



Companies House
— for the record —

people, procurement and property

Disciplinary Policy

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2. Guide to the Disciplinary Policy

The Department (BIS) expects high standards of conduct from all members of staff. The aim of the disciplinary policy is to improve the conduct of individuals within the Department.

○ Principles

The following principles underpin BIS's disciplinary procedure:

- **Confidential** - As far as possible any disciplinary proceedings will be kept confidential.
- **Transparent** – Anyone who is accused of a disciplinary offence will be kept informed at all stages of what is going on.
- **Timely** - The aim is to complete the disciplinary process as quickly as possible.
- **Fair** – Every effort will be made to be objective at all stages of the process.
- **Proportionate** – The penalties imposed will reflect the seriousness of the offence committed. However, where there are outstanding warnings the cumulative effect of more than one offence will be taken into account in deciding what penalty is appropriate.

○ Scope

This procedure applies to anyone who is an employee of Companies House. It does not apply to those who do not have a contract of employment with Companies House.

Although disciplinary standards apply to civil servants who are trade union representatives, normally no disciplinary penalty will be imposed on a trade union representative until the circumstances of the case have been discussed with a senior representative or full time official of the union.

It will be followed whenever there is a suspected breach of Companies House rules governing conduct.

The disciplinary procedure will not apply when the issue is poor performance. [Click here to access the **Managing Performance** guidance.](#)

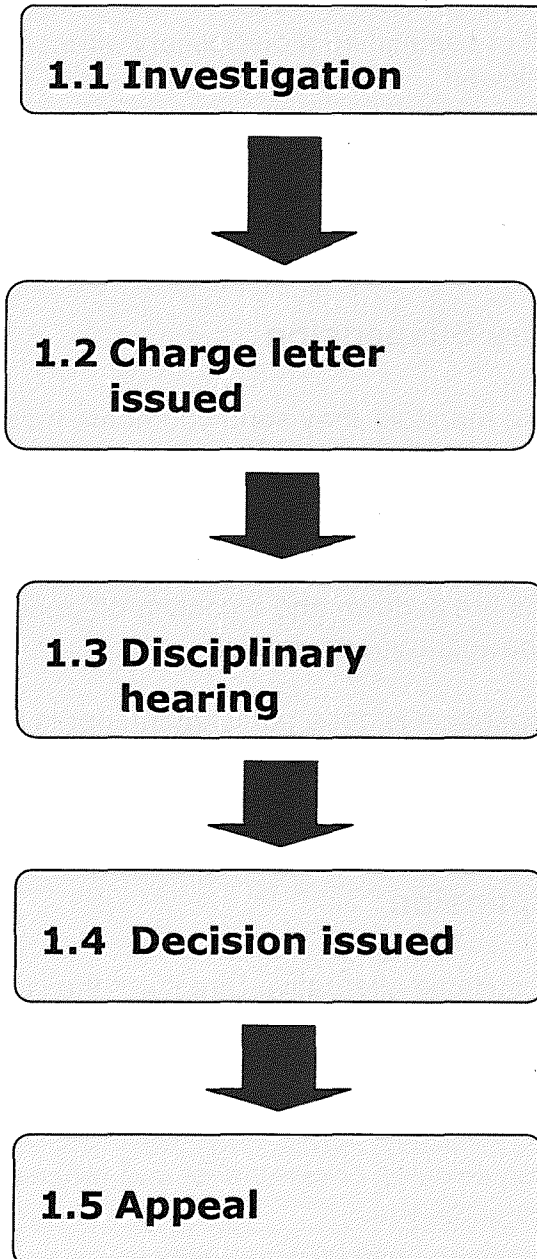
The disciplinary procedure does not apply when the issue is **genuine sick** absence. [Click here to access the **Managing Attendance** guidance.](#)

If you are not sure which procedure to follow then you can get advice from a HR Advisor.

This disciplinary procedure supersedes the previous disciplinary procedure which is contained in The Guide

- **Disciplinary Procedure**

The disciplinary procedure has the following stages:



3. Discipline Guidance for Individuals

This guidance has been produced in accordance with the BIS Guide, and supercedes the previous policy and procedure outlined in The Guide

Limits of Authority – [Click here](#) for limits of authority for each stage of the process

The aim of the disciplinary procedure is to improve the conduct of individuals in Companies House

If you are suspected of committing a disciplinary offence then the following procedure will be followed.

A HR Advisor will be available to give information and advice throughout the process. You may wish to seek additional support from a HBCO, if appropriate, Staff Counselling or the Trade Union.

○ **Precautionary Suspension**

At any stage your line manager may send you home for a day or two if they think the circumstances make it necessary. Such circumstances will be exceptional, and they might include:

- If you persist in attending the office when obviously unwell.
- If relationships break down and a cooling-off period is required.
- If you are behaving inappropriately.

A precautionary suspension is not a punishment, nor is it a formal suspension. Your line manager will write to you to confirm the precautionary suspension, indicating the duration of the precautionary suspension.

○ **Formal Suspension**

The Head of HR (or suitable alternative Director if the Head of HR is not available) can also suspend you if:

- It is a case of suspected gross misconduct; see **Example Offence List**.
- You have been arrested or criminal or civil proceedings have been commenced against you.
- Where relationships have broken down.
- Where necessary to allow an unhindered investigation of events
- There could be a risk to person or property.
- You have been behaving in an unacceptable manner.

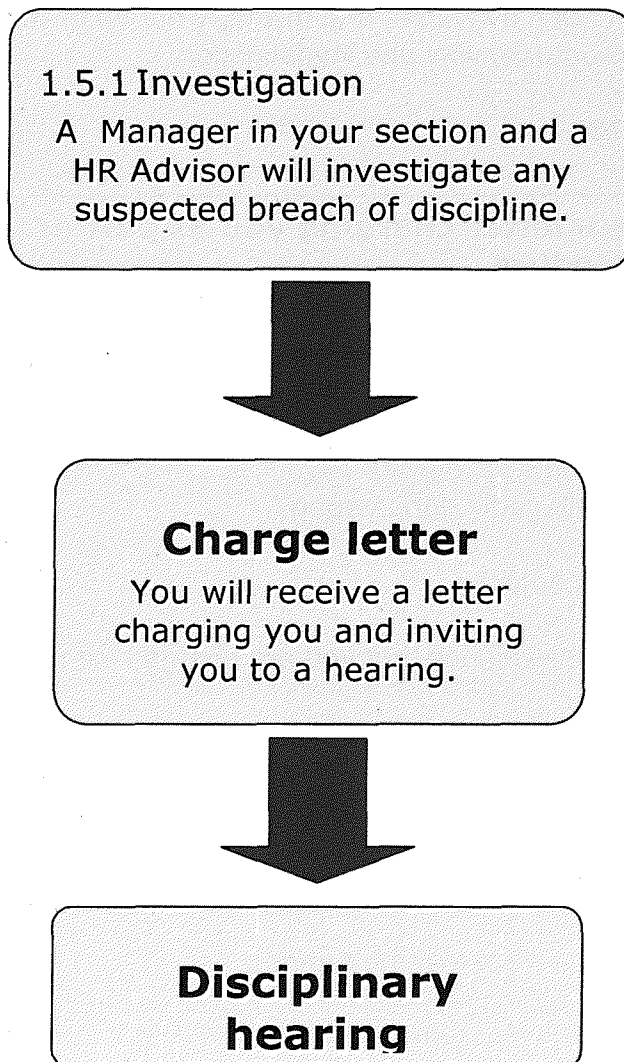
A suspension will not be automatic in these circumstances, but in cases of suspected gross misconduct the individual will often be suspended. It will only be imposed after careful consideration and will be reviewed regularly, taking into account the views of your Trade Union Representative, if appropriate, to ensure that it does not go on for too long. If it is a case of suspected gross misconduct then suspension may be appropriate until the investigation is complete. Suspension will be on full pay and you will be asked to hand in your security pass for the duration of the suspension. The terms of your suspension will be confirmed to you in writing.

A formal suspension of this nature is not a punishment. It will have no impact on the outcome of any disciplinary proceedings that may be ongoing.

A manager will keep in touch with you during the suspension.

○ **Formal Disciplinary Procedure**

The formal disciplinary procedure is as follows:



Decision

Will usually be issued, in writing, within 5 working days of the hearing.

▪ **Investigation**

The investigation will normally be conducted by a manager from your section and a HR Advisor. They will gather all of the evidence and decide whether or not you should be formally charged with an offence.

As part of the process you will be invited to attend an investigatory interview. The purpose of this interview will be to provide you with the opportunity to explain your version of events. You can be accompanied at this interview by a Trade Union representative or work colleague. At no stage in the process (either during the investigation or at a disciplinary hearing) do you have to say anything. But if you do not say anything a decision will have to be made on the basis of the information available, and this may not be in your favour. You are encouraged to co-operate with any investigation.

▪ **Charge Letter**

You will receive a letter charging you as part of the formal disciplinary procedure.

The line manager or HR Advisor will send you a letter to tell you that formal disciplinary proceedings have been commenced against you. This letter will contain the following information:

- What you have allegedly done wrong.
- Why this is unacceptable.
- A description of the offence that you are charged with.
- The possible penalties.
- An invitation to a disciplinary hearing.
- Details of the Decision Officer who will be conducting the hearing.
- The time, date and venue of the hearing.
- A reminder that you can bring someone with you to the hearing.

- A reminder that if you don't attend the hearing then the decision can be taken in your absence.
- Advising you that you / your Trade Union representative may present a written submission prior to the hearing

Attached to the letter will be copies of any documents that might be used in coming to a decision. This will include any evidence that has been collected.

You will be given **5 working days** notice of when the disciplinary hearing will be. If you cannot attend the hearing on the date offered then you can ask for the hearing to be re-arranged as long as the re-arranged time is **within 5 working days** of the time offered, and is **reasonable**.

You can bring someone with you to the hearing. This person can be a trade union representative or a fellow worker. The **Accompaniment Guidance** sets out who can act as your companion, what your companion can do, and what to do if your companion cannot attend the hearing at the specified time.

Prior to the hearing you can write to the Decision Officer setting out your case. This must be received by the Decision Officer at least 2 working days before the hearing.

The Decision Officer will not be below Band G if dismissal is a possibility.

▪ **Disciplinary Hearing**

You must attend the disciplinary hearing at the arranged time, or risk losing the opportunity to put your case.

Once a hearing time has been arranged you must attend at that time. If you do not attend you may lose the opportunity to put your case, and a decision can be taken on the evidence available.

If you become unable to attend, then you should contact the person conducting the hearing as soon as you can giving the reasons for your inability to attend. If the reason is a legitimate one then the hearing will be re-arranged. If it is not a legitimate reason, and you have missed the arranged hearing time, then you may lose the opportunity to put your case.

The people present at the hearing will be a Decision Officer, and a HR Manager, and a representative from HR who will take the notes.

At the hearing the evidence will be presented to you, and you will then have a chance to put your case. You should bring all the evidence that you may wish to rely on to the hearing. It is very important that you tell the Decision Officer

everything you know at the hearing, so they can take it into account when they make their decision.

After the hearing you will be sent a copy of the hearing notes for your records. These notes will only be a summary of the salient points to come out of the hearing. They will not be a word-by-word account. You can take your own notes of the hearing, but you cannot tape-record it.

▪ **Decision**

You will normally be sent the decision letter within 5 working days of the disciplinary hearing.

After the hearing the Decision Officer will look at all the information and decide whether you are guilty or not of the disciplinary offence charged. This decision will be made on the **balance of probabilities**. This means that, to find you guilty, the Decision Officer must consider it to be **more likely than not** that you committed the offence.

If the Decision Officer decides that an offence has been committed then they will also decide what penalty is appropriate.

The available penalties are:

1. A Formal Warning.
2. A Final Written Warning
3. Downgrading or Dismissal

The main considerations in deciding what penalty is appropriate are:

- whether the alleged offence impairs the business of Companies House, the Department or of the Civil Service;
- whether the alleged offence is incompatible with your position and responsibilities;
- whether the offence indicates that you are unsuitable for continued employment as a civil servant;
- any mitigating circumstances (including relevant personal, workplace, domestic or social circumstances);
- any explanation that you put forward;
- any precedents (similar cases in the past);
- your length of service;
- whether you have any unexpired disciplinary warnings or penalties;
- whether the action is reasonable in the circumstances.

You can find examples of the types of offences that can attract the different types of penalty in the document, **Example Offence List**. You should only be

dismissed for a first offence if it is considered to be a gross misconduct offence.

You will normally be sent a letter outlining the findings of the disciplinary process and any penalties that will be imposed, within **5 working days** of the disciplinary hearing. If it is likely to take much longer than this, the Decision Officer will let you know.

In addition to a Formal Warning or a Final Written Warning, or if a formal warning is deemed not appropriate, the Decision Officer may decide that other action may be appropriate to help you improve your conduct in the future. This might include:

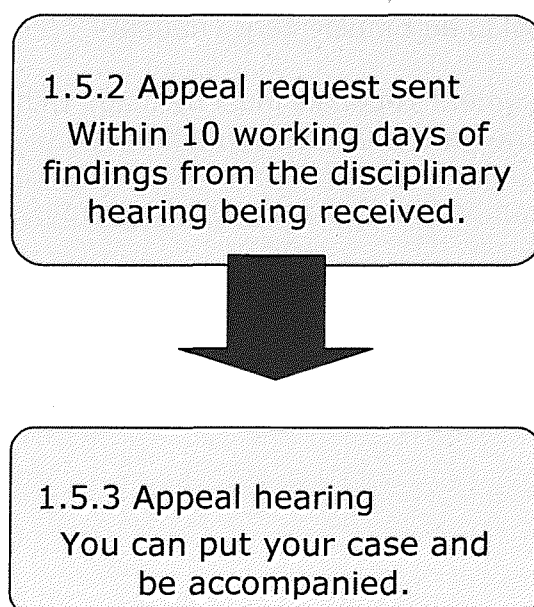
- Guidance
- Counselling
- Coaching
- Provision of training
- Advice from Staff Counselling / Occupational Health

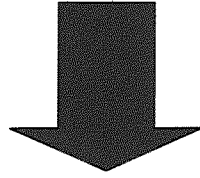
▪ **Appeal**

If you are unhappy with the decision that has been made, then you can appeal. This must be done within **10 working days** of receiving the findings from the disciplinary hearing.

If you want to appeal you need to fill out a **Written Appeal Request**, and send it to the HR Manager within 10 working days of the date of the decision letter. You should set out fully your reasons for appealing. For example you may allege a procedural irregularity, unfairness, or new evidence may have come to light. You must be very **specific** and clear about your reasons for appealing.

The appeal process runs as follows:





Decision report sent
Within 5 working days of the
appeal hearing.

The appeal will be conducted jointly by a senior manager in the line and a senior manager from Human Resources. A representative from HR will be present to take the notes. See **Limits of Authority** if the two of them are unable to agree on a decision then the senior manager from Human Resources will have the deciding say. They will invite you to an Appeal Hearing. You can bring someone with you to this hearing (for details of this right please consult the **Accompaniment Guidance**)

At the appeal hearing you will have the right to put your case as to why you think that the decision taken in the initial hearing was wrong. If you have any evidence that you wish to present then you should take it with you to the hearing.

The people conducting the appeal can overturn or vary a disciplinary decision or penalty. They will aim to send you their decision within 5 working days of the appeal hearing.

There are no further internal appeals available.

- **Further Appeals**

In cases of dismissal your Trade Union Representative may advise you of any further rights of appeal to an Employment Tribunal.

Most claims to Employment Tribunals must be made within 3 months. The 3 months begins from the date your employment ended.

Further information can be found at www.employmenttribunals.gov.uk

Belfast staff should refer to www.employmenttribunalsni.co.uk

4. Discipline Guidance for Line Managers and Decision Officers

The following guidance sets out the procedure which should be followed in any case where it is suspected that a disciplinary offence has been committed. It is important that you follow the guidance carefully.

If a disciplinary offence seems so minor that it would be disproportionate to start the formal disciplinary procedure, you have the option of simply having a conversation with the individual concerned, to let them know what they have done wrong and what the expected standards of behaviour are. A signed note should be made of this conversation and the individual made aware that failure to improve or attain the required standards may result in future formal disciplinary action being taken.

If the individual raises a **Grievance** or goes off sick at any stage during the disciplinary process you must immediately contact your HR Advisor to seek advice on what to do. If at any stage in the following procedure you are unsure what to do, you should contact your HR Advisor for advice.

○ **Precautionary Suspension**

If you are considering suspension you should contact your HR Advisor in the first instance.

At any stage a line manager may send an individual home for a day or two. This should be exceptional, but it may be necessary:

- If the individual carries on attending the office when obviously unwell.
- If relationships break down and a cooling-off period is required.
- If the individual is behaving inappropriately.

A precautionary suspension of this nature is not a punishment, nor is it a formal suspension. You should write to the individual immediately to confirm the suspension, indicating the duration of the precautionary suspension.

○ **Formal Suspension**

If you are considering suspension you should contact your HR Advisor in the first instance.

A suspension should not be automatic in these circumstances. It should only be imposed after careful consideration and should be reviewed regularly to ensure that it does not go on too long. Suspension will normally be appropriate where the suspected offence would constitute gross misconduct.

The Head of HR (or suitable alternative Director if the Head of HR is not available) can suspend an individual on a longer-term basis if:

- It is a case of suspected gross misconduct; see **Example Offence List**
- The individual has been arrested or criminal or civil proceedings have been commenced against them.
- Where relationships have broken down.
- Where necessary to allow an unhindered investigation of events
- Where there would otherwise be a risk to person or property.
- The individual has been behaving in an unacceptable manner.

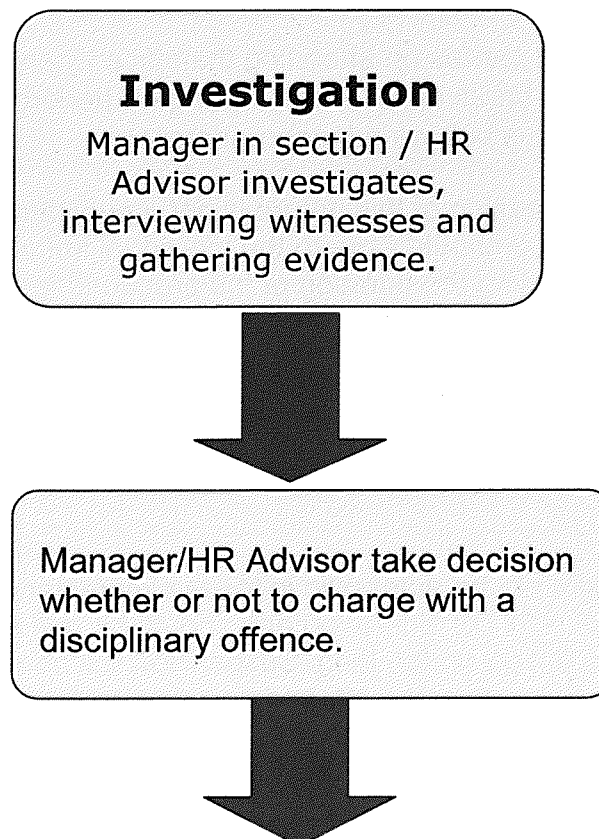
The suspension must be immediately confirmed in writing.

A formal suspension is not a punishment. It will have no impact on the outcome of any disciplinary proceedings that may be ongoing. This should be made absolutely clear to the individual, when the suspension is confirmed in writing.

Throughout the suspension you should keep in touch with the individual. They must be sent copies of the relevant sections of the Disciplinary Policy and guidance with all of the letters sent out to them. When the suspension comes to an end you should let the individual know in writing immediately.

○ **Formal Disciplinary Procedure**

The formal disciplinary procedure is as follows:





○ Investigation

If you, as a section manager, are told about an alleged disciplinary breach or you suspect that there has been a disciplinary breach by someone in your team, the first thing that you should do is conduct an investigation in conjunction with a HR Advisor. The investigation must be kept confidential as far as is possible. If it is impossible for you to investigate the alleged offence, i.e. because there is a conflict of interest, then seek advice from your HR Advisor.

There are several things you must consider:-

- **Suspension?** – If you decide to suspend the individual, it is important that they are reminded in the suspension letter that the suspension is not a punishment.
- **Conduct the investigation** – You should then conduct an investigation in conjunction with a HR Advisor. The purpose of the investigation is to gather all the evidence which might help to decide whether an offence has been committed. This should be done as quickly as possible, to avoid memories fading, and as discreetly and confidentially as possible. If you are unsure what you can/cannot do when investigating then you should contact a HR Advisor.
- **Written Records** – Thorough written records should be kept of your investigation. You should keep these records confidential and not store them in such a way that other people could access them. Documents such as witness statements, interview notes and letters created as part of the investigation should be stored in Lynx appropriately secured and including the HR case number in the index card details. Other documentary evidence should be kept in hard copy, be kept confidential and stored securely.
- **Meetings** – If you need to hold a meeting in order to establish the facts, the person whom you meet (i.e. individual being investigated or witnesses) should be informed that the meeting is a formal investigatory interview but is **not a disciplinary hearing**. You cannot force a witness or the individual being investigated to attend a meeting, but you can attempt to persuade them. You should inform them that they can bring a trade union representative or fellow worker to the meeting if they wish.
- **Case to answer?** – After you have gathered the evidence you must decide whether the individual has a **case to answer**. In deciding whether the individual has a case to answer, you are deciding whether the evidence you have gathered is sufficient to suggest that a disciplinary offence **might have been committed**. If you consider that the individual does not have a case to answer then the process ends there, and you should write to the individual and tell them this.
- **Refer to Decision Officer** – If you consider that the individual does have a case to answer then you need to refer the case to a more Senior Manager who will act as Decision Officer. Your HR Advisor will discuss with you who the Decision Officer will be. When referring the case to a Decision Officer you must pass on all of the evidence that you have gathered.

You should attempt to have the investigation conducted as quickly as possible. Almost all investigations should be completed within 10 working days.

○ Charge Letter

By law, the individual who is being charged must receive a letter informing them of the charges and inviting them to a hearing.

Your HR Manager is available to coach and advise you throughout the process, if you are acting as an investigating manager in a disciplinary case.

After your investigation you should send a letter to the individual charging them and inviting them to a hearing. **This letter** must include the following information:

- What the individual has allegedly done wrong.
- Why this is unacceptable.
- A description of the offence that the individual is being charged with.
- The possible penalties should the charge be upheld.
- An invitation to a disciplinary hearing.
- The time, date and venue of the hearing (giving at least 5 working days notice).
- A reminder that the individual can bring someone with them to the hearing, who can be a trade union representative or a fellow worker. The individual should be referred to the online **Accompaniment Guidance**.
- Whether there are any special requirements which the individual and / or their representative might need in attending the hearing
- Details of the Decision Officer who will be conducting the hearing.
- A reminder that if the individual fails to attend the hearing then the decision can be taken in their absence.

Attached to the letter should be copies of any documents that will be produced as evidence at the disciplinary hearing. This should include any witness statements and evidence that has been collected. If the individual is suspended then they must be sent a copy of the relevant sections of The Disciplinary Policy and Guidance as well.

If the individual or the individual's companion cannot attend the hearing at the arranged time they are allowed to make a request for it to be held at a different time. The request for a different time must be **reasonable**, and the newly requested time must be **within 5 working days** of the previously arranged time.

Prior to the hearing the individual can write to the Decision Officer setting out their case. This must be received by the Decision Officer at least 2 working days before the hearing.

Decision Officer

▪ **Consider the Evidence**

Before you hold a disciplinary hearing you should consider all of the evidence that has been gathered. If there is anything that is unclear then you can arrange meetings with witnesses or the individual's line manager, prior to the hearing, in order to clarify the facts. You cannot force these people to attend meetings, but you can attempt to persuade them. If you want to ask the individual who is charged with the offence some questions then the appropriate place to do this will be the hearing itself.

▪ **The Hearing**

You must hold a hearing with the individual before any formal disciplinary decision can be taken. This is a legal requirement.

If you are going to conduct a disciplinary hearing then you should read the guidance document – **How to Conduct a Disciplinary Hearing**. It is recommended that you have a copy of this document with you at the meeting. The **Accompaniment Guidance** makes it clear what role a companion can play at the hearing.

If the individual fails to attend the meeting then the following steps should be taken:

- Try to phone the individual to find out why they have failed to turn up.
- If they provide a good reason for failing to attend (i.e. an unforeseeable circumstance arose), then arrange a new time for the hearing.
- If the individual cannot provide a good reason for failing to attend (i.e. no unforeseeable circumstance arose) then you can take a decision in their absence. Before taking the decision in the individual's absence

you must contact the HR Manager to check that you can do this in the circumstances.

After the hearing you should send the individual a copy of the hearing notes. These notes should only be a summary of the main points - it need not be a word-by-word account. It is good practice to send a covering letter along with the notes, of which this is an **example**.

○ The Decision

A decision letter should be issued within 5 working days of the disciplinary hearing, and within 20 working days of the individual being charged.

After all the evidence has been gathered and the hearing is complete, you, as Decision Officer, must make a decision on whether or not the offence charged has been proven. This decision must be made **on the balance of probabilities**. This means that, after weighing up all the evidence; you must consider it to be **more likely than not** that the offence was committed.

If you decide that, on the balance of probabilities, no offence has been committed, and then the individual should be informed of this in writing.

If you decide that, on the balance of probabilities, an offence has been committed, and then you must decide what penalty is appropriate. The available penalties are:

1. Formal Warning
2. Final Written Warning
3. Downgrading or Dismissal

A Formal Warning or a Final Written Warning must be given an expiry date, after which it will no longer count against the individual. Seek advice from your HR Manager when setting this expiry date.

Some considerations to take into account in deciding what penalty is appropriate are:

- whether the alleged offence impairs the business of the Department or of the Civil Service;
- whether the alleged offence is incompatible with the position and responsibilities held by the individual;
- whether the offence indicates that the individual is unsuitable for continued employment as a civil servant;
- any mitigating circumstances (including relevant personal, domestic or social circumstances);
- any explanation put forward by the individual concerned;

- any precedents;
- the individual's length of service;
- whether the individual has any unexpired disciplinary warnings or penalties;
- and overall whether the intended disciplinary action is reasonable in the circumstances.

The **Example Offence List** should help you decide what penalty is appropriate for the offence in question. You should remember that this list is not a comprehensive list of offences, and that individual circumstances must be taken into account.

When you have decided whether an offence has been committed and what penalty is appropriate, you should let the individual know in writing. At the latest, the decision should be sent out within **five working days** of the disciplinary hearing, although you should aim to send it as soon as possible.

If you are issuing the individual with a Formal Warning or a Final Written Warning, then the letter should contain the following information:

- That the individual is being issued with a Formal Warning/Final Written Warning.
- Any other sanctions appropriate to the charge
- That it forms part of a formal disciplinary procedure.
- The offence that they have been found guilty of, and why this conduct is unacceptable.
- The consequences of any further misconduct (e.g. Final Written Warning/Dismissal).
- That they may appeal against the decision by sending a Written Appeal Request to the HR Manager

If you decide to dismiss the individual then the dismissal letter should contain the following points:

- That they are being dismissed for misconduct / gross misconduct
- That they were warned that this could be the result of the disciplinary procedure.
- The offence that they have been found guilty of, and why this conduct is unacceptable.
- Their period of notice (if applicable)

- That they can appeal the decision by sending a Written Appeal Request to the HR Manager, and then appeal to an Employment Tribunal or Industrial Tribunal (Northern Ireland).

You can take other action to improve the individual's conduct, as well as any warning that you might impose. This could include:

- Guidance
- Counselling
- Coaching
- Provision of training

If you decide that no offence has been committed then the individual should be informed of this in writing.

▪ **Written Records**

Written records must be kept of all stages in the procedure. You should keep these records confidential and not store them in such a way that other people could access them. Documents such as witness statements, interview and hearing notes and letters created as part of the investigation should be stored in Lynx appropriately secured and including the HR case number in the index card details. Other documentary evidence should be kept in hard copy, be kept confidential and stored securely.

At the end of the process you should send all hard copy written records to a HR Advisor.

○ **Appeal**

If an individual sends a Written Appeal Request to HR Manager then the appeal should be heard jointly, by a manager within Human Resources, and a senior line manager at Band G or above, (in cases of non dismissal), or the Chief Executive (in cases of dismissal). (See '**Limits of Authority**')

If you hear an appeal, then there are several things you should do:

1. Invite the individual to an appeal hearing.
2. Examine the grounds of appeal raised by the individual.
3. Examine all of the evidence and the findings of the Decision Officer (if necessary get in touch with the Decision Officer, or anyone else to clarify points of evidence prior to the hearing).
4. Conduct an appeal hearing (on which see **How to Conduct an Appeal Meeting**)
5. Make a decision on whether the ground of appeal has been made out, on the balance of probabilities.

6. Send a letter to the individual, informing them of your decision.

The appeal procedure mirrors the formal disciplinary procedure.

The people hearing an appeal have the authority to vary a disciplinary decision or penalty. The decision at this stage is final, which means that it is subject to no further **internal** appeals.

5. LINK 1 - Guidance Regarding Accompaniment to Grievance, Disciplinary, and Performance Meetings

When someone is to be invited to a grievance, disciplinary, performance or attendance meeting, or any meeting which forms part of a formal process, the person being interviewed can bring someone with them to the meeting if they wish. It is important that when a grievance, disciplinary, performance or attendance meeting is arranged that the individual is informed of this right.

Should the individual want to be accompanied at the meeting they must let the person who is conducting the meeting know who will be accompanying them in advance. They should also advise of any special requirements which they or their companion may have, so that adjustments can be made.

○ **Who can act as a companion?**

There are only two types of people who can act as companions:

- A fellow employee - If a fellow employee agrees to act as a companion they are legally entitled to take a reasonable amount of paid time off to do this.
- A trade union representative – This representative must have been reasonably certified in writing by the union as having experience of, or having received training in, acting as a worker's companion.

Fellow workers or trade union officials have **no obligation** to accompany the individual if asked. They should not be pressurised to do so. Individuals are not allowed to bring legal representation or family members with them (unless they are fellow workers or recognised PCS trade union representatives).

▪ **What if the companion cannot attend at the agreed time?**

If the individual's chosen companion cannot attend the meeting at the agreed time then the worker has a right to suggest an alternative time, provided that it is both **reasonable** and **within 5 working days** of the original meeting. Please seek the advice of a HR Advisor if you need further advice on this

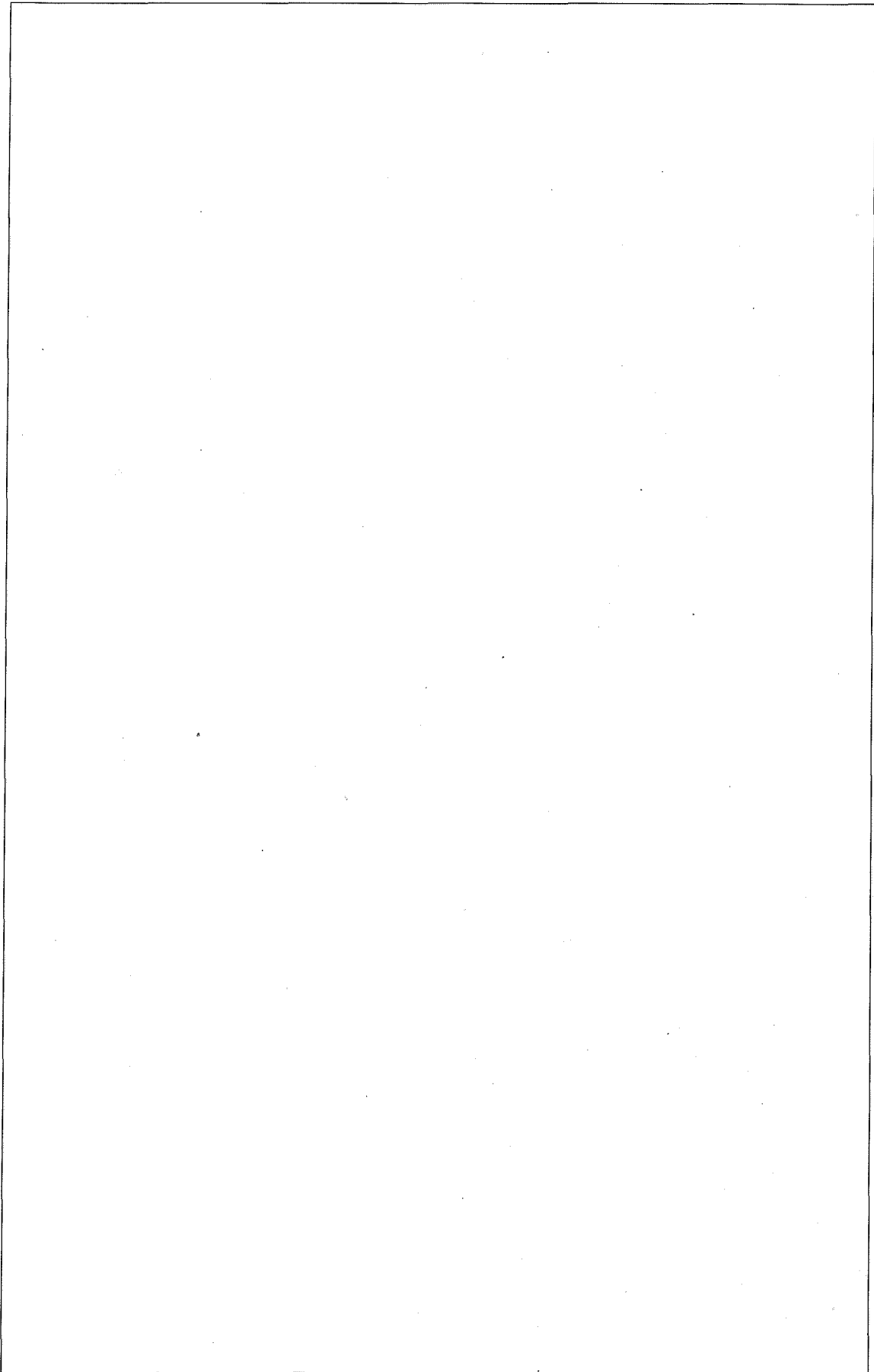
▪ **What can the companion do at the meeting?**

The companion should be allowed to participate as fully as possible at the meeting.

They should be allowed to:

- Put the individual's case.
- Sum up the individual's case.
- Respond on the individual's behalf to any view expressed at the hearing.
- Request an adjournment as necessary.
- Confer with the individual.

They can only perform any of these activities if the individual has given permission. The companion is **not allowed to answer questions on the individual's behalf.**



7. LINK 3 - Line Manager to Individual - Formal Suspension Letter

Personal

Dear **[name of individual]**

I am writing to let you know that you are being suspended from duty until further notice. The reason for this suspension is **[explain in detail why the individual is being suspended]**.

I should point out that this suspension is not a punishment and the fact you are suspended will not affect the result of any disciplinary proceedings that may be going on.

Until you receive further notice, you should not return to work. You should also hand your security pass over to your line manager. I attach a copy of the relevant sections of The Disciplinary Policy and the guidance on discipline for your information.

Should you become sick during this period of suspension, you should inform your Line Manager and take sick leave in the usual way. If the period of suspension coincides with a period of pre booked annual leave, you should let your Line Manager know.

The requirement to suspend you will be reviewed regularly, taking into account the views of your Trade Union Representative, if appropriate, to ensure that it does not go on for too long.

May I remind you that Staff Counselling is available should you require any support during this period. Please do not discuss any of this with anyone else, except your trade union representative.

If you have any questions then please do not hesitate to contact me.

Yours sincerely,

Head of HR/Suitable Alternative Director

Copies to (if relevant):

Line Manager
Trade Union Representative
HR Advisor

8. LINK 4

Personal

Dear

Notification of Charge of Misconduct / Gross Misconduct

I refer to our meeting on {date} when it was explained that the issue of {the allegation} needed to be investigated. You were notified that you had the right to representation by a Trade Union representative or work colleague, **you declined this offer/you were accompanied by {name of companion}**. The purpose of the meeting was to investigate the allegation and provide you with the opportunity to present your version of events.

As a result of the investigation I now have to advise you that you are charged with the disciplinary offence of {outline the charge} in accordance with The Disciplinary Policy, a copy of which is enclosed. This constitutes misconduct / gross misconduct and if substantiated, a decision will be made as to what penalty to impose. **A charge of gross misconduct may result in a summary dismissal, where your employment will be terminated without notice** {insert for gross misconduct charges}

You are now invited to attend a disciplinary hearing, with {name of Decision officer}, on {date} at {time} in order to provide you with the opportunity to respond to this charge. The hearing will be held in the {venue} Please report to reception and ask for {named person} on your arrival.

You will be provided with a copy of the papers which will be relied on in the case by {date}

If you would also like to provide a written response, you should provide me with that by 5pm on {two days before}. If you feel this is not adequate time, then please contact me immediately. In addition, please advise me straight away if the time and date of the hearing are not convenient for you.

At the hearing you may choose to be accompanied by a work colleague or a Trade Union representative. If you wish to be accompanied by a Trade Union Representative please contact the PCS office on 029 20380197/Extension 2197. Alternatively you do not have to say anything, but in such circumstances you should be aware that the case would be considered on the facts that are already available.

Would you please advise me at the earliest opportunity whether you and/ or your chosen representative have any special requirements for which adjustments may need to be made.

If you do not attend or advise us of your intention not to attend without agreeing a suitable alternative meeting, the hearing will still go ahead and a

decision will be made in your absence. In the event of your absence, you may instruct a representative to act on your behalf if you so wish.

May I remind you that Staff Counselling and a Harassment and Bullying Contact Officer *{insert HBCO appropriate if appropriate to the nature of the case}* is available for support at this time.

In the meantime I would be grateful if you would please sign and return one copy of this letter to indicate that you have read and understood its content.

Yours sincerely

Investigating Officer

cc ATUS Representative

Employee's Name:..... Signature:.....

9. LINK 5 - Covering Letter to be Sent to Individuals who have attended a Formal Disciplinary Hearing

Personal

Dear

Disciplinary Hearing

As I indicated in the disciplinary hearing held on [**date**], I attach a copy of the note of the main points made in the hearing for your information. The note is only intended to capture the salient points made at the hearing. It is not meant to be a word-for-word account.

Please make handwritten amendments, if required

If you have any questions then please do not hesitate to get in touch, otherwise please sign and return a copy of the enclosed notes as an accurate reflection of the discussions which took place.

Yours sincerely

[Decision Officer]

10. LINK 6 - Example Offence List

The penalties set out below will only be suitable if the individual has no unexpired disciplinary warnings. An individual will only be dismissed for a first offence if it is considered to be a gross misconduct offence.

If an individual has an unexpired Formal Warning or Final Written Warning, and they commit a further disciplinary offence, then they can receive a Final Written Warning or face dismissal if they are found guilty. This is the case even if the further disciplinary offence would only have led to a Formal Warning or a Final Written Warning on its own. This is not because the existence of unexpired warnings makes the latter offence more serious, but because the cumulative effect of more than one offence can be taken into account when considering what penalty is appropriate.

11. Misconduct Offences which on their own lead or may lead to a Formal Warning or a Final Written Warning

In minor cases of the following offences, the appropriate penalty will usually be a Formal Warning. For more serious cases the appropriate penalty will usually be a Final Written Warning. Decision Officers must exercise their judgement when deciding what the most appropriate penalty is.

The following list is not exhaustive and therefore does not stop additional charges being brought. Matters similar in kind or impact may also result in disciplinary action. Equally, the actions listed do not all automatically merit a Formal Warning or a Final Written Warning.

It should be remembered that this list is only a list of **examples**. It is not a complete list of every possible offence.

- **Failure to follow Companies House guidance and standards e.g.**
 - Failure to comply with a reasonable request or management instruction;
 - A breach of official instructions (for example, the requirements of The Guide, Companies House Policies and Procedures, Companies House security instructions, safety regulations, IT instructions, any authoritative Companies House instructions or procedures such as the PDR guidance, office or local notices, or any other written or oral authoritative instruction);

- Minor failure to follow Companies House guidance, rules or standards e.g. failure to notify the Department of absence or sickness in accordance with the Guide;
 - Being under the influence of alcohol or drugs on official premises, or bringing drugs (other than those required for medicinal purposes) on to official premises;
 - Failure to notify Companies House of arrest, criminal charges or convictions.
 - Inappropriate use of IT e.g. potentially offensive screensavers, disproportionate personal use of the internet or an instance of forwarding offensive material, burning CD Roms on office equipment, or other first, breach of IT policy;
- **Behaviour of any kind which may have an adverse impact on the working of BIS / Companies House , expose BIS / Companies House to risk, bring the name of BIS / Companies House into disrepute or subject the BIS / Companies House to criticism e.g.**
- A security breach, breach of confidentiality or unauthorised disclosure of information; including failure to apply the necessary controls in handling sensitive data.
 - Loss of official pass, where negligence was a contributory factor to the loss. Any officer whose pass is lost or stolen should report the fact at once to a HR Advisor
 - Allowing visitors on the premises without authorisation;
 - Failure to maintain an acceptable standard of dress, presentation or personal hygiene;
 - Errors in financial, or other record keeping where there is no intent to defraud Companies House
 - Any unreasonable behaviour that causes, or may cause, alarm or distress to another member of staff, or to people with whom contact is made by members of staff representing Companies House.
- **Failure to meet acceptable standards of propriety e.g.**

- Betting and Gaming on official premises or using official equipment (other than agreed lottery syndicates and sweepstakes that have the approval of senior management), unauthorised collection of money, or excessive private trading on official premises which impacts adversely on the organisation or the individual's ability to carry out their work
 - Undertaking work in conflict with the role and policy responsibilities of Companies House or failure to gain appropriate permission to undertake private work or outside appointments;
 - Acceptance of gifts, hospitality and benefits, which could be seen to compromise judgement or integrity;
 - Borrowing or attempting to borrow money from other members of staff or people with whom staff have come into contact through their official duties.
 - Conflicts of interest. Staff must not make use of their official position to further their own or other's private interests. Any possible conflict of interest must be reported to line management;
 - Staff in the politically restricted group must not involve themselves in matters of public and political controversy. No member of staff may participate in any form of political activity when on duty, on official premises or when they may be seen to represent Companies House.
- **Misbehaviour e.g.**
- Loss, unauthorised use or unauthorised retention of Government Property. Staff are personally responsible for items of Government property in their care. In particular, such items should not be left insecure in motor vehicles or hotel rooms. All losses of official equipment should be reported as soon as they are discovered to IT Security Section and a HR Manager. All Government property must be surrendered as soon as it is no longer needed for official duties;
 - Foul or abusive language, objectionable or insulting behaviour, disorderly conduct;
 - Harassment and Bullying;
 - Malicious or vexatious allegations of discrimination, harassment, victimisation, intimidation or bullying.
- **Absence from work and timekeeping**

- Unauthorised absence (AWOL). Staff who cannot show that they are unfit for work or have not agreed leave (e.g. annual or special leave) with line management are absent without authority. This includes absence due to participation in unofficial industrial action. Staff will not be paid for periods of unauthorised absence;
- Abuse of the Management of Attendance Policy and Procedure
- Poor timekeeping (e.g. repeated lateness for work), leaving without permission or failing to keep to agreed work patterns and hours.

12. Misconduct which leads or may lead to summary dismissal (Gross Misconduct)

The following list of gross misconduct offences is not exhaustive and **does not preclude additional charges being brought for other offences**. Matters similar in kind or impact may also result in disciplinary action including summary dismissal – that is, dismissal without notice or payment in lieu of notice.

If an individual is charged with an offence which constitutes gross misconduct, this will be made clear in the charge letter. If it is decided that the individual did commit the offence, then, in the absence of sufficient mitigating factors, summary dismissal is the most likely penalty, even for a first offence. This means that no notice or payment in lieu of notice will be given. However, even in the case of summary dismissal, the procedures should be followed.

It should be remembered that this list is only a list of **examples**. It is not a complete list of every possible offence that might be considered gross misconduct.

○ Theft, fraud and acts of dishonesty

- The acceptance of bribes, unauthorised payments or gifts, involvement in corruption or an undisclosed conflict of interests;
- Misuse of official position, for example using status as a Companies House employee to further private interests, or inaccurate authorisation of a payment to a supplier, misrepresenting an official position;
- Deliberate actions or omissions, or negligence which causes, or may cause, serious loss, damage or injury to Companies House or its staff's operation, reputation or property;
- Theft or misappropriation of official assets, equipment, stationery, materials or other government property belonging to companies House

staff, customers or visitors. Where there is reason to believe that there has been a case of theft, fraud or suspected fraud of public funds involving a member of staff, the matter should be reported at once to line management, and reference should be made to the Anti Fraud Policy and Response Plan

- Falsification of records e.g. flexi, annual leave, overtime records or records of work completed;
 - Submission of fraudulent Travel and Subsistence claims;
 - Misuse of the Government Procurement Card;
 - Misrepresentation of qualifications;
 - Matters relating to Bankruptcy and Insolvency. Members of staff who become bankrupt (or give notice that they intend to take advantage of the Insolvency Act 1986) must inform a Human Resources Manager in the first instance, and advise them of their position. If it is considered appropriate they may be transferred or suspended from duty. If the individuals have been reckless, dishonest or have acted discredibly they may be liable to summary dismissal, however each case would be considered on its own merits. Under the provisions of the Enterprise Act 2002. Individuals who are not considered reckless by the Official Receiver may be discharged from their debts and released from any restrictions after a maximum of 12 months. In such cases any disciplinary sanctions imposed may be reconsidered.
- **Diversity and Equal Opportunities**
- A serious breach of Companies House Equal Opportunities Policy. It is contrary to the policy to discriminate on grounds such as age, gender, gender reassignment, marital status, race, colour, ethnic origin or nationality, sexual orientation, disability, religion /belief or hours of work or on the grounds of being a trade union representative Any such action may not only lead to disciplinary action but may be a breach of the law, for which an officer concerned may be held personally liable;
 - Serious or persistent acts of harassment, victimisation, intimidation or bullying;
- **Misbehaviour**
- Fighting or assault on another person, or violent and aggressive behaviour (including serious verbal abuse);

- A serious act of insubordination, e.g. offensively, aggressively, persistently or repeatedly refusing to carry out a reasonable instruction. Although first offences of this nature will not normally be considered gross misconduct, repeated, persistent or aggressive refusals may be. These include refusing to act upon reasonable line management instructions, failure to respond to communications from Companies House; flagrant disregard of Companies House procedures, guidance or advice given in an authoritative form; seeking to continue to debate issues that have reached the end of consideration under departmental procedures; repeated or prolonged unauthorised absence may be considered gross misconduct offences;
- Serious incapacity to perform duties due to being under the influence of alcohol or drugs other than those prescribed for medicinal purposes;
- Negligence. Where the circumstances suggest that the loss of public funds, or loss of, or damage to, official property is contributed to by negligence on the part of a member of staff. This includes serious breaches of our Data Handling policy, especially sensitive data where negligence has led to the unauthorised disclosure of such information. A written report must be submitted without delay to the HR Manager, copied to the Head of Assurance, Risk and Consultancy. Disciplinary procedures will also be considered where Companies House assets have been put at risk through serious negligence, even if no actual loss has been incurred;
- Malicious damage to Companies House property;
- Repeated breaches, or a serious breach, of Companies House instructions or policies;
- Serious misuse of the computer system e.g. deliberately obtaining access to unauthorised data, serious breach of the Companies House IT Security Policy, deliberate access, downloading, propagation or display of indecent or pornographic material, games or anything detrimental to the reputation of Companies House;
- Serious breach of health and safety rules;
- A serious breach of Companies House instructions, for example wrongful and unauthorised disclosure of sensitive government information;
- Undertaking private work without appropriate authority;
- Persistent unauthorised absence from work.

13. LINK 7 - Letter Advising of Outcome of Disciplinary Hearing (Formal / Final Written Warning)

Personal

Dear

Formal / Final Written Warning as a result of Charge of Misconduct

In the letter to you from *{investigating officer}* dated *{insert date of letter}* the charge of Misconduct was outlined and you were invited you to a Disciplinary Hearing with myself which was held on *{insert date of hearing}* in order for you to respond to the charge.

You chose not to / to be accompanied at the Disciplinary Hearing by *{insert name}*, your work colleague / Trade Union Representative, and took up / did not take up the option of providing a written statement as outlined in the letter.

I have given careful consideration to all the evidence presented, the written submissions received and the representation made by you/ your Trade Union Representative / work colleague at the Hearing. I have therefore decided the following:

Insert details of why the charge was substantiated / why this is unacceptable

As a result, I am satisfied that the charge of Misconduct is substantiated and my decision is that you are issued with a formal / final written warning. The formal / written warning will remain current for a period of 12 months from the date of this letter. Repetition of this or any other misconduct during the twelve month period will be subject to the full consideration of the circumstances and, if appropriate, further disciplinary action will be taken, which may include dismissal.

The conditions of a written warning for misconduct are provided in the attached document.

In your case the conditions include a 3/6/9/12 month restriction on the annual pay award. This means that you will not receive the annual pay award for 3/6/9/12 months after it is due to be paid in August 200*. This reflects the seriousness with which your conduct has been considered.

You have the right to appeal against this decision to *{insert name}* Any such appeal should be made in writing, using the **Written Appeal Request Form** and should be received within 10 working days. In compiling any appeal you may wish to ask the advice of your Trade Union.

Would you please sign and return (in the pre paid envelope), the enclosed copy of this letter to indicate that you understand the content and are aware of its consequences.

Yours sincerely

Decision Officer

cc ATUS Representative

I have read and understood the terms and conditions set out and referred to in this letter:

Employee's Name:

Signature:.....

Enc

14. LINK 8 - Dismissal as a result of a Charge of Gross Misconduct

Personal

Dear

Dismissal as a result of Charge of Misconduct

In letter to you from *{investigating officer}* dated *{insert date of letter}* the charge of Gross Misconduct was outlined and you were invited you to a Disciplinary Hearing with myself which was held on *{insert date of hearing}* in order for you to respond to the charge.

You chose not to / to be accompanied at the Disciplinary Hearing by *{insert name}*, your work colleague / Trade Union Representative, and took up / did not take up the option of providing a written statement as outlined in the letter.

I have given careful consideration to all the evidence presented, the written submissions received and the representation made by you/ your Trade Union Representative / work colleague at the Hearing. I have therefore decided the following:

Insert details of why the charge was substantiated / why this is unacceptable

As a result, I am satisfied that the charge of Gross Misconduct is substantiated and my decision is that you be summarily dismissed from your employment with Companies House with immediate effect. Your last day of employment has therefore been recorded as *{insert date}* and I have arranged for you to be paid up until that date. This payment will include any outstanding annual leave entitlement. Alternately, if you have overtaken your annual leave entitlement or have a debit on your flexible working hours balance, this will be deducted from your final payment. Your P45 will be forwarded to you in the near future

The Civil Service Pension section will contact you in due course regarding your pension statement.

May I also take this opportunity to remind you that, during your service with the Department, you have been bound by the provisions of the criminal law, including the Official Secrets Act, which protects certain categories of information and by your duty of confidentiality owed to the Crown as your employer. These obligations are set out in paragraphs 723-730 of The Guide. You should note that you continue to be bound by these obligations even after you have left the Crown's employment.

You have the right to appeal against this decision. Should you wish to exercise this right, it must be in writing and addressed to the Chief Executive, using the **Written Appeal Request Form** within ten working days of the date

of dismissal, stating the grounds upon which you are appealing. Following this you also have the right to appeal to an ***Employment Tribunal/*Industrial Tribunal (Northern Ireland) (* delete as appropriate)** within three months of the date of dismissal. You have the right to be assisted in your appeal by your Trade Union representative or a work colleague, and also to be accompanied by him / her at the Appeal Hearing.

If you have personal possessions in your work station, which will need to be retrieved, could you please telephone *{insert name}* in the first instance to make arrangements for their collection.

Yours sincerely

Decision Officer

Cc ATUS Representative

15. LINK 9 - How to Conduct a Disciplinary Hearing

The exact form that a disciplinary hearing takes will depend on the circumstances. In most hearings, the following guidance will be appropriate:

○ **Attendees**

In every disciplinary hearing the following people must be in attendance:

1. You (Decision Officer)
2. The individual charged with the offence
3. A HR manager to accompany you; and
4. A HR representative to take notes for you

It is also possible that the following people might be in attendance:

1. The individual's companion / Trade Union Representative (should they choose to have one).

You may also wish to have the witnesses available in case you might want to adjourn the hearing to ask the witness some extra questions or points of clarity (which could be useful if there is a conflict of evidence).

○ **Order of Events**

If you need to clarify something or take some time out to consider points that have been raised, then you can adjourn the hearing for a short period of time.

○ **Before the Hearing**

- Think about what you want to get from the Hearing.
- Clarify anything you are unsure about with the person who conducted the investigation.
- Prepare some questions to ask.
- Look over the Accompaniment Guidance so you know what the individual's companion can/ cannot do.

○ **Introduction**

- Start off by explaining the offence that the individual has been charged with, and what the possible penalties are if they are found guilty.

- Comment on, and make a note of, whether the individual has chosen to be accompanied or not, and, if they are not, point out that they were informed beforehand that they had the right to be accompanied.
 - Explain that a note of the hearing will be sent to the individual afterwards for their signature and return, on which they may make any handwritten amendments, if required.
 - Tell the individual and their companion that they have the right to request a short adjournment at any time if they need to confer in private.
 - Remind the individual that they don't have to say anything if they don't want to.
- **Present Evidence**
- Present to the individual all of the evidence that has been collected, giving them a chance to comment at all stages.
 - Ask the individual any questions that you need to know the answer to.
 - Ask if they would like to raise any evidence in their defence.
 - Ask if there are any mitigating factors that they would like to mention.
- **Conclusion**
- Ask the individual if they have anything more that they would like to add, or if they have any questions on the process.
 - Tell the individual that they will receive a copy of the hearing notes, but that the notes will only be a summary of the salient points to come out of the hearing, not a word-by-word account.
 - Tell the individual that they will have your decision as soon as possible, and how the decision will be communicated to them.
- **Guidance for Witnesses in Disciplinary Cases**
1. If you are a witness to events which are alleged to constitute a disciplinary offence, then you might be contacted by the person investigating to see if you would be prepared to give evidence.

2. You are not obliged to attend an interview or to provide any written evidence if you do not wish to do so.
3. You must not discuss the case with anyone, except any companion you might have (see Accompaniment Guidance for who can act as your companion).
4. You should give an account of the facts as you remember them, including as many dates and times of incidents as possible.
5. Do not digress from the issue which is being investigated or offer unsubstantiated opinions which are not relevant to the issue being investigated.
6. Always tell the truth.

Any evidence that you give, either in the form of a written statement or comments at interview, could be shown to the individual who is charged with the disciplinary offence.

16. LINK 10 - How to Conduct an Appeal Meeting

When conducting an appeal meeting it is important to bear in mind that one format cannot be transposed on to every meeting. However, below is a guide to what will be appropriate in most cases:

○ **Attendees**

In every appeal meeting the following people must be in attendance:

- The person / people conducting the appeal
- A HR Manager to accompany the appeal officer
- A HR representative to take notes; and
- The individual who is appealing

It is also possible that the following people might be in attendance:

- The individual's companion / Trade Union Representative (should they choose to have one).

○ **Order of Events**

If, at any stage, you need to clarify something or take some time out then you can adjourn the meeting for a short period of time.

○ **Before the Meeting**

- Think about what you want to get from the meeting.
- Review all of the evidence, clarifying anything you are uncertain about with the Decision Officer or others involved in the process.
- Prepare some questions to ask.
- Look over the Accompaniment Guidance, so you know what the individual's companion can/cannot do.

○ **Introduction**

- Start off by explaining what will happen at the meeting.

- Comment on, and make a note of, whether the individual has chosen to be accompanied or not, and point out, if they are not, that they were informed beforehand that they had the right to be accompanied.
 - Explain that a note of the meeting will be sent to the individual afterwards.
 - Tell the individual and their companion that they have the right to request a short adjournment at any time if they need to confer in private.
- **Hear Evidence**
- Ask the individual to set out their case.
 - Ask any questions whenever you need to clarify something.
 - Ask any further questions that might be useful.
- **Conclusion**
- Ask the individual if they have anything more that they would like to add, or if they have any questions on the process.
 - Tell the individual that they will receive a copy of the meeting notes, but that the notes will only be a summary of the salient points to come out of the meeting, not a word-by-word account.
 - Tell the individual that they should have your decision within 5 working days of the meeting.

17. LINK 11 - Limits of Authority

The following limits of authority will be applicable when carrying out formal disciplinary procedures

○ Investigation

Manager	Minimum Band D
HR Advisor	Minimum Band C

○ Decision

Potential Non Dismissal

Manager	Minimum Band F
HR Manager	Minimum Band D

Potential Dismissal

Manager	Minimum SCS
HR Manager	Minimum Band D

○ Appeal

Non Dismissal

Manager	Minimum Band G / SCS
HR Manager	Minimum Band D

Dismissal

Chief Executive	Minimum Chief Executive
HR Manager	Minimum Band D

● Suspension

Suspensions can only be carried out by the Head of HR. In the event that the Head of HR is not available, a suitable alternative Director can be used after consultation with HR.

