

# Disciplinary Procedure

Policy Owner	
Owner:	Head of Human Resources and Organisational Development (HROD)
Author:	HR Manager
Screening and Proofing	
Section 75 screened:	14 April 2025
Human Rights proofed:	14 April 2025
Trauma Informed Screening	9 May 2025
Consultation	
NAPO NIPSA SLT LRA <b>All staff</b>	Policy Review Process 2024/2025 and 2025/2026
Approval	
SLT:	12 August 2025
CRC:	2 September 2025
Board:	18 September 2025
Version	
Version:	0.4
Publication date:	26 September 2025
Implementation date:	26 September 2025
Review date:	September 2029

## Document Control Sheet

Version No.	Date	Description
1.0	17 August 2017	First draft revision
2.0	October 2017	Amendments following feedback/review
3.0	December 2017	Amendments following LRA feedback
4.0	September 2025	Revised through Policy Review Working Group facilitated by LRA

### Alternative Formats

This documentation can be made available in alternative formats such as large print, Braille, disk, audio tape or in an ethnic-minority language upon request. Requests for alternative formats can be made to the Probation Board for Northern Ireland using the following contact information:

HR Manager  
Probation Board for Northern Ireland  
2<sup>nd</sup> Floor  
80-90 North Street  
Belfast  
BT1 1LD  
Telephone number: 028 90262400  
E-mail: [human.resources@probation-ni.gov.uk](mailto:human.resources@probation-ni.gov.uk)

## 1.0 Background

The Probation Board for Northern Ireland (PBNI) has developed a Disciplinary Policy to establish the fair and consistent treatment of employees, should disciplinary action become necessary.

## 2.0 Purpose

This Disciplinary Procedure supplements the PBNI Disciplinary Policy. It provides a framework of best practice guidelines when handling disciplinary matters and the points to be considered when preparing for and conducting the disciplinary process.

## 3.0 Disciplinary Principles

Disciplinary action undertaken by PBNI will be in accordance with the Disciplinary Policy. It will conform to the Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures and any future overarching guidance issued by the Labour Relations Agency<sup>1</sup>.

Those involved in the disciplinary process should observe confidentiality throughout the process and should not discuss with anyone other than those officially appointed as part of the disciplinary process.

## 4.0 Sources of Information, Advice and Support

It is recognised that all parties involved in a grievance may find the situation stressful or difficult. The following are sources of information, advice, and support. It should be emphasised however that any discussion with regard to a disciplinary process should be kept to a minimum with those that are confided in, or part of the process, maintaining confidentiality.

Sources of information, advice and support, can come from:

- **Line management** – an employee's line management can be a source of support. They also often are helpful in supporting their staff with time management around any formal processes that staff are involved in.
- **Work colleagues** – Work colleagues can be an important area of support in a confidential manner. They can listen to issues or problems and provide help and encouragement.

---

<sup>1</sup> Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures (2011) - [Code of Practice on Disciplinary and Grievance Procedures - 3rd April 2011.pdf](#)

- **Human Resources (HR)** –HR can provide advice and guidance on the Disciplinary Policy and Procedure.
- **Trade Union** – A trade union member can provide support, and guidance on any issues in relation to the Disciplinary Policy and Procedure. The trade union representative will support the employee whose conduct is under investigation or is involved in the disciplinary procedure. Managers should welcome trade union involvement as a proactive measure as in many cases this can help resolve the issues informally and locally without escalation to the formal process. The trade union representative can also be a confidential source of support for managers during any stage of the process.
- **Lena by Inspire**– Staff may want to discuss their concerns in confidence with a professionally trained counsellor. Such support and counselling are available through the Employee Assistance Programme (EAP). This provides free, independent, and confidential counselling support.

This is complementary to existing policies and procedures and is an important additional resource to support employees.

Counselling is provided by both telephone and face to face contact. Staff can call the free phone number provided at any time of day or night, seven days a week. A trained professional counsellor will be there to talk with individuals and, if required, arrange a face to face appointment. The free phone number/leaflet and website address can be found on the PBNI intranet/Human Resources/Policies-Procedures-Guidance.

- **Other sources of assistance**

PBNI has other sources of assistance for staff, including Mental Health First Aiders, Domestic Violence Trusted Colleagues, Menopause Champions. Staff in these roles can provide general guidance and / or signpost to appropriate sources of information in relation to the area they champion.

## **5.0 Special circumstances**

### **5.1. Grievance / complaints raised during a disciplinary process**

A member of staff who is subject of a disciplinary action may, at some stage of the disciplinary process, raise a grievance. If the matters are related, then the issues should be dealt with concurrently unless the complaint may be alleging a conflict of interest for the Decision Officer.

Where counter allegations are made in relation to the matters under investigation in the disciplinary process, these will be dealt with as part of the disciplinary investigation, where appropriate.

Where a grievance has been raised, and is not part of the disciplinary process, this should be dealt with separately to the disciplinary process.

## **5.2. Factors to consider in a disciplinary procedure**

- a) As a public body, consideration will be given to the financial and time expenditure in managing a disciplinary procedure.

### [Managing Public Money NI \(MPMNI\) | Department of Finance](#)

As a public body account must be taken of the standards expected of a public body set out in 'Managing Public Money NI' (MPMNI)<sup>2</sup> to ensure that we will as a public body, carry out our duties, which will include the management of disciplinary procedures,

- in the spirit of, as well as to the letter of the law;
- in the public interest;
- to high ethical standards;
- achieving value for money.

## **5.3. Special requirements during the disciplinary process**

- a) Where a person involved in the disciplinary process, has any special needs or requirements as a result of a disability, they should bring these to the attention of HR, at the earliest possible opportunity, so that where possible, reasonable adjustments can be made to remove any barriers to participation in the process.

## **5.4. Recovery of Loss of Public Funds**

- a) On dismissal for an offence involving loss of public funds, any sums unpaid, for example, in respect of salary or wages up to the last day of duty, or of income tax overpaid on salary, may be withheld as a set off against loss.

## **5.5. Criminal Offences**

- a) If it appears that a criminal offence has been committed and the matter is referred to the police, the Decision Officer may, if the investigation warrants it, pursue formal disciplinary action without waiting for the outcome of any police investigation and disposal of any resulting criminal proceedings. This will be considered on a case by case basis.

---

<sup>2</sup> [Managing Public Money Northern Ireland](#)

- b) Employees must report to their line manager as soon as possible if they have been arrested, charged, or convicted by a court of any criminal offence. Failure to do so may be considered a disciplinary matter.
- c) A criminal conviction, whether related to work or otherwise, may lead to disciplinary action. Although not all stages of the formal disciplinary procedure may be appropriate, such as when the facts are not in dispute, the employee will be given the opportunity to make representations by attending a Disciplinary Meeting before a decision is reached and may be assisted by a trade union representative or work colleague.
- d) The main considerations which the Decision Officer will take into account in deciding what action is appropriate are whether the offence impairs the business of the PBNI or makes the employee unsuitable for the type of work they may be employed to carry out.
- e) Where the employee has been convicted of an offence consideration will be given to termination of employment. If a conviction is overturned, PBNI may consider a review of the case.
- f) The Decision Officer must also consider if any issue should be reported to the PSNI; or a professional body, for example to NISCC. This should be discussed with HR. All records of reports to external bodies should be maintained in the relevant investigation file for the employee (s) involved.

## **5.6. Professional Bodies, Associations and Registration**

- a) Where any alleged misconduct of an employee either in work or outside work, calls into question an employee's fitness to practice in a regulated post, i.e. social worker; or where professional accreditation / registration is required of the post holder, consideration may be given to suspension of the employee; and further investigation under the Disciplinary Procedure. The appropriate professional body will be notified of the initiation and conclusion of any such procedure, where appropriate.

## **5.7. Suspension and Other Considerations**

- a) Suspension can only be approved by a Director or Chief Executive (the Suspension Decision Officer), where a Director is unable to undertake this duty due to conflict of interest or the suspension involves a colleague at the same grade.
- b) In certain circumstances consideration will be given to a period of suspension from duty pending an investigation being initiated or carried out; or where fitness to practice is potentially subject to investigation by an external body.

- c) Suspension can occur where, for example, the alleged offence could be considered to constitute gross misconduct or where an employee's continuing presence may hinder the investigation; or where there are serious concerns about fitness to practice.
- d) In some cases, alternative arrangements to suspension may be considered to allow the employee to remain in work during any investigation, for example, redeployment, additional supervision, alternative duties, or restriction of duties, as is deemed suitable in the circumstances.
- e) Suspension of an employee should be undertaken by the Suspension Decision Officer and advice should be sought from HR. The employee will attend a meeting with the Suspension Decision Officer and may be accompanied by a trade union representative or work colleague, if available. A representative from HR will also be in attendance.
- f) Suspension during an investigation is not a disciplinary measure and will usually be on full pay as a precautionary measure. However, in some circumstances, pay in respect of any period of suspension may be withheld wholly or in part, as long as the suspension continues, if the Decision Officer so decides. Any decision to withhold pay will be subject to review on a weekly basis and among the factors taken into account will be the circumstances and severity / seriousness of the alleged misconduct. In such circumstances the employee will be advised they may be eligible to claim social security benefits.
- g) The suspension must be confirmed in writing by the Suspension Decision Officer as soon as possible, outlining the allegations and explaining that the suspension is not a disciplinary sanction but rather is a precautionary measure while an investigation is being carried out. The letter will also confirm whether pay during the period of suspension will be at full pay rate or will be withheld wholly or in part.
- h) The suspension will be reviewed on a weekly basis by the Head of HR or the nominated deputy. The employee will be contacted by the Head of HR or nominee, on behalf of the Suspension Decision Officer if any changes occur during the period of suspension.
- i) If following the investigation, the Suspension Decision Officer decides there is no case to answer, any withheld pay during the period of suspension will be paid.
- j) During the period of suspension all employees are required to make themselves available for interview and discussion during normal contracted hours. If an

employee wishes to go on holiday during a suspension period they must contact the Decision Officer for approval.

- k) Prior to suspension the employee will be required to provide all appropriate PBNl property e.g. office keys, phone, security pass, to their manager within a timescale specified by the Decision Officer.
- l) HR will formally notify the employee of the end of a period of suspension and will include details of any arrangements to end suspension such as redeployment, additional supervision, alternative duties, or restriction of duties, as is deemed suitable in the circumstances.
- m) Where suspension is ended as a result of the conclusion of a formal disciplinary process, details of the end of the suspension will be detailed in correspondence at the appropriate stage in the formal process.

### **5.8. Resignation during formal process**

- a) Where an employee resigns during any stage of a disciplinary process, the Decision Officer will make a decision as to whether it is proportionate to continue with the investigation or not.
- b) If there has been any allegation that may jeopardise an employee's fitness to practice while in PBNl's employment, it may be necessary to advise the appropriate regulatory body, which in the case of social workers is the Northern Ireland Social Care Council (NISCC).
- c) At the date of the termination of employment, the employee will be notified of the stage the disciplinary process has reached and if any details are to be shared with any regulatory body.
- d) If an employee is subject to formal disciplinary investigation, this information will remain on file. Should another employer seek a reference, requesting if the employee was subject to any formal disciplinary investigation, this information will be shared with notice that no outcome was reached because the employee resigned.

## **6.0 The Disciplinary Process**

- a) Where situations arise where the Disciplinary Procedure may be required to be followed, the manager must be sure of the relevant steps to take prior to commencing the Disciplinary Procedure. The manager should therefore discuss the matter with either the Head of HR, the HR Manager, or a HR Partner to seek advice on whether to proceed under the Disciplinary Policy, **either**



**informally or formally**, or whether another PBNl policy or procedure may be more applicable. Examples of misconduct are set out in Annex 1.

### **6.1. Timeframe for dealing with disciplinary issues**

- a) It is recognised that participation in a disciplinary procedure may be distressing. Dealing with a matter of alleged misconduct as early as possible, is encouraged. Where a formal disciplinary procedure is entered into, every effort should be made to estimate timeframe for the conclusion of the disciplinary process at an early stage, plan the timeframe for the investigation and any disciplinary meeting and where there is deviation from the planned timeframe, that parties involved are advised accordingly. All parties should be kept informed of progress in a disciplinary process on a regular basis.

### **6.2. Informal Action**

- a) Every effort should be made to deal with any misconduct issues as soon as they arise and in an informal way, where possible and appropriate.

Supervision provides an opportunity to discuss issues of conduct and to record advice and guidance on improvements that can be made to avoid a matter becoming serious and warranting consideration under a formal process such as the Disciplinary Procedure.

At this stage, line managers should also explore any support the employee requires and discuss any factors impacting on conduct.

- b) This means being able to have quality, constructive conversations between members of staff and managers.
- c) If supervision is insufficient to address the issues, the informal part of the disciplinary procedure is triggered. A member of HR (HR Partner or above) may be involved in the informal process where necessary and can provide advice and guidance to all parties. The maintenance of discipline and good working practices does not necessarily require the use of the formal disciplinary process. That said, if the procedures are being used this must be cited by managers, and a record maintained.
- d) As a first step line managers should seek to resolve minor or low level conduct matters informally and as they arise. This should take the format of an informal disciplinary meeting or a series of informal meetings. Where matters are dealt with informally in this way, the manager must ensure that the employee is made aware that the issue is being dealt with under the informal Disciplinary Procedure.

The aim of the informal discussions are to ensure the employee is made aware of and understands why their conduct is unacceptable. If this is the first occasion of minor or low level misconduct, the line manager may offer words of advice, caution and encouragement.

The line manager should ensure the employee is advised of the expectations for improvement in conduct in the future, and that the potential consequences of not achieving improvements in conduct may result in formal disciplinary action. The discussion should be recorded in writing.

- e) The line manager should provide any evidence that has become known and give the employee the opportunity to explain their actions or clarify the facts of the case. Supervision notes for example can be an important source of information where advice and guidance has been recorded in order to improve performance or conduct, in a positive and constructive way.
- f) An agreed record of the informal discussion needs to be kept on the employee personnel file held in HR (and may be used in future disciplinary proceedings), and a copy provided to the employee. The record should be kept no longer than 12 months. A proforma for a Record of an Informal Meeting is attached at Annex 2.
- g) Any issue may move directly to the formal Disciplinary Procedure depending on the seriousness of the issue.
- h) Following the informal Disciplinary meeting the line manager will continue to monitor behaviour and provide advice and guidance as appropriate.
- i) Where an issue has been discussed with an employee informally and if:
  - the issue has not been resolved and the problem persists; or
  - the required improvements in conduct are not achieved; or
  - further information becomes available during discussions which make the matter sufficiently serious;then the formal procedure should be invoked.
- j) If the matter is deemed too serious by a manager to be considered informally, then the formal procedure should be invoked without recourse to the informal stage. The manager should discuss this matter with HR before invoking the formal disciplinary procedure.

### **6.3. The Formal Procedure**

- a) Where the informal process has not led to improved conduct, or where the alleged misconduct is of such a serious nature, that informal action is considered to be inappropriate, formal disciplinary action should be initiated.
- b) Advice on process should be sought from HR (HR Partner or above) prior to referring a matter under the formal Disciplinary Procedure. A representative from HR will be involved throughout the formal process to ensure the procedure is followed and to provide advice and guidance on points of process or relevant employment matters.
- c) Informal action is not appropriate for cases of potential serious misconduct and these must be referred under the formal Disciplinary Procedure. (See Annex 1 for list of **examples** of different types of potential gross misconduct).
- d) The determination of the seriousness of alleged misconduct, will be made by a Decision Officer after an investigation has been undertaken into the alleged misconduct.

#### **6.4. Making a referral under the formal Disciplinary Procedure**

- a) Where an issue of alleged misconduct has arisen, an initial assessment of potential misconduct issues should be undertaken by a line manager, in consultation with the Head of HR or HR Manager in order to make a decision as to how the issue of potential misconduct should be managed.
- b) The decision of the line manager as to what action to take, must be recorded on the form in Annex 3 (DISR/1) which will provide details of the alleged misconduct, any supporting information and the reason for either
  - not recommending disciplinary investigation under the formal disciplinary procedure is not required and the reasons for this; or
  - making a referral for a disciplinary investigation under the formal disciplinary procedure is required.

This must be provided to the Head of HR who will consider the report before taking action to appoint a Decision Officer; and an Investigation Officer, if required.

- c) Decision Officers and Investigation Officers must be appointed from among a list of trained managers.
- d) The Investigation Officer should normally be a grade above the employee under investigation, however the Investigation Officer can also be from the same pay band but not be associated with the matter.

- e) A Decision Officer must be at pay band 12 or above and must be a pay band above the Investigating Officer.
- f) A Director should normally be the Decision Officer for their staff and the Chief Executive for Directors and Heads of Service.
- g) For cases involving the Chief Executive, the referral should be made to the Board Chair who will be the Decision Officer.
- h) All potential disciplinary cases against trade union representatives must be discussed with the Head of HR or a nominated deputy. No disciplinary action should be taken against a trade union representative until the circumstances of the case have been discussed with a separate trade union official.
- i) Where a member of HR is subject of a formal disciplinary investigation or where a member of HR has been named as a witness in the disciplinary process, the Head of HR will appoint an alternative / more senior person in HR or if necessary, independent HR, to provide the necessary advice and guidance in relation to the disciplinary process.
- j) Where the Head of HR is subject to a formal disciplinary investigation, the Decision Officer and Investigation Officer should be appointed by the Chief Executive who may appoint an external provider to carry out the HR function outlined in this procedure.
- k) Note taking can be carried out by the appointed HR representative or as an alternative, another appropriate member of staff may be asked to assist in notetaking in these matters. Where an external body is undertaking any formal role in a disciplinary process, HR can provide administrative support.
- l) Any files associated with the disciplinary procedure must be treated in confidence and held by HR (on Content Manager). This does not preclude an employee's right to make a Subject Access Request. All documentation must be protectively marked 'Official Sensitive.'

#### **6.5. Employee notification of the formal disciplinary procedure and investigation**

- a) The appointed Decision Officer will advise the employee in writing of their alleged misconduct and provide an opportunity to respond within five working days.
- a) In cases where the allegations are undisputed, the Decision Officer may decide that a formal investigation is not necessary.

- b) If a formal investigation is not deemed necessary, the Decision Officer will notify the employee in writing of their decision and the reasons for this.
- c) Should the employee accept the allegations without dispute they should consider the consequences of such an admission/course of action with a trade union representative or HR representative before being formally recorded. An agreement of admission and advice on consequences will then be signed by the employee and trade union representative or HR representative as applicable and this will be provided to the Decision Officer.
- d) Where an investigation is deemed necessary by the Decision Officer, the Decision Officer will draw up Terms of Reference for the investigation, and issue these to the appointed Investigating Officer. (Model Terms of Reference are set out in Annex 4).
- e) A HR representative will be appointed to support this formal investigation process. The appointed Investigating Officer will then initiate their investigation, by planning the timeframe for undertaking the investigation with their appointed HR representative.
- f) The Decision Officer will write to the employee involved to advise them that investigation into their alleged misconduct has been initiated; provide them with the terms of reference of the investigation; and advise them that the Investigating Officer will contact them under separate cover. They will be advised of the right to be accompanied during the disciplinary investigation procedure.
- g) The role of the Investigating Officer is purely an informative role and they are not responsible for decision making. The Investigating Officer must set out their findings based on balance of probability. They are not tasked with determining if the allegations are 'proved' or the level of misconduct. This is the responsibility of the Decision Officer.
- h) Prior to beginning the investigation, the Decision Officer must decide the Terms of Reference.
- i) Where during an investigation, the scope of the investigation requires expansion, the Terms of Reference must be revised by the Decision Officer and reissued to all parties, so that the Investigation Report relates to the Terms of Reference.
- j) The investigation will include separate interviews with the referring manager, the employee, any witnesses, and others as necessary, as well as the examination of documentation or other evidence. Where appropriate, documentation or other

evidence received prior to the interview will be shared with the employee before the meeting takes place.

- k) If the employee commences sick absence during the formal disciplinary process, the Investigating Officer will continue with all aspects of the investigation that can be completed in the employee's absence. In such circumstances it is likely that HR will seek advice from Occupational Health on the employee's fitness to participate in the disciplinary process before a decision is made to arrange a meeting with the employee.
- l) A representative from HR will be present during the interviews to take comprehensive notes (a Note-taker). The interviewee will be sent a copy of the notes of the investigation meeting within five working days of the meeting. The employee will be asked to verify, in writing, that the notes are an accurate record within five working days of issue of the notes, otherwise the notes will be deemed accurate. A copy of the notes will also be provided to the trade union representative. A record will be kept of any areas of dispute in relation to notes, and it is expected that the Investigating Officer will reference areas of dispute in their Investigation Report.
- m) The Investigating Officer will invite the referring manager to attend an interview. The invitation should be in writing and inform the referring manager that they may be accompanied by a trade union representative or a work colleague.
- n) The Investigating Officer will invite the employee to attend an interview. This invitation should be in writing and inform the employee that they may be accompanied by a trade union representative or work colleague.
- o) Depending on the level of information required, the Investigating Officer may decide to address matters with any witness(es) by e-mail, telephone, virtual meeting or interview. The Investigating Officer will give advance notice to the witness of the intention to address matters and they will have the opportunity to seek the advice of a trade union representative. The Investigating Officer should provide the witness with the range of questions which they may be asked to answer, in advance of the interview. If an interview is to take place HR, on behalf of the Investigating Officer, will issue a written notification to the witness informing them that they may be accompanied by a trade union representative or work colleague. HR will attend all interviews with witnesses.
- p) During the investigation, the employee, will be given the opportunity to:
  - Set out their case
  - Present / identify evidence which merits consideration
  - Get access to documentation that may be used in the course of the investigation

- Identify witnesses
- q) Any questions about the procedure should be raised at the earliest opportunity so that they can be dealt with. The employee and / or their trade union representative may in the case they present, make reference to any issues of procedure that they can evidence as being related to a flawed procedure. These can be dealt with by the Decision Officer, normally as part of any formal disciplinary meeting.
  - r) The Investigating Officer should aim to complete the investigation within a reasonable timescale. The Investigation Officer should complete their report using the template set out in Annex 5.
  - s) It is acknowledged that the length of investigation will depend on the nature and the number of allegations being investigated, or other unforeseen circumstances may arise that will impact on the length of the investigation. Should there be any significant delay or frustration of the process, HR on instruction from the Decision Officer will inform all parties and the investigation will be concluded as soon as is reasonably practicable.

## **6.6. Completion of the investigation**

- a) Once the report is completed, the Investigating Officer will liaise with HR to satisfy themselves that procedures have been followed. In the course of investigating the issues raised, any links to relevant PBNi policies and procedures should be addressed. When the report is complete, HR will assist the Investigating Officer in reviewing the report to highlight the need to minimise any unnecessary personal information that may amount to a breach of the UK General Data Protection Regulation (UK GDPR) and Data Protection Act (2018). This will include considering if any information of a personal nature must be redacted in copies of the Investigation Report that will be made available to other parties and highlight any HR issues to be addressed.
- b) The investigation report informs the decision-making process and the Decision Officer will rely on the investigation report as being a sound basis for a fair decision. When the Investigating Officer is content with the report and is assured that procedures have been followed HR will issue the report on behalf of the Investigating Officer to the Decision Officer. The Decision Officer may ask the Investigating Officer to explore other areas or issues germane to the Terms of Reference.
- c) Once the Decision Officer is satisfied with the report, HR will provide a copy of the report to the employee and referring manager unless there are valid reasons (for example the potential for the threat of physical violence or intimidation) as to

why it would not be appropriate in the circumstances of the case to allow full disclosure.

- d) Upon receipt of the final Investigating Officer report, the Decision Officer may decide:
- There is no case to answer and the matter is closed
  - The matter should be dealt with under some other Board Policy and Procedure
  - The matter should proceed to a formal disciplinary meeting; and the level of the alleged misconduct.
- e) Where a disciplinary hearing is deemed appropriate by the Decision Officer, they will determine what information will be released in advance of the meeting. In making a decision about what information is released, consideration will be given to any relevant legislative provisions and in particular duties arising under the Data Protection Act 1998 and the Freedom of Information Act 2000. Decision Officers should contact PBNI's Data Protection Officer / Compliance Unit for advice when considering requests for release of investigation papers.
- f) The Decision Officer should consult with HR in determining the level of seriousness of the alleged misconduct before the matter progresses, in relation to consistency across the organisation.
- g) The Decision Officer, via HR, will inform the employee and the referring manager of their decision. If the decision is to proceed to a formal disciplinary meeting, the Decision Officer will inform the employee in writing of the next stage in the process, outlining the further actions required.

## **7.0 The Disciplinary Meeting**

### **7.1. Before the meeting**

- a) The Decision Officer will write to the employee inviting them to attend the disciplinary meeting. The letter issued by the Decision Officer will:
- Inform the employee of the decision to move to a formal disciplinary meeting
  - Inform the employee of the date, time and venue of the disciplinary meeting within 10 working days.
  - Outline the nature of the allegation(s) and provide an indication as to the seriousness of the misconduct and whether a sanction less than or up to dismissal may be considered. If the matter is considered to gross misconduct this must be set out clearly along with the potential for summary dismissal.



- Inform the employee of the right to be accompanied by a trade union representative or work colleague, asking the employee to confirm who that person will be.
  - Inform the employee that a representative from HR will be in attendance. The role of the HR representative is to take comprehensive notes and advise the Decision Officer on points of process or relevant employment matters.
  - Advise the employee that if they refuse or fail to attend the meeting without good reason a decision may be made in their absence.
- b) The employee should supply to the Decision Officer as soon as possible, and no less than two working days prior to the meeting:
- copies of any documentation which they intend to produce;
  - advise of their intention be accompanied by a trade union representative or work colleague and confirm who that person will be.
- c) In circumstances when the employee's representative is not available on the proposed date the employee can suggest an alternative time and date for the meeting so long as it is reasonable and it is not more than five working days after the original date. This five day limit may be extended by mutual agreement.
- d) If the employee is unable to attend at the arranged date / time the employee must inform the Decision Officer immediately stating the reason for this. If the reason for being unable to attend is accepted, another meeting will be arranged to take place soon after the original date. If the employee provides an acceptable reason for not attending, a further meeting will be arranged. However this must not cause unreasonable delay in the process.
- e) The meeting may proceed should the employee or their representative fail to attend without advance notification and without good reason.

## **7.2. During the meeting**

- a) A Disciplinary meeting shall always include a representative from HR in an advisory capacity. The role of the HR representative is to take notes and advise on points of process or relevant employment matters. These notes will be to inform the Decision Officer, only.
- b) The Decision Officer will present a summary of the case including the findings of the investigation.
- c) The employee or their representative should present their case as supported by any documentary evidence.

- d) The employee or the Decision Officer can ask questions of the employee.
- e) The Decision Officer will provide an opportunity for the employee and their trade union representative to sum up.
- f) The meeting may be adjourned for a short period with the agreement of the Decision Officer.
- g) The meeting may also be adjourned, for an agreed timescale, to permit further investigation if deemed necessary. Further investigation will normally be carried out by the original Investigating Officer.
- h) The Decision Officer will sum up before ending the meeting. The Decision Officer will inform the employee that they will give their decision and reasons to both parties (the employee and the referring manager) regarding the findings, and any disciplinary action which is to follow, in writing, within 10 working days.
- i) The employee is not allowed to use any recording devices during the meeting unless this is deemed to be a reasonable adjustment under the DDA and has been agreed in advance by the Decision Officer.

### **7.3. After the Meeting**

- a) The Decision Officer will reach a decision based on the balance of probabilities that the employee did or did not act or behave in the way cited. The Decision Officer may decide that:
  - There is no case to answer and the matter is closed.
  - The matter should be dealt with under some other PBNI Policy and Procedure
  - The employee did act or behave in the way cited, the allegations are upheld and that a formal disciplinary measure is appropriate.
  - Other appropriate actions are deemed necessary. (This may be in addition to a formal disciplinary measure or alternatively this may still be the case where the Decision Officer has not upheld the allegations).
- b) As outlined above the Decision Officer will give their decision to the employee within 10 working days. A copy of the letter will also be sent to the referring manager and the employee's line management. The letter will include a clear statement of the allegations and findings, and the reason for the decision reached.
- c) If disciplinary sanction is not imposed the letter will:
  - detail the level of disciplinary action if appropriate
  - any steps the employee must take to improve conduct

- that where appropriate, failure to improve could result in further disciplinary action

d) If disciplinary action is imposed the letter will

- detail the level of disciplinary action imposed and the reason for this
- contain the duration of the disciplinary sanction
- outline the steps the employee must take to improve
- in the event that a warning is issued, state that failure to improve could result in further disciplinary action
- include the right of appeal and how to exercise that right

e) If the decision is taken to dismiss an employee the letter will:

- outline the reasons for the termination of employment
- confirm the effective date of termination
- provide details of any final payments
- include the right of appeal and how to exercise that right

## **8.0 Disciplinary Measures**

The following describes the types of disciplinary measures that may be appropriate.

Each issue of misconduct will be considered on its own merits and in conjunction with any warnings issued.

### **8.1. Formal Written Warning**

A written warning is issued for serious misconduct or repetition of previous unsatisfactory conduct, or a new issue of misconduct. Where a formal warning already exists a final written warning may be issued.

This will be provided to the employee in writing and a copy retained on the employee's personnel file. The employee will be advised that due to the seriousness of the matter, what the consequences will be if there is no improvement, a repeat of misconduct or a new issue arises.

The warning will be disregarded for disciplinary purposes following a period of 12 months.

### **8.2. Final Written Warning**

If, despite previous warnings, there is still failure to improve or if the misconduct is sufficiently serious to warrant only one written warning the employee will be given a

Final Written Warning. The final written warning will advise that dismissal may be considered if there is no satisfactory improvement in the future or if there is a further case of misconduct.

This will be provided to the employee in writing and a copy retained on the employee's personal file.

The employee will be advised that due to the seriousness of the matter, what the consequences will be if there is no improvement, a repeat of misconduct or a new issue arises, i.e. potential dismissal.

The letter will also specify the period after which the final warning will be disregarded for disciplinary purposes which will be up to a maximum of 24 months.

### **8.3. Summary Dismissal**

An individual may be subject to summary dismissal if they have been issued with a final written warning and their conduct continues to be unsatisfactory; or where they have been issued with a final written warning and a new act of misconduct arises; or where a single act of gross misconduct has been found to have occurred.

In the case of summary dismissal, PBNI has the right to summarily dismiss an employee without notice or pay in lieu of notice.

A decision to dismiss an employee may only be taken by a Director or Chief Executive following consultation with the Head of HR. The employee will be informed in writing of the decision to dismiss and informed of their right to appeal [see paragraph 6.3 (d) above].

A dismissal under this Procedure will remain in force pending the outcome of any appeal.

### **8.4. Other Appropriate Actions**

The Decision Officer may decide on other appropriate actions in addition to formal disciplinary warnings but can also decide that other actions are appropriate in the case where allegations are not upheld. Other actions may include:

- restriction on duties
- transfer to other duties where such action is practical and within the grade structure
- demotion
- ban on applying for a promotion for the specific period of the warning noted in a Disciplinary Outcome letter
- period of supervision

- training needs identified and therefore training or re-training as necessary
- withdrawal of official facilities relating to the offence (for example, removal of TOIL / flexitime)
- stoppage of future increment, or forfeiture of increments (in whole or in part) already earned for 12 months
- Suspension from duty for a specified period, but not more than six months, with loss of pay in exceptional circumstances depending on the seriousness of the case
- Issuing an apology or a restorative action, if appropriate in the view of the Decision Officer.

## **9.0 Appeals Process**

### **9.1. Appeal**

- a) An employee has the right of appeal against any decision under the formal Disciplinary Procedure.
- b) Employees must exercise their right of appeal, in writing, to the Head of HR within 10 working days of being notified of the decision. The employee should provide:
  - A statement of the case and grounds for appeal. The employee must specify the ground for appeal, namely either:
    - Defect in the procedure; or
    - The issue was not proven on the balance of capability; or
    - The sanction was too severe; or
    - New evidence has arisen that was not available in the investigation and which would support a change in the outcome.
  - The employee must provide details to support the grounds for the appeal in full.
  - A copy of any documentary evidence they intend to rely on at the appeal meeting to support the grounds for an appeal must be supplied with the statement of appeal. If new evidence is being relied on, the reason and how the new evidence has become known after the investigation must be given; and why it was not presented during the investigation.
- c) The appeal will be heard normally by a person who is more senior to the Decision Officer, and who has no previous direct involvement in the matter that could be seen to prejudice the appeal.

- d) The appeal meeting will normally take place within 10 working days of receipt of the appeal request. This 10 day limit may be extended by mutual agreement.
- e) The employee has the right to be accompanied to the meeting by a trade union representative or work colleague.
- f) The Head of HR or the nominated deputy will be in attendance at the meeting and will advise the Appeal Decision Officer on points of process or relevant employment law.
- g) The Appeal Decision Officer will present a summary of the issues raised at appeal.
- h) The Appeal Decision Officer will invite the employee or their representative to present their case.
- i) The Appeal Decision Officer can ask questions of the employee and the employee and their representative will have the opportunity to sum up.
- j) The meeting may be adjourned to permit further investigation if this is deemed necessary. Further investigation will normally be undertaken by the original Investigating Officer. The Appeal Decision Officer will not normally review new information unless the Appeal Decision Officer believes the Decision Officer should reasonably have considered it. Information provided at the appeal which was not known to the Decision Officer will result in the appeal being rejected. Any new information must be made known to the Decision Officer so that they may review their initial decision and convey their consideration to the Appeal Decision Officer.
- k) The Appeal Decision Officer should give their decision / outcome of the appeal to the employee and reasons in writing within 10 working days. The outcome of the appeal could be to:
  - Uphold the original decision in which case the disciplinary sanction and/or other appropriate actions taken will be confirmed.
  - Over-rule the original decision in which case the disciplinary sanction and/or other appropriate actions taken will be rescinded
  - Confirm the original decision but applying a lesser or greater sanction/other action than that originally imposed.
- l) A copy of the appeal decision will be sent to the referring manager.
- m) The decision of the Appeal Decision Officer shall be final and there will be no further internal right of appeal.

- n) Should the Chief Executive or Board Chair have been the original Decision Officer, an appeal should be made the Board Secretary who will arrange for an appeal to be heard, further to consultation with the Board Chair. In such cases employees must exercise their right of appeal, in writing, to the Board Secretary within 10 working days of being notified.
- o) Where a Member of the Board hears an appeal, the Board Secretary will be in attendance at the meeting. They will reserve the right to seek external HR advice, as necessary. The same process as set out above will be followed at the meeting.
- p) The decision of the Board Member shall be final and there will be no further internal right of appeal.

## **10.0 Record Keeping**

- a) Written records will be treated as confidential and will be kept no longer than necessary and in accordance with the Data Protection and the PBNI's Management of Information Policy / Retention and Disposal Schedule.
- b) Documents should be marked 'Official-Sensitive' in line with the PBNI Protective Marking Policy.
- c) A representative from HR will support the Investigating Officer throughout the investigation process as appropriate, including advice on handling of confidential information obtained.
- d) In order to promote a standardised approach, template letters for every stage of the Disciplinary procedure are available from HR. These template letters may be amended to suit the circumstances of each case.
- e) To maintain control of the on-going investigation process, documents will be held in a dedicated container in Content Manager which will have specific access for relevant members of HR, the Investigating Officer and when appropriate the Decision Officer and Appeal Decision Officer.
- f) Any papers held on desktop or other filing arrangements should be sent to the dedicated file and deleted from any other filing arrangements, including written notes, emails etc.
- g) HR will hold the investigation files in a central filing system.
- h) A central register of Disciplinary cases will also be maintained by HR.

- i) Those involved in the case, including the Investigating Officer, Decision Officer, Appeal Decision Officer should ensure that they dispose of any duplicate documentation submitted (both manual and electronic) in a secure manner, and should not retain any detail with regard to the investigation once completed.
- j) Any further information/documentation obtained as part of the appeal process will be forwarded to HR following the outcome of the appeal and will be added to the organisational file for that case.
- k) Where an external appointment has been made by the Decision Officer in a case relating to a member of HR , the external appointment will be advised that they should adhere to the PBNI's procedure on record keeping, including handling of confidential information obtained. In such circumstances, on conclusion of the case, the Decision Officer must provide all papers associated with the case to HR so that these papers can be securely filed in accordance with Data Protection and the PBNI's Management of Information Policy/Retention and Disposal Schedule.



## 11.0 ANNEX 1: Examples of Misconduct

Misconduct is one of the five potentially fair reasons PBNI, may have to dismiss an employee fairly.

The level of seriousness of an issue of misconduct will be determined after an investigation, where appropriate.

The types of misconduct that could be considered as gross misconduct are matters deemed to be so serious that it may justify dismissal even for a first offence. The Labour Relations Agency Code of Conduct on Disciplinary and Grievance Procedures describe acts which constitute gross misconduct 'are those resulting in a serious breach of contractual terms.'

For the purposes of this procedure, the examples of gross misconduct are set out below.

The following list, which is not exhaustive, provides **examples** of the type of gross misconduct which may result in dismissal if upheld. **This list is not exhaustive.**

### **Examples of gross misconduct include:**

#### **a) Abusive or violent behaviour**

Using abusive or violent behaviour, including threatening / abusive language, to other employees, Board members, service users, PBNI stakeholders or visitors.

#### **b) Assault, abuse or physical harm**

Physical, verbal, sexual abuse or harm towards any person during the course of employment with the PBNI.

#### **c) Discrimination**

Actions or language of an unlawful discriminatory nature that are in breach of PBNI's 'Dignity at Work' policy.

#### **d) Health and safety at work**

Disregarding safety rules, regulations and/or procedures, or serious negligence that endangers yourself or other people in the course of employment.

#### **e) Obtaining and Disclosing information**

Obtaining information without authorisation, relating to employees, Board Members, service users or other PBNI information; or inappropriate disclosure of information relating to employees, service users, or other PBNI information.

#### **f) Substance abuse**

Possession of or being under the influence of alcohol, drugs or other similar substances (not medically prescribed), which may give someone reasonable

grounds to suspect that your ability to undertake duties professionally has been impaired.

**g) Theft / fraud / deliberate falsification of PBNI documents or records**

Theft, unauthorised removal with intent to steal, dishonest handling, dishonest appropriation or obtaining money by deception or property belonging to PBNI or involving money or property belonging to other employees, service users, Board Members or visitors on PBNI..

**h) Harassment / bullying**

Actions or behaviour carried out against other employees, Board Members service users, visitors or members of the public that are in breach of PBNI 'Dignity at Work' policy.

**i) Computers and other electronic equipment**

Inappropriate access, interference with and / or use of a computer, or any other similar electronic equipment, which is in breach of PBNI policy.

**j) Criminal convictions outside work**

Convictions and potential criminal convictions, which have a significant and direct bearing on an employee's employment and duties with the PBNI; and PBNI's reputation.

**k) Destruction of PBNI property**

Deliberate and inappropriate destruction of, or damage to, the PBNI's property / equipment.

**l) Failure to uphold professional standards**

Wilful failure to register, or re-register with any required professional body necessary for working in PBNI; or involvement in any formal external activity or process which jeopardises fitness to practice.

**m) Negligence / failure of professional judgement**

Conduct which causes a significant breach of professional confidence; failure of professional judgement, breach of any statute, regulation, code of practice or other relevant provision governing the services provided by PBNI; or serious negligence which causes unacceptable loss, damage or injury.

**n) Pornographic, indecent, racist or offensive material**

Accessing, copying or distributing, by paper or electronic means, pornographic, indecent, racist or offensive material.

**o) Reasonable instructions**

Unjustified refusal of a lawful and reasonable instruction which is within your capabilities, and which could result in immediate and serious consequences.

**p) Reputational damage**

Conduct which could or has caused significant reputational damage to PBNI.

**q) Social Media**

Inappropriate use of social media.

**12.0 ANNEX 2: RECORD OF INFORMAL CONVERSATION AIMED AT IMPROVING CONDUCT (held on record for 12 months maximum)**

Date of meeting		Location	
Employee name			
Job title			
Work location			
Manager name			
Job title			

**1. Aim of informal conversation regarding conduct**

**2. Issues to note**

3. Reason for record of informal discussion (summary)

[illegible]

4. Reason for record of informal discussion (summary)

e.g. Agreed action for way forward / / *potential consequences if no improvement.*

Date for review

--

Signed (employee)

--	--

Dated

--	--

Signed (manager)

--	--

Dated

--	--

### 13.0 ANNEX 3: DISCIPLINARY REFERRAL FORM (FORM DISR/1) RECOMMENDATION FROM LINE MANAGER FOLLOWING INITIAL ASSESSMENT OF ALLEGED CONDUCT ISSUE

#### RECORD OF RECOMMENDATION FOLLOWING ASSESSMENT OF ALLEGED MISCONDUCT ISSUE

Referring Manager name	
Referring Manager job title	
Referring Manager team	
Employee name	
Job title	
Work location	

Some, or all, of the elements set out in the following checklist may be helpful in making sure that the written statement gives the necessary information.

Please note that referring managers should only state the information available to them and should not carry out any form of investigation into the allegations, as this will be a matter for the Investigating Officer under section 5.6 of the Disciplinary Procedure.

Referring managers should however be as specific as possible ensuring that allegations are clearly set out.

- Who – the name of the person being referred is set out at the top of the referral document but it may be appropriate to identify other people, for example witnesses, who might have important information.
- What – is alleged to have been done, not done or done in an unacceptable way which has led to the referral being made?
- When – is about times and timescales. It might be about the timing of some incident or missed deadline. It might also be about frequency, the recurrence of some behaviour or the failure to do something at an appropriate, required or reasonable time.
- Where may obviously refer to the location of some incident but it may also be about an allegation that alleged behaviour was inappropriate or “out of place.”

- Why – is the matter being referred for consideration under the disciplinary procedure? In many cases this will be obvious from the detail provided but in some cases there may be important additional information e.g. that the manager making the referral has already tried to address the matter through normal supervision without success.

**Please complete and send to the HR**

In line with Section 5.3 of the Disciplinary Procedure, I (line manager) have considered the following allegation(s).

Summary of alleged incident / misconduct

I took the following action to assess the alleged incident / conduct (e.g. meeting with employee, brief review of any relevant information):

On the basis of the information I have, I recommend the following to Head of HR for consideration:

(please delete the action that is not appropriate)

- No further action is necessary as there is sufficient evidence or information that refute the allegations; or
- The matter should be referred for further investigation under the disciplinary procedure.

The reason for my recommendation is that:

--

Signed		Dated	
Job title			

PLEASE FORWARD COPY TO HEAD OF HR



## **14.0 Annex 4: MODEL TERMS OF REFERENCE FOR CONDUCTING AN INVESTIGATION UNDER PBNi'S DISCIPLINARY PROCEDURE**

### **Terms of Reference**

1.1 The following terms of reference have been agreed with <<NAME>> the Decision Officer on <<DATE>>

1.2 It was agreed that <insert investigator> will conduct an investigation to establish a timeline of events and any available evidence in respect of the case subject matter. The Investigation Officer will not make a decision on the next steps; this will be the remit of the Decision Officer.

1.3 The investigation to be completed within a reasonable timescale. Any significant delay will be notified to the Decision Officer immediately, with all parties then being notified as quickly as possible.

1.4 The investigation will consider the following Complaints:

- Allegation 1
- Allegation 2

Note: The Investigating Officer should ensure that all allegations contained in the DIS/R1 written statement are referred to in the terms of reference in agreement with the Decision Officer, and they are clear about what must be investigated.

Findings and conclusions will be provided in the form of a report.

1.6 Interviews will be conducted with XX, XX and XX and any other parties that the Investigating Officer found to be appropriate.

1.7 A copy of all records and notes will be supplied to the Decision Officer on completion of report.

1.8 Investigating Officer to arrange meetings, produce questions, take notes etc as necessary for the efficient advancement of the investigation and production of report.

1.9 The report will not contain any details on counter-complaints made by parties outside the scope of the original complaint.

2.0 The terms of reference will not be exceeded, without being redefined by the Decision Officer.

## **15.0 Annex 5: INVESTIGATION REPORT TEMPLATE**

### **Disciplinary Investigation Report**

OFFICIAL SENSITIVE

Type of Investigation: Disciplinary

Investigation Officer:

FAO of the Decision Officer

Date Report Submitted:

## CONTENTS PAGE

1. Introduction
  - a) Methodology
2. Background and Technical information
3. Findings & Conclusions
4. Appendices (1, 2, 3 etc)

## 1. INTRODUCTION

- a) Executive Summary - a brief overview of what the case was about (It is not necessary to summarise findings).

1.1

1.2

1.3

1.4

- b) Methodology

1.5 Central to this investigation was the collection and verification of information, statements and any supporting evidence and documentation provided by the referring manager, the employee subject of the disciplinary and witnesses. Therefore the following individuals were interviewed:

Interviewee	Date	Grade	Capacity	Accompanied by & capacity
			Referring Manager	
			Employee subject of the disciplinary	Trade Union representative
			Witness	Colleague

1.6 The minutes from the interviews have been agreed and are provided in appendix 1 a - d

1.7 Interviewees were advised that the investigation process was confidential, and should not be discussed outside the investigation, with respect to the privacy of all parties involved.

1.8 Interviewees were further advised that in the event matters were to proceed to appeal there was the possibility that the report and its attachments would form part of a further inquiry.

1.9 Interviewees were also advised that in the event the case was to proceed to an external forum, they may be required to attend.

1.10 XXXXX XXXXXX acted as note taker for the formal investigation interviews.

1.11 The following PBNl policies and procedures were consulted throughout the investigation and can be found on the Intranet:  
(anything not on the intranet then provide as an appendix)

A copy of these documents are provided in appendix 2 e - g

1.12 Admissible supporting documentation provided prior to and during the investigation include:

Appendix 3 h - m

h	e-mail from XXX dated 17 <sup>th</sup> March 2xxx
i	Special leave application dated 6 <sup>th</sup> March 2xxx
j	
k	
l	
m	

Or

1.13 In addition to the investigation meetings the following documentation was collected as part of this investigation;

- Appendix 3 h – e-mail from XXX dated XXXXXXXXXX
- Appendix 3 i – Special leave application dated XXXXXXXXXX

1.14 The investigation report will look at the allegations raised by XXX analysing it in detail and drawing on information provided during the interviews. Overall findings will then be summarised in the conclusion to the report.

## 2. BACKGROUND AND TECHNICAL INFORMATION

Referring Manager

2.1

Employee Subject of the Disciplinary

2.2

Witnesses

2.3

Further Background Information

2.4

PBNI Policy

2.5

### 3. FINDINGS AND CONCLUSIONS

#### 3.1 Allegation 1 *in full*

##### 3.1.1 Allegation (and evidence)

##### 3.1.2 Response (and evidence) from (*subject of the disciplinary, if applicable*) against allegation

##### 3.1.3 Witness Evidence for/against allegation

##### 3.1.4 Other Evidence for/against allegation

##### 3.1.5 Conclusions

#### 3.2 Allegation 2 *in full*

##### 3.2.1 Allegation (and evidence)

##### 3.2.2 Response (and evidence) from (*subject of the disciplinary, if applicable*) against allegation

##### 3.2.3 Witness Evidence for/against allegation

##### 3.2.4 Other Evidence for/against allegation

##### 3.2.5 Conclusions

#### 3.3 Allegation 3 *in full*

##### 3.3.1 Allegation (and evidence)

##### 3.3.2 Response (and evidence) from (*subject of the disciplinary, if applicable*) against allegation

##### 3.3.3 Witness Evidence for/against allegation

##### 3.3.4 Other Evidence for/against allegation

##### 3.3.5 Conclusions

## 4. APPENDICES

### Index

#### Appendix 1:

- a) Terms of Reference for Investigation dated ....
- b) DISR/1 dated
- c)
- d)

#### Appendix 2:

- a)
- b)
- c)
- d)