

London Underground Limited  
**Discipline at Work Support Pack**

## CONTENTS

		Page(s)
<b>Section 1</b>	<b>Introduction</b>	<b>3</b>
<b>Section 2</b>	<b>Investigation</b>	<b>4 - 7</b>
<b>Section 3</b>	<b>Action</b>	
	<b>- LDI</b>	<b>8 – 12</b>
	<b>- CDI</b>	<b>13 - 21</b>
<b>Section 4</b>	<b>Action against Trades Union Representatives</b>	<b>22</b>
<b>Section 5</b>	<b>Grounds for appeal</b>	<b>22</b>
<b>Section 6</b>	<b>New entrant employees</b>	<b>22 - 23</b>

## 1. Introduction

This support pack has been produced for you to use in conjunction with the Discipline at Work Procedure.

By following the mandatory processes outlined in this pack, you will deal with employees in a fair and reasonable manner and you will respect their contract of employment, employment law and good personnel practice. You will also meet the requirements of the procedure.

For new entrant employees, please refer to Section 6 of this pack.

In the first instance, minor cases of misconduct or poor performance will be dealt with informally using normal management processes. These may include providing additional training, coaching or support for the employee. However, you should make the employee aware that formal action will start if there is no improvement, or if any improvement fails to be maintained. You can find information about managing performance problems in the Managing Performance Guidelines.

Entry into the Discipline at Work Procedure may be at any point, dependent upon the seriousness of the employee's alleged misconduct/ poor performance. You should seek advice from your Employee Relations Manager in determining the appropriate course of action.

### Your role

At key points in the Discipline at Work Procedure, you will make clear decisions about subsequent courses of action and record these decisions appropriately.

### Support

Support for all aspects of the Discipline at Work Procedure and other related standards and procedures is available from your Human Resources/ Employee Relations Manager.

### Documentation and retention of records

Notes will be taken throughout the process, with decisions clearly documented. Decisions and documentation will be retained as outlined in this guide.

## 2. Investigation – by the local/immediate manager

**For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.**

Undertake a full investigation and collation of all the evidence as soon as possible after the incident has been brought to your attention.

You should not delay an investigation because an employee is off work (through sickness, in custody, on annual leave, otherwise not available or under investigation for a criminal offence). You can begin whether or not the employee is immediately available for interview.

Gather all evidence available, interviewing all those who may have information about the situation.

It is important to keep an open mind, and not to prejudge the issues.

Only relevant information is being gathered, and no decisions will be taken until the investigation is completed. Therefore the employee does not normally have the right to representation at this stage.

When dealing with information from a witness, who wishes to provide such evidence in confidence you should obtain a written statement and seek corroboration.

### Suspension from work with pay

Where there appears to be serious misconduct or risk to property or other people, then consider suspension from work **with pay** for a short period whilst the investigation is conducted. You will inform the employee in writing within 24 hours of the suspension why they are being suspended from work with pay and outline the next steps. An Accredited Manager will suspend in Harassment cases. Employees who are suspended from work with pay may be accompanied by a Trades Union representative/ fellow worker at all investigatory interviews with the employee. The Trades Union representative/ fellow worker may be present to assist the individual with clarifying questions asked.

You should note the rationale behind your decision to suspend from work. If the suspension from work continues pending a disciplinary interview, you must notify the employee of this in writing.

### Standing down an employee from normal duties

Where it is appropriate to stand down an employee from their normal duties (but the circumstances are not serious enough to warrant suspension from work), you will notify the employee of any reasonable alterations to normal reporting arrangements, details of duties to be performed or restrictions applied. The employee will only carry out duties for which he/ she is competent/ licensed during this period.

**Further advice and guidance on suspension/ standing down should be sought from your Human Resources/ Employee Relations Manager.**

When the investigation is complete, consider whether there is sufficient information available for a decision to be taken on an appropriate course of action.

If there is not, instigate further enquiries or, where appropriate, wait a reasonable time for the employee to become available e.g. when released from custody, recovering from illness etc.

After the investigation is complete, explain to the employee that you will inform them of the outcome at a separate meeting.

Investigatory notes should be signed by the individual interviewed.

### Reviewing the evidence and deciding appropriate action

Complete all investigations before making a decision. You will decide whether to drop the matter, deal with the matter informally, or arrange for the matter to be dealt with under the disciplinary procedure as follows:

- Referred to a Local Disciplinary Interview (LDI) to consider the matter;
- Referred to a Company Disciplinary Interview (CDI) to consider a Final Written Warning;
- Referred to a CDI where other sanctions/ action or dismissal may be considered.

When making this decision, consider:

- All of the evidence;

- The gravity and impact of the situation;
- Factors that may have affected the employee's conduct or performance e.g. work related or domestic problems, illness, extent of training received etc.;
- Whether the employee has been warned about similar behaviour in the past and if the warning is still in date.

Once you have decided an appropriate course of action, you will make a clear record of the rationale for your decision. This will include:

- The evidence you have considered when reaching your decision;
- The action you will be taking.( e.g. further management action, consideration of Oral/ Written Warning etc);
- The reasoning behind your decision, clearly linked to the evidence.

You should attach copies of any correspondence to the individual to your notes, together with any action plans.

If you have decided to drop the matter (no further action to be taken), you should keep the investigatory documentation separate from the staff file for one year. This documentation must then be destroyed.

Where applicable, technology based evidence must be clearly understood by all parties involved in the case before this evidence can be taken into account when considering any decision.

### Gross Misconduct

Where there is evidence of Gross Misconduct, the case must be referred to a CDI. A definition of 'Gross' is provided in the Discipline Standard. 'Gross' is the term used to describe the most serious breaches of standards, rules or procedures that jeopardise the employment contract.

### Criminal Offences

Where an employee has been charged or is about to be charged by the Police with an offence that is also in breach of the Company's Discipline Standard, the disciplinary process should proceed. It is not intended that the disciplinary process be delayed pending the outcome of police or legal proceedings. This is dependent upon there being sufficient evidence other than the fact of the charge on which to take disciplinary action.

Criminal offences outside work will give rise to disciplinary action if the offence makes the employee unsuitable in relation to his or her work. The facts must be considered to establish whether the matter is sufficiently serious in light of their employment to warrant disciplinary action.

**Advice and guidance in relation to employees committing criminal offences must be sought from your Human Resources/ Employee Relations Manager.**

### **3. Action**

#### **3.1 Local Disciplinary Interview (LDI) – conducted by the local/immediate manager**

**For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.**

Following investigation, you may decide that the situation calls for local formal action. This will involve referring the matter for consideration at a Local Disciplinary Interview (LDI).

##### **Preparation**

In both the above instances:

- Advise the employee in writing that you will be holding an LDI, with the intention of considering whether you should issue the employee an Oral Warning or issue a Written Warning.
- Advise the employee that a Trades Union representative/ fellow worker may accompany them and that it is the employee's responsibility to organise this.
- You must allow for at least seven calendar days between advising the employee of this and the interview itself.
- Offer the employee two alternative dates within seven calendar days of each other, to ensure that both the employee and their Trades Union representative/ fellow worker are able to attend. (Reason for this - the employee has a statutory right to propose an alternative time for the interview if his/ her chosen companion is unavailable to accompany him/ her at the time of the interview proposed. You are bound to accept the alternative time provided that it is reasonable and is no more than seven calendar days after the date originally proposed). By providing two dates may reduce the need to re-arrange the LDI date.
- A Disciplinary Report does not need to be written for this meeting. However, you will provide the employee with a copy of all the evidence collated as a result of the investigation at least five calendar days before the interview.
- At the interview, you will give the employee and his/ her representative the opportunity to put the employee's case and answer any allegations made.

- If new evidence is presented to you at the LDI that has not been gathered during the investigation, you will assess this evidence and take this into consideration when adjourning to make your decision. If the evidence is not relevant, you will dismiss it, informing the employee of your reasons for doing so.
- You will adjourn the LDI to consider your decision. You should adjourn for at least 30 minutes so that all the evidence can be reviewed and you can detail the rationale for your decision.

#### Non-attendance at an LDI

- If the employee does not report for the LDI, you will postpone the LDI and advise the employee of another date and time for the LDI;
- You must inform the employee that, if he/ she fails to attend the re-arranged LDI, the interview may be held in their absence.

If the employee is off sick, an LDI can still go ahead unless there is clear medical evidence that this would have an adverse effect on the employee's mental or physical health. Further advice and guidance can be obtained from your Human Resources/ Employee Relations Manager.

In such instances, the case would go ahead once an opportunity had been given for the medical condition of the employee to improve.

#### Witnesses at an LDI

You may request a witness to attend the disciplinary interview where clarification is necessary regarding evidence the witness has already provided, or in light of further information becoming available, subject to the witness agreeing their attendance at the LDI. In these circumstances, the employee's Trades Union representative/ fellow worker may be present whilst the witness is being questioned. The Trades Union representative/ fellow worker may ask questions of fact for clarification but cannot cross-examine the witness.

Witnesses will not be called if it is sensible that their anonymity is preserved. If this is the case, only evidence provided by their written statement can be taken into account. The witness is not obliged to attend the interview.

An employee may request a witness to attend the interview. You must be satisfied that the witness has something specific to contribute in addition to their

written statement. You have the final decision to allow the attendance of witnesses.

Character witnesses are not permitted. However written statements by individual employees concerning an employee's character may be submitted to you at the disciplinary interview. You will take any statements into account when considering your decision.

### Decision

In the light of information gathered at the LDI, you will decide whether to:

- take no further action **OR**
- continue with previous management action, substitute for new management action (which may include referring the matter to a Case Conference) **OR**
- issue an Oral Warning **OR**
- issue a Written Warning.

### Oral Warning

- You should consider an Oral Warning where the breach of rules/ standards/ procedures is minor in nature. An Oral Warning is valid up to a maximum of 26 weeks from the date of the breach.
- Explain that if there is no improvement, or if there is a recurrence of a similar nature over the period the warning is valid, the employee may be subject to further formal action.

### Written Warning

- You should consider a Written Warning where the breach is more serious. A Written Warning is valid for a minimum of 26 weeks and up to a maximum of 52 weeks from the date of the breach.
- Explain that if there is no improvement, or if there is a recurrence of a similar nature over the period the warning is valid, the employee may be referred to a CDI.

In both instances, give the employee a written action plan outlining the points above. This action plan may include additional training, coaching or counselling. If appropriate, you should give the employee a specific time period in which to improve. Please note that this action plan is not part of the P&D process.

You will also keep notes of the meeting and provide a copy for the employee, which will include:

- the rationale for your decision;
- a copy of any action plans.

The Oral/ Written Warning will be placed on the employee's staff file while valid, and transferred to the employee's discipline file once expired. The local/ immediate manager will hold the associated documentation (separate from the staff file/ discipline file) for one year after the warning has expired and then destroyed.

### **Appeal following an LDI**

The employee may appeal to the manager at the next level to the manager who issued the warning against the issuing of an Oral/ Written Warning. The employee should do this in writing within seven calendar days of the LDI.

An appeal interview will be convened and conducted by the manager at next level to the manager who has issued the warning. The appeal manager will not have been involved in the original interview or decision. The appeal interview will be held within fourteen calendar days of the appeal being requested, or as soon as possible thereafter.

The employee will be informed of the date of the appeal interview at least five calendar days before it is to take place. A copy of the disciplinary interview paperwork will be made available to the employee at least five calendar days before the appeal interview.

If you are conducting an appeal you should:

Gather all evidence relating to the disciplinary situation. This will include:

- notes from investigation interviews;
- details of the decision to issue the warning;
- notes from the meeting at which the warning was issued
- the warning itself;
- the employee's appeal letter.

You will evaluate the evidence and decide whether to:

- Confirm the Oral/ Written warning;
- Cancel the Oral/ Written Warning;
- Reduce a Written to an Oral Warning (if applicable);
- Substitute further management action where a sanction has been withdrawn.
- Reduce the length of time of the sanction.

You will note the factors affecting your decision and confirm your decision in writing to the employee. If you decide to reject the appeal, you will state the reasons for doing so.

You should give feedback to the manager who issued the warning, making him/her aware of the rationale for your decision.

All appeal documentation will be kept with the disciplinary interview papers.

## 3.2 Company Disciplinary Interview (CDI)

**For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.**

If, after investigation, you have decided that the situation should be dealt with through a CDI, you should ensure the following are prepared as soon as possible.

- The Disciplinary Charge;
- The Disciplinary Report.

The manager who has conducted the investigation will normally write both.

### Preparation

#### The Disciplinary Charge

The Disciplinary Charge will cover:

- Whether it relates to conduct/ behaviour or performance;
- Only be a Gross charge when the situation is of sufficient severity to merit it;
- What the situation involved;
- Where and when it happened;
- Which policy/standard has been contravened e.g. Code of Conduct, Working Reference Manuals, Harassment Policy.

You also need to:

- Refer to a previous related Oral/ Written Warning if current;
- Refer to disciplinary decisions that are still valid and which refer to related offences (if applicable).

#### The Disciplinary Report

The Disciplinary Report will include the following:

- The Disciplinary Charge;
- A summary of the evidence leading to the decision to issue the charge and hold a CDI.

This will be supported by:

- Written statements from all relevant parties\*;
- Any other relevant documentation;
- Policies/ standards allegedly breached;
- Sketch plans/photographs if appropriate;
- Current relevant warnings /disciplinary decisions;
- Personal details;
- Any special circumstances to be taken into account e.g. personal or domestic problems that may have affected performance.

\* When dealing with evidence from an informant, who wishes to remain anonymous, you will ensure that you provide a clear rationale for using this.

In the event of a local manager seeking advice from another manager regarding the Disciplinary Report and /or the Disciplinary Charge, he/ she should bear in mind that involvement in the details of a case will disqualify him/ her from the disciplinary process associated with that specific case.

#### Issuing the letter instructing the employee to attend the CDI

The letter will be issued at least seven calendar days before the CDI is due to take place. This gives the employee reasonable time to prepare his/ her case and arrange representation. The employee will be offered two alternative dates within seven calendar days of each other, to ensure that both the employee and their Trades Union representative/ fellow worker are able to attend. (Reason for this – the employee has a statutory right to propose an alternative time for the interview if his/ her chosen companion is unavailable to accompany him/ her at the time of the interview proposed. You are bound to accept the alternative time provided that it is reasonable and is no more than seven calendar days after the date originally proposed).

The letter will normally be issued by the CDI Secretary. A copy of the Disciplinary Report will be provided to the employee at least five calendar days before the date of the CDI.

All papers relating to the case will be made available to the Chairperson of the CDI at least five calendar days before the CDI is due to take place.

The CDI Secretary will retain the employee's staff file. It is only to be used to clarify issues raised during the CDI, and not to justify or dispute the Disciplinary Charge.

### **The Interview itself**

A CDI should be heard by two managers (minimum Manager Grade G or above) or Business Manager, General Manager or Director as appropriate. One of the managers will be nominated to act as Chairperson of the CDI.

The manager should be in a higher grade to the person being disciplined as follows:

<b>Grade</b>	<b>Minimum Grade to Chair Company Disciplinary Interview</b>
Operational Managers (Q1/ Q1A to Q6)	Manager (G, H, J)
Operating Staff	Manager (G, H, J)
Administrative, Technical Staff	Manager (G, H, J)
Support Manager (D, E, F)	Manager (G, H, J)
Manager (G, H, J)	Business Manager

Any manager who has had involvement in the case concerned (other than to suspend from work an employee pending any disciplinary action), will not form part of the management team considering the case.

A CDI Secretary will also be present.

### **Non-attendance at a CDI**

- If the employee does not report for the CDI, you will postpone the CDI and advise the employee of another date and time for the CDI;
- You must inform the employee that, if he/ she fails to attend the re-arranged CDI, the interview may be held in their absence.

If the employee is off sick, a CDI can still go ahead unless there is clear medical evidence that this would have an adverse effect on the employee's mental or physical health. Further advice and guidance can be obtained from your Human Resources/ Employee Relations Manager.

In such instances, the case would go ahead once an opportunity had been given for the medical condition of the employee to improve.

### Witnesses at a CDI

The CDI may request a witness to attend where clarification is necessary regarding evidence the witness has already provided, or in light of further information becoming available, subject to the witness agreeing their attendance at the CDI. This may include the manager who conducted the investigation. In these circumstances, the employee's Trades Union representative/ fellow worker may be present whilst the witness is being questioned. The Trades Union representative/ fellow worker may ask questions of fact for clarification but cannot cross-examine the witness.

Witnesses will not be called if it is sensible that their anonymity is preserved. If this is the case, only evidence provided by their written statement can be taken into account. The witness is not obliged to attend the interview.

An employee may request a witness to attend the interview. The managers conducting the CDI must be satisfied that the witness has something specific to contribute in addition to their written statement. It is the final decision of the Chairperson to allow the attendance of witnesses.

Character witnesses are not permitted. However written statements by individual employees concerning an employee's character may be submitted to the CDI in advance. The managers conducting the interview will take any statements into account when considering the decision.

The employee and his/ her representative will be given the opportunity to put the employee's case and answer any allegations made.

If you are the Chairperson of the CDI and evidence is presented which has not been gathered during the investigation (any information or evidence gathered during adjournments must be shared with the employee at the reconvened interview), you will assess this evidence and either:

- consider adjourning the CDI to immediately follow up this information and then reconvene; or
- consider adjourning the CDI and refer the matter back for further investigation, reconvening the disciplinary interview at a later date; or
- continue with the CDI and note the evidence presented; or
- If the new evidence is not relevant to the case, you will dismiss this evidence.

You will record the rationale for any of the above in the CDI Summary during the adjournment to consider your decision.

## **Decision**

You will adjourn the interview when you are satisfied that all of the evidence has been presented, the employee has put his/ her case, answered the allegations made, and that all facts have been noted in relation to the issue. You should adjourn for at least 30 minutes to consider the decision.

During this adjournment, you will determine:

- Whether you believe the charge been proved
- If the charge is proved, is a sanction appropriate? If so, what is the sanction?

In the event that the wrong rule/ item is quoted in the Disciplinary Charge, yet it is clear from the evidence that another rule/ item has been breached, you will refer the matter back for investigation.

If the charge is not proved the case will be dismissed.

Your decision should be based on the following:

- All factors leading to the employee's appearance at the CDI;
- Seriousness of the breach of policy/ standard/ procedure;
- Any risks posed by the employee to other employees;
- Any previous warnings that are still in date;
- Any special circumstances which may lessen the sanction;
- The sanction awarded in similar cases in the past;
- Whether the sanction is reasonable in view of all the circumstances;
- Any issues of dispute raised during the CDI.
- Summing up by the employee and/ or his/ her trades union representative/ fellow worker.

During the adjournment to consider your decision, you may:

- Seek advice and guidance on issues of principle or procedure with the Human Resources/ Employee Relations Manager;
- Clarify information provided during the summing up by the employee and his/ her trades union representative/ fellow worker.

It is not reasonable to contact the employee's manager during the adjournment.

After you have made the decision, you should prepare a CDI Summary specifying the points taken into account in reaching the decision.

You should then reconvene the CDI once you have made your decision and explain to the employee and their Trades Union representative/ fellow worker:

- the decision made;
- the reasons for the decision (the Summary);
- the standards of conduct/ behaviour or performance expected;
- the sanction awarded (if applicable).

You should give the employee a copy of the Summary which the employee will be required to acknowledge.

You should inform the employee that he/she has the right of appeal to the Human Resources/ Employee Relations Manager. This must be made within seven calendar days, in writing, stating the reason for the appeal.

### **Sanctions**

The CDI can implement one or a combination of the following sanctions:

- **ORAL/ WRITTEN WARNING.** This warning will remain on the staff file for the period it is valid (from the date of the breach) and then transferred to the centrally held discipline file once expired.
- **FINAL WRITTEN WARNING.** Normally only where the employee has received a previous warning. However, this may also be appropriate where the 'first offence' is sufficiently serious but would not justify dismissal. Such a warning will remain on the staff file for 52 weeks from the date of the breach and will be transferred to the centrally held discipline file once expired. It must also contain what improvement is required, plus a statement that a further instance of similar nature within 52 weeks, may result in the employee returning to a further disciplinary interview where dismissal will be considered.
- **DISMISSAL.** If the employee has already received a Final Written warning and there has been a recurrence, there is no sustained improvement, or the offence is so serious (Gross) then dismissal will now be considered. Dismissal with notice or payment in lieu of notice will normally be given, but dismissal without notice (Summary/ Instant Dismissal) will be given for the most serious offences e.g. physical violence, theft, fraud or gross negligence. In circumstances where a dismissal is overturned on appeal and the sanction of a Final Written Warning is awarded, the Final Written Warning will be valid from the date of the breach, but may be valid from the date of the dismissal where this is appropriate in the circumstances.
- **SUSPENDED DISMISSAL.** If it is appropriate to give the employee one last chance. The suspended dismissal will be valid from the date of the disciplinary interview for a period of 52 weeks. It will remain on the staff file for the period of its validity and will be transferred to the centrally held discipline

file once expired. The terms of this sanction should be stated clearly in the decision. The dismissal can only be activated by a further CDI.

- **SUSPENSION WITHOUT PAY** this should not normally exceed the number of contractual shifts in the employee's standard working week. The sanction will remain on the staff file for 52 weeks from the date of the disciplinary interview and will be transferred to the centrally held discipline file once expired.
- **WITHDRAWAL OF TRAVEL BENEFITS.** Only where there has been misuse of travel facilities either for a fixed period (up to a maximum of 52 weeks), or permanently – only in the case if privilege tickets on national railways. You should also state any other conditions imposed (if applicable). This sanction is effective from the date of the disciplinary interview. The sanction will remain on the staff file for the period of its validity and will be transferred to the centrally held discipline file once expired. Any permanent restriction applied will remain on the staff file for the duration of employment.
- **TRANSFER** – It must be made clear to the employee the duration of the transfer (maximum of 52 weeks from the date of the disciplinary interview) and what will happen at the end of the period. The CDI will take into account any existing transfer agreements/ arrangements applicable to the employee's grade that may have a bearing on the awarding of this sanction. This sanction will remain on the staff file for the period of its validity and will be transferred to the centrally held discipline file once expired.
- **REGRADING.** It must be made clear to the employee the duration of the regrading (maximum of 52 weeks from the date of the disciplinary interview) and what will happen at the end of the period. This sanction will remain on the staff file for the period of its validity and will be transferred to the centrally held discipline file once expired.

### Other conditions

You may add other conditions to any of the above sanctions, such as a restriction on working in a certain area (temporarily or permanently), a requirement for refresher training or re-qualification, referral to the Counselling and Trauma Unit/ LUOH, and restriction on applying for promotion (up to a maximum of 52 weeks).

In Harassment cases, if the sanction is a Final Written Warning, it must state that the employee must participate in the Behaviour Change Programme as described in the Harassment procedure.

Where there has been serious misconduct or sustained poor performance then the interview can permanently exclude an employee from a particular job/ activity

where there are serious safety concerns. In this case, the sanction will remain on the employee's staff file for the duration of their employment with the Company.

All associated papers from a CDI will be held centrally by the Human Resources/ Employee Relations Manager for the current calendar year, plus six years.

### **Appeal following a CDI**

The Appeal will be considered by a manager who is senior in authority to the person who chaired the CDI. This manager will not have been involved in the case or decision. The employee should appeal in writing within seven calendar days of the date of the CDI.

If you are considering the appeal you will ensure that:

- It is arranged within fourteen calendar days of the appeal being requested by the employee, or as soon as possible thereafter;
- The employee is given an Instruction to Attend an Appeal at least seven calendar days before the Appeal Interview. He/ she will be reminded of the right to be accompanied.
- You have received a copy of the management notes of CDI and any associated documentation. These should be made available to the employee concerned, at least five calendar days before the appeal interview.

### **The Appeal Interview itself**

The following should be present at an appeal interview:

- Chairperson (Business Manager or General Manager)
- Appeal Secretary
- The employee appealing
- Trades Union representative/ fellow worker.

If you are hearing an appeal, you will explain the powers of the Appeal Chairperson:

- In the event of significant new evidence consider whether the evidence requires a change to the disciplinary decision or whether the matter should be referred back to a CDI conducted by the same or different managers.
- Confirm the decision given by the CDI.
- Modify the decision given by the CDI (which can include cancelling any sanction awarded).

The appeal cannot increase any sanction awarded

### **Decision**

You will adjourn to consider your decision:

- Prepare an Appeal Summary specifying the points taken into account in reaching the decision. Recall the employee and their Trades Union Representative/ fellow worker and inform them of the decision reached and the reasons for the decision. A copy of the decision will be given in writing to the employee.
- Make it clear to the employee that this decision is final and is the end of the process.

In exceptional circumstances following an Appeal Interview, a full time trades union officer may raise a case with the appropriate Director where it is alleged there is:

- a failure in administration, **OR**
- an issue of principle, **OR**
- a clear injustice.

Allegations will be dealt with at a meeting. The Director then considers the case and makes their decision in writing. This process must be completed as soon as is reasonably practicable.

All appeal documentation will be kept with the disciplinary interview papers.

#### **4. Action against Trades Union representatives**

No formal disciplinary action will be taken against a recognised Trades Union representative until the circumstances of the case have been discussed with a full-time officer or their nominee of the trades union concerned. This includes both recognised industrial, health & safety, harassment and learner representatives.

**You should contact your Human Resources/ Employee Relations Manager immediately for further advice on guidance on how to deal with misconduct/ poor performance cases involving Trades Union representatives.**

#### **5. Grounds for appeal**

- Severity of sentence – where the employee feels the sanction is harsh in relation to the Disciplinary Charge;
- Leniency – where the employee wants more consideration given to previous good record or mitigating circumstances;
- New evidence;
- Misdirection – where the employee feels that the disciplinary interview misdirected itself, i.e. reached a decision on evidence not relevant to the Disciplinary Charge or based upon the evidence before the disciplinary interview, it was unreasonable to reach the decision it did;
- Failure of administration – where the correct procedure was not followed.

This is not an exhaustive list, but examples of the normal grounds for appeal. However, any grounds for appeal will be accepted unless the grounds are deemed frivolous or vexatious.

#### **6. New entrant employees**

- All new entrants will be required to serve a probationary period of not less than three months and not normally more than six months. In exceptional circumstances, this may be extended to nine months.

- For new entrants, service may be terminated by the employing manager (Manager Grade G or above) without referring the matter to a disciplinary interview where:
  - Training has failed;
  - Performance is poor;
  - Attendance is unsatisfactory;
  - Unsatisfactory references are received.
- Advice and guidance will be given to individual employees to help them improve their conduct/ behaviour or performance;
- Where conduct/ behaviour or performance standards are not met, employees will be informed in writing that if there is no improvement, their service may be terminated.
- The manager will meet with the new entrant where conduct/ behaviour or performance fails to improve. The employee will be given the opportunity to have a Trades Union representative/ fellow worker present at any interviews where the employee's service may be terminated. An employee in these circumstances will be able to appeal in writing against the dismissal. The timescales associated with the LDI/ CDI appeals process will apply;
- Any other breach of standards/ rules/ procedures will be dealt with through the normal disciplinary procedure.