

## Disciplinary Procedures

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## **Disciplinary Procedures**

### **1. Introduction**

- 1.1 These procedures have been developed in accordance with the Labour Relations Code of Practice on Disciplinary and Grievance Procedures.
- 1.2 The purpose of this procedure is to support and maintain high standards of conduct and discipline within Libraries NI. It has been drawn up to provide a fair and consistent process for dealing with alleged misconduct
- 1.3 The advice and guidance of the Head of Human Resources or nominee should be sought when any disciplinary action is being considered and at each stage of the operation of the disciplinary procedure.
- 1.4 The procedure identifies who has authority to invoke disciplinary action and aims to ensure that employees are protected against unreasonable or inconsistent disciplinary action.
- 1.5 The procedures identify the type of offence which would result in disciplinary action being taken and what that action would be.
- 1.6 The Disciplinary Procedure applies to all employee's, with the exception of:
  - The Chief Executive (discipline issues will be referred to the Chairperson of Libraries NI Board and the Department for Communities and the principles of Libraries NI Discipline Policy and Procedures will be applied)
  - employees who are still subject to probation
  - agency workers or self-employed contractors
- 1.7 Nothing in this agreement may be construed as diminishing an employee's rights in law.

### **2. General Principles**

- 2.1 Prior to the taking of any formal disciplinary action there will be a preliminary investigation into any allegation of misconduct
- 2.2 In the operation of the formal procedure employees should:
  - be made fully aware of the circumstances giving rise to the question of disciplinary action (including a copy of any report giving rise to a disciplinary charge); and be given a copy of this procedure;

- be given a fair hearing, with the opportunity to state their case. Such a hearing should be held as soon as reasonably practical.
- be given the right to be represented, at each stage of the procedure, by their trade union representative or a work colleague. Legal representation is not permitted.

2.3 This procedure will set timescales to ensure that any disciplinary matter is dealt with quickly and efficiently, unless altered by mutual agreement between the parties to ensure a fair process. 2.4 If the employee subject to disciplinary action is a trade union representative no action beyond a verbal warning will be initiated until the full time official has been notified and given a reasonable opportunity to discuss the circumstances of the case.

2.4 Any disciplinary action taken shall be appropriate to the degree of seriousness of the alleged offence.

2.5 Any mitigating circumstances, including the previous record of service of the employee concerned, shall be taken into account when taking disciplinary action.

2.6 There shall be the right of appeal against disciplinary action (see section 11).

2.7 Audio/visual recordings of the proceedings are not acceptable at any stage of the disciplinary procedure and are not admissible within this process, unless agreed as a reasonable adjustment for an employee with a disability.

2.8 All information will be retained confidentially in accordance with Data Protection legislation and Libraries NI Records and Retention Policy. Libraries NI will take all reasonable steps to ensure that confidentiality is maintained throughout the process.

### 3. Disciplinary Authority

3.1 Disciplinary action shall be the responsibility of the duly authorised level of management to which disciplinary powers have been delegated (hereinafter referred to collectively as "The Disciplinary Authority").

3.2 The Disciplinary Authority responsible for disciplinary action is as follows:

<b>Disciplinary Authority</b>	<b>Disciplinary Action</b>
Admin Officer or above	verbal warning
Assistant Principal Officer Grade or above after consultation with Head of Human Resources or their nominee	written warning
Principal Officer Grade or above after consultation with Head of Human Resources or their nominee	final written warning

Director and Head of Human Resources or their nominee

further disciplinary action

- 3.3 The disciplinary action shown against each Disciplinary Authority is the maximum action permissible to that authority; it does not preclude the possibility of a lesser penalty being imposed.

#### **4. Informal Procedure**

- 4.1 Prior to the invoking of the formal procedure set out below minor failings should be dealt with informally with the supervisory officer. The object will be to discuss the issues involved and to seek ways of improving the situation. If informal action is taken this will be addressed through the normal supervisory process.
- 4.2 Should such discussions fail to resolve the matter it will be necessary to invoke the formal procedure as follows.

#### **5. Workplace Investigation**

- 5.1 In considering disciplinary action, a preliminary investigation shall be undertaken into any allegation of misconduct to establish the facts, gather evidence and to determine if there is a requirement for formal disciplinary action. Where the allegation is such that it may lead to formal disciplinary action, the advice and guidance of the Head of Human Resources or nominee should be sought.
- 5.2 The employee is required to fully co-operate in the investigation process and may be accompanied by an accredited trade union representative or a work colleague during any investigation meetings if they wish to do so.
- 5.3 In certain cases, consideration may be given to a period of precautionary suspension with full pay whilst an investigation is conducted. Alternative actions may also be considered. Please refer to Precautionary Suspension (section 9) for more information.
- 5.4 On completion of investigation the investigatory panel will prepare a factual record of their findings and recommendations. This report will be provided to senior management for their consideration.
- 5.5 In the case of allegations of misconduct which may lead to a police investigation the advice and guidance of the Head of Human Resources or nominee must be sought before any action is taken, including any preliminary investigation and/or the imposition of a period of precautionary suspension.
- 5.6 Any investigation carried out under a harassment, grievance, child protection or performance management policy shall be accepted as the preliminary investigation.

5.7 All investigation panel officers will have received the required training to carry out workplace investigations.

## **6. Witnesses**

6.1 Witnesses may be able to provide evidence to assist the investigation. Witnesses are required to fully co-operate with the investigation and may be requested to attend a meeting or to provide a written statement.

6.2 Where witness statement/s are to be provided, the witness statement should be signed and dated. If this is not possible the witness statement should be certified as a true and accurate record, signed and dated by the witness and countersigned and dated by the person who prepared the statement.

6.3 Witnesses may be accompanied by a Trade Union Representative or work colleague at any meetings if they wish to do so

6.4 Employees who are subject to disciplinary action may be given an opportunity to raise points about any information provided by a witness prior to the disciplinary hearing. Witnesses will not be present or cross-examined at a disciplinary hearing.

## **6.5 Sharing information**

6.5.1 The employee under a disciplinary investigation can ask to see any evidence or witness statements.

6.5.2 Under data protection law (GDPR), Libraries NI will get consent from the person who provided the information.

6.5.3 If deemed appropriate by Libraries NI, the actual statements and the names of witnesses may sometimes be withheld, however the employee will still know the substance of these statements, if not the author.

6.5.4 Libraries NI may be obligated to provide witness statements if there is a legal requirement to do so; in that event witnesses will be notified accordingly.

## **7. Formal Disciplinary Procedure**

7.1 Where, following investigation, it is considered that there is a case to be answered the Disciplinary Authority shall invoke the formal procedure and shall obtain the advice and guidance of the Head of Human Resources or nominee.

The employee shall be:

- a. told clearly in writing what is being alleged, and provided with a copy of the disciplinary procedure and any documentary evidence to be considered by

the Disciplinary Authority. Where further offences have come to light in the course of the disciplinary proceedings these should be included.

- b. advised of all rights under the procedure including specifically the right to be accompanied by an accredited trade union representative or a work colleague. Legal representation is not permitted.
- c. given reasonable time to prepare his or her case in conjunction with their chosen representative. Notice of the disciplinary hearing and the investigatory panel's findings and any other relevant papers will be sent to the employee at least ten working days before the date of the hearing.
- d. If the employees chosen representative is not available at the time proposed for the hearing, the hearing will normally be postponed. The employee must propose an alternative time, which must be within 10 working days beginning with the first working day after the day proposed by the employer.
- e. given the opportunity at a disciplinary hearing to state his or her case fully before a decision is reached. Where practicable, such a hearing shall be held within 10 working days of completion of a preliminary investigation. If more time is needed to consider the matter or further investigations are necessary, the hearing shall be adjourned.
- f. Be informed, in writing, of the Disciplinary Authority's decision as expeditiously as possible, having given proper consideration to all the matters raised.
- g. Be informed of their right of appeal in accordance with section 11 of the Disciplinary Procedure
- h. Be made aware of the confidential advice and support available to them through Libraries NI employee assistance scheme.

The human Resources department shall be given advance notice of any disciplinary hearing and shall, if it so desires, be represented at the hearing by the Head of HR or nominee from the human resources department

## **7.2 Verbal Warning**

In the case of a minor breach of discipline (please refer to appendix 1) where, following the disciplinary hearing, the Disciplinary Authority is not satisfied with the explanation given, a verbal warning will be issued and the employee be notified in writing as soon as possible and within no longer than ten working days of the hearing. The employee will be informed of the consequences of a recurrence of a similar offence or a further breach of conduct. The letter shall advise the employee of the appeals process in accordance with section 11 of the Disciplinary Procedure. A disciplinary warning will normally take effect either from the date on which it is issued or, where an appeal is lodged, from the date

of the notification of the appeal decision. A verbal warning will be disregarded for disciplinary purposes on completion of six months' satisfactory conduct.

### **7.3 Written Warning**

Where a disciplinary warning is current and there is a further breach of discipline, or in the case of serious misconduct (please refer to Appendix 1) the Disciplinary Authority, if not satisfied with the explanation given at a hearing, will issue a written warning. The employee shall be informed, in writing as soon as possible and within no longer than ten working days of the hearing. The letter will inform the employee of the consequences of further misconduct and advise them of the appeals process in accordance with section 11 of the Disciplinary Procedure. A disciplinary warning will normally take effect either from the date on which it is issued or, where an appeal is lodged, from the date of the notification of the appeal decision. A written warning will be disregarded for disciplinary purposes on completion of one year's satisfactory conduct.

### **7.4 Final Written Warning**

In those cases, where a written warning is current and there is further misconduct, or in the case of very serious misconduct (please refer to Appendix 1), the Disciplinary Authority, if not satisfied with the explanation given at a hearing, will issue a final written warning as soon as possible and within no longer than ten working days of the hearing. The letter shall inform the employee of the consequences of further misconduct and advise them of the appeals process in accordance with section 11 of the Disciplinary Procedure. A disciplinary warning will normally take effect either from the date on which it is issued or, where an appeal is lodged, from the date of the notification of the appeal decision. A final written warning will normally be disregarded on completion of one year's satisfactory conduct.

### **7.5 Further Disciplinary Action**

When there is a failure to respond appropriately to a final written warning or in the case of gross misconduct (please refer to Appendix 1), the Disciplinary Authority, if not satisfied with the explanation given at a hearing, will impose such further disciplinary measures as it deems appropriate. While not a complete list, such action may include demotion, suspension without pay normally not exceeding a maximum of four weeks, dismissal or a combination of measures.

The decision of the Disciplinary Authority shall be notified to the employee in writing as soon as possible and within no longer than ten working days of the hearing. Where action short of dismissal is taken, the employee shall be advised of the consequences of any further disciplinary offence occurring during the one-year currency of the warning. The letter shall advise the employee of the appeals process in accordance with section 11 of the Disciplinary Procedure. A disciplinary warning will normally take effect either from the date

on which it is issued or, where an appeal is lodged, from the date of the notification of the appeal decision.

## **7.6 Summary Dismissal**

Summary Dismissal means dismissal without notice and without payment in lieu of notice. The decision of the Disciplinary Authority to summarily dismiss shall be notified to the employee in writing as soon as possible and within no longer than ten working days of the hearing. The letter shall advise the employee of their right of Appeal as detailed in section 11 of the Disciplinary Procedures.

If an employee is summarily dismissed they have the right to appeal in the normal way, but the dismissal will not be set aside pending the outcome of appeal.

## **7.7 No further action**

When the decision is that no disciplinary action is necessary, the employee will be informed in writing as soon as possible and within no longer than ten working days of the hearing and all papers relating to the alleged offence will be expunged from the employee's personal file.

A copy of the *Disciplinary Rules* is appended to this Procedure as Appendix 1.

## **8. Disciplinary Records**

Written records should be kept detailing the nature of any breach of discipline, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent development.

8.1 The currency of a warning/s shall expire as follows:

- (i) verbal warnings on completion of six months' satisfactory conduct;
- (ii) written warnings on completion of one year's satisfactory conduct;
- (iii) final written warnings normally on completion of one year's satisfactory conduct;
- (iv) further disciplinary action, normally on completion of one year's satisfactory conduct.

8.2 Records of any disciplinary warnings should be carefully safeguarded and kept confidential. It is recommended that a record of a formal written warning and above should be forwarded as necessary for retention by the Head of Human Resources.

8.3 The record of a disciplinary warning will be disregarded for disciplinary purposes and removed from the employee's personnel file on completion of the appropriate period as defined in the procedure.

## **9. Precautionary Suspension**

- 9.1 In special circumstances a brief period of precautionary suspension may be imposed by the Director or the Head of Human Resources pending formal investigation of an alleged offence. In such circumstances the employee should continue to receive full normal remuneration. Alternative actions may also be considered such as transfer to other duties or another work location without loss of pay. Any action taken is neither considered as disciplinary action or an indication of blame or guilt.
- 9.2 Investigation of the alleged offences may result in one of the following outcomes:
- a. it is considered that there is no case to answer in which instance the suspension shall be ended;
  - b. there is a case to answer, and precautionary suspension is no longer necessary. The suspension shall be ended and the disciplinary procedure invoked;
  - c. there is a case to answer and it is considered that the nature of the offence is such that precautionary suspension should continue. The suspension should continue and the disciplinary procedure invoked

## **10. Attendance at meetings**

- 10.1 The employee must take all reasonable steps to attend meetings. If an employee cannot attend they must inform their employer immediately and an alternative date and time may be arranged. Libraries NI may consider alternative arrangement such as a written statement or representative attending on their behalf.
- 10.2 Failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without any prior notification, good reason or is persistently unable to do so the Investigation Panel or Disciplinary Authority may have to reach its conclusions based on the evidence available.

## **11. Appeals**

### **11.1 Appeals against disciplinary action or warnings**

- i. There shall be the right of appeal against any disciplinary action. Unless an appeal is lodged within five working days it will be assumed that the employee accepts the decision.
- ii. Appeals against verbal and written warnings shall be heard by the next level of authority.

- iii. Appeals against final written warnings and further disciplinary action including dismissal, shall be heard by the chief officer accompanied by a Director not previously involved in the disciplinary action.
- iv. Appeals must be made in writing (setting out the grounds), within five working days, to the Head of Human Resources who shall make appropriate arrangements for a hearing. The Human Resources department shall provide an officer to act as secretary. Appeal hearings shall be heard as soon as practicable and no later than five working days from receipt of request unless extended by mutual agreement. The result of an appeal shall be notified in writing to the employee within three working days of the hearing.

## **11.2 Appeals against precautionary suspension**

- i. There shall be the right of appeal against any period of precautionary suspension. Unless an appeal is lodged within five working days it will be assumed that the employee accepts the decision.
- ii. Appeals must be made in writing (setting out the grounds), within five working days, to the Head of Human Resources who will arrange for the appeal to be heard.
- iii. The precautionary suspension will remain in place until the outcome of the appeal is heard. iv. The appeal outcome will be confirmed in writing within five working days of the appeal hearing.

## **12. Reference To An Independent Appeals Committee**

- 12.1 There shall be a final right of appeal, against further disciplinary action, to an Independent Appeals Committee. The appeal must be made in writing (setting out the grounds) within five working days of the decision to the Head of Human Resources who shall refer the matter to the Labour Relations Agency.
- 12.2 The Appeals Committee shall consist of an independent chairperson appointed by the Labour Relations Agency and two panel members, one drawn from a list supplied by the recognised unions and the other drawn from a list supplied by the management. The management member shall not be from Libraries NI. The trade union member where possible should be from a different trade union, where this is not possible they may be from the union representing the appellant provided he/she is not an employee of, or a trade union representative for Libraries NI.
- 12.3 The Agency shall also appoint a Secretary to the Appeals Committee who shall be responsible for the setting up of the committee and for the provision of administration services.
- 12.4 The Secretary, in conjunction with the chairperson, shall fix a date for the committee's hearing of the appeal and shall advise the parties accordingly and shall invite nomination to the committee.

- 12.5 The Secretary shall also invite the parties to make written submissions to the Committee, such submissions to be received not later than 10 days before the date of the hearing. The Secretary shall distribute copies of the submissions to the committee members and to the other party not later than five days before the date of the hearing.
- 12.6 The Committee shall meet the parties to hear the appeal within 20 working days of the matter being referred to the Labour Relations Agency. The chairperson shall determine the order of the oral presentations to the Committee.
- 12.7 The decision of the Appeals Committee shall be given in writing to both parties within 10 working days of the hearing.
- 12.8 The work of the Appeals Committee shall not be invalidated by the absence of one or other of the parties.
- 12.9 The decision of the Appeals Committee will be final and binding on both parties.

### **13. Early Conciliation**

- 13.1 From 27 January 2020, any employee who wishes to lodge a claim with the Industrial or Fair Employment Tribunal must first notify the Labour Relations Agency and discuss the option of Early Conciliation. Please note you will not be able to proceed to tribunal without at least considering this option.

More information can be found at [www.lra.org.uk](http://www.lra.org.uk)

This procedure shall take effect from 11 February 2021 and shall remain in force for a period of 3 years at which time it shall be subject to review.

## **DISCIPLINARY RULES**

## **Appendix 1**

### **1. DEFINITIONS**

#### **1.1 Misconduct**

Misconduct is an offence for which a warning shall normally be the appropriate disciplinary action.

#### **1.2 Serious Misconduct**

Can be repeated offences of the nature normally dealt with under 1.1 or an offence of a serious nature but which is not regarded as gross misconduct.

#### **1.3 Gross Misconduct**

Is an offence so serious it would normally warrant Summary Dismissal.

#### **1.4 Summary Dismissal**

Is the termination of the contract of employment without notice where the offence committed has been established, after investigation and disciplinary hearing, as gross misconduct.

#### **1.5 Precautionary Suspension**

Is with full pay pending investigation. It shall not be seen as a penalty, but a precautionary action.

### **2 DISCIPLINARY RULES/OFFENCES**

2.1 It is not possible to define every circumstance which shall constitute misconduct and these disciplinary rules are provided as guidance only.

2.2 In considering the level of warning or other disciplinary action to be taken, the Disciplinary Panel shall consider the previous record of the Employee, any pattern of misconduct, the currency of any previous disciplinary warning, the recurrence of a similar or further breach of discipline within the specified time period.

2.3 The following are examples of situations which constitute an offence under the rules and shall lead to disciplinary action. The list is not exhaustive and the degree of seriousness of the offence shall determine the category under which it shall be considered.

### **3 MISCONDUCT**

Minor incidents of the following offences shall normally warrant a verbal or written warning or other disciplinary action short of dismissal. However, the degree of seriousness of the offence may warrant consideration under "serious or gross misconduct". This list is neither exclusive nor exhaustive.

- Unsatisfactory timekeeping - arriving late or leaving early without permission.

- Unauthorised absence from place of work - misuse of Libraries NI's time.
- Sickness absence - persistent failure to give proper notice in accordance with Libraries NI's instructions.
- Absence - unacceptably high levels and frequencies.
- Insubordination - bad language, bad behaviour, insolence or refusal to carry out reasonable and legitimate instructions.
- Aiding and abetting a disciplinary offence E.g. witnessing a disciplinary offence and failing to report or take appropriate action.
- Failure to adhere to Libraries NI Policies and Procedures E.g. Harassment P, Social Media, Code of Conduct, IT, etc.
- Unsafe working – refusal or neglect to observe security and safety regulations, including the proper use of safety clothing and equipment issued by Libraries NI, breaches of statutory requirements under the Health and Safety Order.
- Carelessness - resulting in loss or damage to, or waste of property entrusted to his/her care, including misuse of telephone or other unauthorised use of equipment including electronic communication facilities.
- Unprofessional behaviour involving, toward staff or the public.
- Vexatious use of the Grievance or other Procedures, ie wilful or frequent pursuit of issue(s) of no real substance.
- Breach of Confidentiality through unauthorised disclosure of information which might prejudice the Libraries NI's interests.
- Unauthorised collections of money.

### **3.1 Serious or Gross Misconduct**

- Aiding and abetting a disciplinary offence e.g. facilitating unauthorised access, contributing to inappropriate social media comments/posts,
- Failure to adhere to Libraries NI Policies and Procedures e.g. Harassment, Social Media, Code of Conduct, IT, etc.
- Unsafe working – refusal or neglect to observe security and safety regulations, including the proper use of safety clothing and equipment issued by Libraries NI, breaches of statutory requirements under the Health and Safety Order.

- Physical violence - actual or threatened.
- Malicious damage - to property belonging to the Libraries NI, its clients or employees; unauthorised use, misuse, waste or removal of this property.
- Harassment, including sexual harassment, of other staff, or visitors etc.
- (i) Attending work under the influence of alcohol or proscribed drugs.
- (ii) Consuming intoxicants during working hours or bringing intoxicants into the premises without permission.
- (iii) Alcohol/drug abuse - being in an unfit mental and/or physical state induced by these substances.
- Working for another employer or self-employed during hours contracted to work for the Libraries NI.
- Abuse of the Sick Pay Scheme.
- Unauthorised entry to Libraries NI premises outside normal hours of use.
- Falsification of records - examples include application forms, expense claims, etc.
- Theft - or other indictable offences or Police charge on such an offence which renders the employee unsuitable for continued employment by Libraries NI.
- Fraud.
- Consumption of alcohol - while in charge of or driving a Libraries NI vehicle and/or while in charge of a group of young people.
- Abuse of authority.
- Indecent conduct or obscene behaviour.

*This list is neither exclusive nor exhaustive, and in addition there may be other offences of a similar gravity, which would constitute gross misconduct.*

3.2 In considering a case of misconduct under any of the above, the employee shall be advised of the provision available under Libraries NI's welfare arrangements.