

Disciplinary Procedure



Transport for the North (TfN) employs a number of people working in a variety of activities. If the working conditions of everyone are to be safe, and TfN is to function efficiently, it is necessary for everyone to work within defined rules and general codes of conduct. Therefore, it is TfN's responsibility to ensure that:

- *All employees are made aware of the expected standards of conduct, and job performance required*
- *All employees are assisted in achieving these standards and are informed of the corrective actions should these standards not be met.*

Equally, it is the employees' responsibility to familiarise themselves with such standards, observe them and understand the consequence of failure to adhere to them.

1. Principles

The aim of this policy is to promote good working relations within TfN by defining the rights and responsibilities of the parties in disciplinary matters, the types of disciplinary action and when it can be taken and by creating a consistent system with the object of promoting fairness and consistency in the treatment of individuals.

This policy is designed to help and encourage all employees to achieve and maintain high standards of conduct, attendance, and job performance.

No disciplinary action will be taken against any employee until the case has been fully investigated.

At every stage in the procedure, the employee will be advised of the nature of the complaint against him/her by TfN and will be given the opportunity to state their case in person before any decision is made.

Employees have the right to be accompanied by a work colleague or a Trade Union Representative at all stages during the disciplinary process.

All employees have the right to appeal against any disciplinary sanction imposed.

The policy may be implemented at any stage if the alleged misconduct warrants such action.

The level of disciplinary action taken will be proportionate to the seriousness of the offence.

All disciplinary meetings, including appeals, will be held at a reasonable time and place. An employee will receive a written invitation to the meeting at least 48 hours before the meeting and will state the details of the meeting and allegation(s). If an employee is invited to attend a disciplinary meeting they must take all reasonable steps to attend. If, without good cause, they are persistently unable or unwilling to attend,

TfN may hear the matter in their absence and make a decision based on all the evidence available.

All employees have access to the Intranet, where the handbook and detailed information on the policies can be found.

2. Investigation

A formal investigation should be undertaken without unreasonable delay to establish the facts of the case, so the Line Manager or nominated representative will contact HR & Skills Representative who will appoint an appropriate Investigating Manager.

The Investigating Manager will be provided with all information available in order to prepare for and plan investigation meeting(s).

The Investigating Manager will fully investigate the allegation, and gather relevant material to act as evidence for use at any disciplinary hearing.

The investigation meeting will be conducted with the employee before proceeding to disciplinary hearing. The evidence collected can be used at any disciplinary hearing.

An investigation in itself will not result in disciplinary action, without a disciplinary hearing however in conclusion of the investigation may lead at any point to suspension on full pay, which is not a sanction.

Even though there is no statutory right for an employee to be accompanied at the investigation meeting, TfN will allow employees to be accompanied by a work colleague or Trade Union Representative.

There may be exceptional and odd occasions when the employee's desired representative is unavailable, however, TfN will not unduly delay the investigation process for this reason, and as such the employee will be expected to identify and arrange for an alternative work colleague or Trade Union Representative to accompany them to any investigation meeting.

Notes of all interviews conducted will be verbatim and will be shared with the employee when required and/or requested.

Once all investigations have been conducted, the Investigating Manager will make an informed decision regarding next steps. A letter to the employee in question will be sent specifying either:

- There is no further action as the investigation has found there is no case to answer or
- Details of the disciplinary hearing, outlining the allegation(s), potential outcomes and including any supporting documents.

3. Obtaining Supporting Information

The Investigating Manager conducting the investigation will be given all the relevant information regarding the allegation and will be required to interview the employee under investigation and the appropriate witnesses.

The Investigating Manager will make it clear to all those interviewed that the enquiry is confidential, and information discussed must not be disclosed. Any breach of confidentiality may result in disciplinary action being taken.

All meetings, interviews and hearings will be recorded. Notes will constitute an official record of the meeting and will be verbatim. However, TfN does not permit employees to tape or video record any investigation, hearing, or appeal meetings. A copy of the notes will be provided on request.

Signed and dated statements will be obtained from all the witnesses interviewed and retained on the employee's personal file until the disciplinary process is complete.

The Investigating Manager may interview the witnesses again, if there is conflicting evidence or if further clarification is required.

Witness statements will be made available to the Line Manager and the employee simultaneously.

The Line Manager will consider all evidence available in consultation with the HR & Skills Representative and determine whether there are apparent grounds for a disciplinary hearing. Where a disciplinary hearing is to be convened, the disciplinary procedure will be followed. Should the allegation prove untrue and/or it is concluded that there is no case to answer, the employee will be notified in writing, normally within 2 working days.

In cases where there are a series of allegations, it will be made clear to all parties, in writing, which allegations have been dismissed and those that are to be the subject of a disciplinary hearing.

Where an allegation is made as to the possible existence of any Fraud or Corruption, the Finance Director will be informed immediately in order to expedite the appropriate Audit Investigation in accordance with TfN's Anti-Fraud, Bribery and Corruptions Strategy & Policy and Standing Orders and Financial Regulations.

TfN's Disciplinary Policy may subsequently be followed where the outcome of the Audit Investigation results in allegations of improper behaviour or misconduct.

4. Offences and Misconduct

The degree of seriousness of an offence can range from trivial, which can be dealt with by an informal action, to gross misconduct, which may result in dismissal without notice. Several minor offences together may be treated as a serious offence.

5. Gross Misconduct

Gross misconduct is conduct which is considered to be so serious that it destroys the trust which should exist between an employer and employee and makes further working relationships impossible and so destroys the employment contract.

The following is a non-exhaustive list of offences, which are normally regarded by the as gross misconduct:

- Theft or fraud or deliberate falsification of records or conduct causing financial loss (not merely to TfN)
- Bribery or corruption
- Physical violence or bullying
- Dishonesty, including falsifying documents and medical certificates
- Deliberate damage to property
- Any tampering with equipment supplied to support Fire Risk Management, First Aid or any other health and safety resource
- Serious breach of Health and Safety rules
- Serious breach of TfN's policies
- Acceptance of any payment, gift or reward from any party unless prior permission in writing from TfN has been given
- Bringing and consuming intoxicating liquor on the premises (without the prior permission of the Operating Board
- Incapability through alcohol or being under the influence of non-prescribed drugs
- Negligence, which causes unacceptable loss, damage, or injury to TfN, a colleague or any third party
- Unlawful discrimination or harassment
- Misuse or unauthorised use of TfN or customer property, information nor name
- Bringing the organisation into disrepute
- Serious insubordination
- Submission of false references/deliberate misrepresentation in order to obtain employment
- Breach of statutory regulations, which could render the or any member of staff liable to prosecution
- Serious criminal conviction or where TfN has reasonable grounds for believing the employee may have committed a serious criminal offence
- Repetition of a serious incident or misconduct
- Attending work and carrying out duties whilst under the influence of alcohol or drugs
- Any attempt to commit any of the above.

6. Guidance for Informal Action

In many cases, the right word at the right time and in the right way may be all that is needed, and will often be a more satisfactory way of dealing with a breach of rules, or poor performance, than a formal hearing. This is

not to be treated as disciplinary action. Additional training, coaching, and advice may be needed. The appropriate Line Manager will talk to the employee in private. This should be a two-way discussion, aimed at pointing out the shortcomings in conduct or performance and encouraging improvement.

Criticism should be constructive, with the emphasis being on finding ways for the employee to improve and for the improvement to be sustained.

Brief notes will be kept of the informal discussion for reference purposes with a copy of any agreed action, both of which will be placed on the employee's personnel file and sent to the employee as a reminder. The progress will be reviewed over a specified period. The details of discussion and the records of the meeting should be treated as confidential by both parties.

Should any informal action fail to be corrective, Formal Action will be considered.

If the option of an informal discussion is undertaken and it becomes apparent during this discussion that the matter warrants more formal proceedings, then the Line Manager will end the discussion explaining that the formal process is going to be instigated as the matter is more serious than first thought and as such needs to be handled through the formal process.

7. Guidance for Formal Action

If the employee's misconduct is serious or repetition of minor offences occur, then the Line Manager should instigate the formal process as outlined in this policy.

8. Suspension

In the case of potential gross misconduct or if the employee may be a risk to the investigation, business or fellow employees, the employee should be suspended from duty on full pay whilst the investigation takes place (contact HR & Skills Representative who will advise further). The procedure to be followed where suspension is considered, is as follows:

- If suspension is considered appropriate, the employee will be informed immediately by the HR & Skills Representative and will be asked to immediately leave TfN's premises
- This will be confirmed in writing normally within 24 hours by the HR & Skills Representative and will inform the employee that suspension is not a disciplinary sanction but an opportunity to fully investigate the allegation. The expected duration of the suspension will be indicated in this letter
- Every effort will be made to minimise the period of suspension. It is anticipated that this should normally not exceed 4 weeks. In exceptional circumstances, if the period is extended, the employee will

be informed by the HR & Skills Representative detailing the reason and period of the extension

- During the suspension, the employee must refrain from TfN premises unless they have prior permission of the Operating Board. Suspension is a neutral act and does not signify guilt on the part of the employee, nor is it a formal sanction.

9. Disciplinary Hearing

The employee has the right to be accompanied during formal hearings and the appeal process by a work colleague or a Trade Union Representative.

The onus is on the employee to arrange such representation and notify the Line Manager. The representative may address the hearing, put forward employee's case, sum up their case or respond on their behalf to any view expressed at the hearing. He or she may confer with the employee during the hearing but does not have the right to answer questions on their behalf or address the hearing if the employee does not want him or her to do so, or prevent anyone, including the employee, from making his or her contribution to the hearing.

If an employee fails to attend or is unable to attend the disciplinary hearing it will be rearranged up to a maximum of 2 further occasions and in the event where they fail to attend these, the hearing will be held in their absence.

The Line Manager will normally conduct the disciplinary hearing, where such arrangements are deemed as inappropriate by HR, suitable alternative Manager will be appointed to conduct the hearing. HR & Skills Representative will also be present throughout the hearing to provide advice and ensure fair and consistent process.

The purpose of the hearing is to establish fully the facts. At the hearing the case will be explained and the employee will be given the opportunity to put forward their response in respect of the allegations made against them. From the evidence provided by both parties at the hearing it will be the duty of the Line Manager or Senior Manager hearing the case to determine whether or not the allegations are valid, and where misconduct has been established what action would be reasonable in the circumstances.

A copy of the verbatim notes will be provided.

Adjournments may be requested by either party during the hearing. Once the relevant issues have been thoroughly explored, the Line Manager will summarise the facts and call an adjournment to consider the decision.

On the same day normally and wherever possible, both parties will be recalled and informed verbally of the decision and reasons given on how the decision has been reached. If any disciplinary action is to be taken, the employee will be informed of the action to be taken and in the case of

a warning advised that the warning represents either the first, second, or final stage of the Disciplinary procedure and of their right of appeal.

A letter confirming the decision, explaining the reasons for the decision and setting out the employees right of appeal and the appeal process shall be posted to the employee's home address following the hearing within 5 working days.

10. Disciplinary Sanction Levels

There are different levels/stages of disciplinary sanction. TfN reserves the right to invoke a disciplinary sanction at any level or to progress to a higher-level sanction depending on the circumstances of the case.

Informal action is not to be treated as disciplinary action.

Level 1 – Verbal Warning

If a first breach of discipline of a relatively minor nature has been committed, an employee will be given a Verbal Warning which will remain on their personal record for a period of **six months**. The HR & Skills Representative involved in the process will confirm the outcome in writing, normally within 5 working days, to the employee giving details of the nature of the misconduct that has led to the warning, the level under the disciplinary procedure, the decision and the improvement required during the six-month period. It will inform that further, more severe disciplinary action will be taken if there is further breach of misconduct and/or failure to improve. It will also advise of the right to appeal and the date on which the warning will cease to have effect, subject to satisfactory conduct/performance.

Level 2 - First Written Warning

TfN may issue a First Written Warning if:

- the required improvement is not achieved within the timescale stated in the First Warning
- further misconduct occurs while a Verbal Warning is still in effect, whether or not involving a repetition of the conduct which was the subject of the first warning
- the seriousness of the misconduct merits it, regardless of whether or not a Verbal Warning has already been issued.

A First Written Warning will remain on their personal record for a period of **twelve months**. The HR & Skills Representative involved in the process on behalf of the Line Manager will confirm the outcome in writing, normally within 5 working days, to the employee giving details of the nature of the misconduct that has led to the warning, the level under the disciplinary procedure, the decision and the improvement required during the twelve month period. It will warn that further, more severe disciplinary action will be taken if there is further misconduct and/or failure to improve. It will also advise of the right to appeal and the date on

which the warning will cease to have effect, subject to satisfactory conduct/performance.

Level 3 - Final Written Warning

TfN may issue a Final Written Warning if:

- the required improvement is not achieved within the timescale stated in the First Written Warning
- further misconduct occurs while a First Written Warning is still in effect, whether or not involving a repetition of the conduct which was the subject of the first warning
- the seriousness of the misconduct merits it, regardless of whether or not a Verbal or First Written Warning has already been issued.

A Final Written Warning will remain on the employee's personal record for a period of **twelve months**. The HR & Skills Representative involved in the process will confirm the outcome in writing, within 5 working days, to the employee giving details of the complaint and the improvement required during the twelve-month period. It will inform that dismissal will result if there is any further breach of misconduct and/or no satisfactory improvement. It will also advise of the right to appeal.

Level 4 - Dismissal, Demotion or Transfer

TfN may dismiss an employee if:

- the required improvement is not achieved within the timescale stated in the Final Written Warning
- a breach of further misconduct occurs while a Final Written Warning is still in effect, whether or not involving a repetition of the conduct which was the subject of a previous warning
- it is reasonably believed that they have committed an act of gross misconduct.

Unless dismissal is for gross misconduct, the employee will be dismissed with notice.

A decision to dismiss will normally be taken by the Line Manager. An employee will be dismissed only after they have received a written invitation to a disciplinary hearing and the disciplinary hearing has been held. If the Line Manager decides to dismiss an employee, as soon as is reasonably practicable after the end of the disciplinary meeting, the HR & Skills Representative will confirm in writing:

- the reason for the dismissal
- where applicable, the length of notice the employee is to be given
- confirm the termination date
- inform the employee of their right to appeal.

Where TfN considers it to be appropriate, and the employee agrees the following action may be applied instead of dismissal:

- temporary or permanent demotion to a lower graded post. Where this is temporary, appropriate measures such as training will be provided. This will be reviewed after six months
- an alteration to the employee's duties
- withholding of salary increments.

All of the above sanctions will be specified in writing, detailing the reasons why the alterations have been applied and the agreed duration of the sanctions.

11. Appeal Procedure

Where an employee feels that disciplinary action taken against them is wrong or unjust they may appeal against the decision.

An employee is entitled to appeal against any formal level of disciplinary decision or action. This must be in writing, stating the grounds of appeal in full, to the Head of HR within 5 working days from the date of the receipt of the disciplinary decision notification.

The appeal will be heard by a more Senior Manager who will not have been involved in the original decision, and if practicable, the appeal will be heard without unreasonable delay from the receipt of the written particulars. The Head of HR (or nominated deputy) who will not have been involved in the original decision will be present to ensure a fair and consistent process.

The employee has the right to be accompanied by a work colleague or a Trade Union Representative, the onus will be on the employee to arrange such representation.

The Senior Manager hearing the appeal, will consider the decision in private with the Head of HR (or nominated deputy) and will then announce the final decision to the parties concerned, ensuring the final decision is made and confirmed in writing to the employee, normally within 5 working days of the outcome, this decision will be final.

The appeal decision may include:

- Upholding the original decision
- Allowing the appeal and a finding of no misconduct
- A finding of misconduct and the imposition of a greater sanction.



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