

## Disciplinary Procedure (draft)

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If you require this procedure in another format please go the end of this document for details.

### PURPOSE

This document sets out the procedure KCC will apply to managing conduct issues. It should be read in conjunction with KCC's Disciplinary Policy.

### INVESTIGATIONS

Before any disciplinary action is taken, an appropriate fact-finding investigation will be undertaken to determine whether or not there is a case to answer; further information is available within KCC's Conducting Investigation Guidance. It may be necessary for a manager to undertake a preliminary investigation to determine certain facts about a person's conduct before a decision is made on how, or whether, to continue with the disciplinary process.

In most cases of misconduct the immediate manager should conduct a suitable investigation, taking account of all of those in a position to contribute together with any other relevant evidence.

In cases likely to result in a first or second level formal written warning, it should also be possible for the same local manager, with advice from HR, to conduct the required investigation. The investigation should be conducted as quickly as possible, ideally within 28 days, although recognising it may take longer based on the availability of all parties, including witnesses. Where it is not possible to conclude the investigation within 28 days, the employee under investigation should be informed and the investigation should be resolved as soon as is reasonably possible. All parties to the disciplinary investigation process will be kept fully briefed on the arrangements and the timescales.

It may be necessary in more complex and serious cases of alleged misconduct or gross misconduct for the required investigation to be conducted by a more senior manager or a manager who is as independent of the facts of the case as is necessary; or a member of Internal Audit, or an 'external' investigator. In these circumstances, the Corporate Director, or delegated officer, will nominate the investigating officer(s). The investigation will be advised and supported as necessary by HR. These cases, if proven, are likely to result in a final warning or dismissal. In cases of serious misconduct or gross misconduct the investigation should aim to be completed within 8 weeks. Where this is not possible, the employee should be informed and the

investigation should be resolved as soon as is reasonably possible. All parties to the disciplinary investigation process will be kept fully briefed on the arrangements and the timescales.

In cases involving Internal Audit, interviews may be conducted under caution during the investigation process.

## SUSPENSION

It may be necessary to suspend an employee for the duration of the investigation. This is not a sanction in itself and other options will be considered in consultation with HR before taking the decision to suspend. The decision to suspend must be made by the Corporate Director or delegated senior officer in consultation with HR and the Head of Internal Audit if fraud or similar is suspected. Decisions to suspend should only be made when alternative working arrangements are not practicable.

Suspension may need to continue beyond the period of the investigation. However, it must be for a fixed period of time, with regular formal review, confirmed in writing to the employee who will retain the pay they would have received if at work during the period of suspension. Either their line manager or another nominated officer should also provide the employee with sufficient support and communication during this period, including any conditions that apply to the suspension.

## DECISIONS ON FINDINGS OF INVESTIGATIONS

A decision on whether to proceed to a disciplinary hearing should be made by the authorised manager, and will be based upon the findings of the investigation. This decision must be taken in consultation with HR, and the employee will be notified accordingly. If the case is to proceed to a hearing, the full investigation report should be shared with the employee, unless there is exceptional justification for not doing so. If there is no case to answer, all documentation will be destroyed.

## DISCIPLINARY HEARING

As a result of the formal investigation, and subsequent decision by the authorised manager, a Disciplinary Hearing may be held; information regarding Disciplinary Hearings is available within KCC's Hearings Procedure.

## DISCIPLINARY SANCTIONS

Sanction	Level of management authorised to issue	Level of management who will hear appeal & to whom appeal should be addressed	Period that warning remains on file
First Level Warning	Line manager or more senior manager	Next level of management	6 months
Second Level Warning	Line manager or more senior manager	Next level of management	12 months
Final Warning	Corporate Director or delegated senior manager	Corporate Director, or Head of Paid Service if issued by Corporate Director	18 months
Transfer and/or downgrading	Corporate Director or delegated senior manager	Senior Officer Appeals Panel; appeal should be addressed to Corporate Director – Human Resources	
Dismissal (including summary dismissal)	Corporate Director or delegated senior manager	Senior Officer Appeals Panel; appeal should be addressed to Corporate Director – Human Resources	

## PAY ARRANGEMENTS FOLLOWING DISMISSAL

Where the outcome of a Disciplinary Hearing is dismissal, pay will cease upon expiry of notice or on the day identified in the letter notifying the employee of the dismissal, in the case of summary dismissal. If, through no fault of the employee, an Appeal Panel is unable to consider the matter before notice expires, pay will be fully reimbursed in the event of a successful appeal.

## APPEALING AGAINST SANCTIONS

If a sanction is issued as an outcome of a formal Disciplinary Hearing, employees will have a right of appeal against this sanction; information regarding the appeals process is available within KCC's Hearings Guidance.

### Alternative Formats

This document is available in other formats and languages; call 01622 694778 or email Employment Policy Team for further details.

For alternative languages call 08458 247 247 - this service can provide information about KCC services or publications in your language. An English-speaking operator will take details of your requirements and arrange a translation or interpreting service. You may need an English-speaking friend or a family member to help you with this.

For Text Relay please call 18001 08458 247247.

## DISCIPLINARY PROCEDURE FLOWCHART

