



Disciplinary Policy

EP02 / January 2026



Version control

Version number	Author/Owner	Approver	Date updated/reviewed
01	Head of HR	Chief Executive	January 2026

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1. Introduction

1.1 The Policy - General Overview

Transport for the North (TfN) supports and encourages an efficient, productive and respectful working environment for all of its staff. It is therefore important for employees to be mindful of, and comply with, specific TfN policies and procedures which set out our expectations with regards to conduct and behaviour. All relevant policies are easily accessible on the TfN intranet and it is important for employees to familiarise themselves with them. When considering whether an employee's conduct falls below that which is expected, TfN will have regard to the TfN Code of Conduct and the policies and standards of behaviour referenced within the Code.

Whilst the disciplinary procedure applies to employees only, it is important to note that the expected standards of behaviour must also be demonstrated by all staff engaged by TfN, to include contractors, agency staff and workers.

This policy will be applied fairly and consistently in accordance with:

- the ACAS Code of Practice on Disciplinary and Grievance Procedures
- the right to be accompanied pursuant to section 10 of the Employment Relations Act 1999
- relevant provisions of the Equality Act 2010.

This policy is not intended to deal with matters relating to absence/capability, probationary failure, performance or redundancy. Any such concerns should be raised in accordance with the relevant procedures, i.e. TfN's Absence & Welfare Policy, Probation Policy, Performance Improvement Policy and Security of Employment (Redundancy) Policy respectively. This policy does not form part of an employee's contract of employment and may be amended at any time subject to consultation with TfN's recognised Trade Union.

2. Definitions

Investigatory Meeting – an initial meeting to establish the facts to enable the investigatory manager to determine whether the matter should proceed to a disciplinary hearing. At this stage it remains a fact-finding exercise and does not constitute a disciplinary meeting or hearing.

Disciplinary Hearing – where the investigatory process has established that there may be grounds for disciplinary action, a disciplinary hearing will determine whether allegations of potential misconduct are established and what action, if any, needs to be taken against the employee who is the subject of the disciplinary process.

Disciplinary Action/Sanction – where there is a finding of misconduct or gross misconduct, the level of disciplinary action or sanction will be commensurate with the level of the misconduct; this may include remedial action, a verbal warning, a first or final written warning, demotion/transfer or dismissal with or without notice. The term 'action' or 'sanction' can be used interchangeably within this policy according to context.

Review Period – a period, to be determined by the Hearing Manager, during which specified improvements in conduct or behaviour must be demonstrated by the

employee and/or a period within which the employee is able to demonstrate that there has been no further conduct or behavioural failings by the employee.

Clean Verbatim Notes – meetings which are required to be recorded under this policy will be transcribed and reproduced on a verbatim basis. However, disfluencies (speech interruptions such as 'mm' and 'eh') will not be reproduced. Minor grammatical errors or incoherencies may in some instances be removed to aid comprehension. The amended version of a verbatim note will be referred to as a 'Clean Verbatim Notes'.

3. General Principles

3.1 Notifications, Invitations and Outcome letters

Where there is a reference to a written communication in relation to invitations, outcomes or notifications, said written communications must be sent by email rather than postal delivery. TfN considers that this to be a more time and cost-efficient means of communication.

3.2 Notice Requirements - Meetings/Hearings

Invitations to attend investigatory or disciplinary meetings will provide an employee with at least two working days' notice of the intended date and time proposed, together with details of the matter they will be required to respond to. An employee must take all reasonable steps to attend the meeting on the scheduled date. If an employee fails to attend or is unable to attend any meeting/hearing it will be rearranged up to a maximum of two further occasions and in the event that they fail to attend the rescheduled date, a Hearing Manager may decide to hear the matter in their absence and make a decision based upon the evidence available at that time. Further details relating to adjournments and re-scheduling of meetings are provided within the relevant clauses within this policy at paragraphs 9.1 and 12.

3.3 The Right to be Accompanied

Employees, including those who have been invited to attend to provide witness evidence, are permitted under this policy, to be accompanied by a work colleague or trade union representative ('TU representative') at any meetings held under this policy. The TU representative or work colleague may address the meeting, put forward the employee's or witness's case, sum up their case or respond on their behalf to any view expressed at the meeting. The TU representative or work colleague may confer with the employee during the meeting, they may also address the meeting on their behalf; they do not have the right to answer questions posed directly to the employee, or address the meeting, if the employee does not want them to do so. The relevant TU representative or work colleague should not prevent or obstruct any party from contributing to the meeting.

It is the responsibility of the employee or witness to share with their representative any documentation they have received from TfN in relation to this process. Where a party is known by TfN to have a disability which could make this requirement disadvantageous to them, TfN will, where it is reasonable to do so, provide copy documentation to the representative.

3.4 Clean Verbatim Notes & Witness Statements

Meetings held under this policy will be recorded to enable Clean Verbatim notes to be produced.

The Clean Verbatim notes from any witness investigation meetings, will be shared with the employee and the Hearing Manager, where it is determined there is a potential disciplinary case to answer.

All parties will be advised at the outset that evidence they provide will be understood to confer their consent to future use in these or related proceedings. All parties will be given an opportunity to review their Clean Verbatim notes prior to their release to the other parties in the disciplinary process.

Where it is deemed necessary for witness statements to be released, information that is considered to be sensitive or confidential and/or that relates to third parties may be redacted by TfN to protect the privacy rights of individuals who are not the subject of the disciplinary matter under consideration.

The Clean Verbatim Notes and original recording will be retained for a minimum period of 12 months.

3.5 Respectful Behaviour

Employees (and their representatives, irrespective of whether or not they are TfN employees) are required to conduct themselves in a respectful manner at all times during all stages of the disciplinary process and must ensure that they adhere to TfN's Code of Conduct as appropriate.

3.6 Reasonable Adjustments - s20 Equality Act

Where an employer knows or ought to know that an employee is disabled, they are required to ensure that policies are applied fairly and reasonably and in a manner that is fair to all participants. Accordingly, TfN will consider whether reasonable adjustments are required in the application of this policy to ensure that disabled employees are able to fully participate and do not suffer disadvantage because of their disability.

3.7 Allegations of Potential Fraud or Corruption

Where an allegation is made as to potential fraudulent activity or corruption by or in association with a TfN employee, the Finance Director (S151 Officer) will be informed immediately in order to expedite the appropriate Audit Investigation in accordance with TfN's Anti-Fraud, Bribery and Corruption Strategy & Policy, Standing Orders and Financial Regulations.

Where appropriate, interim measures may be implemented to preserve evidence and ensure that sufficient protections are put in place to prevent the continuation of potentially fraudulent activities; this may entail the use of a temporary suspension or temporary reassignment of duties as outlined in paragraphs 5 and 6 of this policy. Where the outcome of the Audit Investigation results in allegations of improper behaviour or misconduct the matter will proceed directly to the disciplinary hearing process as outlined in paragraph 9.

3.8 Allegations made against recognised Trade Union Representatives

Trade Union (TU) Representatives are subject to the same standards in their conduct as all other TfN employees. They have the same rights as other employees and can be accompanied by their official TU Representative.

Where the matter under consideration relates to a representative of TfN's recognised TU, the Head of HR will discuss the matter with the Local Branch Convenor/ Regional Organiser, with the employee's agreement, and before any further action takes place.

4. Misconduct, Informal Action, Formal Action & Gross Misconduct

The degree of seriousness of an employee's alleged unsatisfactory behaviour will be relevant to how it is subsequently defined under this policy and the resultant disciplinary action. For example, where the misconduct is found to be minor, this may result in an informal action. Where there are several minor incidences, collectively they may be considered to be misconduct; where the collective impact of the conduct is considered to be severe, this may result in a finding of gross misconduct and formal action up to and including dismissal, with or without notice.

4.1 Informal Action

Informal Action is not to be regarded as disciplinary action. Informal Action is aimed at supporting and enabling an employee to improve their conduct in the workplace where that conduct is not serious enough to warrant disciplinary action. Informal Action is a restorative process which may entail additional training, coaching, and advice. The employee's Line Manager will hold an informal meeting with the employee during which they will outline the employee's unsatisfactory conduct and make suggestions as to how the required improvements can be achieved. The meeting should be constructive and requires both parties to openly engage in the process with the aim of encouraging improvement. There will be discussion around whether an action plan would be a beneficial means of directed support and improvement and if so, the parties will agree an action plan. The action plan will detail the improvement required, set out agreed training and/or other support mechanisms and set a date for the successful completion of the action plan. Support will be provided on an ongoing basis and review meetings built into the process.

Brief notes will be kept of the informal discussions for reference purposes with a copy of any agreed action plan and the meeting notes, placed on the employee's personal file and a copy provided to the employee. 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 parties cannot agree on the proposed course of the Informal Action, or it is considered by either party that the matter warrants more formal proceedings, or the employee considers that they would wish the discussion to be on a more formal basis with TU representation or a work colleague present to support them, then the Line Manager will end the discussion explaining that the formal process will be instigated to ensure that the issues are addressed.

4.2 Formal Action

Where the employee's misconduct is serious or there is a repetition of minor offences or where the circumstances outlined in paragraph 4.1 exist the Line Manager should instigate the formal disciplinary process as outlined in this policy.

4.3 **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 continuing working relationships untenable and, as such, would warrant immediate dismissal.

The following is a non-exhaustive list of acts, which would normally be regarded as gross misconduct:

- Theft, fraud, bribery or corruption,
- Submission of false references/misrepresentation in order to obtain employment/financial gain,
- Physical acts or threats of violence or bullying,
- Acceptance of any payment, gift or reward from any party unless permission in writing from TfN has been given in accordance with TfN's Gifts & Hospitality Policy,
- Serious insubordination,
- Serious criminal conviction and/or charge,
- Attending work and/or carrying out work related duties whilst under the influence of alcohol or non-prescription drugs.

5. **Suspension**

In the case of potential gross misconduct or if the continued presence of the employee may pose a risk to the investigation, TfN or other employees, the employee should be suspended from duty on full pay whilst the investigation takes place. Such a step is subject to approval by the Head of Human Resources (or nominated deputy), in consultation with the Chief Executive (Head of Paid Service) or the TfN Chair in the case of any TfN's Statutory Officers.

Alternative measures will be considered prior to the imposition of a temporary suspension as set out in paragraph 6 of this policy. The reason for any suspension will be kept confidential from the wider workforce, in the alternative, an agreed form of explanation may be provided.

The procedure to be followed where suspension is to be invoked, is as follows:

- The employee will be informed of their suspension by the Head of Human Resources or their nominated deputy and if the employee is physically present on TfN premises, the employee be asked to leave; if working remotely they will be informed of their suspension via a Teams meeting or call.
- The suspension will be confirmed in writing, normally within 24 hours of the verbal notification. The written notification will confirm that suspension is a neutral act and is not an indication of the likely outcome of the disciplinary process, nor does it constitute a disciplinary sanction. The employee will also be advised that the suspension is considered at that time to be a necessary step to ensure that the investigatory process can continue with the minimum of delay and/or disruption and as a means of minimising any adverse impact upon staff generally.

- The expected initial duration of the suspension will be stated in this letter. As it will not always be possible to set an end date, as much will depend upon the complexity and breadth of the matters being investigated, every effort will be made to minimise the period of suspension. The suspended employee will be kept appraised as to the progress of the investigation (but not the detail) and kept informed as to when their suspension has been reviewed.
- During the suspension, the employee must refrain from entering TfN premises or making any contact with colleagues without the prior permission of the Head of Human Resources or nominated deputy.
- Where an employee is suspended, access to communication tools may also be temporarily restricted, the employee will however be required to be contactable during normal working hours and available to attend any meetings and/or interviews that are necessary in connection with the ongoing disciplinary investigation.

6. Temporary Reassignment of Line Management/Duties

As an alternative to the suspension of an employee during a disciplinary investigation TfN may consider it reasonable to implement a temporary change to reporting lines and/or responsibilities/duties. Such measures are not an indication of wrongdoing but are intended to:

- Ensure a fair and impartial investigation process;
- Protect the wellbeing of all parties involved; and
- Maintain professional working relationships during the disciplinary process.

Any such temporary change will be handled sensitively and proportionately, taking into account the nature of the allegations made against the employee, the working environment, the needs of the individuals concerned and the business. The reason for any such temporary change will be kept confidential from the wider workforce, in the alternative, an agreed form of explanation may be provided.

Following the conclusion of any disciplinary process, the Hearing Manager will make recommendations as to whether and to what extent any temporary arrangement may be made permanent or may revert to the original. Any such recommendations will be considered by the relevant functional director in consultation with the Head of Human Resources and the Chief Executive.

7. Overlapping Grievance & Disciplinary cases

Where an employee raises a grievance during an ongoing disciplinary process which may relate to matters or individuals relevant to the disciplinary process, TfN may temporarily suspend the disciplinary process in order to deal with the grievance. Alternatively, TfN may elect to deal with the disciplinary and grievance processes concurrently where TfN considers it reasonable to do so; in any event, each case will be dealt with in a fair and reasonable manner and will seek to avoid unnecessary and unreasonable delay to either process.

8. Investigation

8.1 General Principles

8.2 Investigations will be conducted in accordance with the ACAS Code of Practice on Disciplinary and Grievance procedures and will seek to establish the facts relevant to the allegations. An investigatory meeting will take place without unreasonable delay. Where the allegations are admitted by the employee, an investigation will still be required to assess the appropriateness of any action.

8.3 Where it is deemed necessary to carry out an investigation to establish the facts of the case, the Head of Human Resources or their nominated deputy will appoint an appropriate Investigating Manager to lead this process. Where the matter concerns a Statutory Officer of TfN, this decision will be taken in consultation with the TfN Chair.

8.4 The Head of Human Resources or their nominated deputy will ensure that the Investigating Manager is given access to the information and documentation relevant to the allegation(s) and will support the Investigating Manager in respect of scheduling meetings with the employee and witnesses relevant to the investigation.

8.5 The Investigating Manager may consider, at any stage of the investigatory process, whether the employee, who is the subject of the investigation, should be suspended. Suspension would be on full pay and would be subject to regular review in terms of its duration or necessity, as outlined in detail in paragraph 5 above.

8.6 Even though there is no statutory right for an employee to be accompanied at an investigation meeting, TfN permits employees to be accompanied by a work colleague or Trade Union Representative. Details pertaining to the right to be accompanied and scheduling meetings under this policy to meet with the availability of the employee and/or their representative are provided in paragraph 3.2 above.

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

8.8 The Investigating Manager may re-interview a witness if there is conflicting evidence or they wish to seek further clarification on any matter.

8.9 Investigation - Outcome letter

8.10 Upon completion of their investigation and having duly considered all of the relevant information and evidence, the Investigating Manager will make an informed decision regarding their investigation and the appropriate outcome. The Investigation Manager will be supported by an HR and Skills Representative throughout the process, as appropriate. The Investigating Manager will notify the employee of the outcome of his/her investigation. The outcome letter will be composed by the Investigating Manager and shall advise as follows:

- There is no further action as the investigation has found there is no case to answer; or

- That it has been found that there is a case to answer and the employee will be notified in due course as to a date to be fixed for the matter to be heard by an appropriate Disciplinary Hearing Manager on a date and time to be agreed;
- The Investigating Manager will set out their findings in respect of each allegation and shall provide sufficient detail to enable the employee to understand why they have found that there is a case to answer or not. In addition, the Investigating Manager will advise the employee as to their severity assessment of the unsatisfactory behaviour;
- The appropriate next stage of the disciplinary process will be outlined;
- The employee will be advised that a copy of the supporting documents, including the investigation report will be provided in due course and no less than five days prior to the date set for the next hearing under the disciplinary process.
- The Investigating Manager shall also advise the employee that they will be provided with Clean Verbatim Notes of their interview and those relating to witnesses interviewed by the Investigating Manager as part of their investigation.

8.11 Where it is feasible for the outcome letter to be provided together with all supporting evidence, including Clean Verbatim Notes produced from the Investigating Manager's interviews with the employee and any witnesses, this will be done simultaneously. Where this is not possible any outstanding documentation, including Clean Verbatim Notes, will be provided to the employee, as soon as practicable and no less than five working days prior to the scheduled next stage of the disciplinary process (where applicable).

9. Disciplinary Hearing

9.1 Hearing Process

9.2 As detailed in paragraph 3.2, all TfN employees are permitted to be accompanied by a work colleague or a TU representative at any disciplinary hearing. The onus is on the employee to arrange such representation and notify the Hearing Manager.

9.3 If an employee fails to attend or is unable to attend the disciplinary hearing it will be rearranged up to a maximum of two further occasions and in the event that they fail to attend the rescheduled hearing, the matter will proceed for determination in their absence.

9.4 The Line Manager will normally conduct the disciplinary hearing, however where such arrangements are deemed as inappropriate by the Head of Human Resources or nominated deputy, a suitable alternative Hearing Manager will be appointed to conduct the hearing. The manager presenting the management case against the employee (normally the Investigating Manager) will be in attendance as will an HR & Skills Representative in the capacity as support to the Hearing Manager and to ensure a fair and consistent process.

9.5 The Hearing Manager will make the necessary introductions and will explain the purpose of the hearing before inviting the investigating manager to put forward the management case; the employee will then be invited to put forward their response to the management case.

- 9.6 The Hearing Manager will manage the hearing process and will raise any questions they consider necessary. The HR & Skills Representative may, with the prior permission of the Hearing Manager, suggest or raise clarifying questions.
- 9.7 Following the conclusion of the disciplinary hearing the Hearing Manager will conduct such further investigation as they consider necessary and without unreasonable delay. Where, as part of this further investigation, additional evidence has been forthcoming which the Hearing Manager considers may impact upon the outcome, they may exercise their discretion to meet with either party where they consider it reasonable to do for the purposes of seeking further clarification.
- 9.8 Adjournments may be requested by either party (the employee and the manager presenting the management case) during the hearing. Once the relevant issues have been thoroughly explored, the Hearing Manager will summarise the facts and call an adjournment to consider the decision.
- 9.9 Following the conclusion of the hearing and any follow-up meetings, the Hearing Manager will consider all relevant evidence as part of their decision-making process. The HR & Skills Representative will be on hand to provide assistance to the Hearing Manager if requested.
- 9.10 The Hearing Manager will determine whether or not the allegations have been proven, and, if they have, how the severity of the misconduct should be assessed. The Hearing Manager will then consider the appropriate sanction taking into account what would be reasonable in the circumstances. The Hearing Manager's decision and the composition of the outcome letter remains their responsibility. The Hearing Manager may draw upon a standard template outcome letter which may assist in terms of overall layout of the outcome letter rather than content. The pre-set letter will be available to view by the employee, should they wish.
- 9.11 All meetings will be recorded to enable Clean Verbatim notes to be produced. The Clean Verbatim notes from witness investigation meetings may be shared with one or both parties; please refer to paragraph 3 'General Principles' for details of those matters the Hearing Manager will consider when determining whether the sharing of these notes is appropriate.
- 9.12 **Disciplinary Outcome Letter**
- 9.13 The outcome of the disciplinary hearing will be confirmed in writing by the Hearing Manager and sent to the employee via email, normally within five working days of the meeting taking place. If it is not possible to provide the outcome letter within this time, the employee will be advised as to when the outcome may be expected. The outcome letter will set out, clearly and concisely, the allegations together with the corresponding finding. The detail provided must be sufficient to enable the employee to fully understand the disciplinary outcome and the Hearing Manager's rationale for deciding matters as they have.
- 9.14 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 level of the disciplinary procedure. The employee will also be advised of their right of appeal and the appeal process. The Hearing Manager may also, where they consider it reasonable to do so, decide that informal action may be suitable in respect of a proven allegation.

9.15 The Manager presenting the management case will be notified of the outcome insofar as to whether the allegation(s) have been found in full or in part or not found.

10. Disciplinary Sanction Levels

10.1 Following a formal finding of misconduct, the Hearing Manager will consider the most appropriate disciplinary action. In every instance the Hearing Manager will confirm the outcome in writing, normally within five working days. The outcome letter will set out;

- the misconduct outcome,
- the level of action to be imposed,
- the rationale for the decision and,
- where applicable, the improvement required during the period a warning remains valid (the 'Review Period'),
- specify the date on which any warning will cease to have effect,
- where applicable, confirm that further, more severe disciplinary action may follow where there is a further breach of misconduct and/or failure to improve during the Review Period,
- advise of the right to appeal the outcome finding and the relevant timescale and process for doing so.

10.2 Informal action is not to be treated as a disciplinary sanction.

10.3 Level One – Verbal Warning

If a first breach of discipline of a relatively minor nature has been established, an employee will be given a Verbal Warning.

A Verbal Warning will remain on their personal record for a period of **six months**.

10.4 Level Two - First Written Warning

TfN may issue a First Written Warning if:

- following the provision of a Verbal Warning, the required improvement is not achieved within the notified Review Period and/or;
- further misconduct occurs whilst a Verbal Warning is still live, whether or not this entails a repetition of the conduct which was the subject of the Verbal Warning and/or,
- the seriousness of the misconduct merits not less than a First Written Warning, 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 **12 months**.

10.5 Level Three - Final Written Warning

TfN may issue a Final Written Warning if:

- the required improvement is not achieved within the Review Period set out within the First Written Warning and/or,

- further misconduct occurs while a First Written Warning is still live, whether or not involving a repetition of the conduct which was the subject of the First Written Warning and/or,
- the seriousness of the misconduct merits an immediate Final Written Warning, regardless of whether or not a Verbal or First Written Warning has already been issued and/or remains live.

A Final Written Warning will remain on the employee's personal record for a period of **12 months**.

10.6 Level Four - Dismissal, Demotion or Transfer

TfN may dismiss an employee if:

- the required improvement is not achieved within the Review Period set out within the Final Written Warning;
- further misconduct occurs whilst a Final Written Warning is still live, whether or not involving a repetition of the conduct which was the subject of a previous warning;
- it is reasonably believed that the employee has committed an act of gross misconduct.

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

10.7 The decision to dismiss an employee pursuant to Level Four of this Policy will be taken by the Hearing Manager. Where, after considering the employee's grounds of mitigation, the Hearing Manager confirms dismissal to be the most appropriate sanction, the Hearing Manager will advise the employee of this and 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; and
- inform the employee of their right to appeal.

10.8 Where the Hearing Manager considers it to be appropriate, and the employee agrees, the following alternative forms of action may be adopted as an alternative to dismissal:

- temporary or permanent demotion/transfer to a lower graded post. Where this is temporary, appropriate measures such as training will be provided. This form of action will be subject to a six monthly review (if not sooner in the event that the unsatisfactory behaviour continues and/or demotion has not achieved the desired aim); or
- removal and/or temporary exemption from salary increments for a period to be agreed.

10.9 All of the above sanctions will be confirmed in writing, the outcome letter will detail the reasons why they have been applied and shall specify the Review Period and any other relevant caveats or conditions.

11. Appeal Process

- 11.1 Where the employee does not agree with the Hearing Manager's decision they must notify their intention to appeal in writing to the Head of Human Resources. This must be done within five working days of receiving the Hearing Manager's outcome letter.
- 11.2 The employee should set out the full details of their grounds of appeal and should provide or confirm the documents upon which they intend to rely. It is anticipated that all documents upon which the employee intends to rely have already been included within the previous disciplinary hearing.
- 11.3 The appeal process will constitute a review of the Hearing Manager's outcome; it will not be a re-hearing of the issues already determined at the previous disciplinary hearing. Accordingly, the employee may raise issues regarding, for example, whether;
 - the disciplinary hearing procedure was defective and this unfairly affected the disciplinary hearing outcome, and/or
 - the evidence did not support the decision reached including the severity of disciplinary action taken, and/or
 - new evidence has come to light which was not previously available to the employee and therefore could not be considered during the disciplinary hearing and on that basis should now be heard as part of this appeal process.
- 11.4 Where an employee alleges that there has been a fundamental error at a previous stage of the procedure (i.e. investigation or hearing stage) which renders the disciplinary hearing outcome defective, the employee must provide sufficient details to support that contention. In those exceptional circumstances the Appeal Manager will consider whether the appeal should be extended to re-consider the investigative and/or disciplinary hearing evidence also.

12. Appeal Hearing & Process

- 12.1 Following receipt of the appeal notification in accordance with paragraph 11 above, a date for the appeal hearing will be scheduled to be heard without unreasonable delay. The appeal will be heard by an impartial Manager of the same or higher level of seniority than the original disciplinary Hearing Manager. The Appeal Manager will be impartial and as such will not be the employee's Line Manager and will not have been involved in the disciplinary process as a witness, or as an investigatory or disciplinary Hearing Manager. The Head of Human Resources (or nominated deputy) who will not have previously acted as an advisor at the disciplinary hearing, will be present as an advisor to the Appeal Manager.
- 12.2 The employee has the right to be accompanied by a work colleague or a TU Representative; the onus will be on the employee to arrange such representation.
- 12.3 If an employee fails to attend or is unable to attend the appeal hearing it will be rescheduled to take place as soon as reasonably practicable. No more than two postponements may be permitted. In any event, where the employee refuses to participate, the hearing will take place in their absence. Where, due to the actions of

the employee, it has not been possible to hold the appeal hearing after two alternative dates have been provided, the hearing may be heard in their absence.

- 12.4 Where it is not possible for the employee to attend the appeal hearing in person or online, and the parties agree that exceptional circumstances exist, the Appeal Manager may choose to exercise their discretion to permit the employee to participate in the process in some other way, for example, by submitting written submissions for consideration by the Hearing Manager, with or without the presence of a TU representative or work colleague.
- 12.5 The disciplinary Hearing Manager will attend the appeal hearing to present the management response to the employee's grounds of appeal.
- 12.6 From the evidence provided by both parties at the appeal hearing it will be the duty of the Appeal Manager to either:
 - Uphold the original decision in relation to outcome and/or sanction
 - Uphold the appeal against the original decision and/or sanction
- 12.7 Adjournments may be requested by either party (the employee and the manager presenting the management response) during the appeal hearing.
- 12.8 The Appeal Manager may conduct further investigation, during or after the appeal hearing, if additional evidence has emerged that the Appeal Manager considers may impact the outcome. They may also meet with either party where it is considered reasonable for the purposes of seeking further clarification.
- 12.9 All meetings will be recorded to enable Verbatim Notes to be produced. The Clean Verbatim Notes from witness investigation meetings may be shared with one or both parties; please refer to paragraph 3 of this policy for further detail.
- 12.10 Following the conclusion of the appeal hearing and any follow-up meetings, the Appeal Manager will consider all relevant evidence as part of their decision-making process. The HR & Skills Representative will be on hand to provide assistance to the Appeal Manager if requested, the decision and composition of the appeal decision outcome letter is the responsibility of the Appeal Manager.
- 12.11 The outcome of the appeal hearing will be confirmed in writing by the Appeal Manager and sent to the employee via email, normally within five working days of the meeting taking place. If it is not possible to provide the outcome within this period, the employee will be informed as appropriate and advised as to when the outcome may be expected. The decision reached by the Appeal Manager will be final.

13. Disciplinary Action against Statutory Officers (Head of Paid Service, Monitoring Officer and S151 Officer)

- 13.1 Statutory Officers are subject to the TfN Code of Conduct and the same minimum standards of acceptable behaviour as all other TfN employees. However, due to the additional requirements placed upon Statutory Officers, the disciplinary procedure as it applies to them is subject to some modification to ensure compliance with the TfN Constitution.
- 13.2 Section 25.9 of the TfN Constitution states:

- 25.10 *Transport for the North may not dismiss the Chief Executive, the Finance Director, or the Monitoring Officer unless the procedure set out in the following paragraphs is complied with.*
- 25.11 *Transport for the North must invite relevant independent persons to be considered for appointment to a Panel to advise on the dismissal, with a view to appointing at least two such persons to the Panel.*
- 13.3 Accordingly, in cases where there is an allegation(s) made against a Statutory Officer which could potentially lead to dismissal (i.e. allegations of gross misconduct or cumulative misconduct) an Independent Panel will be established to undertake the required disciplinary hearing process as set out under paragraph 9 of this policy.
- 13.4 Any appeal brought by a Statutory Officer against any decision to dismiss following a disciplinary hearing process will also be undertaken by an Independent Panel following the appeal hearing process as set out under paragraph 12 of this policy.



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