

**INTERIM ARRANGEMENT WITH EFFECT FROM 14 FEBRUARY 2014  
PENDING REVIEW OF JNC CIRCULAR NOS 199 AND 200**

**MODEL DISCIPLINARY PROCEDURE FOR NON-TEACHING STAFF  
EMPLOYED IN SCHOOLS WITH FULLY DELEGATED BUDGETS**

**1. PURPOSE**

- 1.1 The purpose of this procedure is to provide a fair, equitable and consistent arrangement for the handling of situations where disciplinary action against an officer is considered necessary.
- 1.2 The formal procedure will not be invoked for minor failings until the informal procedure has been completed.
- 1.3 Nothing in this agreement may be construed as diminishing an officer's rights in law.

**2. INFORMAL PROCEDURE**

- 2.1 Minor failings should be dealt with by means of an informal meeting between the Principal and the officer concerned.
- 2.2 The object of such a meeting will be to discuss the issues involved and seek ways of improving the situation by giving the officer reasonable assistance by way of advice, guidance or training to achieve the desired standards of performance or conduct.
- 2.3 If such discussion fails to resolve the matter the formal procedure will be invoked.

**3. OBJECTIVES**

- 3.1 The main objectives of the procedure are to ensure that disciplinary action taken is reasonable and consistent and that officers are given every opportunity to improve their performance or conduct.

**4. FORMAL PROCEDURE – Sections 4 – 12**

- 4.1 Where an allegation of misconduct or poor performance is made the Disciplinary Authority, before taking any disciplinary action, shall carry out a preliminary investigation to establish the facts of the case.
- 4.2 The Disciplinary Authority shall seek advice/assistance from the Human Resources Branch of the Board.
- 4.3 In the event of the Disciplinary Authority determining after the investigation that there is a "prima facie" case to be answered at a disciplinary hearing, the officer shall, prior to the hearing:-

- (i) be given a copy of this Disciplinary Procedure;
- (ii) be made fully aware, in writing, of the issues requiring the disciplinary hearing and be given a copy of any statement containing the allegation giving rise to the disciplinary complaint.
- (iii) be given not less than 5 days' notice of the hearing.

## **5. DISCIPLINARY HEARING**

- 5.1 A disciplinary hearing shall be held as soon as is practicable after completion of the investigation of the alleged offence.
- 5.2 The disciplinary hearing will afford the officer the opportunity to make a response to the issues referred to in 4.3(ii) above
- 5.3 The person or persons making the allegation, if that person or persons is not the Disciplinary Authority, shall normally be required to attend the hearing.
- 5.4 The officer shall have the right to be represented at each stage of the procedure by his or her trade union or another officer.

## **6. DISCIPLINARY ACTION**

- 6.1 Following the disciplinary hearing the Disciplinary Authority shall take such action as is considered appropriate to the circumstances.
- 6.2 Any mitigating circumstances, including the previous record of service of the officer concerned, shall be taken into account when taking that disciplinary action.
- 6.3 Disciplinary actions, other than verbal warnings (which shall be recorded by the Disciplinary Authority), shall be notified by the Disciplinary Authority in writing to the officer concerned. The communication shall highlight the consequences of a repetition of the offence or a failure to meet the required standard of performance. It shall also include in the case of verbal or written warnings a statement as to the period for which the warning will remain on the officer's record (see Section 6.5).
- 6.4 If the officer subject to the disciplinary action is an accredited trade union representative, no action beyond a verbal warning will be taken until the full-time official has been notified and given a reasonable opportunity to discuss the circumstances of the case.
- 6.5 Verbal warnings shall be expunged from the officer's record after a period of 6 months' satisfactory conduct and a written warning/final written warning after a period of one year's satisfactory conduct. Such warnings will be disregarded in any disciplinary matter that may arise after expiry of the specified time.
- 6.6 Where the decision is that no disciplinary action is required, all papers relating to the alleged offence will be expunged from the officer's record.
- 6.7 There shall be a right of appeal against disciplinary action (see Section 10).

## **7. DISCIPLINARY AUTHORITY**

7.1 The levels of Management authorised to take disciplinary action are set out in Section 8.

## **8. DISCIPLINARY LEVELS**

Level I	Minor failings, where the informal procedure has failed to secure the desired improvement.
Level II	A recurrence of the same or similar offence (for which a verbal warning is still current) or a serious breach of discipline.
Level III	A recurrence of the same or similar offence (for which a written warning is still current) or a more serious breach of discipline
Level IV	A recurrence of the same or similar offence (for which a final written warning is still current) or a very serious breach of discipline including gross misconduct.

<b>DISCIPLINARY AUTHORITY</b>	<b>DISCIPLINARY LEVELS</b>	<b>DISCIPLINARY ACTION</b>	<b>APPEAL TO</b>
Principal	I	Verbal Warning	Staffing Sub - Committee of Board of Governors
	II	Written Warning	
Staffing Sub-Committee of Board of Governors	III	Final Written Warning	Board of Governors  See Section 10.3 for appeals against dismissal
	IV	Further disciplinary action which may include withholding an increment, down grading, suspension without pay for up to two weeks  <u><b>OR</b></u>  Dismissal, which may include summary dismissal, ie dismissal without notice or payment in lieu of notice	

The disciplinary actions shown for each disciplinary level are the maximum actions permitted to the Disciplinary Authority. It does not preclude the possibility of a lesser penalty being imposed.

The recommended composition of the Staffing Sub-Committee of the Board of Governors is three members. These members shall not participate in any meeting of the Board of Governors dealing with appeals.

**9. PRECAUTIONARY SUSPENSION**

**(Schedule 4, Paragraph 4 (1) – (4), Education Reform (NI) Order 1989)**

- 9.1 The Board of Governors and the Principal shall both have powers to suspend any person employed at the school where in the opinion of the Board of Governors or (as the case may be) the Principal, the officer's exclusion from the school is required.
- 9.2 The Board of Governors or Principal, when exercising that power, shall immediately inform the employing authority (ie the board) and the Principal or (as the case may be) the Board of Governors.
- 9.3 Any suspension under this paragraph may only be ended by the Board of Governors; and the Board of Governors shall, on ending such a suspension, immediately inform the employing authority (ie the board) and the Principal.
- 9.4 In this paragraph "suspend" means suspend without loss of emoluments.

**10. APPEALS**

- 10.1 Appeals against verbal warnings and written warnings shall be the Staffing Sub-Committee of the Board of Governors.
- 10.2 Appeals against final written warnings and further disciplinary action other than the action of dismissal, shall be to the Board of Governors.
- 10.3 Appeals against disciplinary action which proposes dismissal shall be as follows:
  - (a) Where the Staffing Sub-Committee of the Board of Governors makes a recommendation to the Board of Governors that an officer employed to work at the school should cease to work there and the Board of Governors in consequence of that recommendation proposes to make a determination under paragraph 5(1) of Schedule 4 to the Order in respect of that officer it shall afford the officer an opportunity to make representations with respect to the action it proposes to take, including (if he so wishes) oral representations and shall have regard to any representations made by him.
  - (b) Where the Board of Governors having considered such representations makes a determination under Paragraph 5(1) of Schedule 4 to the Order that the officer should cease to work at the school, it shall afford the officer an opportunity of appealing against that determination to an Independent Appeals Committee before it (the Board of Governors) notifies the employing Education and Library Board of the determination.
- 10.4 An appeal must be lodged within 5 working days of receipt of the notification of the disciplinary action.

- 10.5 The appeal must be made in writing and must set out the grounds on which it is made.
- 10.6 An appeal to the Staffing Sub-Committee of the Board of Governors, or to the Board of Governors, as the case may be, shall be lodged with the Principal who shall make arrangements for the hearing of the appeal.

An appeal to an Independent Appeals Committee shall be lodged with the Principal who shall make arrangements for the hearing in accordance with Section 12 of the procedure.

- 10.7 Appeal hearings by the Staffing Sub-Committee of the Board of Governors, or the Board of Governors, as the case may be, shall be heard as soon as is practicable and not later than 10 days from receipt of the appeal unless the time is extended by mutual agreement. The result of the appeal shall be notified to the officer within 3 working days of the hearing.

**11. ATTENDANCE OF OFFICER OF THE EMPLOYING AUTHORITY (IE THE BOARD)  
(Schedule 4, Paragraph 5(8) to the Order)**

- 11.1 The relevant officer of the employing authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the Board of Governors relating to any determination under paragraph 5(1) of Schedule 4 to the Order and the Board of Governors shall consider any advice given by a person entitled to attend such proceedings under this sub-paragraph before making any such determinations.

**12. INDEPENDENT APPEALS COMMITTEE**

- 12.1 An appeal to an Independent Appeals Committee shall be referred by the Principal to the Labour Relations Agency.
- 12.2 The Agency shall appoint a Secretary to the Appeals Committee who shall be responsible for the setting up of the Committee and for the provision of administration services.
- 12.3 The Appeals Committee shall consist of an Independent Chairperson appointed by the Labour Relations Agency and two panel members, one drawn from a list supplied by the recognised unions and the other drawn from a list supplied by the employing authorities (ie the boards). The Management member shall not be from the local office which is a party to the appeal. The trade union member may be from the union representing the appellant provided he/she is not an employee of or a trade union representative for, the Education and Library Service.
- 12.4 The Secretary, in conjunction with the Chairperson, shall fix a date for the Committee's hearing of the appeal and shall advise the parties accordingly and shall invite nominations to the committee.
- 12.5 The Secretary shall also invite the parties to make written submissions to the Committee, such submissions to be received not later than 10 days before the date of the hearing. The Secretary shall distribute copies of the submissions to the Committee members and to the other party not later than 5 days before the date of the hearing.

- 12.6 The Committee shall meet the parties to hear the appeal within 20 working days of the matter being referred to the Labour Relations Agency. The Chairperson shall determine the order of the oral presentations to the Committee.
- 12.7 The decision of the Appeals Committee shall be given in writing to both parties within 10 working days of the hearing.
- 12.8 The decision of the Appeals Committee shall not be invalidated by the absence of one or other of the parties.
- 12.9 The decision of the Appeals Committee shall be final and binding on both parties.

November 1989

## **DISCIPLINARY RULES [2013]**

### **1. DEFINITIONS**

### **1.1 Misconduct**

Misconduct is an offence for which a verbal or written warning shall normally be the appropriate disciplinary action.

### **1.2 Serious Misconduct**

Serious misconduct can be repeated offences of the nature normally dealt with under 1.1 or an offence of a serious nature but which is not regarded as gross misconduct.

### **1.3 Gross Misconduct**

Gross misconduct may be a single serious offence or repeated offences of a similar nature.

### **1.4 Summary Dismissal**

Summary dismissal is the termination of the contract of employment **without notice** where the offence committed has been established, after investigation and disciplinary hearing, as gross misconduct.

### **1.5 Precautionary Suspension**

Precautionary suspension is with full pay pending investigation. It shall not be seen as a penalty, but a precautionary action.

## **2. DISCIPLINARY RULES/OFFENCES**

**2.1** These Disciplinary Rules should be read in conjunction with the Disciplinary Procedure. The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all officers.

**2.2** It is not possible to define every circumstance which shall constitute misconduct and these disciplinary rules are provided as guidance only.

**2.3** In considering the level of warning or other disciplinary action to be taken, the Disciplinary Authority shall consider the previous record of the Officer, any pattern of misconduct, the currency of any previous disciplinary warning, the recurrence of a similar or further breach of discipline within the specified time period.

## **3. MISCONDUCT**

**3.1** The behaviours/incidents outlined below are examples of situations which constitute an offence under the rules and shall lead to disciplinary action. The lists are not exhaustive/exclusive and the degree/ seriousness or repeated nature of the offence(s) shall determine the category under which it shall be considered.

### **3.2 Examples of Misconduct**

- Unsatisfactory timekeeping - arriving late or leaving early without permission.
- Unauthorised absence from place of work - misuse of the employing authority's/school's time.
- Sickness absence - persistent failure to give proper notice in accordance with employing authority's/school's instructions.
- Absence - unacceptably high levels and frequencies.

- Insubordination - bad language, bad behaviour, insolence or refusal to carry out reasonable and legitimate instructions.
- Being an accessory to a disciplinary offence.
- Unsafe working – refusal or neglect to observe security and safety regulations, including the proper use of safety clothing and equipment issued by the employing authority/school, breaches of statutory requirements under Health and Safety Orders/Regulations.
- Carelessness - resulting in loss or damage to, or waste of property entrusted to his/her care, including misuse of telephone or other unauthorised use of equipment including electronic communication facilities.
- Unprofessional behaviour towards staff or the public.
- Vexatious use of the grievance or other procedures, ie wilful or frequent pursuit of issue(s) of no real substance.
- Breach of confidentiality through unauthorised disclosure of information which might prejudice the employing authority's/school's interests.
- Unauthorised collections of money.

*This list is neither exclusive nor exhaustive.*

### **3.3 Serious Misconduct**

Repeated behaviours/incidents of the type outlined as examples of misconduct in 3.2 above may constitute serious misconduct. However, the degree or seriousness of an offence may warrant consideration under this category.

### **3.4 Examples of Gross Misconduct**

The following acts, and repeated offences of a similar nature, will be regarded as gross misconduct. Gross misconduct is an act or omission that is of such a nature or so serious that, if proven, the continued presence of the employee at work cannot be tolerated, and which could lead to summary dismissal without notice.

#### **Breach of Trust**

- Omission or conduct liable to lead to serious loss of confidence in the public service.
- Criminal offences committed at work.
- Conduct that is a serious abuse of position – eg entering into a personal relationship with a vulnerable service user.

#### **Child Protection**

Inappropriate conduct or behaviour with a pupil, young person or vulnerable adult.

- Abuse of position of trust.
- Breach of child protection Code of Practice, Policy, Procedure or Guidelines.

#### **Misuse of Property**



- Theft, or attempted theft, from the board/school, its employees, partner organisations or service users, or from premises being visited during the course of employment.
- Unauthorised possession and/or misuse of the board's/school's property, or misuse of board/school vehicles.
- Malicious damage to, or any other unlawful act which involves, the property of the board/school or its employees.
- Unauthorised entry to board/school premises outside of normal hours of use.

### **Dishonesty and Fraud**

- Failure to disclose material information (eg convictions) or knowingly making a false statement or omission when applying for an appointment.
- Falsification of time sheets, flexi sheets, expense claim forms, car allowance claims etc.
- Deliberate disregard of the board's/school's financial procedures and rules or contracting Procedures or general instructions concerning the collection, transfer, security and paying in of monies and the completion and submission of associated documents.
- Undertaking other paid employment whilst receiving sick pay or other benefits from the board/school during a period of sickness or unauthorised absence, without prior management agreement.
- Abuse of the Sick Pay Scheme.

### **Health and Safety**

- Deliberate action or omission which endangers life or limb including deliberate damage to, neglect of, or inappropriate use of, safety equipment and any violations of safety rules and codes of practice which could give rise to serious consequences.

### **Unacceptable Behaviour at Work**

- Physical violence (eg fighting), whether actual or threatened.
- Sexual misconduct.
- Deliberate harassment or bullying including inciting racial hatred.
- Indecent conduct or obscene behaviour at work.
- Corrupt or improper practice.
- Behaviour that brings the board/school into disrepute.
- Serious insubordination.
- Consumption of alcohol while in charge of driving a board/school vehicle and/or while in charge of a group of young people.

### **Alcohol and Drug Use**

- Attending work under the influence of alcohol or proscribed drugs.
- Consuming intoxicants during working hours or bringing intoxicants into the premises without permission.

- Alcohol/drug abuse – being in an unfit mental and/or physical state induced by these substances.

In considering a case of misconduct under any of the above, the employee shall be advised of the provision available under the Employing Authority's/school's welfare arrangements.

### **Confidentiality**

- Unauthorised disclosure of confidential and personal information including that which may be of use to a competitor within a tendering situation or quotation procedure.

### **Use of Information Technology Systems**

- Serious breach of the board's/school's Internet Policy eg accessing internet sites containing pornographic material.
- Misuse of social media.
- Loss of confidential or sensitive data through negligence.
- Loss of expensive equipment through negligence.

### **Conduct Outside of Work**

- Criminal offences and other conduct outside employment which would prevent an employee from continuing to do his/her job or which affects his/her suitability to perform his/her work, makes him/her liable to be unacceptable to other employees or management, or is liable to damage the board's/school's business.

*Again this list is neither exclusive nor exhaustive, and in addition there may be other offences of a similar gravity, which would constitute gross misconduct.*