



Northern Ireland Ambulance Service
Health and Social Care Trust

Discipline Policy



SECTION 40

DISCIPLINARY PROCEDURE

1. Introduction and Purpose

This procedure is designed to help and encourage all employees within the Northern Ireland Ambulance Service Trust (hereinafter referred to as the Trust) to achieve and maintain standards of conduct and job performance.

The aim of the procedure is:

- ◆ To ensure consistent and fair treatment for all.
- ◆ To ensure justice for individual employees.
- ◆ To ensure that Management and employees and their representatives are aware of their rights and obligations in respect of disciplinary and appeals machinery.
- ◆ To ensure that the Trust can operate effectively as an organisation.

2. Scope and Application

This procedure covers all breaches of discipline and is applicable to all Trust employees, including employees on probation but excluding the Chief Executive for whom a separate procedure exists.

3. Principles

The following general principles are applicable to all disciplinary cases:-

- (a) No disciplinary action will be taken against an employee until the case has been fully investigated. (In some instances where the issue is straightforward, it may not be necessary to formally investigate).

- (b) At every stage in the formal procedure the employee will be advised of the nature of the allegation(s) against him/her and will be given the opportunity to state his/her case before any decision is made.
- (c) At all stages in the formal procedure the employee will have the right to be accompanied by a union representative or work colleague during the disciplinary process.
- (d) No employee will be dismissed for a first breach of discipline except in the case of gross misconduct where the penalty may be dismissal.
- (e) An employee will have the right to appeal against any formal disciplinary penalty imposed.
- (f) Although normal disciplinary standards apply to the conduct of staff organisation representatives as employees, normally no disciplinary action beyond an informal warning should be taken until a senior trade union representative or full-time official has been advised of the circumstances of the case.
- (g) Account should be taken of any mitigating circumstances and the employee's record of service including any current penalties for offences of a similar nature.
- (h) Police enquiries, legal proceedings or a criminal conviction relating to a criminal charge shall not be regarded as necessarily constituting either a reason for disciplinary action or a reason for not pursuing disciplinary action. Consideration must be given as to the extent to which the offence alleged or committed is connected with or is likely to adversely affect the employee's performance of duties or weaken public confidence in the Trust.

NOTE: **Absenteeism**

When absenteeism is a cause for concern, managers must deal with it within the Trust Management of Absence Policy.

Fraud Strategy

In cases which involve fraud, account should be taken of the Trust's obligations in relation to the Fraud Strategy.

4. Introduction of Procedure and Rules to New Employees

Each employee will be provided at the time of appointment and in any case no later than 8 weeks after appointment, with a copy of the Disciplinary Procedure and Disciplinary rules of the Trust. Employees should familiarise themselves with these rules and the likely consequences of breaking such rules. (See Appendix 1 – Disciplinary Rules).

5. **Disciplinary Sanctions**

The procedure covers action to be taken for all breaches of discipline.

Informal Disciplinary Action

The employee's line manager should deal with minor offences as they arise. Minor offences should be dealt with informally either through counselling or through the issuing of a verbal warning which should be recorded on the employees record. A verbal warning shall expire after 12 months.

In the case of a more serious offence or where there is a reoccurrence of the minor offence, the formal Disciplinary Procedure should be used.

Formal Disciplinary Action

The formal Disciplinary Procedure will be invoked following repeated episodes of minor offences or when the alleged offence is sufficiently serious as to warrant immediate formal action (see **Appendix 1**).

For the purpose of this procedure, the following disciplinary sanctions may be imposed after the hearing:

- ◆ Formal Written Warning or Reprimand
- ◆ Final Written Warning
- ◆ Withholding of an increment, downgrading/transfer.
- ◆ Dismissal (including summary dismissal)

NOTE: **A formal warning or reprimand** will remain on the employee's personal file for a period not exceeding 12 months satisfactory service.

A final warning will remain on the employee's personal file for a period not exceeding 24 months satisfactory service.

Summarily dismissed - In cases of a very serious nature, the Disciplinary Authority has the right of summary dismissal without notice or warning. An employee summarily dismissed may appeal against dismissal in the normal way, but the dismissal should not be set aside pending the outcome of the appeal.

Notwithstanding the various steps of the Disciplinary Procedure, in cases of gross misconduct the Disciplinary Authority has the right of summary dismissal without notice or warning.

6. **Responsibility for Disciplinary Action**

Disciplinary action shall be the responsibility of the Disciplinary Authority or a duly authorised level of management to which disciplinary powers have been delegated. The Disciplinary Authority for the various levels of Disciplinary Action is set out in **Appendix 2**.

7. Precautionary Suspension

In certain cases (e.g. where gross misconduct is suspected or alleged and/or where continued working may give rise to further misconduct or interference with the process of a fair investigation), management reserves the right to immediately suspend an employee with pay. **It must be made clear to the employee that suspension is not a disciplinary sanction nor is it a presumption of guilt, but a means of facilitating proper investigation and/or preventing further misconduct or allegation.**

In normal circumstances the appropriate persons (see **Appendix 2**) having the authority to suspend can only suspend employees. However, there may be exceptional circumstances in which the senior person on duty at the time may assume the authority to suspend until the appropriate designated persons are available to confirm or set aside the suspension. In all such cases, the employee will continue to receive full normal remuneration.

8. The Procedure

8.1 Informal Action

There are informal processes which operate before the formal disciplinary procedure begins. An employee who displays faults of conduct or of work performance should be counselled as a matter of course.

It is only if the faults are repeated or the work performance does not improve that, as a last step before formal proceedings are embarked upon, an informal warning is given.

Meetings between the employee and the manager are aimed at establishing the facts and deciding an appropriate course of action.

These should take place immediately a problem arises (or as soon as possible thereafter). If an employee is dissatisfied with the conduct of a meeting, it will be open to their representative to raise the issue with the manager concerned.

Where a verbal warning is issued, it will remain on the employee's record for a period of one year.

If the manager is satisfied that there is a deviation from expected standards which constitutes misconduct, etc. he/she should identify the improvements

required, the monitoring arrangements, the review process and the timescale involved.

Informal action should be dealt with as quickly as possible and any mitigating circumstances and the employee's previous record should be taken into account. Although this is considered as informal, it should be recorded and a confirmatory note may be sent or handed to the employee without making it a formal warning. It will be the responsibility of Human Resources at the end to remove any such record from the employee's file and advise the employee of this one year after the date of issue.

In the event of informal warnings being ineffectual, the matter will be pursued through the formal Disciplinary Procedure.

8.2 Formal Action

Where a manager feels that there has been a breach of discipline, he/she must have the matter investigated. **(In some instances where the issue is straightforward, it may not be necessary to formally investigate).**

8.3. The Investigation

The person who carries out the investigation is called the Investigating Officer and is normally the person who presents the case to the Disciplinary Authority. The investigation should normally be completed within 28 calendar days.

The Investigating Officer is responsible for establishing the facts of the case. As part of the investigation, where appropriate, a personal interview with an employee may take place. He/she can be accompanied by a union representative or a fellow employee at this interview. An employee who has been suspended should be available at reasonable notice to the Investigating Officer.

9. Disciplinary Hearing

If, after investigation, it is decided that a Disciplinary Hearing should be established to hear the case, the employee must be informed in writing in advance, outlining the allegation(s) and giving the opportunity to make an explanation either in writing or by personal interview and the right to representation.

It is important to explain to the employee that the Disciplinary Hearing in itself is not a disciplinary sanction and that it is only following such a hearing that a decision is taken to issue or not to issue sanctions.

Only in exceptional circumstances or by mutual agreement will the hearing be postponed.

Only in exceptional circumstances or by mutual agreement will a disciplinary proceed in the absence of the individual.

Where an individual chooses not to appear in front of a Panel, they have the right to make a written explanation.

When the employee's professional competence is in question, the Disciplinary Authority shall invite a suitably qualified and experienced person in the same profession to attend as an Assessor, if the Disciplinary Authority is not so qualified. An Assessor shall be free to put questions during the hearing and take part in any discussion of the case but does not have a vote.

All witnesses required to attend a Disciplinary Hearing will be granted time to attend the hearing and to participate, appropriate to their evidence, in any preparation meetings beforehand with either Management or Staff Side. Permission will be given for reasonable time off subject to the extingencies of the service.

At the hearing the following procedure shall operate:

- ◆ No member of the Trust or officer thereof who was directly involved in the circumstances leading to the disciplinary proceedings shall take part in the hearing except as a witness or as the Presenting Officer.
- ◆ The Chairperson of the panel shall conduct the hearing. (In the case of a Disciplinary Authority with the power to issue Formal Written Warnings, Final Written Warnings or Financial Penalty, the Disciplinary Authority consists of two individuals who will conduct the hearing).
- ◆ An Assessor (if used) shall be free to put questions during the Disciplinary Hearing and take part in any discussion but does not have a vote.
- ◆ The employee and their representative have the right to be present during the hearing of all the evidence put to the Disciplinary Authority.
- ◆ The Presenting Officer will present the case on behalf of management and call witnesses where necessary in support of the case.
- ◆ The employee or their representative will be given an opportunity to respond and to question any management witnesses or statements submitted.
- ◆ The Disciplinary Authority shall examine management witnesses and may put questions to the Presenting Officer.
- ◆ The employee or their representative will state their case and call witnesses where necessary.
- ◆ The Presenting Officer will be given the opportunity to question the employee and any witnesses called by the employee.
- ◆ The Disciplinary Authority may question the employee and shall examine witnesses called by the employee.

- ◆ At the end of the hearing both sides should be given the opportunity to summarise with the Presenting Officer speaking first thereby giving the employee or his/her representative the final say and the opportunity to make final representations to the Disciplinary Authority prior to any decision being made.
- ◆ Panel members have the right to ask about the employee's record of service including current disciplinary offences of the employee concerned and shall take account of this in their deliberations.
- ◆ Following the summaries, all parties except members of the Disciplinary Authority shall retire. If an Assessor or a secretary/note-taker is in attendance, they may remain for the discussion but does not have a vote.
- ◆ The Disciplinary Authority shall have the right to recall any witnesses but if this is the case, both the employee and his/her representative and the Presenting Officer shall have a right to be present.

10. **Disciplinary Decision**

Disciplinary decisions together with the reasons therefore shall be notified in writing to the employee concerned who shall be informed of the right to appeal to the Trust stating the grounds of the appeal within 7 days of receipt of the decision.

◆ **Formal and Final Written Warnings**

If a warning is given, it must be accompanied by advice to the employee on the consequences of any repetition or continuance of the offence(s), which has given rise to the disciplinary action. Employees should also be advised of the duration of the warning.

◆ **Withholding of an increment/downgrading/transfer)**

The Disciplinary Authority may decide that the most appropriate course of action should be either Transfer/Downgrading/withholding of an increment. If any of these disciplinary sanctions are imposed the employee should also receive either a First Written Warning or a Final Written Warning as appropriate.

◆ **Dismissal**

Where the decision has been taken to dismiss then the notice will include the reasons for dismissal, the type of dismissal and the effective date of dismissal.

In the case of any of the above, the employee should be advised of the right of appeal.

In the event of appeal, disciplinary action other than summary dismissal and precautionary suspension shall be deferred until the appeal has been heard.

11. Appeals

The appeal, which should state the grounds thereof, must be lodged with the Director of Human Resources within seven working days of receipt of the written notice conveying the decision of the Disciplinary Authority. The hearing of the appeal normally should take place within 20 working days of the receipt of the appeal by the Personnel Department.

Only in exceptional circumstances will an Appeal Hearing be postponed.

Every reasonable effort will be made to arrange an agreed date for an Appeal Hearing. The employee shall be given at least five working days notice of the date together with a statement of the right to make an explanation in writing or appear personally and the right to be accompanied by either a union representative of a Staff Organisation or a fellow employee.

12. Composition of Appeal Panel (See Appendix 2a)

- 12.1 An appeal against dismissal shall be heard by an Appeal Panel consisting of three members of the Trust Board.
- 12.2 In the case of an Executive Director and Senior Manager 1, an appeal against dismissal should be heard by the Chairman and two Non-Executive members of the Trust Board.
- 12.3 An appeal against action other than dismissal shall be heard by an Appeal Panel as set out in **Appendix 2a**.

13. Appeal Hearing

The following procedure shall operate at the Appeal Hearing:-

- ◆ No member of the Trust or officer thereof who was directly involved in the circumstances leading to the disciplinary proceedings or anyone who acted as an Assessor at the Disciplinary Hearing, shall take any part in the Appeal hearing except as a witness or as the Presenting Officer.
- ◆ When the employee's professional competence is in question the Appeal Panel shall invite a suitably qualified and experienced person in the same profession to attend the hearing as an Assessor, if no member of the Appeal Panel is not so qualified.
- ◆ An Assessor shall be free to put questions during the Appeal Hearing and to take part in the discussion of the case but does not vote.

- ◆ The Chairperson of the Appeal Panel will conduct the hearing.
- ◆ The employee and their representative have the right to be present during the Appeal Hearing of all the evidence put to the Appeal Panel. If the employee considers it essential, legal representation may be allowed at the employee's expense.
- ◆ Normally both sides will take the opportunity to make an opening statement.
- ◆ At the hearing the case against the employee shall be presented first and any witnesses called in support of the case.
- ◆ The employee shall have full opportunity personally, or through a representative, to respond and to question any management witness or statements submitted.
- ◆ The Chairperson of the Panel shall examine the management witnesses, although other members of the Panel may put further questions. The Panel may also question the Presenting Officer.
- ◆ The employee or their representative will state the grounds on which their appeal is based and should be permitted to call witnesses.
- ◆ The Presenting Officer will be given the opportunity to question the employee and any witnesses called by the employee.
- ◆ The Chairperson of the panel may question the employee and shall examine witnesses called by the employee although other members of the panel may put further questions.
- ◆ After all witnesses have been heard, both sides should be given the opportunity to summarise with the Presenting Officer speaking first, giving the employee or his/her representative the final say to and the opportunity to make final representation to the Appeal Panel prior to any decision being taken.
- ◆ Panel members have the right to ask about the employee's record of service, only current disciplinary offences of the employee concerned, and shall take account of this in their deliberations.
- ◆ Following the summaries, all parties except members of the Disciplinary Authority shall retire. If an Assessor or a secretary/note-taker is in attendance, they may remain for the discussion.
- ◆ The Appeal Panel shall have the right to recall any witnesses but if this is the case, both the employee and his/her representative and the Presenting Officer shall have a right to be present.

14. Decision of Appeal Panel

The Trust and the employee shall be notified in writing, without delay, of the decision of the Appeal Committee and where the decision involves disciplinary action against the employee, the reason for it and the operative date shall be stated.

15. Review of the Procedure

This procedure will be reviewed regularly and revised in order to ensure that it continues to be relevant and effective. Any amendments or additions imposing new obligations will be introduced following consultation with local staff representatives.

APPENDIX 2

NORTHERN IRELAND AMBULANCE SERVICE TRUST

The lowest levels of management (or Disciplinary Authority) responsible for disciplinary action in respect of offences involving the various grades of staff are as follows:

DISCIPLINARY ACTION	DISCIPLINARY AUTHORITY
<u>Informal Warnings - (Treatment of minor offences)</u>	Level 1
<u>Formal Written Warning</u>	Level 2
<u>Final Written Warning</u>	Level 3
<u>Financial Penalty (withholding of an increment, downgrading and transfer)</u>	Level 3
<u>Precautionary Suspension</u>	Level 4
<u>Dismissal (including Summary Dismissal)</u>	Level 4

NOTE: The Disciplinary Authority for all Disciplinary Action for Directors or equivalent grades will be the Chief Executive and Chairman of the Trust

	OPERATIONAL	NON OPERATIONAL
Level 1	LA	Grade 4
Level 2	SO CO	SM III
Level 3	DM/CM Deputy Director	SM II
Level 4	Director	Director

APPENDIX 2a

NORTHERN IRELAND AMBULANCE SERVICE TRUST

The lowest levels of management responsible for Disciplinary Appeals are as follows:

APPEALS AGAINST DISCIPLINARY ACTION	APPEAL PANEL
<u>Formal Written Warning</u>	Two Managers at a management level senior to the manager who issued the formal warning.
<u>Final Written Warning</u>	Two Managers at a management level senior to the manager who issued the final warning.
<u>Financial Penalty (withholding of an increment, downgrading and transfer)</u>	Two Managers at a management level senior to the manager who issued the sanction.
<u>Dismissal</u>	Two Executive and one Non-Executive Director.

NOTE 1: The Appeal Panel for cases involving Directors or equivalent grades will be the Chairman and two Non-Executive Directors of the Trust.

NORTHERN IRELAND AMBULANCE SERVICE TRUST

Disciplinary Action

Whilst it is impossible to detail every circumstance which may arise where disciplinary action is appropriate, the examples below are intended to give an indication of the types of behaviour likely to justify formal disciplinary action.

- a) Failure to adhere to working hours.
- b) Unauthorised absence from duty.
- c) Refusal or failure to obey a reasonable instruction appropriate to your grade.
- d) Criminal activities other than those classed as gross misconduct.
- e) Lack of patient care.
- f) Disregard of safety practices, procedures and rules.
- g) Unauthorised use of Service equipment.
- h) Abusive behaviour towards another employee or member of the public.
- i) Unauthorised destruction, alteration, addition to or erasure of official documents.

Gross Misconduct

The following list shows the type of misconduct which if proven, constitutes 'gross misconduct'.

- a) **Theft** - any instance of unapproved use of or removal from Service premises without permission, goods, services, equipment or other property not belonging to the employee or theft from another employee or from a patient of goods, equipment and/or other property not belonging to the employee.
- b) **Fraud** - any attempt to defraud the Service or member of the public in the course of official duties.
- c) **Assault** - any assault upon a patient, employee, or visitor that takes place in the course of an employee's duties.
- d) **Disclosure of Confidential Information** - any confidential information gained whilst in the employment of the Trust.
- e) **Negligence** – any serious action, omission, or failure to act which threatens the health or safety of a member of the public, patient or member of staff.
- f) **Wilful Damage** – e.g. to the Service, patients, employees, or visitors' property.
- g) **Corruption** – any receipt of money, goods, favours or excessive hospitality in respect of services rendered by any party.

- h) **Wilful Misbehaviour/Misconduct** – of a serious nature including being unfit for duty due to the consumption of alcohol or substance abuse.
- i) **Any Other Criminal Offence** – likely to involve police proceedings which actually affect the employee’s duties or responsibilities.
- j) **Intimidation of Another Employee or Member of the Public** – e.g. racial, sexual, section and disability.
- k) **Wilful Misuse of Personal Data** – relating to patients, other members of staff or members of the public.

The above complements the Code of Conduct set out in the Ambulance Basic Training Manual.

Signed _____ Date _____

Staff Side

Signed _____ Date _____

Management Side

