

Appendix 1 (Extract from Disciplinary Policy)

THE PROCEDURE

STAGE 1 – DISCIPLINARY INVESTIGATION

Before taking formal action, it is imperative that an investigation takes place into any suspected breach of discipline. This should be undertaken in a timely manner and not delayed for undue reason. The employee's line manager will conduct the investigation and may be accompanied by a colleague or member of the HR department.

NB: HR reserves the right to appoint an independent investigator / manager at this stage if deemed necessary.

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The purpose of an investigation is to establish the facts surrounding the alleged misconduct and establish whether formal action should be taken. It should include the following:

- Interviewing the people involved; employee, witnesses etc
- Looking at relevant information such as personnel files, appraisal records

Where employees are required to attend an interview as part of any investigation, due regard will be given to the employee's rights and confidentiality.

Right to be accompanied

Employees have the right to be represented/accompanied by either a Trade Union representative or work colleague at all stages of the investigatory and disciplinary procedure. The person accompanying will be allowed to confer with the employee and address the hearing meeting but not answer questions on the employee's behalf.

The employee should be informed of the reason for the investigation and their right to be accompanied at the start of the meeting. Where an employee is experiencing difficulties arranging representation, they may request that the meeting is rescheduled to a mutually convenient alternative time. This time must be as soon as possible and no later than 5 working days after the original date. Any delay beyond this point is at the manager's discretion.

Disciplinary Investigation Report

Following the completion of a disciplinary investigation, the Investigating manager should submit a disciplinary investigation report to the manager hearing the potential disciplinary. The purpose of which is to provide a

recommendation that either:

No disciplinary hearing required as a disciplinary sanction is not warranted

Or

A disciplinary sanction may be warranted and a disciplinary hearing conducted

The investigating manager will then notify the employee in writing of the outcome of the investigation where possible within 5 working days.

STAGE 2 - DISCIPLINARY HEARING

If the outcome of the investigation recommends that a disciplinary sanction may be warranted a disciplinary hearing should be convened, where possible within 7 working days of the investigatory report being submitted. The meeting can be rescheduled and held at a later date if both parties are in agreement to the delay but must not be any later than 7 working days after the original scheduled date. The hearing will be conducted by the line managers peer (or line manager's manager, not previously involved in the case).

The notification of the requirement to attend a disciplinary hearing will be confirmed in writing to the employee at least 5 working days in advance of the hearing and will contain details of:

- Who will be conducting the hearing
- A copy of WDC's disciplinary policy and procedure
- Time, date and location of the meeting
- Reason for the hearing
- Employee's right to be accompanied by a Trade Union representative or work colleague
- Arrangements in relation to any documents to be forwarded prior to the hearing (if not already enclosed) e.g. witness statement
- Copy of the investigation report

Any documentary evidence to be used at the time of the disciplinary hearing by the employee in their defence should be submitted at least three days before the hearing. (This condition may be waived in exceptional circumstances)

The manager who conducted the investigation will present their case at the disciplinary hearing, but will not adjudicate or be part of the decision making process.

The manager conducting the Hearing should be accompanied by a colleague or member of HR department.

During the hearing, the employee should be:

- Reminded of their rights under the Disciplinary Procedure and how the hearing will be conducted
- Advised of their companion's rights
- Told the extent of the allegations
- Allowed to hear the evidence including any details from reports and statements previously supplied
- Given the opportunity to state their case to respond to allegations or concerns and to draw attention to any circumstances relevant to their situation before any decision is made.
- Allowed to ask questions relating to the investigation
- Allowed to call any witnesses
- Able to confer with their companion at any point and where appropriate seek a short adjournment

Should the employee refuse to discuss the allegations they should be advised that due regard will be taken of their silence and a decision reached on the evidence available.

The Disciplinary Hearing **must** be adjourned before a decision is made.

NB: There may be occasions where an employee is repeatedly unable or unwilling to attend a meeting. This may be for various reasons, including genuine illness or a refusal to face up to the issue. All the facts will need to be considered and a reasonable decision taken on how to proceed

Where an employee continues to be unavailable to attend a meeting a decision will be made on the evidence available to them at the time of the hearing by the line manager

Outcome of Disciplinary Hearing

Once a decision has been made regarding the outcome of the disciplinary hearing, the hearing will be either reconvened or a letter written to inform the employee of the outcome. This will include:-

- whether disciplinary action is warranted or whether no action will be take
- The perceived nature of the misconduct
- The disciplinary penalty issued and how long it will last

The nature and timescale of the improvement expected
The likely consequences of further misconduct
Their right of appeal in accordance with the Council's
Disciplinary Appeals procedure.

Details of the disciplinary outcome will be confirmed in writing to the employee within 7 working days after the hearing.

Disciplinary Sanctions

The level of sanction applied will take account of all relevant factors; in particular the seriousness of the employee's alleged misconduct. The period during which any warning remains applicable will be exclusive of any absence from work or unpaid leave greater than four consecutive weeks

If, following the disciplinary hearing, it is decided that disciplinary action will be taken; one of the following sanctions will be applied:

1. Verbal Warning (in writing)
2. First Written Warning
3. Final Written Warning
4. Dismissal/Demotion/Re-deployment

VERBAL WARNING (CONFIRMED IN WRITING)

A verbal warning will be appropriate when conduct or performance does not meet acceptable standards.

It will be live on file for 6 months but disregarded for disciplinary purpose after this period of time.

This warning will be taken into account if any further acts of misconduct or failure to satisfactorily improve occur during this period.

FIRST WRITTEN WARNING

A first written warning will be appropriate when:

issues previously addressed have not been resolved
more serious breaches of rules or standards of conduct or
performance have arisen whether or not they have been
addressed previously

It will be live on file for 1 year but disregarded for disciplinary purpose after this period of time.

This warning will be taken into account if any further acts of misconduct or failure to satisfactorily improve occur during this period.

FINAL WRITTEN WARNING

A final written warning will be appropriate where:

misconduct of a more serious nature arises but on the merits of the case it is decided that dismissal is not appropriate.
more serious breaches of rules or standards of conduct or performance have arisen whether or not they have been addressed previously

It will be live on file for 1 year but disregarded for disciplinary purpose after this period of time.

In exceptional circumstances, it may remain live on file for a longer period or indefinitely.

DISMISSAL/DEMOTION/RE-EMPLOYMENT

It is essential that HR and the Chief Executive are informed prior to a dismissal taking place. The employee should receive the decision to dismiss in writing. Other options such as demotion or redeployment will be explored beforehand if deemed appropriate.

Dismissal will be appropriate where:

There has been an instance of misconduct of any kind in situations where a Final Written Warning has already been issued.

An employee dismissed in this way is entitled to be paid in lieu of the appropriate period of notice as set out in their conditions of employment.

Gross Misconduct/ Summary Dismissal

An employee dismissed in this way will be dismissed without notice or payment in lieu of notice.

DISCIPLINARY APPEALS PROCEDURE

APPEAL (To next level of Manager or Manager's peer – not previously involved with the case)

If the employee wishes to appeal against the outcome of the hearing, the employee should do so in **writing** to the manager's manager stating the reasons for their dissatisfaction and grounds for appeal no later than 7 working days after the outcome letter is received.

Appeal Hearing

The employee will be sent a letter inviting them to attend an appeal hearing giving them no less than 7 working days notice.

The notification of the requirement to attend an appeal hearing will be confirmed in writing to the employee at least 5 working days in advance of the hearing and will contain details of:

- Who will be conducting the hearing
- A copy of WDC's disciplinary policy and procedure
- Time, date and location of the meeting
- Reason for the hearing
- Employee's right to be accompanied by a Trade Union representative or work colleague
- Arrangements in relation to any documents to be forwarded prior to the hearing (if not already enclosed) e.g. witness statement
- Copy of the investigation report

If the employee or their representative cannot attend, the hearing may be rescheduled by mutual agreement

The hearing will be conducted by the manager. The employee will give their reasons for appealing, providing any relevant evidence. There will be the opportunity to ask questions for further clarification. The Manager hearing the appeal must adjourn and carefully consider the best course of action.

The outcome from the meeting might be the following:

1. Disciplinary appeal is upheld or disciplinary appeal is not upheld
2. Request additional information/clarification

Outcome of Appeal Hearing

The outcome of the appeal hearing will be confirmed in writing where possible within 7 working days of the hearing taking place unless additional information/clarification is requested then the manager will keep the employee fully informed as to their progress")

The decision of this appeal hearing is final and constitutes the completion of the disciplinary appeal.

DISCIPLINARY POLICY FLOW CHART

