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Employment Principles

1.1 Disciplinary Policy (NJC Employees)

This section covers:

- Who does this cover?
- What is the policy?
- The informal procedure
- The formal procedure
- Disciplinary offences
- Record Keeping
- The Disciplinary process
- Authority levels
- Suspension
- Appeals

Who does this cover?

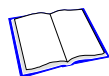
This policy covers all established and non-established NJC employees including seasonal, casual and temporary posts.

What is the policy?

This policy is designed to help and encourage all NJC employees to achieve and maintain standards of conduct. The aim is to ensure consistent and fair treatment for all.

There are separate procedural guidelines that must be referred to and followed by HR and line management before starting disciplinary proceedings.

There is a separate policy and procedural guidelines on Performance Improvement and these should be used for performance issues.



Section 3.1 *Performance Improvement*

The informal procedure

What will happen if my conduct is not considered acceptable?

Depending on the nature of the problem, we can normally deal with it at first through a coaching and counselling interview. This will enable us to outline shortcomings, understand the issues, offer guidance and discuss how required improvements must be achieved. Your line manager will investigate the situation to establish the facts. These actions are informal. They are not part of the formal disciplinary procedure and should not be treated as a shortcut to Stage 1 of the formal procedure.

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What will happen if my conduct is not considered acceptable (cont.)

If the required improvements are not maintained, or the problem is more serious, then the formal procedure will apply at the appropriate stage.

The formal procedure

What will happen if the formal procedure is to be followed?

No disciplinary action will be taken until the allegations have been fully investigated. Any initial investigations do not form part of the formal disciplinary procedure.

Who will conduct the investigation?

Typically your line manager, who should quickly establish the facts and keep a record for later reference, will conduct the investigation. However, there may be occasions when your Head of Section or HR Manager or someone else may be required to conduct the investigation.

What will the investigation include?

It will include a meeting with you, unless there are exceptional circumstances.

Some of the other actions taken may include interviews with colleagues, looking at computer or manual records, taking statements or scrutinising signatures.

What happens if I am a Union representative?

Normal disciplinary standards apply, but the Authority will ensure that a full time union representative will be involved in the case.

What happens when misconduct occurs outside of my normal place of work?

Misconduct outside your workplace, where there is a direct bearing upon the Authority's operation or reputation, will also render you liable to disciplinary proceedings. The main consideration will be whether the offence has any relation to you as an employee and whether the offence is one that, in the circumstances, makes you unsuitable for your work or unacceptable to the general public and/or other employees.

Will I be told what complaint has been made about me?

You will always be given full details of the nature of the complaint against you and will be given the opportunity to state your case before any decision is made.

You and (if appropriate) your representative will have all relevant information provided to you in good time prior to the start of the hearing.

At what stage will the formal procedure begin?

The procedure may be started at any stage if your alleged misconduct warrants such action.

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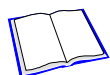
Will I be given notice of the hearing?

You will be given reasonable written notice, **not less than seven working days** (unless mutually agreed otherwise), that a disciplinary hearing has been scheduled and the reason for the hearing to enable you to prepare and, if required to arrange for representation. The letter will also contain witness statements and documentary evidence that will be referred to at the hearing, though for Data Protection reasons, witness names may be removed. A copy of the Authority's disciplinary policy will be enclosed for your information.

You have the right to have the hearing rescheduled by up to **five working days** (unless mutually agreed otherwise) if your representative cannot make the original date.

Can I have representation?

At all formal stages you have the right to be accompanied by a fellow worker or trade union official. Employees are free to choose an official from any trade union to accompany them regardless of whether the union is recognised or not.



Section *** Trade Unions

What happens if I cannot attend due to sickness?

If you are unable to attend due to sickness the hearing will be adjourned to another day.

Unless there are special mitigating circumstances, if you cannot attend the rearranged hearing it may take place in your absence. You may also make a written submission in such circumstances.

Will a representative from HR be present at the hearing?

A nominated HR representative or if unavailable a Head of Department will be present at all formal disciplinary meetings. Their role is to provide advice and guidance to the line manager and to make sure the procedure is followed and all the relevant information is obtained to help the hearer make an informed decision.

Will there be any minutes from the hearing?

Agreed minutes will be produced from all disciplinary hearings.

Will the decision be confirmed in writing?

A letter confirming the decision of the hearing will be sent to you **within seven working days** of the date of the hearing.

Could I be dismissed?

Breaches of conduct will be dealt with in accordance with the prescribed stages of the policy, with dismissal only resulting from the final stage or as a possible consequence of an act of Gross Misconduct.

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Can I appeal?

You have the right of appeal against any disciplinary decision **within seven working days** of the date of the written decision of the hearing. See section on *Appeals*.

Disciplinary offences

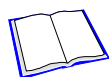
What unacceptable standards of conduct and behaviour will justify disciplinary proceedings?

Examples of breaches of the Authority's standards of conduct and behaviour that justify disciplinary proceedings are set out below.

This list is not exhaustive and the procedure will be started at the appropriate level on consideration of the seriousness of the offence, or where it reflects a continuing pattern of misconduct.

Examples of disciplinary offences

Minor Misconduct	Misconduct	Gross Misconduct
<p>Failure to carry out duties and tasks considered appropriate and reasonable for the job concerned.</p> <p>Persistent lateness</p> <p>Unauthorised absence</p> <p>Breach of operational practices.</p>	<p>Refusal or failure to carry out a legitimate management instruction.</p> <p>Persistent unauthorised absence</p> <p>Negligence or behaviour likely to cause offence to other employees or the general public</p> <p>Breach of the Authority's approved policies, rules, standards and procedures.</p> <p>Conduct likely to bring the Authority's name into disrepute.</p> <p>Misuse of Authority facilities (e.g. mobile phones, e-mail and internet facilities)</p>	<p>Dishonesty, theft or fraud.</p> <p>Misuse of confidential information</p> <p>Violent, threatening or abusive behaviour inside or outside the Authority.</p> <p>Flagrant disregard of the Authority's policies, rules, standards and practices.</p> <p>Harassment, bullying or victimisation.</p> <p>Direct or indirect discrimination or harassment on the grounds of race, sex, disability, religious beliefs or sexual orientation.</p> <p>Serious incapability through alcohol or being under the influence of illegal drugs.</p> <p>Serious negligence that causes unacceptable loss, damage or injury.</p> <p>Gross insubordination</p> <p>Persistently committing offences of a less serious nature for which formal warnings have already been given.</p> <p>Serious conduct likely to bring the Authority's name into disrepute.</p>



Section 6.1 *IT Policy* for further details of IT related issues.

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Record Keeping

Will the Authority keep records?

The Authority will record any informal and formal disciplinary action taken against you.

How long will the records be kept?

Informal warnings will remain “live” for six months.

Stage 1: First written warnings will remain “live” for up to twelve months.

Stage 2 & 3: Final written Formal Warnings will remain “live” for twelve months.

In cases where a **Formal Written warning** is given, a record will be retained in your personnel file for a **maximum period of ten years** and you will be advised of this. Other warnings will cease to be “live” following these specified periods and will be disregarded for future disciplinary purposes subject to the following exceptions:

- Unless stated to the contrary when the warning was given because of the circumstances of the case.
- Where your conduct is satisfactory throughout the period that the warning is “live”, only to lapse soon afterwards. Where a pattern emerges and there is evidence of abuse, your disciplinary record should be borne in mind in deciding how long any proposed warning should last.

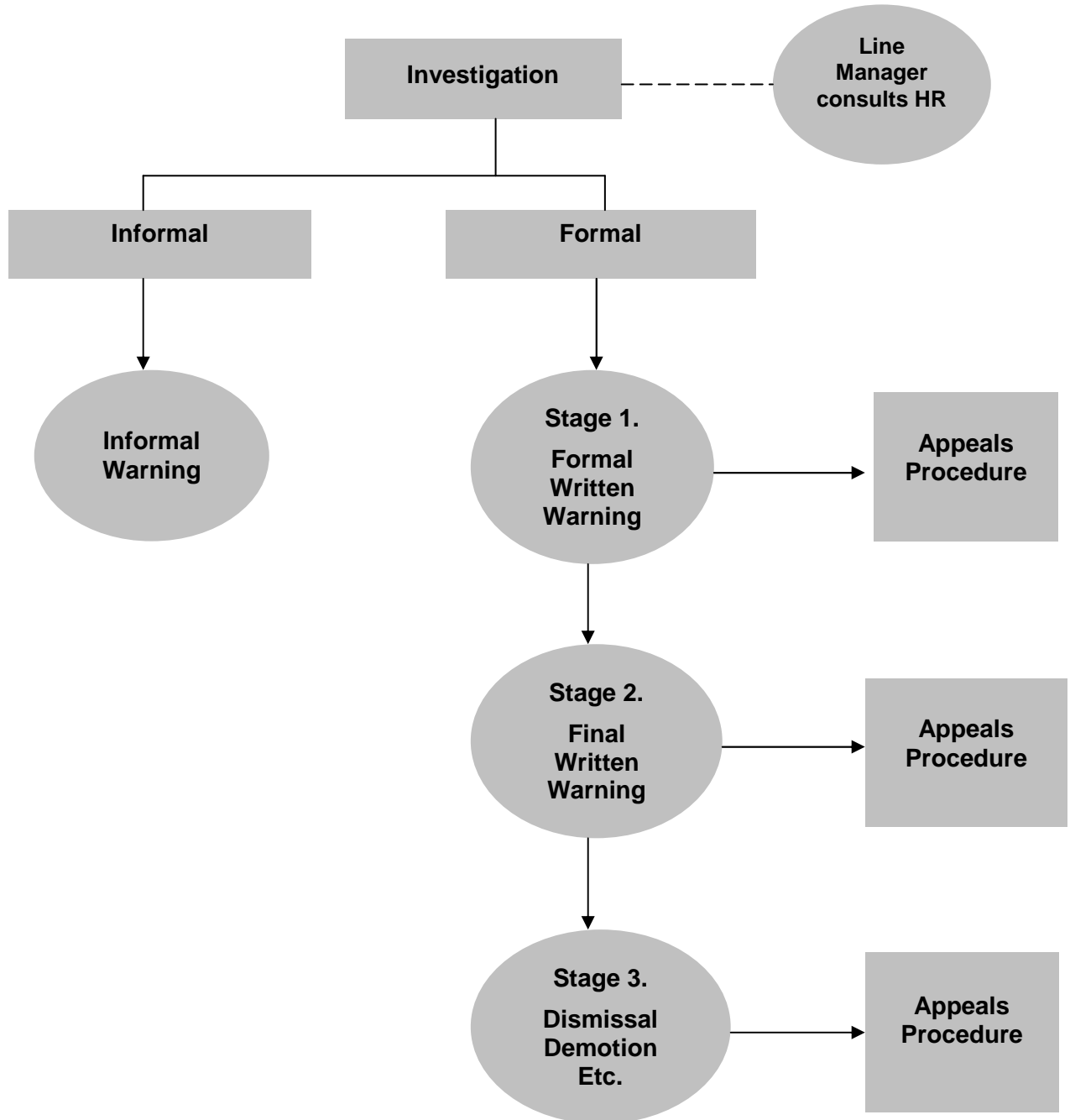
What happens if allegations are unsubstantiated?

Where allegations are unsubstantiated following a hearing all references to the allegations will be removed from your file.

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The Disciplinary process



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Authority levels

Stage	Disciplinary Panel	Penalty Options	Appeal Authority
Informal	Line Manager	Informal warning	See next section
Formal Stage 1	Line Manager & HR Representative	First written warning	See next section
Stage 2	Line Manager & HR Representative	Final written warning	See next section
Stage 3. Repeated Misconduct or Gross Misconduct	Head of Section & HR Representative Sanctions such as dismissal, demotion or loss of seniority or loss of increment must be agreed by the Chief Executive before the hearing is reconvened.	<ul style="list-style-type: none"> • Dismissal (with or without notice). • Downgrading • Loss of increment 	See next section

Unless you are being dismissed for reasons of Gross Misconduct, you should receive the appropriate period of notice of payment in lieu of notice.

In very exceptional cases, the Disciplinary Panel may choose to issue a **second Final Written Warning, or extend an existing Final Written warning** after agreement with the Chief Executive or nominated officer in the Chief Executive's absence.

Gross Misconduct is generally seen as misconduct serious enough to destroy the employment contract between the employer and the employee and make any further working relationship and trust impossible. In these cases notice **will not** normally be given.

What level of HR representative will be present at the hearing?

A nominated HR representative or if unavailable a Head of Department will be present at all Formal disciplinary hearings. The HR Manager will be present for all Stage 2 & 3 hearings.

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Who is the appeal authority?

Appeal hearings should be heard by a manager of the same band or higher, but from a different department than the individual taking the disciplinary action. The hearer should have no prior involvement in the case, and a nominated HR representative should also be present. An HR representative may not take part in an appeal where they have previously been involved in the disciplinary hearing.

Suspension

When will suspension be considered?

Suspension should only be considered where it is felt that your presence could prejudice the work situation or hamper investigations, or where the relative seriousness of the alleged offence makes it appropriate to do so. During suspension, you will be expected to co-operate fully with any investigation, including attendance at interviews. If you are under suspension, you are not precluded from taking holidays although you should confirm through your line manager that you are not required for interview during the period for which you intend to be away. Pre-booked holidays will be honoured.

What happens in cases of Gross Misconduct?

In cases of alleged Gross Misconduct you will normally be suspended immediately on full pay pending investigation of the matter. **Authority for suspension will rest with Heads of Department after consultation with the Chief Executive or if unavailable an officer with delegated authority.** The decision to suspend will be confirmed in writing within 48 hours and such written confirmation will confirm that the nature of the suspension is precautionary, not disciplinary, pending the outcome of the investigation.

Appeals

Do I have the right to appeal?

At all stages of the procedure you have the right to appeal to a member of management not previously involved in the case. The appeal should be heard by a manager (Reviewer) in a different department, of the same grade or higher than the individual taking the disciplinary action. Variations to this should only be agreed exceptionally.

An appeal is to re-examine the correctness of the decision and the procedure that was followed. It exceptionally allows for any new evidence to be considered.

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How do I instigate and appeal?

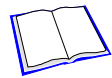
To instigate an appeal, you should submit a written request **within seven working days** of the date of the written decision of the hearing, for the case to be reviewed. The appeal should indicate the grounds upon which it is made, and give details of representation (as required).

When will the appeal be held?

The reviewer will investigate the circumstances and will hold a formal hearing with you whenever possible **within 28 days** of receipt of the request. After reviewing the case, taking into account any extenuating circumstances and/or additional evidence, and allowing you to comment on it, the decision will be advised as soon as possible and in all circumstances a written confirmation will be given **within a further seven days**.

Am I entitled to representation?

You have the right to be accompanied by a fellow worker or trade union official at all formal stages of the procedure. Employees are free to choose an official from any trade union to accompany them regardless of whether the union is recognised or not.



Section **** *Trade Unions*

Can the appeal decision be changed?

Decisions made as a result of an appeal hearing will be final and binding.