

## DISCIPLINARY PROCEDURE

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## DISCIPLINARY PROCEDURE

### 1. INTRODUCTION

The disciplinary procedure should be seen as an aid to good management and not viewed primarily as a means of imposing sanctions or as necessarily setting out procedures leading to dismissal. The procedure was agreed by Committee in July 2005, this updated version was agreed by Corporate Committee on 27 September 2012.

Its aim is to:

- Allow managers to address issues of unsatisfactory conduct and seek improvements in behaviour.
- Ensure that employees covered by the procedure are treated fairly and consistently
- Ensure that proper and adequate procedures are observed before any disciplinary decisions are taken
- Help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.
- Maintain discipline essential to the delivery of high quality services.
- Protect the health, safety and well-being of staff, service users and members of the public.
- Safeguard the integrity and good reputation of the Council

*Note 1: The Council may from time to time adopt specific procedures that calls into question the conduct or capability of employees. An example could be the Bullying & Harassment Policy. If disciplinary action is required as a result of using the Bullying & Harassment policy then this action will be carried out using this disciplinary procedure.*

*Note 2: Dealing with capability/performance at work is covered by "The Capability at Work Procedure". It deals with an employee's capability to carry out his/her work and has sanctions leading ultimately to dismissal.*

*Note 3: The control of sickness absence is covered by "The Sickness Absence Monitoring and Control Procedure" and this procedure is specifically for application in cases of sickness absence. It deals with an employee's capability to attend work and has sanctions leading ultimately to dismissal.*

### 2. SCOPE OF THE PROCEDURE

2.1 This procedure applies to all permanent Council employees, except those teachers directly employed by the Council and all staff appointed by schools operating under the Local Management of Schools, which have their own procedure.

2.2 The procedure will be varied for temporary employees, and certain senior staff to ensure compliance with local government law and JNC conditions of service

for Chief Executives and Chief Officers. See below. Employees serving their Probationary period will be subject to the Probationary Procedure.

### **Temporary Employees with less than 9 month's service will use the following procedure**

1. The general principles for dealing with discipline will apply to temporary employees with less than 9 month's service. Where the performance, conduct and/or attendance record remains of sufficient concern despite discussions with the temporary employee, appropriate action will be taken as set out below.
2. Where the temporary employee's performance, conduct or attendance is such that disciplinary action or dismissal is contemplated, then the manager, in consultation with HR, must set up a formal meeting. Where misconduct is contemplated the employee will be given at least 2 working days' notice. If gross misconduct is contemplated then 5 working day's notice will be given. The written notification will give the date, time and place of meeting, and the name and designation of the manager who will be hearing the case. The notification should also explain the purpose of the meeting and the right to be represented. The employee must take all reasonable steps to attend.
3. At the meeting, the manager will confirm the reasons for considering disciplinary action/ dismissal. The employee has the right to be accompanied at the hearing. After the hearing, the manager must inform the employee about any decision, and offer the employee the right of appeal, unless a verbal warning is given as the sanction.

#### **2.3 Appeal**

If the temporary employee wishes to appeal, s/he must inform the manager and HR with reasons/grounds for the appeal within 3 working days of the original decision. The temporary employee will be invited to attend a further hearing to appeal against the decision. The temporary employee has the right to be accompanied at the hearing. A more senior manager should hear the appeal. The final decision will then be communicated in writing, to the temporary employee.

#### **2.4 JNC Chief Officers**

Disciplinary action against a Director/Assistant Director (or equivalent rated officer) will be carried out in accordance with procedures laid out in the Chief Officers conditions of service (including any requirements under Standing Orders). Personnel must be consulted prior to initiating an action at this level.

Standing Orders and the Local Authorities (Standing Orders) Regulations will govern disciplinary action against the Chief Executive.

### **3. GENERAL PRINCIPLES**

3.1 The principles of natural justice underpin this Disciplinary Procedure. All those involved in disciplinary action must act in good faith and with common sense.

3.2 Management will ensure that all employees are fully aware of the Council's Code of Conduct and this Disciplinary Procedure.

3.3 Where an employee is accused of any disciplinary offence they will be called to a disciplinary hearing. The procedure for this is set out later in paragraph 8.

3.4 Disciplinary hearings should only be arranged once sufficient information has been obtained to establish the facts of the case. No disciplinary hearing will be arranged until the case has been fully investigated either through interviews or otherwise to fully establish the facts.

3.5 In most cases this will involve some initial fact finding, which may include preliminary interviews to establish whether there is a case to answer and whether the issue is misconduct or gross misconduct. During this initial fact finding it is not necessary for the employee to be accompanied by a trade union official or workplace colleague.

3.7 An employee who is the subject of an investigation will be told promptly that the investigation is taking place and why.

3.8 Investigations will be concluded as quickly as possible and employees will be advised if the investigation is likely to continue for some time.

3.9 Following initial fact finding, when an employee is requested to attend an investigatory interview he/she will be given notice of that interview. A trade union official or workplace colleague can also accompany him/her. (In exceptional circumstances an employee may have legal representation – see para 3.15).

3.10 If an employee is suspended, he or she will be clearly told why he/she is suspended and that the suspension will be on normal pay. Although in exceptional circumstances suspension may be without pay. The suspension will be confirmed in writing. Any decision to suspend without pay must be discussed and agreed by the Head of Human Resources and must be reviewed on a regular basis to ensure that the period of no pay is kept to a minimum before the hearing takes place.

3.11 If there is no case to answer this will be made clear to an employee who has been subject to investigation. A letter confirming that there is no case to answer will be sent to the employee and a copy of this letter will remain on the employee's file.

3.12 No disciplinary action will be taken against a trade union official unless the case has been discussed with the Branch Secretary or full-time employed official. Although suspension prior to an investigation is not a disciplinary sanction the Branch Secretary or full-time employed union official should be contacted if this is intended.

3.13 An employee who is called to a disciplinary hearing will be given full written notification of the allegations to enable him or her to prepare a response.

3.14 During the investigation or at any disciplinary hearing an employee will be given the opportunity to state his or her case before any decision is made.

3.15 At all stages of the procedure, except the initial fact finding interview and suspension stage, an employee will have the right to be accompanied, by a trade union official or work colleague. Where there is potentially a serious ongoing consequence of a disciplinary decision in respect of future employment or career of the employee then the employee may choose to have legal representation. This consequence would need to be much greater than, for example a finding of gross misconduct. The consequence must be one where a further restriction in employment would flow from the disciplinary decision such as de-registration from a professional body. All requests for legal representation will be considered by the Head of Human Resources. Legal representation for the employee may mean that both the person hearing the case and the person presenting it should consider whether they require a legal advisor or some form of legal support. One outcome of such an arrangement is that of a greater formality in the proceedings.

3.16 An employee called to a disciplinary hearing will be given a minimum of five working days notice of that hearing except in the case of alleged gross misconduct when the notice will be ten working days. In more complicated cases where a lot of information may be presented a longer notification would be appropriate.

3.17 Where possible, the employer should allow a companion (worker colleague or trade union representative) to have a say in the date and time of a hearing. If the companion can't attend on a proposed date, the employee can suggest an alternative time and date so long as it is reasonable and is ideally not more than ten working days after the original date. (Note – it is acknowledged that on occasions because of diary commitments ten working days is not practicable but as a general principle this target should be achievable on most occasions.)

3.18 Where a meeting or hearing needs to be postponed or reconvened the notice periods will not apply, but reasonable notice will be given.

3.19 Prior to any disciplinary hearing an employee will be provided with the written procedure to be followed during the hearing.

3.20 The documents and details of witnesses to be used in the case by management at the disciplinary hearing will be provided to the employee side in the timescales outlined. The employee side need to provide their documentation and list of witnesses no later than 2 working days in advance of the hearing (excluding the hearing day).

3.21 Additional information requested by the employee/ representative will be provided where it is relevant and reasonable to do so.

3.22 In cases where the facts are in dispute, decisions on whether or not the case is proven will be reached on the balance of probability. The facts should have been established following as much investigation as is reasonable and practicable. The burden of proof does not extend to the criminal requirement of being beyond all reasonable doubt. If there is a genuine belief that the offence(s) had occurred and there are reasonable grounds for having reached this, then the decision will be considered to be fair.

3.23 An employee will have the right to appeal against all formal disciplinary sanctions except verbal warnings.

#### 4. LEVEL OF MANAGERS WHO CAN TAKE DISCIPLINARY ACTION?

##### 4.1

| Level of manager   | Sanction that can be given   |
|--|--|
| An appropriate level of manager graded at least on Senior Officer SO1 scales or equivalent             | <ul style="list-style-type: none"><li>▪ Verbal or Written Warnings</li></ul>   |
| An appropriate level of manager graded at least on Principal Officer PO1 scales or equivalent          | <ul style="list-style-type: none"><li>▪ Verbal or written warnings.</li><li>▪ Final written warnings.</li><li>▪ Written or final written warnings with additional sanctions that do not affect pay e.g. removal from flexitime</li></ul>   |
| 1st, 2nd and 3rd tier managers, or managers empowered by a Director to conduct a disciplinary hearing. | <p>As well as the sanctions outlined above,</p> <ul style="list-style-type: none"><li>▪ Written or final written warnings with additional sanctions that affect pay.</li><li>▪ Demotion or loss of increments</li><li>▪ Relegation</li><li>▪ Dismissal, or</li><li>▪ the imposition of additional sanctions that may lead to dismissal e.g. where a final written warning is already live and a further sanction will lead to dismissal.</li></ul> |

4.2 For the purpose of this procedure 1<sup>st</sup> tier means Directors, Executive Directors/ Assistant Chief Executives, and Direct reports to the Chief Executive. 2<sup>nd</sup> tier officers are direct reports to 1<sup>st</sup> tier as defined above and 3<sup>rd</sup> tier officers are direct reports to 2<sup>nd</sup> tier officers as defined above.

4.3 If there are concerns about the level of manager empowered by the Director to conduct a hearing, these can be raised with the Head of Human Resources.

4.4 No disciplinary sanction can be applied unless it is by the person who conducted the hearing.

#### 5. DISCIPLINARY SANCTIONS WHICH MAY BE IMPOSED

- Verbal Warning
- Written Warning
- Final Written Warning
- Written or Final Written Warning with additional sanctions.
- Demotion <sup>(1)</sup> (or loss of increments) <sup>(2)</sup> for a specified period or permanently
- Relegation <sup>(3)</sup>
- Dismissal

Note: <sup>(1)</sup> **Demotion** means removal of duties in the same job that will result in no more than one grade lower.

<sup>(2)</sup> **Loss of Increments** means losing increments within the individual's existing grade, or within the individual's linked grade.

<sup>(3)</sup> **Relegation** means being transferred to a different post with different duties on a lower grade or the same grade.

**Sanctions** examples could be removal from flexitime, or withholding an increment.

## 6. DEALING WITH MISCONDUCT AND GROSS MISCONDUCT

6.1 An employee's conduct at work is governed by the Code of Conduct. If an employee breaks the Council's Code of Conduct then he or she will be liable to disciplinary action that will be dealt with either as misconduct or gross misconduct. The main difference between the two is that an employee cannot be dismissed for a first act which is deemed to be misconduct, but can be dismissed for an act of gross misconduct.

### Misconduct

6.2 The nature of the misconduct and the effect of such misconduct will determine at what level a warning will be issued. If formal action is deemed appropriate, it is not always necessary to start with a verbal warning. A written warning or final written warning could be issued depending on the nature and effect of the misconduct. Therefore, although there could be four stages in dealing with misconduct, it may be appropriate to omit one or more stages, either at the beginning or at later stages. However, a final written warning must not be omitted.

### Informal Warning and Standard Setting

6.3 In many cases, particularly with regard to minor breaches of discipline, the best way for managers to tackle such problems is to talk the matter over with the employee. In this way, the employee is made aware of the problem and given the opportunity to correct it, so there is no need to invoke formal disciplinary action. This should be a two way process aimed at pointing out any shortcomings and to ascertain any difficulties or problems the employee may be facing. The emphasis should be on guiding the employee in order to try to remedy the problem, for the manager to assist and help the employee to improve where possible and to advise the employee of the Council's expected standards.

Such meetings are an informal one to one interview between the manager and the employee. There is no right to representation and no right of appeal.

## FORMAL PROCEDURE

### Verbal warning

6.4 If an employee's conduct falls below expected standards the formal process will be instigated. The employee will be called to a disciplinary hearing. The employee will normally be given a verbal warning, but a written warning may be given if the nature of the breach of conduct warrants this (see 6.5 below). A note of the verbal warning will be kept but it will normally be spent after six months, subject to satisfactory conduct. The employee will be advised that any further misconduct will result in further disciplinary action.

### **Written Warning**

6.5 If following a verbal warning there is a further breach of conduct then the employee will be called to a further disciplinary hearing. A written warning will normally be given at this stage. Note that a written warning may also be deemed an appropriate starting point in the procedure if the breach of conduct warrants this. The written warning will spell out why it is given and warn that any further act of misconduct will liable the employee to further disciplinary action. A copy of this written warning will be kept but it will be spent after a specified period, subject to satisfactory conduct. Note: The specified period will normally be 6-12 months depending on the circumstances of the case.

### **Written Warning with additional sanctions**

6.6 In addition to issuing a written warning other sanctions could be applied. Examples could be removal from flexitime, or withholding an increment.

### **Final Written Warning**

6.7 If, having received a written warning, there is any further breach of conduct, which is deemed to be misconduct, within the specified warning period, the employee will be called to a further disciplinary hearing. This stage could also be deemed the appropriate starting point within the procedure if the nature of the serious breach of conduct warrants this. The employee will normally be given a final written warning. This will spell out why the warning was given and warn that any further breach of conduct will liable the employee to dismissal. A copy of this final written warning will be kept but it will be spent after a specified period (for example 12 months or 24 months) subject to satisfactory conduct. In exceptional cases the period may be longer.

### **Final Written Warning with additional sanctions**

6.8 In addition to issuing a final written warning other sanctions could be applied. Examples could be removal from flexitime, or withholding an increment.

6.9 Where one of the above formal sanctions, except verbal warnings, has been issued the employee will have a right to lodge an appeal by writing to the Head of Human Resources. This must include the grounds and full reasons for the appeal within 10 working days of the written notification of the decision.

### **Dismissal stage**

6.10 If there is a final written warning that is 'live' and if there is any further breach of conduct, deemed to be misconduct, then the employee will be called to a disciplinary hearing. The outcome of this hearing will normally be dismissal with the appropriate notice, normally paid in lieu. This hearing should be conducted by a 1st, 2nd or 3rd tier managers, or by a manager empowered by a Director to conduct a dismissal disciplinary hearing. The employee will be provided with written reasons for dismissal, the date on which employment will terminate and the right of appeal. This should normally be dispatched within 3 working days.



### Gross Misconduct

6.11 Gross misconduct is misconduct of such a nature that the authority is justified in no longer tolerating the continued presence at work of the employee concerned. If the Council is satisfied that gross misconduct has taken place the result will normally be summary dismissal. Whilst any serious breach of conduct will be considered to be gross misconduct, the following are given as examples:

- Unauthorised removal or misuse of Council property
- Inappropriate use of the internet, email, the council's electronic software, information communications systems or computer misuse
- Acts of dishonesty
- Falsification of time sheets, expenses claims etc.,
- Misuse of the Council's property or name
- Theft
- Fraud
- Deliberate or negligent damage to Council property
- Sexual misconduct at work, including sexual harassment
- Racist actions, including racial harassment
- Physical violence
- Bullying, offensive behaviour or harassment
- Soliciting or accepting bribes
- Improperly using one's position with the Council for personal gain
- Drunkenness at work, including serious incapability through abuse of alcohol.
- Drug offences, including being under the influence of drugs at work
- Serious breach of health and safety rules.
- Gross negligence
- Breach of confidentiality
- Wilful failure to carry out the duties of the post
- Carelessness, causing loss, damage or injury
- Culpable lack of care towards clients
- Any action that could bring the Council into disrepute

If there is good reason to believe that an employee has breached the Code of Conduct and that such action is deemed to be gross misconduct, then he or she will be suspended from work on full pay. Although in exceptional circumstances suspension may be without pay. This suspension will allow investigation of the allegation(s). If, on completion of the investigation, it is deemed that there is a case of gross misconduct to be answered, then the employee will be called to a disciplinary hearing. If, at the end of this hearing, the Council is satisfied that gross misconduct has occurred, the result will be summary dismissal, without notice or pay in lieu of notice, unless it is decided to apply a different disciplinary sanction. The employee will be provided with written reasons for dismissal and the right of appeal, the manager should ensure that a copy of the letter is sent to the trade union representative who accompanied the individual to the meeting. This letter should normally be dispatched in 10 working days.

### **Sanctions for Gross Misconduct Short of Dismissal**

6.12 Sanctions short of dismissal for Gross Misconduct could be appropriate:

- Where the employee is considered to be blameworthy of a serious offence but there are mitigating circumstances to justify disciplinary action, short of dismissal.
- Where the employee previously had an excellent work record, the offence was out of character and was committed at a time when the employee was experiencing severe emotional/domestic problems.
- Where an employee admits the offence at the outset of the investigation process and the nature of the offence is taken into account and where either the above examples also apply.

Possible sanctions include

- Final Written Warnings
- Final Written Warnings with additional sanctions
- Demotion for a specified period or permanently
- Relegation

If relegated, the employee must be transferred to different duties on a lower grade. In reality securing alternative employment at a lower grade may not always be practical, in such circumstances withholding incremental increases may be more appropriate. If they are demoted they may remain in the same job but with duties removed which will result in a lower grade but not more than one grade lower.

In any case, at the time the decision is taken to impose these sanctions, the employee should be advised whether or not it is for a specified period. If it is, the employee should be advised that he or she will be put back on his or her grade/spinal point after that period. If the relegation or demotion is without any specified period then any future re-grading can only occur as a result of job evaluation. (An employee could also obtain a higher grade as a result of promotion, through the normal process of application and appointment).

In the case of relegation or demotion a final written warning for a defined period will also be applied.

## **7. LAPSED DISCIPLINARY WARNINGS**

7.1 Warnings that are issued as part of this code will remain on file after they are spent. They will normally be disregarded for disciplinary purposes but can be taken into account in other circumstances, for example, appointment to another post. There may, however, be occasions where an employee's conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding how long any current warning should last. It would be artificial to act as though an incident had never occurred and was erased from the memories of both parties. If an employee was to maintain that he or she was unaware of a particular rule, for example, and it happened that he or she had been warned about this breach of rule in the past, this could be checked on the employee's file.

|   |
|---|
| <b>8. PROCEDURES FOR CONDUCTING A FORMAL DISCIPLINARY HEARING</b> |
|---|

**Simplified Procedure**

1. This simplified procedure will be used where an investigation or fact finding interview has taken place and there is a case to answer and the likely sanction will be a verbal or written warning, or final written warning and both sides agree a short hearing is appropriate. If the likely sanction will be dismissal for gross misconduct, but due to mitigating circumstances management have decided not to seek dismissal, both sides can agree that a short hearing would be more appropriate. Paragraph 6.12 gives details of some circumstances when a sanction for gross misconduct short of dismissal may be appropriate. This could mean that an appropriate level of manager details the case to the employee and, having heard his or her response decides on the sanction. This approach would usually suit the initial stages of dealing with wilful poor performance at work or relatively minor breaches of conduct.
2. Where a simplified approach is not deemed appropriate a more formal approach will be taken to the hearing as set out below.

**Full Procedure**

1. An appropriate level of manager will chair the disciplinary hearing and they may choose to have an adviser or advisers, depending on the exact nature of the disciplinary hearing. The hearing will include the officer presenting the case, their adviser where appropriate, the employee and his or her representative. The presenting officer will normally present the case to a more senior officer.
2. Witnesses will only be present while they are being questioned.
3. The documentation to be used in the case should have been exchanged in good time before the hearing. Witnesses will be notified in advance to allow time off to be arranged.
4. Introductions will be given and the Chair will explain the process and outline the documentation to be used.
5. The case against the employee will be presented first, including calling any witnesses.
6. The employee, or their representative, will have the opportunity to ask questions of the manager and any witnesses that may have been called.
7. The Chair, and advisers, may ask questions of the manager and any witnesses that may have been called.
8. Following questions the manager has the opportunity to re-examine the witness.

9. Then the employee and/or their representative will present their defence, including calling any witnesses.
10. The manager, and their adviser, will have the opportunity to ask questions of the employee, or their rep, and any witnesses that may have been called.
11. The Chair, and advisers, may ask questions of the employee, and/or their rep, and any witnesses that may have been called.
12. Following questions the employee or rep has the opportunity to re-examine their witness.
13. Once the case and defence have been presented both sides will be have an opportunity to give the hearing a summary of their cases. The case against the employee will be summarised first. No new evidence can be introduced in closing statements.
14. During the employees closing statement any mitigation as to why a particular sanction should not be imposed will also be given.
15. The officer and adviser presenting the case and the employee and rep will leave the hearing to allow the Chair, with any adviser or advisers, to deliberate in private. The parties can be recalled to clarify any points of uncertainty.
16. Having deliberated, the Chair will generally recall both parties to the room in order to give a decision on the case. It may sometimes be necessary for the Chair to give a decision on the case at a later date if the deliberations are likely to last a long time.
17. If a sanction of written warning or above is imposed, the right to appeal will be advised and the decision will be confirmed in writing.

## **9. APPEALS**

9.1 An employee who receives a formal disciplinary sanction of a written warning or above will have a right of appeal against the decision.

- Officer Level Appeals: Appeals against a decision other than dismissal, will be a review of the case carried out by an appropriate manager who will be from outside the appellant's own Directorate.
- Member Level Appeals: Appeals against dismissal will be heard by a panel of 3 Members, who will review the case based on the information provided at the appeal review hearing.

9.2 An HR Adviser (and an adviser from the Legal team) will provide advice to both the member panel and to the officer reviewing the case.

9.3 The individual is entitled to be represented (or accompanied) to an appeal hearing by either their trade union representative or a work colleague of their choice.

9.4 Where there is potentially a serious on-going consequence of a disciplinary decision in respect of future employment or career of the employee, then the employee may choose to have legal representation. See Disciplinary Policy Paragraph 3.15 for details.

9.5 To lodge an appeal, the Disciplinary Procedure Appeal Form (attached at Appendix 1) must be completed in full and sent to the Head of HR within 10 working days of the date of the letter confirming the decision of the disciplinary hearing. An appeal may be lodged outside of this timeframe only if there are exceptional reasons for the delay. The final decision about whether or not to accept the appeal in such circumstances will rest with the Head of HR.

9.6 Failure to supply full reasons for the making the appeal will render the appeal suspended until they are supplied. The Head of HR will make the final decision as to whether the reasons are sufficient.

9.7 Where an appeal is lodged, HR will provide the transcript or notes of the original hearing when confirming receipt of the appeal. Where this is in the form of a transcript the appellant shall be entitled to hear the audio recording in the event of a dispute about accuracy in transcription.

9.8 Appeal hearings will be electronically recorded to ensure an accurate record is captured. The appellant may raise an objection in advance of the hearing date as to why they don't want the hearing recorded. However, the appellant must be aware that a written note of the hearing may not be as accurate as an electronic record.

9.9 Only new evidence which has come to light since the original hearing took place and which may have a material effect on the final outcome may be introduced at the appeal stage. Any such evidence must be provided at the same time as other evidence (ie ten working days in advance of the hearing). Such evidence should only relate to the original allegations and no additional ones.

9.10 Both parties will be expected to exchange any documents relating to the case at least ten working days in advance of the appeal. If management are using the same documents as those used at the service hearing they must confirm this to the appellant no later than ten days in advance of the appeal. Where management introduce new evidence at this point the appellant shall be entitled to submit additional evidence no later than five working days in advance of the appeal, such evidence shall be limited to having a direct relationship to the new management evidence.

9.11 Appeal hearings must be arranged within a reasonable period of time and ideally concluded before the employee's last day of service. However, where this is not possible, the hearing should be concluded within a maximum of 3 months from the date of the service hearing. The date of the appeal should be arranged in consultation with all parties. Flexibility will be expected from an appellant if a

proposed date does not at first appear convenient and he/she must be prepared to change their arrangements to try to meet the proposed date. The appellant should be aware that the appeal may go ahead in their absence should they fail to attend without good reason.

### **9.12 Officer Level Appeals Process**

The review will be conducted by a more senior manager than the person who imposed the original sanction. If a 2nd or 1st tier manager made the decision another manager at the same level from outside the appellant's directorate may conduct the appeal. The Head of HR will nominate the reviewing officer.

9.13 The review may confirm the original sanction imposed or decrease it, but not increase it as it is not a rehearing of the case.

9.14 The reviewing manager will consider all documentation presented at the final hearing together with hearing notes, outcome letter and the appellant's grounds of appeal. Copies of these documents will be available to the appellant; to his/her representative and to the manager who made the original decision.

9.15 The manager reviewing the case will meet with the appellant and her/his representative and will then meet with the original hearing manager before making a decision.

9.16 The decision of the review manager will be confirmed to the appellant in writing, and the letter should usually be despatched within 3 working days of the decision.

9.17 The decision of the reviewing manager is final.

### **9.18 Member Level Appeals Process**

An appeal against a decision to dismiss will be a review of the case, heard by 3 Members. . If one Member is unable to attend the hearing, the appellant has the option on the day of continuing the hearing with a panel of 2 Members or requesting that the hearing be postponed until a panel of three members can be present to hear the case.

9.19 The manager presenting the case (normally the service manager who heard the final hearing) will present first. If this manager is no longer employed, then another manager or the HR Adviser who advised the final hearing panel will present the management case.

9.20 The employee (or his/her representative) will present their case after the management case.

9.21 Witnesses may only be called if there has been new evidence introduced which may have a material effect on the outcome and which has come to light since the final hearing or where the individual concerned was unavailable to attend the original hearing. Any witnesses present may be questioned by the presenting manager, appellant or representative, the panel and advisor(s) to the panel. The order of questioning shall be in line with the normal procedure.

9.22 Questioning of either the presenting manager or the appellant may only be carried out by Members or by the HR adviser to the Member panel.

9.23 Once the management and appellant have presented their case, both sides will present a summary of the key points. The case against the appellant will be summarised first. No new evidence can be introduced in closing statements.

9.24 The presenting parties will then leave the hearing to allow the Member panel, with any adviser or advisers, to deliberate in private. The parties can be recalled to clarify any points of uncertainty.

9.25 Having deliberated, the Appeal panel will generally recall both parties to the room in order to give a decision on the case. It may sometimes be necessary to give a decision on the case at a later date if the deliberations are likely to last a long time.

9.26 The decision will be confirmed in writing, and the letter should usually be despatched within 3 working days.

## **APPENDIX 1**

### **DISCIPLINARY PROCEDURE: APPEAL SUBMISSION FORM**

Employees who receive a formal sanction of a written warning or above have a right of appeal against this decision. The appeal must be made in writing using this form. The completed form must be returned within 10 working days of the date of the decision letter and must be completed in full, outlining the reasons for the appeal.

|                     |  |                          |  |
|---------------------|--|--------------------------|--|
| <b>Name</b>         |  | <b>Service</b>           |  |
| <b>Job Title</b>    |  | <b>Contact Telephone</b> |  |
| <b>Line Manager</b> |  | <b>Trade Union Rep</b>   |  |

#### **Summary of Finding at Final Hearing:**

1. Dismissal
2. Other sanction – (please specify)

#### **Indicate your reason for making the appeal**

|   |   |
|---|---|
| 1. Against the basis on which the allegation was found to be proven | 2. Against the level of sanction imposed  |
| 3. That the process followed at the original hearing was incorrect  | 4. To take into account evidence which came to light after the hearing and which you believe to have a material affect on the outcome of the case |

**Please outline your appeal, giving as much detail as you can (including any evidence you have to substantiate your appeal) (please include your name on any supplementary sheet submitted)**

|  |
|--|
|  |
|--|

Please note that your appeal will not be lodged until the form is completed in full.

|                  |             |
|------------------|-------------|
| <b>Signature</b> | <b>Date</b> |
|------------------|-------------|

The completed form must be returned to:  
Head of HR, Level 4 Alexandra House, 10 Station Rd, Wood Green, London N22 7TR.