

Disciplinary Procedure

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Alternative Formats

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1. Background

The Probation Board for Northern Ireland has developed a Disciplinary Policy to establish a clear course of action which will ensure the fair and consistent treatment of employees should disciplinary action become necessary.

2. Purpose

This procedure supplements the PBNI Disciplinary Policy. The procedure 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. 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 and any future overarching guidance issued by the Labour Relations Agency.

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

4. Sources of Information, advice and support

It is recognised that all parties involved in a disciplinary process 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 matter should be kept confidential.

- **Confidential Contact (see Annex 3).** Whilst work colleagues are an important area of support as indicated below, staff can speak to specific employee volunteers who can act as a first point of contact for the employee subject to the disciplinary process, or a witness. Their role is meet with individuals confidentially and provide appropriate support such as:
 - Support individuals through the process, listening to concerns and exploring issues involved
 - Help the individual to analyse the problem
 - Review PBNI's Disciplinary policy and procedure to ensure they understand the process
- **Work colleagues** – Work colleagues can be an important area of support. They can listen to issues or problems and provide help and encouragement.
- **Human Resources** – Human Resources can provide advice and guidance on the Disciplinary Policy and Procedure. This is a Human Resources Business Partner allocated to specific teams/areas of business.
- **Trade Union** – A Trade Union member can provide help, support and guidance on any issues in relation to the Disciplinary Policy and Procedure.

- **Inspire**– Staff may want to discuss their concerns in confidence with a professionally trained counsellor. Such support and counselling is available through the Employee Assisted 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. 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. Private discreet counselling rooms are located province wide and appointments are arranged. The free phone number/leaflet and website address can be found on the PBNI intranet/Human Resources/Policies-Procedures-Guidance.

5. Process

Situations arise where the Disciplinary procedure is required to be followed either informally or formally. The manager must be sure of the relevant steps to take prior to commencing the Disciplinary Procedure. The manager should discuss the matter with Human Resources to seek advice on whether to proceed under the Disciplinary Policy, **either informally or formally**, or whether another Board Policy may be more applicable.

5.1 Informal Action

- a) A member of the HR Department may be involved in the informal process where necessary and can provide advice and guidance to all parties.
- b) The maintenance of discipline and good working practices does not necessarily require the use of the formal disciplinary process every time.
- c) As a first step Line managers should seek to resolve minor conduct matters informally and as they arise. This should take the format of an informal meeting or a series of informal meetings. Where matters are dealt with informally the manager must ensure that the employee is made aware that the issue is being dealt with under the informal Disciplinary Procedure.
- d) The aim of the informal discussions is to ensure the employee is made aware of and understands why their conduct is unacceptable. If this is the first occasion of minor misconduct the line 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.
- e) The line manager should provide any evidence that has come to light and give the employee the opportunity to explain their actions or clarify the facts of the case.

- f) At this stage, managers should also explore any support the employee requires and discuss any factors impacting on conduct.
- g) An agreed record of the informal discussion needs to be kept on the employee personal file held in Human Resources (and may be used in future disciplinary proceedings), and a copy provided to the employee. The record should be kept no longer than 6 months.
- h) The following list, which is not exhaustive, provides **examples** of the type of minor misconduct which may warrant an informal discussion in the first instance:
 - Poor time keeping
 - Failure to follow the reporting requirements under the sickness absence procedure
 - Failure to comply with a reasonable management request.
 - Failure to follow instructions
 - Excessive use of personal mobile phone
 - Inappropriate use of social media
 - Omitting to register with the Northern Social Care Council
 - Failure of professional judgement

Any issue may move straight to the formal Disciplinary Procedure depending on the severity of the issue.

- i) Following the meeting the line manager will continue to monitor behaviour and provide advice and guidance as appropriate.
- j) 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.

- k) If the matter is too serious to be considered informally then the formal procedure should be invoked.

5.2 The Formal Process

- a) Where the informal process has not led to improved conduct, or where the alleged misconduct is of such seriousness that informal action is considered to be inappropriate, formal disciplinary action should be initiated.
- b) Advice should be sought from the HR Department prior to referring a matter under the formal Disciplinary Procedure. A representative from the HR Department 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 major and gross misconduct and these must be referred under the formal Disciplinary Procedure.
- d) Major misconduct is not defined in statute but is widely accepted as misconduct deemed to be serious enough to warrant a written warning. The following list, which is not exhaustive, provides **examples** of major misconduct. Whilst this list of examples could warrant major misconduct, it will depend on the severity of the incident and could be classified as either minor or gross misconduct.
- Unsatisfactory attitude to clients
 - Insubordination
 - Unauthorised absence – failure to seek prior line manager approval for annual leave
 - Misuse of telephone (e.g. inappropriate in the business context)
 - Unauthorised access to IT systems, including email and internet
 - Inappropriate use of social media
 - Failure to disclose conflict of interest
 - Dangerous physical horseplay
 - Neglect causing damage to or loss of customers or other employees' property or equipment
 - Neglect of safety/security rules.
 - Wastage of materials
 - Repeatedly omitting to register with Northern Ireland Social Care Council
 - Failure of professional judgement
 - Where an allegation(s) made under either the Dignity at Work or Grievance Policy and Procedure has been upheld
- e) Gross misconduct is not defined in statute but is widely accepted as misconduct deemed to be so serious that it may justify dismissal even for a first offence. The following list, which is not exhaustive, provides **examples** of gross misconduct:
- theft
 - falsification of records
 - fighting
 - physically violent behaviour/assault
 - damage to PBNI property or premises
 - serious insubordination
 - refusal to carry out reasonable work instructions
 - serious infringement of health and safety rules
 - threatening, inflammatory or abusive language
 - conduct which brings the organisation into disrepute
 - possession of, or being under the influence of, alcohol or drugs whilst in work (save for any drugs prescribed by a medical practitioner).
 - serious negligence which causes unacceptable loss, damage or injury
 - breach of professional confidence or disclosure of confidential information
 - serious and/or unauthorised improper use of IT systems, including email and internet
 - Inappropriate use of social media
 - Wilful failure to register, or re-register with any required professional body necessary for working in PBNI

- Failure of professional judgement, breach of any statute, regulation, code of practice or other relevant provision governing the services provided by PBNI
- Where an allegation(s) made under either the Dignity at Work or Grievance Policy and Procedure has been upheld.

5.3 Making a referral under the formal Disciplinary Procedure

- a) The line manager (or within the line management structure if applicable) should invite the employee to a meeting to inform him/her of the allegations. The line manager should explicitly inform the employee that the meeting is being held under the formal disciplinary procedure and that they have the right to be accompanied by a trade union representative or work colleague. .
- b) If an employee is unaccompanied by a trade union representative or work colleague, the line manager should ensure that they are content to proceed with the meeting and should initially review the Disciplinary Procedure with the employee (especially this section 5.3) before discussing the allegations. The meeting may be postponed within a reasonable timescale (no longer than 5 working days) to permit the employee to be accompanied.
- c) The line manager should discuss the allegations with the employee advising that a decision will be made following the meeting on whether a DIS/R1 referral will be made to the Decision Officer. The meeting is an opportunity for the employee to either refute the allegations or provide an explanation. The line manager should however 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.
- d) It may be helpful to provide written details of the allegations to the employee at the meeting to ensure that he/she has clear information in regards to the allegations. However the written details are not the DIS/R1 referral as this should only be drafted if the decision is to proceed with a referral to the Decision Officer.
- e) Following the meeting the line manager should take time to reflect on the discussion/information provided.
- f) If no further action is to be taken this will be conveyed to the employee in writing within one working day of the above meeting.
- g) If the decision is to proceed and a referral is to be made to the Decision Officer this will be conveyed to the employee in writing (with a copy of the DIS/R1 referral and Disciplinary Policy and Procedure provided) within one working day of the above meeting. The employee should also be advised of whether the allegations are deemed to fall under major misconduct or gross misconduct, and the potential outcome should the allegations be proven.
- h) Matters which require consideration under the formal Disciplinary Procedure shall be referred in writing (DIS/R1 referral template) to the Director with responsibility for the relevant area. If the Director has a conflict of interest the matter will go to an alternative Director. The Director will be the Decision Officer (and will be referred to as such in this procedure).

- i) For cases involving Senior Management grades the referral should be made to the Chief Executive who will be the Decision Officer.
- j) For cases involving a Director or the Chief Executive, the referral should be made to the Chairman of the Board who will be the Decision Officer.
- k) 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 HQ union official.
- l) Where a case is in relation to a member of the Human Resources Department the Decision Officer will make an external appointment to carry out the HR function as outlined in this procedure.

5.4 Criminal Offences

- a) If it appears that a criminal offence has been committed and the matter is put into the hands of 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.
- 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 Hearing (as set out under section 6.1) 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 PBNl or makes the employee unsuitable for the type of work he/she may be employed to carry out.
- e) Where the employee has been convicted of an offence and receives a custodial sentence consideration will be given to termination of employment.

5.5 Suspension and Other Considerations

- a) In certain circumstances consideration will be given to a period of suspension from duty while an investigation is being carried out.
- b) 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.

- c) 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.
- d) Suspension of an employee should be undertaken by the Decision Officer and advice should be sought from the HR Department. The employee will attend a meeting with the Decision Officer and may be accompanied by trade union representative or work colleague, if available. A representative from the HR Department will also be in attendance.
- e) 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 and any dependants. In such circumstances the employee will be advised they may be eligible to claim social security benefits.
- f) The suspension must be confirmed in writing 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.
- g) 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 Decision Officer if any changes occur during the period of suspension.
- h) If following the investigation the Decision Officer decides there is no case to answer, any withheld pay during the period of suspension will be paid.
- i) During the period of suspension all employees are required to make themselves available for interview and discussion during normal office hours. If an employee wishes to go on holiday during a suspension period he/she must contact the Decision Officer for approval.
- j) Prior to suspension the employee will be required to provide all appropriate PBNI property eg office keys, phone, security pass, to their manager within a timescale specified by the Decision Officer.

5.6 Investigation

- a) The HR department can provide advice and guidance to all parties involved in the process.
- b) In cases where the allegations are undisputed, the Decision Officer may decide that a formal investigation is not necessary.

- c) If a formal investigation is not necessary the employee will be advised of this by the Decision Officer and will be invited to attend a Disciplinary Hearing as set out under Section 6.
- d) Should the employee accept the allegations without dispute he/she should consider the consequences of such an admission/course of action with a 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 union representative or HR representative as applicable and this will be provided to the Decision Officer.
- e) Where an investigation is necessary, the Decision Officer shall appoint an appropriate manager to act as the Investigating Officer. Normally this appointment shall be made within 5 working days of receipt of the referral. The role of the Investigating Officer is purely an informative role and he/she is not responsible for decision making.
- f) The Decision Officer will send written notification of the Investigating Officer appointment to the employee and the referring manager, and a copy of the Disciplinary Policy and Procedure.
- g) Prior to beginning the investigation the Investigating Officer must agree the terms of reference for the investigation with the Decision Officer (See Annex 2 – template Investigation Report). **The Investigating Officer must also liaise with a representative from the HR department who will provide guidance and advice on the investigation procedure at any stage of the process.**
- h) 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. Where appropriate documentation received prior to the interview will be shared with the employee before the meeting takes place.
- i) 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 the HR Department 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.
- j) A representative from the HR Department will be present during the interview to take comprehensive notes (a Note-taker). The interviewee will be asked to verify, in writing, that the notes are an accurate record within 10 working days otherwise the notes will be deemed accurate. A copy of the notes will also be provided to the union representative
- k) The Investigating Officer will invite the referring manager to attend an interview. The invitation should be in writing and inform the referring manager that he/she may be accompanied by a trade union representative or a work colleague.
- l) The Investigating Officer will invite the employee to attend an interview. This invitation should be in writing and inform the employee that he/she may be accompanied by a trade union representative or work colleague.

- m) Depending on the level of information required the Investigating Officer may decide to address matters with any witness(es) by e-mail, telephone or interview. The Investigating Officer will give advance notice to the witness of the intention to address matters by e-mail or telephone and he/she will have the opportunity to seek the advice of a trade union representative. If an interview is to take place the Investigating Officer will issue a written notification to the witness informing him/her that they may be accompanied by a trade union representative or work colleague.
- n) During the investigation the referring manager and the employee, will be given the opportunity to:
- Set out their case
 - Raise questions on any aspect of the procedure
 - Present/identify evidence which merits consideration
 - Get access to documentation that may be used in the course of the investigation
 - Identify witnesses
- o) The Investigating Officer should aim to complete the investigation within a reasonable timescale. It is acknowledged however 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 the Investigating Officer will inform all parties and the investigation will be concluded as soon as is reasonably practicable.

5.7 Completion of the investigation

- a) Once the report is completed, the Investigating Officer will liaise with the HR Department to satisfy him/herself that procedures have been followed. Human Resources will not make a judgement on the substantive content of the report.
- 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 the final report should be sent to the Decision Officer.
- c) The Investigating Officer will also 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. Please note that appendices of the report will include witness statements and any documentation examined.
- d) Following receipt of the Investigating Officer report the Decision Officer may request further investigation. Further investigation will normally be carried out by the original Investigating Officer. The Decision Officer will inform both parties involved in writing.

- e) 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 hearing
- f) The Decision Officer will inform the employee and the referring manager of his/her decision. If the decision is to proceed to a formal disciplinary hearing, the Decision Officer will inform them in writing of the next stage in the process, outlining the further actions required.

6. The Disciplinary Hearing

6.1 Before the hearing

- a) The Decision Officer will write to the employee inviting him/her to attend the disciplinary hearing. The letter issued by the Decision Officer will:
- Inform the employee of the decision to move to a formal disciplinary hearing
 - inform the employee of the date, time and venue of the disciplinary hearing within 10 working days
 - outline the nature of the allegation(s) and provide an indication as to whether the alleged misconduct is considered as potentially a major or gross misconduct case and whether a sanction less than or up to dismissal may be considered.
 - 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 of the Decision Officer's intention to call any witnesses and to confirm who those will be *
 - Ask the employee to confirm whether or not he/she intends to call witnesses and if so to provide details of those who will be attending*.
 - Inform the employee that a representative from the HR Department 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.

NB Please see paragraph 6.2 (b) with regard to calling of witnesses.

- b) The employee should supply to the Decision Officer as soon as possible, and no less than one working day prior to the meeting:
- copies of any documentation which he/she intends to produce
 - advise of their intention be accompanied by a trade union representative or work colleague and confirm who that person will be
 - advise of their intention to call witnesses and confirm who those witnesses 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 hearing so long as it is reasonable and it is not more than 5 working days after the original date. This 5 day limit may be extended by mutual agreement.
- d) The hearing may proceed should the employee or their representative fail to attend without advance notification and without good reason.

6.2 During the hearing

- a) A Disciplinary hearing shall always include a representative from the HR Department in an advisory capacity. The role of the HR representative is to take comprehensive notes and advise on points of process or relevant employment matters.
- b) The Decision Officer or the employee (or their representative) can call witnesses during the hearing as previously notified.
- c) The Decision Officer will present a summary of the case including the findings of the investigation and will call any witnesses as notified.
- d) The employee or their representative should present his/her case as supported by any documentary evidence and call the employee's witnesses as notified
- e) The employee or the Decision Officer can ask questions of the witnesses and the employee and Decision Officer will have the opportunity to sum up.
- f) The hearing may be adjourned for a short period during the meeting with the agreement of the Decision Officer.
- g) The hearing 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) At the end of the hearing the Decision Officer will inform the employee that he/she will give his/her 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 5 working days.

6.3 After the Hearing

- 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 Board 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 (See section 7).
 - 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 his/her decision to the employee within 5 working days. A copy of the letter will also be sent to the referring manager.

The letter will:

- include a clear statement of the allegations and findings
- c) 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
- d) 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

7. Disciplinary Measures

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

7.1 Formal Verbal Warning

If the misconduct is of a relatively minor nature, the employee will be given a formal verbal warning.

This will be provided to the employee in writing and a copy will be retained on the employee's personal file. This will be disregarded for disciplinary purposes following a period of 6 months, subject to satisfactory conduct.

7.2 Formal Written Warning

A written warning is issued for more serious/major misconduct or repetition of previous unsatisfactory conduct.

This will be provided to the employee in writing and a copy retained on the employee's personal file. This will be disregarded for disciplinary purposes following a period of 12 months.

7.3 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. This will be disregarded for disciplinary purposes following a period of 12 months.

7.4 Dismissal

An individual subject to a final written warning may be dismissed if their conduct continues to be unsatisfactory. Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning the employee may be dismissed with notice or pay in lieu of notice.

In the case of gross misconduct, dismissal may be an option for a first offence. 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 grade Director or above 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.

7.5 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 a specific period (which may be for up to 2 years) after which the employee will be eligible to apply for promotion
- transfer of location
- 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/flexi-time)
- 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.

8. Appeals Process

Appeal to the Chief Executive

- 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 Chief Executive within 10 working days of being notified of the decision. The employee should provide:
 - A statement of the case and grounds for appeal
 - The names of any witnesses he/she wishes to call and an explanation of why their evidence is required
 - A copy of any documentary evidence they intend to rely on at the appeal hearing
- c) The appeal hearing will normally take place within 10 working days of the receipt of the appeal request. This 10 day limit may be extended by mutual agreement.
- d) The employee has the right to be accompanied to the hearing by a trade union representative or work colleague.
- e) The Head of HR or the nominated deputy will be in attendance at the hearing and will advise the Chief Executive on points of process or relevant employment law.
- f) Should the Chief Executive decide that witnesses will be called he/she will provide notification to the employee and his/her representative no later than one working day before the date set for the appeal hearing.
- g) The Chief Executive or the employee (or their representative) can call witnesses during the meeting as previously notified.
- h) The Chief Executive will present a summary of the issues raised at appeal and call any witnesses if appropriate.
- i) The Chief Executive will invite the employee or their representative to present his/her case and call any witnesses if appropriate.
- j) The employee/representative or the Chief Executive can ask questions of the witnesses and the employee or their representative will have the opportunity to sum up.
- k) The hearing may be adjourned to permit further investigation if this is deemed necessary. Further investigation will normally be undertaken by the original Investigating Officer.

- l) The Chief Executive should give his/her decision/outcome of the appeal to the employee and reasons in writing within 5 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.
- m) A copy of the appeal decision will be sent to the referring manager.
- n) The decision of the Chief Executive shall be final and there will be no further internal right of appeal.
- o) Should the Chief Executive or Chairman of the Board have been the original Decision Officer, an appeal should be made to a panel of Members of the Board. In such cases employees must exercise their right of appeal, in writing, to the Board Secretary within 10 working days of being notified.
- p) Where a panel of Members of the Board hear an appeal, the Board Secretary will be in attendance at the hearing. He/she will reserve the right to seek Human Resources advice as necessary. The same process as set out above will be followed at the hearing.
- q) The decision of the panel of Members of the Board shall be final and there will be no further internal right of appeal.

9. 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-Personal' in line with the PBNI Protective Marking Policy.
- c) A representative from the HR Department 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 'invite to meeting' letters are available from the Human Resources Department.

- e) To maintain control of the on-going investigation process, any source information/documentation obtained will be held by the Investigating Officer until the investigation has been completed and the final report submitted to the Decision Officer.
- f) All such information (both manual and electronic) should be collated in a confidential investigation file and stored securely by the Investigating Officer. Such information/documentation may include:
- Invitations to investigation meetings
 - Correspondence and internal memos
 - Notes of meetings and telephone calls
 - Diary entries
 - E-mails
 - Background documents such as procedures, policies, contracts, job descriptions
- g) Following completion of the investigation (and submission of the final report to the Decision Officer) the complete file (including any electronic information) should be sent to the Human Resources Department (marked official-sensitive-personal).
- h) The Human Resources Department will hold the investigation files in a central filing system.
- i) A central register of cases will also be maintained by the Human Resources Department.
- j) The Investigating Officer should ensure that he/she disposes 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.
- k) The final investigation report will be held by the Decision Officer until the formal meeting has taken place.
- l) When the outcome of the formal meeting has been notified to the employee and others as appropriate, the Decision Officer will forward to the Human Resources Department:
- The final investigation report
 - Any subsequent information recorded/received during the meeting
 - Any template letters issued to the employee, the referring manager the, and witnesses
 - Correspondence detailing the decision/outcome.
- m) The Decision Officer should ensure that he/she disposes of any duplicate documentation submitted (both manual and electronic) in a secure manner, and should not retain any detail with regard to the investigation and hearing.

- n) The information forwarded by Decision Officer will be added to the investigation file held in the Human Resources Department. The complete file will be deemed the organisational file for that particular case.
- o) Should an appeal be made by the employee, documentation from the organisational file will be copied and provided to the Chief Executive or Panel of Board Members as appropriate, and the employee as well as the Investigating Officer (if further investigation is warranted). The organisational file will remain in the Human Resources Department.
- p) Any further information/documentation obtained as part of the appeal process will be forwarded to the Human Resources Department following the outcome of the appeal, and will be added to the organisational file for that case.
- q) Where an external appointment has been made by the Decision Officer in a case relating to a member of the HR Department, 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 will retain the organisational file in accordance with Data Protection and the PBNI's Management of Information Policy/Retention and Disposal Schedule.



Disciplinary Referral (Form DIS/R1)

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 Director for the relevant team/area

A copy to be provided to the member of staff within one working day of the meeting held under Section 5.3 of the Disciplinary Procedure

Disciplinary Referral in respect of the following member of staff (Form DIS/R1)

NAME GRADE

LOCATION

REFERRING MANAGER

I believe that I have reasonable grounds for considering that the matters set out below warrant disciplinary consideration:

Continue on a separate sheet if necessary

Signed

Date

Disciplinary Referral in respect of the following member of staff (Form DIS/R1)

Continued - Page Number:

NAME

GRADE

LOCATION

REFERRING MANAGER

Signed

Date

OFFICIAL SENSITIVE PERSONAL

Type of Investigation: Disciplinary

Investigation Officer:

FAO of the Decision Officer

Date Report Submitted:

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	b) Methodology
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3.	Background and Technical information.....
4.	Findings & Conclusions.....
5.	Appendices.....

1. INTRODUCTION

- a) Executive Summary (a brief overview of what the case was about and the subsequent conclusions)

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 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 PBNI 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 th March 2xxx
i	Special leave application dated 6 th 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 XXXXXXXXX
- Appendix 3 l – Special leave application dated XXXXXXXXX

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. TERMS OF REFERENCE

- 2.1 The following terms of reference have been agreed with <<NAME>> the Decision Officer on <<DATE>>
- 2.2 It was agreed that <insert investigator> will conduct an investigation to establish a time line 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.
- 2.3 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.
- 2.4 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 he/she is clear about what must be investigated.

- 2.5 Findings and conclusions will be provided in the form of a report.
- 2.6 Interviews will be conducted with XX, XX and XX and any other parties that the Investigating Officer found to be appropriate.
- 2.7 A copy of all records and notes will be supplied to the Decision Officer on completion of report.
- 2.8 Investigating Officer to arrange meetings, produce questions, take notes etc as necessary for the efficient advancement of the investigation and production of report.
- 2.9 The report will not contain any details on counter-complaints made by parties outside the scope of the original complaint.
- 2.10 The terms of reference will not be exceeded, without being redefined by the Decision Officer.

3. BACKGROUND AND TECHNICAL INFORMATION

Referring Manager

3.1

Employee Subject of the Disciplinary

3.2

Witnesses

3.3

Further Background Information

3.4

PBNI Policy

3.5

4. FINDINGS AND CONCLUSIONS

4.1 Allegation 1 *in full*

4.1.1 Allegation (and evidence)

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

4.1.3 Witness Evidence for/against allegation

4.1.4 Other Evidence for/against allegation

4.1.5 Conclusions

4.2 Allegation 2 *in full*

4.2.1 Allegation (and evidence)

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

4.2.3 Witness Evidence for/against allegation

4.2.4 Other Evidence for/against allegation

4.2.5 Conclusions

4.3 Allegation 3 *in full*

4.3.1 Allegation (and evidence)

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

4.3.3 Witness Evidence for/against allegation

4.3.4 Other Evidence for/against allegation

4.3.5 Conclusions

5. APPENDICES

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Appendix 1:

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

Appendix 2:

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

Confidential Contacts

Name	Office Number	Mobile Number
Pauline McMillan	25664990	07769681338
Jill Grant	92616772	07827931082
Philip Cahill	90739445	07917544110
Catherine Corrigan	90602988	07884264570