



Disciplinary Procedure

1. INTRODUCTION

It is necessary that a disciplinary procedure is available and understood so that all employees know their rights and obligations and those of management so that discipline may be maintained in a fair and reasonable way.

The aim of this disciplinary procedure is to:

- Promote high standards of behaviour on the part of all staff
- Ensure consistent and fair treatment of all
- Promote efficient and safe performance of work through regulating employee conduct
- Promote and maintain good relations with employees by making explicit the types of attitudes and behaviours required of Northwards Housing's employees
- Help and encourage staff to achieve and maintain these attitudes and behaviours
- Provide a framework for dealing with incidents of misconduct.

2. SCOPE

The Procedure deals with all issues involving alleged misconduct by employees. It will also be applied in cases of unsatisfactory attendance such as persistent, short-term, repetitive absence. It will apply to all staff employed by Northwards Housing.

The procedure does not apply to:

- Termination of a temporary/fixed term contract (ie a contract undertaken for a specified time or task) where the agreed period of employment comes to an end and no further employment is available.
- Termination during or at the end of a probationary period (including any extended probationary period of employment). This is addressed under the Procedure for Managing Employees During Probation
- Where an employee's work or omission is such as to call into question his or her competence or capability. This is addressed under the Capability Procedure

- Non-attendance due to long-term sickness which is addressed under the Managing Attendance Procedure
- Termination due to redundancy will be dealt with under the Redundancy Policy

3. Principles of Natural Justice

Northwards Housing are committed to ensuring that the disciplinary procedure is applied according to the principles of fairness and natural justice. Managers will make sure that employees are:

- Informed in writing in advance of any disciplinary hearing of the allegations that are made against them, together with any supporting evidence
- Given the opportunity of challenging the allegations and evidence before decisions are reached
- Given the outcome of the decision in writing
- Given the right to appeal against any disciplinary sanction imposed
- Advised of their right to be accompanied at all stages of the procedure

4. Record Management

Records will be kept on all breaches of disciplinary rules, records of disciplinary meetings, the actions taken and the reasons for it, details of any appeals and subsequent outcomes. These constitute confidential information and will be retained in accordance with the Data Protection Act.

Each disciplinary warning will remain “live” for a period of six months, following which, provided there has been no further act of misconduct within the period, the warning will be considered to be expunged and will not be taken into account for future considerations of normal disciplinary action, suitability for promotion or any other employment decision.

Information relating to any disciplinary action along with relevant documentation will be retained on an employee’s file for as long as Northwards Housing employs them. This will not generally form any part of any subsequent disciplinary action if it is time-expired, it may be used to demonstrate patterns of behaviour.

5 Disciplinary Rules

The list of matters that Northwards Housing views as amounting to disciplinary offences are detailed in Appendix 1. This list of rules is not exhaustive and may be amended from time to time.

The list of Northwards Housing Rules will be issued as part of the appointment/induction documentation to all new employees.

6 Procedure

Investigation

When an employee's conduct is called into question, a thorough investigation will be carried out (usually by some one of a more senior grade than the individual being investigated) to establish the facts, and the circumstances.

The Investigating Officer will meet with witnesses, and will hold an investigatory meeting with the employee against whom allegations are being made. During the investigatory meeting the employee has the right to be accompanied by a trade union representative or friend. Witnesses also have the right to be accompanied at the interview.

The employee should be advised in writing of the nature, and where possible, the detail of the allegation or complaint.

If, following the investigation the Investigating Officer believes that a disciplinary rule has been breached, he/she will initiate a disciplinary hearing that will be heard by a different manager (normally more senior) to the investigating officer.

Dealing with special situations

Criminal Offences or other external proceedings – in cases where the police are investigating a matter, or a court case is pending, the application of the disciplinary procedure may not have to await the outcome of these. The burden of proof for internal disciplinary proceedings is on “a balance of probabilities” (ie it is more likely than less likely that an event has occurred). Criminal offences or convictions outside employment will not be considered as automatic reasons for dismissal. The main consideration will be whether the offence is one that makes an employee unsuitable for their type of work or brings the organisation into disrepute.

Trade Union Officials/Representatives

Normal disciplinary standards apply to trade union officials or representatives in relation to their conduct as employees. If disciplinary action is being contemplated then the case will be discussed with a senior trade union representative or full-time trade union official before any action is taken. (Names and contact details are available from the Human Resources Manager)

Suspension

Suspension from duty with contractual pay is a precautionary measure and a neutral act. An employee may be suspended in the following circumstances:

- In the interests of the customers
- Where the continued presence of the employee may prejudice enquiries or influence witnesses

- Where there has been physical violence, or tempers frayed, and it is considered appropriate to remove parties from the premises quickly while the matter is investigated.
- Where there is a possibility that the allegations, if proven, are so serious that they destroy the employment contract and so constitute gross misconduct

The employee has the right to be accompanied by his or her trade union representative or friend, but this will not delay the suspension of representation cannot be arranged.

The employee will, following suspension, receive a letter giving the reason for the suspension, the terms of the suspension and the consequences of breaching the conditions. Employees must make themselves available to attend management meetings and hearings associated with the investigation and/or disciplinary process.

Northwards Housing will ensure that the period of suspension will be managed so that it causes the minimum of disruption to both parties, and will be concluded as quickly as possible.

If, following a thorough investigation, the investigating officer believes that the issue is not a disciplinary matter, or does not require the employee to remain suspended from work, he/she will lift the suspension at the earliest opportunity, and confirm this in writing. Where it is considered not to be a disciplinary matter, all references to the suspension will be removed from the individual's personal file.

General Principles

The Investigating Officer will arrange disciplinary hearings and act as Presenting Officer at the Hearing.

The Presenting Officer will ensure that the employee and any nominated representative receives details of names of management witnesses and copies of any documentation to be used during the proceedings **at least 10 working days** before the hearing.

All documents from both sides will be made available to the Hearing Officer on the day of the hearing.

Procedure at the Disciplinary Hearing

The Hearing officer will explain the process and set out the ground rules. He/she may ask questions of any party at any time during the hearing.

The following order will apply:

- Investigating Officer presents the case and calls witnesses
- Employee (or representative) questions Investigating Officer and witnesses (the witness will only attend that part of the proceedings where they will give their evidence and answer questions)
- Hearing Officer questions Investigating Officer and Witnesses
- Employee (or representative) presents case
- Investigating Officer questions employee (and representative) and witnesses

- Hearing Officer questions employee (and representative)
- Investigating Officer sums up
- Employee (or representative) sums up
- The Hearing Officer will give a decision as soon as possible. This will normally be on the same day as the hearing, but within 3 working days, except where the Hearing Officer specifies that an additional piece of information is required. In these cases all parties will agree a revised timescale.

The decision will be confirmed in writing detailing the main points made by each side, with the reasons for arriving at the decision.

7 Disciplinary Sanctions – cases other than Gross Misconduct

The following formal sanctions may be applied for offences other than gross misconduct:

- Stage 1 – Verbal Warning
- Stage 2 – Written Warning
- Stage 3 – Final Written Warning
- Dismissal with notice

Penalties for breaches of disciplinary rules short of gross misconduct will normally follow the stages incrementally. Where specific circumstances dictate a higher stage of disciplinary action, a sanction may be applied without proceeding through the stages.

In cases where an individual is in receipt of a “live” final warning for misconduct, and then receives a further sanction as a result of non-attendance through sickness absence, this will not result in dismissal on notice under the principle of aggregated warnings. Where an employee has a “live” final warning for non-attendance and then receives a further disciplinary sanction as a result of misconduct, a dismissal on notice would not be effected under the principle of aggregated warnings.

8 Gross Misconduct

Gross misconduct is an incident or incidents of misconduct so serious that the action fundamentally breaches the contractual relationship between the employee and Northwards Housing, and justifies the employer in no longer accepting the employee’s continued employment.

The employee may be summarily dismissed (without notice and irrespective of whether the employee has any previous warnings) with effect from the time the decision of the Hearing Officer is given.

9 Alternative to Dismissal

As part of the process of ensuring that a dismissal is fair, the Hearing Officer will consider if there is an alternative response that is short of dismissal.

A transfer or a demotion may be a possibility, but any reassignment or a variation to the employee's contract must be based on the availability of a post which falls within the competence of the employee and is mindful of the circumstances of the disciplinary case. Where such a post exists the reassignment or variation must be agreed with the employee. If no appropriate post can be identified or the alternative is not accepted, the original sanction of dismissal without notice will apply.

10 Confirmation Letter

A letter confirming disciplinary action will be sent to the employee. The letter will contain:

- The date that the hearing took place and the name and title of the Hearing Officer
- The offence(s) to which it relates and the conclusion of the Hearing Officer in relation to the offence(s)
- The disciplinary action taken
- In the case of warnings, the duration of the warning and consequences of any further acts of misconduct within the warning period.
- The right of appeal
- A summary of the reasons for the Hearing Officer arriving at the conclusion, and applying the particular sanction.

11 Right of Appeal

An employee has the right to appeal in the case of all disciplinary action.

In the case of actions short of dismissal the appeal will be heard by a 3rd tier Officer (or their representative). The appeal will be a full rehearing of the case

In the case of dismissal, the Director of Service will hear the appeal. This appeal will also be a full rehearing of the case. There will be a further right of appeal to the Chief Executive

All appeals must be made in writing to the Chief Executive within **ten** working days of receipt of the letter confirming the disciplinary action. Appeals may be raised on a number of grounds, which could include severity of the penalty, new evidence coming to light, or procedural irregularities.

The Appeal may result in one of the following:

- Allow the appeal and quash the disciplinary sanction
- Allow the appeal in part and substitute a lesser disciplinary sanction
- Disallow the appeal and uphold the original disciplinary sanction

DISCIPLINARY RULES

The purpose of this document is to make employees aware of the more common rules and standards applicable to them and the consequences of breaching those rules. The list is not exhaustive and may be revised from time to time.

Section 1 - Gross Misconduct

Breaches of the disciplinary rules contained in Section 1 will normally be classed as gross misconduct, which may result in summary dismissal i.e. without prior warning or notice.

1. Misuse of time clocks/cards for personal or financial gain (including the payment of wages/salary).
2. Falsifying personnel or other records for personal or financial gain (including the payment of wages/salary).
3. Conviction of a criminal offence directly related to or impinging upon the individual post, making continued employment with Northwards Housing untenable
4. Fighting/assault on another employee, client or member of the public.
5. Abuse of position of trust through borrowing from service users or developing inappropriate relationships with vulnerable service users.
6. Theft from service users, the Organisation, or other staff.
7. Failure to adhere to regulations and guidelines regarding the security of cash and/or equipment/property belonging to the organisation or service users for which the employee has responsibility.
8. Being incapable of carrying out duties and/or being a danger to others through excess consumption of alcohol or other substances.
9. Knowing violation of safety regulations endangering self and/or others.
10. Intimidation/coercion of/or threatening other employees, service users or public.
11. Serious acts of racial/sexual harassment.
12. Knowingly making fraudulent claims for sick pay and receiving payments to which not entitled.
13. Theft, fraud or corruption (including claimant fraud or council tax evasion involving employees).
14. Refusal to follow reasonable management instruction.
15. Wilful damage to Northwards Housing property

16. Acceptance of bribes or other corrupt practices.
17. Accepting inappropriate or excessive gifts from service users or other working contacts.
18. Improper/unauthorised disclosure of information to third parties for private advantage of self or others.
19. Serious misuse of Northwards Housing's computer facilities.

Section 2 - Misconduct

Breaches of the disciplinary rules contained in Section 2 will normally be classed as misconduct, the penalties for which will follow incrementally, as outlined in the Disciplinary Procedure. There will be instances, however where specific circumstances dictate a higher stage of disciplinary action, without proceeding through this sequence e.g. see Note in Section 1.

1. Lateness/bad timekeeping.
2. Unauthorised absence.
3. Poor attendance (including sickness absence).
4. Disorderly conduct.
5. Inadequate or bad work.
6. Wilful hindering of work - self or others.
7. Habitual and wilful carelessness or recklessness.
8. Intentional and/or deliberate waste or abuse of materials and/or equipment, including telephones.
9. Abuse of normal break times (excluding flexitime - see flexitime regulations for action required).
10. Failure to maintain a reasonable level of work/output/productivity.
11. Accepting gifts from or inappropriate relationships with service users or other working contacts.
12. Interference with the work of other employees.
13. Consumption of alcohol during normal working hours - but see Alcohol Policy.
14. Falsifying personnel or other records (but see Rule 2, Section 1).
15. Harassment of other employees, including racial/sexual harassment.
16. Smoking on Northwards Housing premises