

Disciplinary Procedure - January 2013: Additional guidance

NB These notes are for guidance only and do not form part of the formal procedure

- 1. How does the formal disciplinary procedure work?** Where it has been established that there is a disciplinary case to answer (i.e. by an investigation), a hearing will be held and a decision taken as to whether disciplinary action should be taken (see 6.7 Possible disciplinary sanctions).

The employee has the right to appeal against any sanction, whether this is a first written warning, final written warning or dismissal. If the appeal is not upheld at either of the written warning stages the disciplinary sanction will be imposed and the employee's conduct or performance will be reviewed after a set period. If improvement has not been made, the manager will move to the next stage – or if sufficiently serious – to the final stage of the procedure. In the case of dismissal, the decision taken at the appeal hearing is final and binding.

How long is the formal disciplinary procedure likely to take? The timescale depends on the stage at which the formal procedure is implemented (see 6.7 Possible disciplinary sanctions). The following gives an outline of a typical timescale, although more than one hearing may be required under Stage 1, as outlined above. The timescales given are for guidance only and will be modified on a case-by-case basis:

	Number of working days
Where a formal investigation is deemed necessary, confirmation is given to the employee that an investigation will take place, and the name of investigating manager or officer, within:	5 days of the employee/ manager's meeting
The investigation is conducted and the report is completed within: However this is dependant on the complexity of the case	20 days
If the investigator concludes that there is a disciplinary case to answer, a formal hearing is arranged within:	10 days of the date of the investigation report
The outcome of the hearing is confirmed in writing to the employee within:	5 days
If the employee wishes to appeal, s/he will raise this in writing within:	5 days of the date of the decision letter
An appeal hearing is arranged within:	15 days of receipt of the appeal letter
The outcome of the appeal hearing is confirmed in writing to the employee within:	5 days

- 2. How will the investigation be conducted?** The employee will be told as soon as possible that an investigation is to take place and who will be conducting it. NB Management/HR reserve the right to nominate any appropriate person to conduct the investigation without referral to the employee or her/his Trade Union representative or work colleague.
- 3. Who will be involved in the investigation?** Other employees (or managers) may need to be interviewed as part of the investigation. A trade union representative or work colleague may accompany employees at these meetings if wished. The interviews will take place under the terms of the Interviewee's Rights, a copy of which will be sent or given to the person by the manager or person appointed to the investigation.
- 4. Will investigation meetings be recorded?** Investigation meetings may be taped or minuted and you will be advised of this prior to the meeting. A record of the investigation meeting will be sent to each person

interviewed as part of the investigation. S/he will be asked to sign a copy as an accurate record of the meeting and must then return the record to the manager or investigating officer. The interviewee will be able to request small changes or amendments, but s/he will not be able to change or remove any evidence that is considered key by the person conducting the investigation.

Witnesses should be aware that their statement will be presented to all parties (including the employee who is subject to possible disciplinary action) if the matter results in a formal disciplinary hearing.

5. **Who can accompany the employee at a Disciplinary or Appeal Hearing?** The employee can be accompanied by their trade union representative or a work colleague. However, they may not be accompanied to the hearing by a companion whose presence could prejudice the hearing in the view of the person conducting the hearing and/or HR.
6. **What if the hearing has to be rescheduled for some reason?** The hearing may be rescheduled by the employee or the manager conducting the hearing; reasons for the postponement must be given to the other party as soon as possible.

Where either the employee and/or their representative/work colleague is unable to attend the hearing and provides a genuine reason for failing to attend, the hearing will be reconvened within five working days of the original hearing date, or on another date which is mutually agreed by the parties.

Sickness on the part of the employee will only be treated as a reason for non-attendance at a hearing where the health of the employee is such that they cannot attend the meeting or follow the proceedings properly. To determine this, HR may request the opinion of Occupational Health. The employee must submit a medical certificate to HR (or the School Business Manager), confirming that they are incapable of attending the hearing. Where sickness absence has made it impossible to re-arrange a hearing within a reasonable timescale, the hearing will take place and a decision made on the evidence available at the time. The employee will have the right to appeal against any decision taken at the hearing on the grounds outlined in the Procedure.

The employee's chosen representative may attend the hearing in the employee's absence and will be provided with the opportunity to present the employee's case. The employee will also be allowed to make written submissions in their absence. If the employee and/or their representative are persistently unable or unwilling to attend a hearing, the hearing will take place in their absence and a decision will be made

If the employee's trade union representative or work colleague is not available for the rescheduled hearing the employee may be required to choose an alternative person to accompany them to the meeting.

7. **How long will the paperwork be kept?** Paperwork relating to the formal capability procedure will be kept no longer than necessary in accordance with the Data Protection Act 1998.
8. **What about confidentiality?** Anyone involved in the disciplinary procedure (including witnesses) is expected to keep the matter completely confidential. Failure to do so may lead to disciplinary action.

All paperwork, including confirmation of meetings/hearings, can be distributed via email. If the contents are confidential, it is recommended that the paperwork is emailed as a PDF document via Winzip with encryption or with password protection in accordance with Council Policy.

9. **What kind of support will be available?** The Employee Assistance Programme (which may include counselling) will be available at any point during the process to the employee who is subject to disciplinary action. Any queries concerning this should be addressed to HR.
10. **Are any other policies and procedures relevant to this procedure?** The Disciplinary Procedure will be conducted in accordance with the IW Council's Corporate Equalities Employment Policy and the Protection from Harassment and Bullying Policy.