

Scotmid



DISCIPLINARY POLICY

Policy Number 6
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It is the policy of the Society to have a reasonable expectation of its employees to maintain acceptable standards of conduct and job performance, in the course of their employment with the business. These standards of conduct or performance may be explicit or implied. For the avoidance of doubt, wherever possible, the Society will set out the required standards of conduct or job performance.

Where there is a breach of standards of conduct or performance it is a reasonable expectation that the Society will apply informal or formal procedures to correct such a breach. The Society shall develop and keep up to date procedures, and will ensure that all employees involved in handling disciplinary matters are fully aware of these procedures and receive appropriate related development. It is also the Society's expectation that this policy will be applied in accordance with its policies on equality and diversity.

Where sub-standard performance is found to be due to negligence or lack of application on the part of the employee, then the Disciplinary Procedure will normally be appropriate. However, issues of an employee's capability may arise from time to time where sub-standard performance relates to a lack of the required knowledge, skills or ability rather than misconduct

The Society reserves the right to amend this policy from time to time. Such amendments may be notified to employees. The policy will be maintained on the People & Performance SharePoint site.

Scope of Policy

The Disciplinary Policy and Procedures apply to all employees of the Society who are in full or part-time employment, on permanent, fixed term interim or temporary contracts of employment. The Society reserves the right to apply modified procedures during any probationary period.

Disciplinary Offences - Conduct

The Society shall regard the following as matters potentially justifying the instituting of disciplinary procedures against an employee:

1. breach of any legal requirements placed upon him/her by virtue of his employment with the Society;
2. breach of any organisational policies, rules and regulations adopted by the Society;
3. negligence;
4. failure to disclose any situation which may be a potential conflict of interest, for example, professional, personal, financial or employment related;
5. infringement of Occupational Health and Safety policies, rules or procedures;
6. infringement of data protection policies, rules or procedures;
7. insubordination;
8. failure to reach adequate or acceptable standards of performance;
9. negligent damage to property of the Society;

10. bullying, harassment or offensive behaviour, either physical, verbal or psychological;
11. incapacity due to alcohol or the misuse of drugs;
12. unauthorised absence, or unacceptable attendance or punctuality;
13. unauthorised use of or unauthorised removal of Society property;
14. obstruction or attempted obstruction of others in the performance of their duties to the Society;
15. abuse of any statutory or other leave, including for example parental leave or sick leave;
16. breach of any Society policy on computer use or misuse, including IT security, which may be approved from time to time, in relation to the use of all electronic communication methods;
17. breach of any Society employment policies or procedures, e.g. Recruitment & Selection, Equality and Diversity;
18. gross misconduct as defined below;
19. any other actions or omissions bringing the Society into disrepute.

The above list is not exhaustive and is illustrative only of the types of matters justifying the application of disciplinary procedures. Each disciplinary offence, if sufficiently serious, could be regarded as gross misconduct.

Any policies, rules or procedures can be obtained from SharePoint.

Gross Misconduct

The following is a list of actions which, in addition to potentially being included in the Disciplinary Offences above, could be regarded as gross misconduct and could ultimately lead to dismissal. This list is purely illustrative and is not exhaustive of the type of action which would amount to gross misconduct:

1. unauthorised disclosure of information;
2. gross negligence;
3. theft, embezzlement or fraudulent conversion;
4. misuse of Society discount scheme;
5. taking or consuming goods without payment
6. acts or threats of physical violence towards other employees, or other persons performing duties or services for the Society or towards any other person who is lawfully upon Society premises;
7. Use of inappropriate language, actions etc which would have a negative effect on standard of customer service
8. theft of, or wilful damage to, property of the Society;
9. internet and e-mail abuse, e.g. visiting and downloading pornographic material, downloading of MP3 music files for personal use or sending of "flame-mail";
10. wilful provision of inaccurate or misleading information in the initial application for employment which would have influenced the employment decision;
11. serious infringement of the health or safety regulations of the Society;
12. serious breach of the Data Protection Regulations of the Society;
13. wilful damage to property of the Society;

14. serious bullying or harassment;
15. repeated or serious cases of incapacity due to alcohol or misuse of drugs;
16. serious breach of any Society policy on computer or communication facilities use or misuse;
17. any act or omission that amounts to the repudiation of the contract of employment.

Roles & Responsibilities

A brief overview of the roles and responsibilities of those involved in the various stages of the investigation and disciplinary procedure:-

Line Manager

When an alleged breach of discipline has been identified the Line Manager, provided they can be impartial and/or are not implicated in the alleged offence, in consultation with the People & Performance Department will make the decision on an appropriate person to carry out the investigation. In certain circumstances they may carry out the investigation.

Investigating Manager

The Investigating Manager will normally be more senior or may be from a different sector of the business to the employee under investigation (the Investigating Manager will normally be accompanied by a Society representative to take accurate notes of the meeting). Their role is to gather the facts surrounding the alleged breach of discipline and produce a written report.

Profit Protection Manager

The Profit Protection Manager will normally be informed of cases regarding alleged cash loss, theft or fraud. Depending on the severity of the alleged offence they will offer support & guidance to the Investigating Manager or may carry out the investigation if the case is complex or involved. On completing their investigation they will submit a written report.

People & Performance Consultant

A People & Performance Consultant will provide advice and guidance either by phone, e-mail or in person throughout the investigation and disciplinary process to all individuals involved, however People & Performance attendance is not required at hearings. On occasion a member of the People & Performance team may be involved in chairing stages of the process, or may attend as the Society's witness and notetaker.

Disciplining Manager

The Disciplining Manager will be more senior to the employee or from a different sector of the business and will not have been directly involved in the investigation. They will review the investigation report and consider the allegations made against the employee. On the evidence they have and following the hearing with the employee they will make a decision on the appropriate action to take.

Appeal Officer

The Appeal Officer will normally be more senior to the Disciplining Manager or may be from a different sector of the business. They will review the evidence from the disciplinary hearing and any new evidence put forward by the employee. Following the appeal meeting they will either decide to uphold the original decision or take another course of action.

Employee Representatives

Only Trade Union officials or work colleagues (not involved in the case at hand) may attend disciplinary hearings as Employee Representatives. They are permitted to participate at the meetings by supporting the employee and assisting in putting forward the employee's case but cannot answer any questions directly put to the employee.

Employee Representatives may be requested to provide proof of identity.

Process

Initial Reporting of an Alleged Breach of Discipline

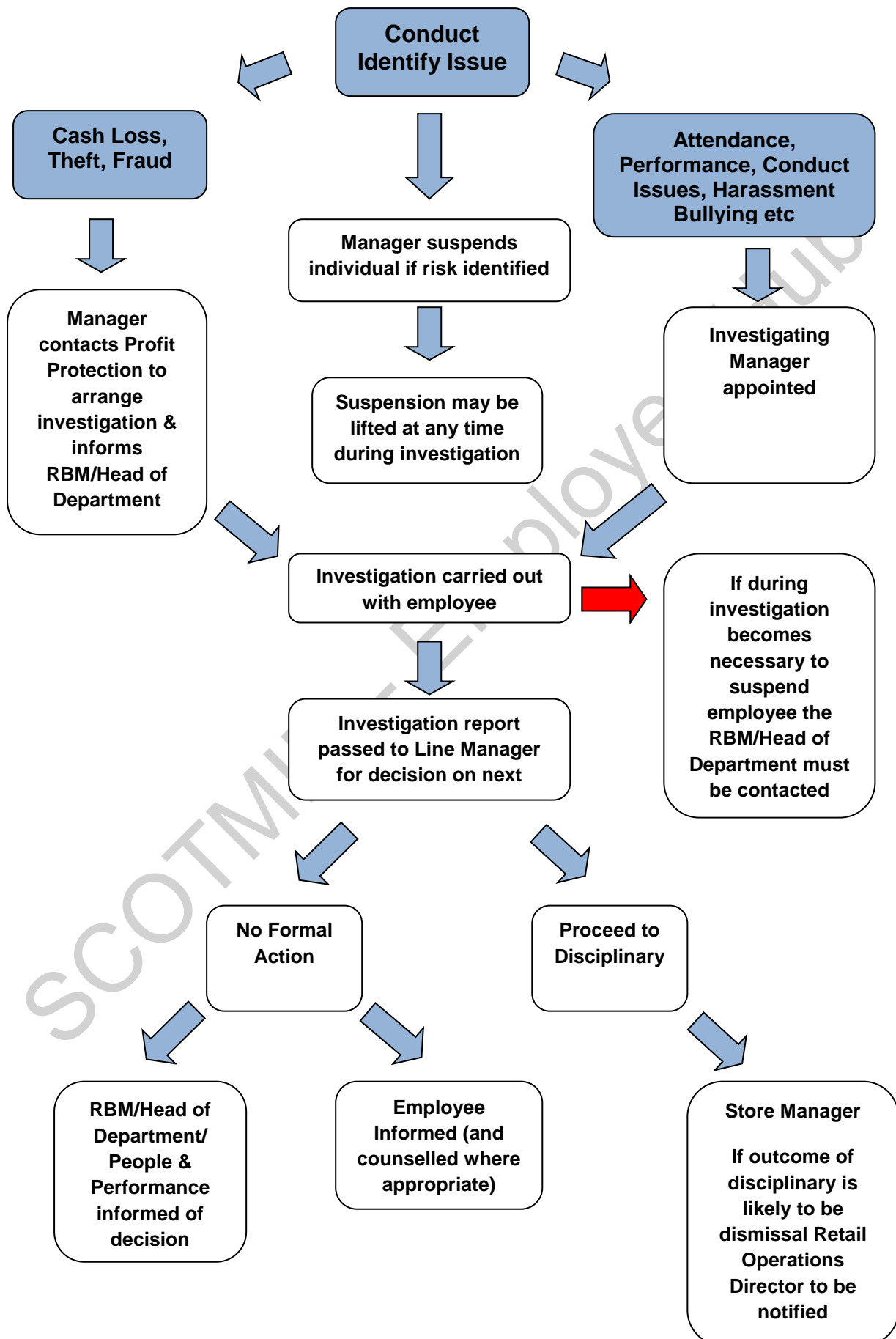
Any alleged breach of discipline should normally be referred to the appropriate Line Manager, Regional Business Manager or Head of Department as soon as reasonably practicable.

The manager shall then make the decision that:

- a. he/she has the authority to deal with the alleged breach and is not otherwise disqualified from doing so; or
- b. the actions may constitute gross misconduct, and therefore will require to be referred to a more Senior Manager.

Please see following process flow chart for further information on who will normally be the investigating manager.

Investigation Guidelines



Suspension During/After an Investigation

An employee may be suspended on full pay, either before, during or following an investigation, where it is believed that this course of action would be in the best interest of the Society and/or employees involved, having regard to the circumstances of the particular allegations or complaints. For Food & Semichem stores the decision to suspend will be made by the RBM or in instances when an RBM is not available the decision will escalate to the next level of management. For other areas of the business the Line Manager/Head of Department will normally make this decision.

Where the Investigating Manager/Profit Protection Manager is unable to make contact with the RBM/next level of authority within a reasonable timescale then they may suspend and communicate the decision at the earliest opportunity.

In instances where the Investigating Manager/Profit Protection Manager recommends suspension and the Line Manager/Head of Department/RBM opts to go against this advice, then the decision must be escalated to the next level of management.

Suspension itself is not a disciplinary sanction and does not imply pre-judgement.

Circumstances where suspension may take place include:-

- cases involving gross misconduct;
- where it is necessary to enable a full investigation to be carried out, and where that investigation may be compromised by the employee continuing to be at work;
- where the employee is a risk to other employees or Society property, or is at risk himself;
- where there are reasonable grounds to believe that the employee will repeat the offence;
- cases involving fraud or cash loss.

During periods of suspension employee should not attend his or her place of work, other than for the purpose of attending disciplinary proceedings, including investigatory interviews. The employee shall not contact any other employees, suppliers or customers of the Society, except the employee's companion, without the Society's consent. Employees will be asked to handover any keys and security passes whilst suspended.

The period of suspension should be reviewed on a regular basis to ensure that it is not unnecessarily protracted. The reason for the initial decision to suspend and details of any subsequent review should be recorded.

Investigation

An investigation will take place, which should be undertaken, where possible, by someone not directly involved in the allegation(s). The choice of investigator should

be made by the Line Manager in consultation with the People & Performance Department. In cases involving suspected cash loss, fraud or theft or where other criminal activity is suspected or where there are known issues of impartiality the Profit Protection Team will support the Investigating Manager or will make the decision to carry out the investigation if the case is complex or involved.

Documents such as operational rules, policies, timesheets or personnel records may be examined during an investigation. During the course of the investigation, all information shall normally be accessible only to the investigator. Investigations may also involve a search of the employee's person and/or property.

The investigating manager will submit a written report and/or statements to the Line Manger. The Line Manager must then decide whether to:

- take no further action;
- arrange informal coaching or counselling; or
- arrange for a formal disciplinary meeting to take place under the disciplinary procedure.

When the initial investigation is complete the Investigating Manager/Profit Protection Manager will make a recommendation on whether suspension pending further investigation and/or a disciplinary hearing is appropriate course of action.

The employee is under a duty to give statements and co-operate with the investigation. Where an investigatory meeting is held solely to establish the facts of a case, it should be made clear to the employee involved that it is not a disciplinary meeting. An investigatory meeting does not attract the right to be accompanied. Should the employee request to be accompanied this will normally be permitted provided that it does not prevent the prompt gathering of facts.

Statement of grounds for action and invitation to meeting

If a disciplinary meeting is to be convened, then the employee should be notified in writing, stating:

- the nature of the employee's alleged conduct or characteristics, or other circumstances, which lead the Society to contemplate dismissing or taking disciplinary action against the employee;
- the basis on which the allegation(s) may amount to misconduct or gross misconduct;
- the witnesses that may be called, if any;
- that the employee has a right to be accompanied by a single companion who may be a work colleague, or a trade union official.

The documents to be referred to at the meeting will be sent to the employee and will normally include: a copy of this policy, a copy of the investigator's written report, any witness statements, and any other relevant documentation.

Where witness statements are to be provided then the Society will, where requested and possible, anonymise to keep the identity of witnesses confidential. However it

may not be possible to do this in every case, for example if there is only one witness or situational information makes it difficult to conceal the witnesses' identity. Additionally any retribution received by a witness as a result of this process could result in further disciplinary action for those involved.

Prior to the meeting the employee should similarly provide:

- the name and status of his/her companion, if any;
- any documents he/she may wish to rely on at the meeting.

The employee must have a reasonable opportunity to consider his/her response to the allegations. The meeting should normally be convened not earlier than 3 working days and not later than 10 working days from the date of the written invitation. Where possible, the timing and location of the meeting can be agreed with the employee prior to the written invitation being sent.

The Disciplinary Meeting

The purpose of the meeting is to present formally to the employee the results of the investigation of the alleged breach of discipline, and to allow him/her to answer any allegations or complaints.

The employee must take all reasonable steps to attend the meeting.

A member of the People & Performance team will be available to the manager hearing the case throughout the meeting. Their role is:

- to provide advice and guidance on the policy and procedure in practice;
- to assist the manager in understanding the current state of case law and good practice as it might affect the particular case;
- to assist the manager in assessing the degree of seriousness with which the offence or complaint should be treated, especially in respect of any sanction to be applied;
- to ensure that any mitigating circumstances – including the employee's disciplinary and general record - are fully explored;
- to ensure that all the relevant matters are considered before a decision is reached;

Not every meeting will be conducted in exactly the same way and will depend on the particular circumstances and nature of the allegations. However the procedure to be followed at the meeting shall normally be as follows:-

- The manager shall introduce those present, explain the process and indicate the witnesses, if any, who will be called.
- The manager shall then consider the allegations made against the employee and go through the evidence that has been gathered.
- The employee and/or their companion will have the opportunity to ask any questions arising from the evidence.
- The manager shall then consider any submissions or evidence (written and/or oral) from the employee against whom the allegations have been

made and/or from their companion, and this may include any mitigating factors which he wishes to present.

- The manager shall then conclude the meeting and inform the employee when and how the decision will be conveyed to him/her.

In complex or contentious cases the Investigating Manager/Profit Protection Manager may be called as an expert witness in addition to the written investigation report.

At any stage in the proceedings the manager may decide, either himself or following a request from the employee, to adjourn the meeting. If he/she adjourns to another date, he/she shall send a notice in writing to the employee normally not later than 2 working days from the date of adjournment, intimating the date, time and place of the re-arranged meeting. This date should not normally be any later than 5 working days from the date of the notice calling the re-arranged meeting.

An employee who cannot attend a meeting or an adjourned meeting should inform the manager in advance whenever possible. If the employee fails to attend through circumstances outside his control, and unforeseeable at the time the meeting was arranged (e.g. illness or family emergency), the manager should arrange another meeting. A decision may be taken in the employee's absence if he/she fails to attend the re-arranged meeting.

Decision and Disciplinary Outcomes

The manager shall write to the employee without undue delay following the disciplinary meeting, clearly stating his decision on each of the matters alleged, the penalty/penalties to be imposed, and the reasons for his decision.

There are 6 possible outcomes:-

1	Allegation Dismissed	No further action
2	Allegation Dismissed	Advice or counselling may be necessary
3	Allegation Upheld	Verbal warning (Informal Action)
4	Allegation Upheld	Written warning with or without appropriate sanctions
5	Allegation Upheld	Final written warning with or without other appropriate sanctions
6	Allegation Upheld	Dismissal

The term 'other appropriate sanctions' means a range of other measures including: demotion, job transfer, monitoring of performance, training/development intervention, issuing of a 'letter of apology'.

Types of Warnings and Time Limits

Allegations Dismissed

Following a disciplinary hearing the manager hearing the case may decide to dismiss the allegations. In this case, the employee should be informed of this outcome in writing

Verbal Warning

In the case of minor offences the employee should be given an informal verbal warning. The employee should be advised of the reason for the warning, and that it constitutes the first stage of the disciplinary procedure. A file note will be kept detailing the reason for the warning. This would normally be disregarded after 6 months.

Written Warning

If the offence is regarded as more serious, or if a further offence occurs within the currency of a prior informal warning, the employee should be given a formal written warning giving details of the complaint, the improvement required, the timescale allowed for improvement and a date for review of improvement. The warning should also inform the employee that further disciplinary action may be considered if there is no satisfactory improvement. A copy of the written warning will be kept on the individual's employee record but will be disregarded after 9 months.

Final Written Warning

Where there is a failure to improve during the currency of a prior warning, or where the offence is sufficiently serious the employee should normally be given a final written warning. This should give details of the complaint, and advise the employee that failure to improve may ultimately lead to dismissal or to some other action short of dismissal. A copy of the final written warning will be kept on the individual's employee record but will be disregarded after 12 months.

There may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding how long any new warning should last. Exceptionally therefore the time-scale which applies to a warning may be longer than specified and/or earlier 'spent' warnings may be taken account of in deciding the level of any sanction. A 'spent' warning may be relevant in later disciplinary proceedings in relation to issues such as credibility and the level of sanction reasonably to be imposed.

Dismissal

If the employee's conduct or performance still fails to improve, further offences are committed or an act constituting gross misconduct occurs, the first and/or final step might be dismissal. The decision to dismiss should only be taken by an RBM, Department Manager or other appropriate Manager. The employee should be informed as soon as reasonably practicable of the reasons for the dismissal, the date on which employment will terminate, the appropriate period of notice (or pay in lieu of notice) and information on the right of appeal including how to make the appeal and to whom. All employees have the right to a written statement of particulars of the reason(s) for dismissal.

The Society has the right to summarily dismiss an employee or to dismiss with notice and to determine whether the period of notice should be worked or paid in lieu, in whole or in part. Normally summary dismissal relates to Gross Misconduct and the right to notice or pay in lieu of notice does not arise.

Authority for Action.

Verbal Warning (Informal Action) – the employee is warned by their immediate Supervisor/Manager. No need for prior consultation with a People & Performance Consultant but People & Performance must be informed of the warning being issued.

Written Warning – the employee is warned by their immediate Supervisor/Manager. There is a requirement to consult with a People & Performance Consultant of this intention in advance.

Final Written Warning – the employee is warned by their Manager, RBM, Department Manager or other appropriate Manager (such as a senior store manager or People & Performance Consultant). There is a requirement to consult People & Performance regarding the intention and seek guidance before implementation.

Dismissal – the employee is advised of their dismissal by their RBM, Department Manager or other appropriate Manager (such as a senior store manager or People & Performance Consultant). There is a requirement to consult People & Performance regarding the intention and seek guidance before implementation.

Summary Dismissal - the employee is advised of their dismissal by their RBM, Department Manager or other appropriate Manager (such as a senior store manager or People & Performance Consultant). There is a requirement to consult People & Performance regarding the intention and seek guidance before implementation.

Appeal

The right to appeal applies to all stages of the Society's disciplinary procedure. If an employee decides to exercise this right at any stage, he must request an appeal meeting in writing within 7 working days of the date of receipt of the decision from the first meeting. Contact details will be included in the letter confirming the level of action that has been taken.

The employee should specify in writing the grounds on which he/she is appealing.

This may be because:

- he/she thinks a finding or penalty is unfair or inconsistent;
- bias of the disciplining manager
- new evidence comes to light; or
- he/she thinks the disciplinary procedure was not used correctly.

The person who is to hear the appeal will normally be more senior to the disciplining manager or may be from a different department and is hereafter referred to as the Appeal Officer.

Normally within 7 working days of receiving the letter of appeal, the Appeal Officer will give the employee notice in writing calling an appeal meeting. The employee shall be entitled to at least five days prior notice of the date of the appeal meeting.

The employee must take all reasonable steps to attend the meeting.

The Appeal Officer shall form his/her conclusions and these can be, for example, to:

- uphold the decision of the disciplinary hearing, in whole or in part;
- reduce/increase the level of warning
- in the case of dismissal, overturn the decision to dismiss with or without substituting warning
- dismiss the case and remove any warning previously given.

There may be other decisions which may be reasonable in the circumstances.

The Appeal Officer shall write to the employee as soon as reasonably possible following the appeal meeting with his/her decision, clearly stating the outcome and the reasons for this decision. Where this is likely to extend beyond five working days from the appeal meeting, the Appeal Officer shall inform the employee of the delay, the reasons for the delay and the expected date for the decision. Where the Appeal Officer has decided to dismiss or reduce the level of warning, he/she shall state in the letter that details of the original warning shall be removed from the individual's employee record.

This is the final stage in the appeal procedure and the Appeal Officer's decision is final.

Grievances raised during the Disciplinary process

In the course of a disciplinary process, an employee might raise a grievance that is related to the case. The statutory procedures in relation to this situation are complex and the procedure to be followed will primarily depend on whether the action taken or contemplated by the manager is dismissal or action short of dismissal (but excluding warnings or paid suspension). Normally any grievance will be dealt with at an appeal meeting under the Disciplinary Procedure except where the grievance relates to the person chairing the hearing. In those circumstances another manager will deal with the grievance first and, unless the grievance is upheld, the original manager can then resume the disciplinary procedure. Advice will be given by the People & Performance Department.

The grievance procedure should not be used for appeals against disciplinary decisions. That is the purpose of the disciplinary appeals procedure. If, however, the employee has a complaint against the behaviour of a manager during the course of a disciplinary case, they may raise it as a grievance with a senior manager. If necessary, the disciplinary procedure may be suspended for a short period until the

grievance can be considered. Another manager may be brought in to deal with the disciplinary case.

A Grievance raised not related to the case at hand will be heard in tandem or after conclusion of the disciplinary process.

Right to be Accompanied

Employees have a statutory right to be accompanied at disciplinary meetings that could result in:

- a formal warning being issued to the employee;
- the taking of some other disciplinary action (such as suspension without pay, demotion or dismissal);
- the confirmation of a warning or some other disciplinary action (such as an appeal meeting).

This includes any meetings held after the employee has left employment.

Informal discussions or counselling sessions do not attract the right to be accompanied unless they could result in formal warnings or other actions. Meetings to investigate an issue are not disciplinary meetings.

Whether a request for a companion is reasonable will depend on the circumstances of the individual case. When the employee is choosing a companion, he should bear in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest.

The companion may be:

- a work colleague; or
- an official employed by a trade union or a lay trade union official

Colleagues or trade union officials do not have to accept a request to accompany an employee, and they should not be pressurised to do so.

If the companion cannot attend on a proposed date, the employee can offer an alternative time and date so long as it is reasonable and it is not more than five working days after the original date.

Before the meeting takes place, the employee should tell the manager who they have chosen as a companion.

The companion may address the meeting in order to:

- put the employee's case;
- sum up that case;
- respond on the employee's behalf to any view expressed in the meeting.

The companion can also confer with the employee during the meeting but has no right to:

- answer questions on the employee's behalf;
- address the meeting if the employee does not wish it;
- prevent the Society's representatives from explaining their case;
- prevent any other person at the meeting from making his contribution to it.

Record Keeping

It is important, and in the interests of both the Society and the employee to keep written records during the disciplinary process. Records should be treated as confidential and held in accordance with the Data Protection Act 1998. Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken.

Absence Following Notification of Pending Investigation or Disciplinary Meeting

Where an employee is absent due to sickness following notification of a potential investigatory or disciplinary meeting, the Society will, on a case by case basis, and after investigation of the reason for illness, have the option to withhold Company Sick Pay.