

Appendix C: Procedure for Disciplinary Hearing

1.1. This appendix outlines the procedure for establishing and running a disciplinary hearing.

Timescales

1.2 A timeframe over which the procedure should run is set out below. This timeframe is indicative and in certain circumstances it may be necessary to extend the timeframe outlined. Where it is not possible for either party to meet the particular time limit he or she is responsible for advising the HR Advisor who will notify the other party of a revised estimated timeframe, which should not extend from the minimum 10 working days (pro rata) to beyond a calendar month in total.

Timeframes should be adjusted on a pro-rata basis for employees that are not full-time i.e. an employee working 3 days a week should have no later than 6 working days' notice of a hearing.

Process	Timeframe
Panel Chair/Hearing Manager notifies employee in writing that s/he is required to attend a disciplinary hearing. Employee provided with details of the alleged disciplinary offence.	No later than 10 working days before the date of the hearing.
Employee contacts HR Advisory Services to request witnesses to be called at hearing. Employee is responsible for organising their own witnesses' statements.	No later than 8 working days before the date of the hearing.
All written submissions including witness statements must be submitted to HR Advisory Services.	No later than 7 working days before the date of the hearing <i>or in line with deadline agreed by both parties.</i>
Panel Chair/Hearing Manager approves requested witnesses and/or identifies additional panel witnesses	No later than 6 working days before the date of the hearing.
HR Advisory Services invites required witnesses to hearing, providing a copy of this procedure.	No later than 5 working days before the date of the hearing.
Both parties and all panel members provided with copies of all written submissions received	No later than 5 working days before the date of the hearing <i>or in line with deadline agreed by both parties.</i>
Hearing	

Panel Chair/Hearing Manager notifies employee orally of outcome of disciplinary hearing.	Within one working day of the decision.
Panel Chair/Hearing Manager notifies employee of outcome of disciplinary hearing in writing and informs employee of right of appeal	No later than 5 working days after decision made.

2. Arranging the Hearing

- 2.1 Unless the hearing could result in the dismissal of the employee, the disciplinary hearing will be undertaken by a senior manager who will be deemed the Hearing Manager. The Hearing Manager will normally be the Head of Department of the employee, unless s/he has had prior involvement in the matter, in which case an independent senior manager will be nominated. If the charge against the employee could result in dismissal, the disciplinary hearing will consist of three senior managers specified by the Head of Department with advice from the Director, HR Advisory Services to ensure balance in the panel composition. The panel would normally include the Head of Department. The Hearing Manager/Panel will be advised by an HR advisor who must be present during the hearing in an advisory capacity and may contribute where necessary. A separate HR representative will be responsible for taking notes of the hearing.
- 2.2 If an employee subject to the disciplinary process objects to the composition of the panel they should make that objection known to the Director, HR Advisory Services at the earliest opportunity. The Director, HR Advisory Services will consider the objection and amend panel membership if appropriate.
- 2.3 Before the hearing takes place the employee should be:
- a. given a minimum of *ten* working days advance notice of the date, time and location of the hearing in writing;
 - b. provided at the same time, with sufficient details of the charge against them and its possible consequences (including risk of dismissal, where appropriate) to enable her/him to prepare a response to the charge at the hearing;
 - c. advised of their rights to be accompanied at the hearing by a companion;
 - d. provided with names of any witnesses, written copies of evidence and all relevant documentation gathered in relation to the alleged misconduct no less than *five* working days in advance of the hearing or in line with a deadline agreed by both parties.
- 2.4 The employee should inform HR Advisory Services in writing of the names of any witnesses s/he would wish to call with brief reasons for each request at least *eight* working days in advance of the hearing. They should provide to HR Advisory Services any written statements or documentary evidence which they have not already provided as part of the investigation at least *seven* working days in advance of the hearing, unless agreed otherwise by both parties.
- 2.5 HR Advisory Services will notify any requested witnesses of the date/venue of the Hearing and assist with their release to attend the hearing if required. (Witnesses will not have the right to be accompanied by a companion). The Panel Chair/Hearing Manager is entitled to query the purpose of any witness being called and has the right

to limit the number of witnesses called, where s/he believes there will be no additional value or insight added by their presence. The Panel Chair/Hearing Manager may also call additional witnesses that can give insight or provide expert evidence.

- 2.6 Where it is not practical for witnesses to attend, the Panel Chair/Hearing Manager may continue to proceed with a hearing if s/he is of the view that the lack of verbal evidence from that witness will not affect the outcome of the hearing.
- 2.7 The employee and his/her companion must make every effort to attend the hearing. If the chosen companion is not available at the time proposed for the meeting, the employee has the right to request that the meeting be postponed and to suggest an alternative time within five working days of the original hearing date. If the employee fails to attend for reasons outside of his/her control e.g. sickness, another suitable date may be proposed for the hearing. If an employee fails to attend a scheduled disciplinary hearing on two occasions without good reason, the hearing shall proceed in his/her absence and a decision will be made on the evidence available.

3. Disciplinary Hearing

- 3.1 The Panel Chair/Hearing Manager must ensure equal treatment of all parties and that all aspects of the case are considered. During the hearing the Panel Chair/Hearing Manager may seek further clarification of the written submissions from any parties they feel are necessary or adjourn the hearing at any time they think appropriate.
- 3.2 The employee and any companion should be present throughout the hearing. The companion shall have an opportunity to address the hearing, put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting, and confer with the employee during the hearing. The companion does not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the employer from explaining his/her case.
- 3.3 The Investigating Manager will normally be required to attend the hearing in order to present their report and outline evidence against the employee. They may also present any witnesses. The employee (or their companion) will be able to present their case in response to the charge including calling any witnesses that the Panel Chair/Hearing Manager has agreed can be presented (see para. 2.5). Both parties shall have the right to question the other party's witnesses and raise any issues they wish to be considered. Panel members will be able to question all parties. An order for the hearing is outlined at the [Annex 1](#) to this Appendix.
NOTE. Any witnesses who are required to attend meetings under this procedure at times other than their normal working hours will be paid plain time, overtime or given time off in lieu.
- 3.4 Notes will be taken of all disciplinary hearings. These should be made available to all parties as soon as possible after the hearing. Any factual inaccuracies of notes should be raised with the Panel Chair/Hearing Manager within *five* working days of receipt.

Decision

- 3.5 After the hearing, the Panel/Hearing Manager should consider the evidence in private undertaking any further investigation where necessary, before deciding whether or not the allegations are upheld. Each allegation must be considered separately. Where the

facts of the case have been in dispute and a full investigation has been conducted, there must be a 'reasonably held belief on the grounds of probability' that the employee committed an act of misconduct, for a sanction to be justified. The Panel/Hearing Manager will then consider any mitigation put forward and, taking into account any existing 'live' warnings, decide what level of disciplinary action is appropriate from the list of sanctions in [Appendix E](#).

4. Notification of Outcome

- 4.1 The Panel Chair/Hearing Manager should advise the employee orally of the decision within *one* working day of it being made. Written confirmation with full reasoning for the decision will be provided to the employee no later than *five* working days after the decision is made.
- 4.2 If it is decided that disciplinary action will be taken, the written confirmation of the outcome should include:-
- The nature of the misconduct.
 - The disciplinary sanction awarded including the level of any warning given.
 - The reasons why the disciplinary action was taken.
 - The consequences of any further failure to adhere to acceptable standards of conduct. In cases where a final written warning is given it should be made clear that further formal disciplinary action may result in dismissal.
 - The provision of any support, counselling or corrective action that is required and if not immediate, the time period within which, improvement will be expected.
 - The time period within which the warning will be considered to have lapsed.
 - The fact that a record of warnings will be kept.
 - The right of appeal.

5. Procedure for Disciplinary Hearing

- 5.1 The order of the hearing should be in line with the following:
- The Panel Chair/Hearing Manager introduces those present and outlines the complaints/charges against the employee.
 - The Investigating Manager presents the evidence supporting the charges against the employee and presents any witnesses.
 - The Panel member(s) and then the employee (or his/her chosen companion) have the opportunity to ask questions of the Investigating Manager and witnesses and raise points about information provided by them.
 - The employee (or their companion) sets out his/her case in response to the charges and presents any witnesses.
 - The Panel member(s) and the Investigating Manager have the opportunity to ask questions of the employee or their witnesses and raise points about information provided by them.
 - The Panel members(s) ask(s) any final questions of the employee or Investigating Manager. Witnesses may exceptionally be recalled at this stage.
 - The Investigating Manager and then the employee (or their companion) have the opportunity to sum up their case and make any final comments. No new evidence should be introduced at this point.

- The Panel Chair/Hearing Manager summarises the key points made and closes the hearing*. They should advise the employee when they might reasonably expect a decision.
- The Panel/Hearing Manager consider whether allegations are substantiated. They then consider any mitigation put forward. On combining the two aspects they will decide what, if any disciplinary action is necessary.

*If the Panel believes that further investigation of points raised at the meeting is needed before a decision can be made, the Panel Chair/Hearing Manager can adjourn the Hearing to allow this to take place and if required can re-convene the hearing at a later date.