health at any time during the process, including any period of suspension, and the employee is unlikely to return imminently, a referral to Occupational Health will be undertaken by the line manager. The referral must seek to obtain advice regarding the expected length of absence and confirmation as to whether or not the employee can attend an investigation meeting or formal hearing.
- 5.22 Upon concluding the investigation, if the IO believes there are reasonable grounds for formal disciplinary action, they will complete a written Management Case with all necessary supporting evidence for presentation at a Disciplinary Hearing.

6 THE DISCIPLINARY HEARING

- 6.1 A disciplinary hearing (See Appendix 2 for the sequence to be followed at a hearing), where allegations are to be considered which are unlikely to result in dismissal, will normally be held by a panel consisting of a manager, who has not been previously involved in the matter, who will act as the Panel Chair. They will be accompanied by either another appropriate manager or an HR Representative. Where dismissal is a possibility, the disciplinary hearing will be conducted by a ICB Director, accompanied by another impartial ICB manager, and an HR Representative. (Please refer to Section 4 of the Policy – Scheme of Delegation). Where an HR Representative is in attendance on the panel, they will provide advice on Human Resources policies and employment legislation, and contribute as a panel member in asking questions to obtain clarification relating to any issues that are discussed or new relevant information disclosed.
- 6.2 Before the disciplinary hearing the employee will be advised in writing by the panel Chair or HR Representative of the purpose of the meeting and details of the complaint or allegation being considered, covering all issues to be discussed. The individual will be given a minimum of 5 working days' notice of the disciplinary hearing. If the individual, or their chosen companion, is not available to attend on the date proposed, the ICB will offer an alternative reasonable date within 10 working days of the original date wherever possible.

NB This meeting will normally only be re-arranged once, except in exceptional circumstances. If the hearing has to be re-arranged a second time, this will normally be held in the absence of the employee concerned, and the decision of the panel confirmed to them in writing following the hearing.
- 6.3 Should either party (the IO and employee concerned) wish to call any witnesses to the disciplinary hearing they must give at least 2 working days' notice to the Disciplinary Panel, and have full responsibility for arranging the attendance of the witnesses.

- 6.4 All relevant facts and evidence will be made available to the employee at least 5 working days prior to the disciplinary hearing. Additional information gathered by the employee, that they wish to present at the meeting, must also be made available to the disciplinary panel at least 2 working days prior to the meeting.
- 6.5 Either party may present evidence including details of previous relevant warnings, witness statements, call witnesses and have the opportunity to ask questions.
- 6.6 Adjournments may be called by the panel at any time during the hearing should new facts emerge which require investigation or clarification. If the employee becomes distressed an adjournment may be called in order for them to regain their composure. Should the employee be unable to continue, the meeting will be adjourned to a later date.
- 6.7 At the end of the hearing, an adjournment must be held in order that there can be a period of objective reflection by the disciplinary panel to consider what action, if any, is to be taken. Where possible, both parties will be verbally informed of the outcome after the adjournment.
- 6.8 The employee will be advised in writing of the outcome of the disciplinary hearing within 7 working days unless a longer period is specified and can be justified. If disciplinary action is taken, the employee will be informed of the required improvements which are necessary and if applicable, details of timescales for achievement; the duration of the warning; and the consequence of failure to improve performance as required. The letter must include the date of the disciplinary hearing, the reason for issuing the warning as well as details of any sanctions which may be imposed. It should also be noted whether or not the employee invoked their right to be accompanied. The right of appeal will also be included.

7 DISCIPLINARY OUTCOMES

- 7.1 The outcome of a disciplinary hearing will generally fall into one of the following categories:-
- No action required
 - The employee is required to attend counselling or retraining
 - First written warning
 - Final written warning
 - Dismissal

(Also see Paragraph 7.10 below for further potential sanctions).

First Written Warning

- 7.2 If the issue is serious, a First Written Warning will normally be issued and will be kept on the employee's personal file for 12 months. A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes after 12 months from the date of issue.

Final Written Warning

- 7.3 If the issue is more serious or if there is still an active First Written Warning in place and insufficient improvement has been made or further misconduct occurs, a Final Written Warning will normally be issued and will be kept on the employee's personal file for 24 months. A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes after 24 months from the date of issue.
- 7.4 Misconduct warning letters should provide a summary of the employee's misconduct, including when the offence occurred. For example, a warning for poor timekeeping should set out the dates on which the employee arrived late for work; how late the employee was on those occasions; the employee's

failure to provide a satisfactory explanation for the lateness; and the impact the misconduct had on the employee's work and colleagues.

The misconduct letter must explain what the employee should do, or not do, to meet the expected standards of conduct; how their conduct will be monitored and over what period.

The misconduct warning letter must set out what will happen if the employee fails to improve his or her conduct within the required timescale, for example that the next stage of the disciplinary process and the possible disciplinary sanctions will be triggered.

The letter must confirm the period of time for which the employee's warning will remain on file, and confirm that the warning will be disregarded for disciplinary purposes after a specific period.

The letter must confirm the individual's right of appeal, stating to whom the appeal should be made, the time frame for receipt of an appeal, and what the appeal should cover.

The letter should be sent via Recorded Delivery to ensure there is a record of its receipt.

Dismissal with Notice

- 7.5 If, within 12 months of the issue of a Final Written Warning, further misconduct occurs or insufficient improvement has been made, the employee will normally be dismissed with notice.
- 7.6 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate, their entitlement to pay, and the right of appeal.
- 7.7 The ICB reserves the right to make a payment in lieu of notice where this is confirmed as an option within the individual's Contract of Employment.

Summary Dismissal

- 7.8 Where behaviour or misconduct is sufficiently serious to constitute gross misconduct (see examples in Appendix 1) the outcome of a Disciplinary Hearing is likely to be summary dismissal i.e. without notice. In exceptional cases an alternative sanction may be applied.
- 7.9 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate and the right of appeal.

Potential Additional Sanctions

- 7.10 Additional sanctions may be included after full discussion with an HR Representative who will be able to advise on the appropriateness, equity and viability of any further sanction. These can include, but are not limited to:-
- Demotion or transfer to another job or location
 - Deferred increment
 - Loss of privileges e.g. removal of flexi-time.

8 APPEALS

- 8.1 An employee in receipt of a disciplinary warning or notice of dismissal has the right of appeal.
- 8.2 Appeals, outlining the grounds on which the appeal is being made, must be lodged in writing to Disciplinary Panel Chair within 5 working days of the receipt of the written notice of disciplinary action or dismissal. In exceptional circumstances this period may be extended.

- 8.3 The employee must provide to the Appeal Hearing Panel, a full written statement of case including the grounds upon which the appeal is presented/resisted, with copies of any documents the party concerned intends to use in evidence, and, the identities of any witnesses the party concerned intends to call, at least 5 working days prior to the Appeal Hearing.
- 8.4 Appeals will be heard within 5 weeks of receipt of the letter requesting the appeal but either party may, with the consent of the other and in exceptional circumstances, be entitled to extend this period.
- 8.5 The employee must be given at least 8 working days' notice of the date of the appeal hearing.
- 8.6 The Appeals Hearing Procedure (Appendix 3) must be followed.
- 8.7 Appeals will normally be heard by a more senior manager to the Disciplinary Panel Chair/Chair/Disciplining Manager of the Disciplinary Panel. All Appeal Hearing Panels will include a Human Resources Representative.
- 8.8 The employee will have the right to be accompanied at the Appeal Hearing by either a Trade Union representative, or workplace colleague.
- 8.9 The IO must provide to the Appeal Hearing Panel, a full written statement of case responding to the grounds upon which the appeal is presented/resisted, with copies of any documents the IO intends to use in evidence, and, the identities of any witnesses the IO intends to call, at least 2 working days prior to the Appeal Hearing.
- 8.10 The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to both parties), no later than 5 working days after the Appeal Hearing.
- 8.11 The decision of the appeal panel is final.

9 DATA PROTECTION

- 9.1 In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles. Data Subject Rights and freedoms will be respected, and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues”.

10 EQUALITY STATEMENT

- 10.1 In applying this policy, the ICB will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.
- 10.2 As part of the ICB's equal opportunities monitoring, all disciplinary hearings are monitored on a rolling annual basis. Subsequently information may be held on the disciplinary monitoring register longer than the duration of the warning itself.

11 MONITORING

- 11.1 The policy and procedure will be reviewed periodically by Human Resources in conjunction with the ICB Governing Body. Where review is necessary due to legislative change, this will happen immediately.

Appendix 1

Examples of Gross Misconduct

Please note: this list is not exhaustive and simply gives examples. There may be other examples of gross misconduct.

- Behaviour bringing the ICB into disrepute.
- Physical violence.
- Contravention of the ICB's Equality and Diversity policy, including bullying and harassment.
- Fraud or falsification of records (e.g. application forms, CVs, sickness forms, overtime and expenses claims).
- Theft or fraudulent misuse of the ICB's property or name (e.g. phones, cars or computers).
- Deliberate damage to ICB's property.
- Incapability to work through substance misuse.
- Negligence which causes loss or damage to ICB's property or injury to other personnel.
- Illegal activity on the ICB's premises or with the ICB's property.
- Infringement of health and safety rules.
- Breaches of confidence.
- Soliciting or accepting a bribe or secret commission.
- Improper use of email or Internet facilities or other methods of communication and contravention of internal divisional policies in place.
- Sharing commercially sensitive business data/intellectual property rights outside of the ICB.
- Anything which calls into question an employee's honesty or integrity.

Appendix 2

CONDUCTING A DISCIPLINARY HEARING

The Disciplinary hearing will follow the following stages:

1. Opening the meeting by Panel Chair
2. Management side present their case (summary of allegation by the Investigating Officer), including calling of any witnesses
3. Employee side, then the Disciplinary Panel, will have the opportunity to ask questions
4. Employee side to present their case, including calling of any witnesses
5. Management side, then the Disciplinary Panel, will have the opportunity to ask questions
6. Summing up by management side, then by employee side
7. Adjournment
8. Action to be taken (if any) confirmed verbally (if a decision reached in reasonable time following the hearing) by Panel Chair

Opening the Disciplinary Hearing

All employees are entitled to be accompanied by their Trade Union representative or a work colleague. Where an employee is not accompanied, the employee must be reminded of this right, and if declined, this must be recorded.

Those 'hearing' the disciplinary must introduce those present and outline the reasons for the disciplinary meeting taking place (the reason/s outlined in the invite to disciplinary letter) and the format the meeting will take.

Presentations of Cases and Questioning

The sequence outlined above from 2 - 5 should be followed.

The Investigating Officer presenting the case must adhere to the facts and not introduce opinions, hearsay or issues that have not previously been mentioned. All documentation that will be used as evidence (including previous relevant warnings and witness statements where applicable) will already have been made available to the individual prior to the disciplinary hearing taking place (copies will have been sent with the invite to disciplinary meeting letter).

Should a new matter arise during the course of the disciplinary meeting then the Disciplinary Panel should adjourn in order that consideration may be given to the appropriateness of the introduction of this new matter. To avoid unnecessary duplication of the process as well as ensuring fairness, it may be more beneficial to adjourn the disciplinary meeting in order that further investigations may be carried out in relation to the new matter.

The aim of the disciplinary meeting is to seek verification and clarification about the issues of concern, through questions. Where it is appropriate to call witnesses, either party may call and question them.

After the Investigating Officer has stated their case the employee will be given the opportunity to ask questions and state their case. The employee's representative will be able to ask questions for clarification purposes.

If the disciplinary hearing is dealing with multiple issues, each issue should be addressed in turn and the employee and/or their representative be allowed to state their case in relation to each issue as it is addressed.

Exploration of any differences in facts, as they appear to the manager and employee should be carried out in a constructive manner in order to gain an understanding of the facts which are, as far as possible,

acceptable to both manager and employee.

The Investigating Officer should remain present during the disciplinary hearing to allow for any questions.

Summary of Cases

Both parties will be given the opportunity to sum up their case if they so wish, commencing with the Investigating Officer. The summing up shall not introduce any new matter.

Adjournment

Before any decision is taken, it is necessary to adjourn the disciplinary hearing to give adequate consideration to the facts as they have been presented and the responses that have been given to the allegations, including any mitigating circumstances. At this stage both parties will be asked to leave the room and the panel must decide the facts of the case, with advice from an HR Representative where appropriate, and whether the behaviour requires disciplinary action to be taken and if so, at what level.

Where possible, an indication of the length of time of the adjournment should be given, including the reasons for the adjournment, i.e. to consider what action to take, if any.

The disciplinary hearing may also be adjourned to consider other issues, e.g. to direct further investigations to take place or to investigate new information/facts that have been brought to light.

There is no set time for an adjournment, and adjournments can be called at any time during the disciplinary meeting by either party.

Taking disciplinary action is not a matter to be taken lightly and should only be taken if it is to be constructive in attempting to produce the desired behaviour. Managers will also need to consider, if disciplinary action is to be taken, whether any other sanctions will be attached to the warning.

Action

When the disciplinary hearing is reconvened the Panel Chair should explain that consideration has been given to all of the issues raised at the beginning of the hearing, and all of the facts and issues raised during the course of the hearing. The Panel Chair must then outline what action, if any, will be taken including any sanctions.

It is important that where a warning/sanction is given, the employee is informed of the length of time it will remain on their record, their right of appeal, the procedure that will be followed in relation to confirming the action in writing, and any arrangements for the review of sanctions imposed.

Appendix 3

APPEALS HEARING PROCEDURE

Appeals will normally be heard by a more senior manager to the person taking the first instance disciplinary action. All appeals will include a representative of the Human Resources Department, in an advisory capacity.

An employee may choose to appeal if, for example:

- They think a finding or penalty is unfair
- New evidence comes to light
- They think the Disciplinary procedure was not applied correctly

Should either party require an adjournment then this request should be made to the Hearing Panel, with an indication of the length of time required.

The procedure for an appeal hearing is as follows:

1. The appellant will present their case first, detailing the grounds for their appeal including the calling of any witnesses.
2. The management side (this will be the Disciplinary Panel Chair who made the decision to apply a disciplinary sanction), will then be able to ask any questions about the case the appellant has presented.
3. The appeal panel members will also have an opportunity to ask any questions.
4. The management side will then be asked to present their case, explaining the reasons for the action taken, including the calling of any witnesses, who will normally include the Investigating Officer.
5. The appellant may then wish to ask the management side any questions about the case.
6. The appeal panel members will also have the opportunity to ask any questions.
7. Both parties will have the chance to sum up their case.
8. There will then be an adjournment when both sides will be asked to leave the room while the appeal panel consider the information they have heard and reach their decision.
9. The decision of the panel will be communicated to both parties verbally following the adjournment wherever possible, and in any case will be confirmed in writing (again to both parties), no later than 5 working days after the Appeal Hearing.