



Lewisham Islamic Centre

Disciplinary Policy

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1.0	20/09/10	Policy finalised

The latest version of this policy will always be on the intranet.



In the Name of Allah, the Most Merciful, the most Compassionate

1.0 INTRODUCTION

Purpose

This policy outlines the disciplinary policy and procedure for Lewisham Islamic Centre (LIC). The policy aims to promote, encourage and support all employees to achieve and maintain high standards of conduct through the application of a fair, effective and consistent approach when dealing with issues of staff conduct.

1.1 Objectives

The primary objective of the Disciplinary Policy is to assist any employee whose conduct is in question by helping them to reach an acceptable standard. The policy aims to promote a comfortable working environment for all staff free from harassment and bullying, any form of discrimination and/or inappropriate behaviour. The policy aims to maintain standards of behaviour and conduct consistently and fairly across LIC.

1.2 Review Date

This policy should be reviewed within 3 years of its date of formal adoption or earlier to respond to a specific purpose, such as new guidance or changes in legislation

1.3 Related Procedural Documents

This policy has been drawn up in line with The ACAS Guide - Discipline and Grievances at Work and is compliant with current legislation.

Secondees to LIC will be subject to LIC's policies and procedures, but any serious breach of these or gross misconduct will be referred to their employer and may result in termination of the secondment.

2.0 DUTIES AND RESPONSIBILITIES

2.1 The Management Committee (MC)

- To accept data on the number and types of disciplinary cases raised.
- To ensure that the disciplinary policy is compliant with the latest legislation
- To ensure that the disciplinary process is carried out fairly and objectively
- To ensure that line managers attend training on policy implementation

2.2 Line Managers' Responsibilities

- To be conversant with the disciplinary policy
- To ensure that all staff are provided with details of the disciplinary policy at their induction
- To attend training provided by LIC on policy implementation.
- To take appropriate action at the earliest stage to counsel and guide staff.
- To carry out disciplinary investigations as is reasonable into all circumstances of the case before taking any disciplinary action
- To be responsible for nominating an appropriate person authorised to take disciplinary decisions in their absence

2.3 Employees' Responsibilities

- To ensure that they have read and understood LIC's disciplinary policy
- To comply with the disciplinary policy and procedures and standards of behaviour and conduct required by LIC

- To be aware that non-compliance of the disciplinary policy could result in disciplinary action being taken against them
- To co-operate in any investigations being carried out into their own or others alleged misconduct
- To attend and take part in any disciplinary hearing set up and put forward their understanding of events
- To consider whether they wish to be accompanied by a fellow work colleague, employed by LIC who will not be acting in a legal capacity.
- To treat information discussed during the disciplinary process as being confidential and not reveal confidential information to third parties.
- To exercise their right of appeal against any disciplinary sanction awarded against them.

2.4 Role of Investigating Manager

- To be fully conversant with the Disciplinary policy and procedure
- To follow the steps outlined in the disciplinary policy
- To ensure that the case is fully investigated before taking any disciplinary action
- To ensure that the employee has received details of the allegations that have been made against them
- To produce a written statement of the case setting out his/her findings
- To take no further action if there is no evidence of misconduct and explain the reasons for arriving at this conclusion.
- Where it is believed that there is a case to answer, the report must include a detailed description of any applicable breach(es), the allegations against the employee and the substance of the investigation evidence that supports the allegations
- To ensure that full consideration is given to the employee's explanation and any mitigating factors that might be put forward
- To ensure that the employee receives a letter outlining the level of disciplinary sanction awarded, identifies the nature of the employees misconduct and the employee's right to appeal within timescales
- To consider whether they wish to be accompanied by a fellow work colleague, employed by LIC who will not be acting in a legal capacity
- To outline recommendations in areas of training and/or further development

2.5 Human Resources Sub-Committee (HRSC)

- The HRSC, is a sub-committee of the Management Committee, it has delegated responsibility for all HR matters.
- To seek to work with managers and employees to resolve disciplinary matters at informal stage where possible.
- To be present at all formal stages of the disciplinary procedure
- To ensure that LIC acts in accordance with best practice and adheres to all aspects of relevant employment law.
- To ensure that disciplinary decisions are of a consistent and uniform standard within LIC.
- To coordinate the arrangements and ensure the relevant letters and invitations for the formal hearing are sent timely.
- To provide clarification, information and interpretation of the procedure at any time for all employees and Managers.
- • To advise the Chair conducting a hearing on all matters relevant to the disciplinary, including the procedure at the hearing and the appropriateness of the submissions.

- Ensure that the hearing is conducted fairly and consistently in accordance with LIC's policy and procedure.

2.6 Role of Employee Representatives

- The representative's role is to support the employee during the whole of the disciplinary procedure, as a colleague employed by LIC.
- The role of the representative is not to answer questions on behalf of the employee; the panel/investigating manager is entitled to expect the employee to answer any questions asked.

3.0 PROCESS

No disciplinary action will be taken against an employee until the matter has been fully investigated. The policy will, in most cases, only be applied when informal discussions, counselling and management guidance between the employee and their immediate manager have failed to result in the desired improvement. Under this policy the possible outcomes may vary between a finding of no case to answer and summary dismissal. These do not have to run in sequence but will take into account the alleged misconduct of an employee. No employee will be dismissed for a first breach of discipline ordinarily unless the disciplinary offence is deemed or regarded as an act of gross misconduct. **A manager may invoke any stage of the procedure if the employee's alleged misconduct warrants such action following advice from HRSC.**

4.0 INFORMAL APPROACH

LIC will undertake to ensure that any alleged failures and shortcomings of staff in relation to the duties and/or responsibilities of their post or their behaviour will be brought to their attention at the earliest opportunity.

4.1 Counselling or Informal Management Guidance

Counselling/Management guidance may often be a more satisfactory method of addressing problems than a disciplinary hearing. Managers have a responsibility to take appropriate action at the earliest stage to counsel and guide staff with a view to assisting the employee whose conduct is in question, where necessary, through training and guidance. These informal measures may include, but are not limited to, informal verbal warnings, advice, coaching, counselling, and mentoring.

Where a manager identifies minor misconduct, this should be discussed with the employee at the first possible opportunity, so that the employee can take steps to improve his/her standards of conduct. The discussion will cover the following areas:

- the minimum standards of conduct expected;
- the action the employee needs to take to reach the required standard of conduct
- any support or training which may be necessary;
- and the timescale over which improvement in conduct should be observed

Following the discussion, the manager will write to the employee to confirm the areas of discussion covered by the above points. This is to ensure the employee understands what improvements are expected of them and the given timescales. If there are a number of issues discussed, a work plan should be produced which will confirm the areas of conduct, the acceptable standards, how these will be measured, the timescales and any training and support needs which have been identified. The employee will be informed that any discussions are part of the informal stage of this procedure and that continued failure to meet the appropriate standards may result in action under the formal stages of the Disciplinary Policy. The manager will make a

note of the discussions.

NB: Informal measures are not part of the formal disciplinary process, and therefore there is no right to appeal against informal outcomes or a right to representation at these meetings. Use of the informal stage is to encourage improvement in conduct. Disciplinary action starts only once the formal approach has been adopted.

5.0 FORMAL APPROACH

Whilst the aim of the disciplinary policy is to bring about an improvement in conduct, there may be circumstances where, despite counselling/formal management guidance (as described in section 3), an employee has failed to meet the required standards of conduct or sustain these. In addition, some conduct issues may be considered serious enough that informal action is inappropriate and formal action is warranted instead. Examples of the types of offences that may be dealt with under these procedures appear at Appendix 2.

Before a formal sanction can be applied, the allegations of misconduct should be investigated to establish the circumstances as set out below. Formal sanctions will not be applied by the investigating manager. The investigation process is separate from the disciplinary hearing and is purely of a fact finding nature. Formal sanction will only be taken following referral of the matter to a disciplinary hearing as set out in section 6.3.

6.0 FORMAL DISCIPLINARY PROCEDURE

The disciplinary process consists of 5 stages:

- a. Investigation
- b. Formal Hearing
- c. Decision
- d. Notification
- e. Appeal

6.1 Investigation

Minor issues of misconduct will be dealt with informally. Where a manager believes that matters warrant further enquiries, an Investigating Manager will be appointed by the HRSC. The Investigating Manager has responsibility for:

- ascertaining the facts promptly before recollections fade;
- arranging any investigatory meeting/s at an appropriate time and location
- assessing the facts;
- chairing the investigation meeting
- reaching conclusions on what is most likely to have occurred;
- identifying the allegations displayed by the facts;
- determining whether on the face of it a case for disciplinary action exists
- determining whether a disciplinary hearing should be convened; and
- making any other recommendations through the compilation of an investigation report.

6.2 Investigation Meeting

As part of the investigation, the employee concerned will normally be invited to respond to the allegation/s and will be required to attend an investigatory meeting/interview. The employee will be given five working days notice of the investigation meeting. If invited to an investigatory meeting, the employee will be advised in writing of the arrangements for date, time and venue, the nature of the meeting, their right to be accompanied, the nature of the alleged misconduct and the

possible outcome of the meeting and details of those who will be present.

In some cases, the manager may need to consider whether suspension from duty is appropriate whilst an investigation is conducted. If this is the case, suspension will be on full contractual pay and the employee should be provided with written confirmation of the reason for suspension. Section 8 provides further guidance on suspension.

6.3 Formal Hearing

Following a full and thorough investigation, where the investigating manager is satisfied that a disciplinary hearing is required, advice should be sought from HRSG. The investigating manager should then recommend that the matter progresses to a formal hearing and this recommendation should be made to the MC.

The employee will be notified in writing of the nature of the allegation(s), what it is that they are alleged to have done wrong, the reasons why this is not acceptable and their right to representation. A hearing will be arranged as soon as is reasonably practical. A minimum of 10 working days notice of the hearing will be given to the employee, to allow the employee reasonable time to prepare their case.

The investigating manager will provide the employee with a written statement of the Management case at least 5 working days prior to the hearing including copies of any witness statements upon which they intend to rely. The employee will provide a written statement of their case at least 5 working days prior to the hearing, together with any witness statement upon which they intend to rely.

Both parties should identify in their statement of case any witnesses they intend to call. It is the responsibility of the parties concerned to arrange for the attendance of their witnesses. In the case where witnesses are employees of LIC, time off with pay, or time off in lieu will be granted for them to attend the hearing.

It is not normal LIC policy to involve clients/relatives or members of the public as witnesses at the meeting and the written statement will be relied on for evidence. The fact that an employee is on sick leave when facing a disciplinary hearing or when called as a witness, should not automatically cause delay in dealing with the matter. Managers must consider the nature of the illness or injury and decide whether it is reasonable (following advice from the HRSG) to proceed with the hearing in the circumstances.

The following options may then be considered:

- the employee(s) may be requested to attend the hearing in person even if they are not fit for duty.
- the employee could be requested to submit a detailed written reply to the allegations or, if called as a witness, a written account of the relevant evidence; and/or
- the employee will be requested to brief their representative to attend the hearing on their behalf and present their case/response.

6.4 Procedure to be followed at a Disciplinary Hearing

The procedure at a disciplinary hearing will be as follows:

- The Chair of the Disciplinary hearing will state the purpose of the hearing and describes the procedure to be used as follows:
 - All present will introduce themselves.
 - The manager presenting the management case states his/her case, calling and questioning his/her witnesses.

- The employee and/or his/her representative ask the manager presenting the case and the management witnesses questions.
- The manager can re-question his/her witnesses. The witnesses then withdraw.
- The employee or his/her representative presents his/her case, calling and questioning his/her witnesses.
- The presenting manager asks the employee and the employee's witnesses questions at the end of their submissions. The employee can then re-question witnesses. The witnesses withdraw.
- The Chair of the disciplinary hearing the case may ask questions at any time during the proceedings.
- When the employee's case has been completed, and there are no further questions, the presenting manager will sum up the management case.
- The employee or his/her representative then sums up his/her case.
- The hearing is adjourned for the manager hearing the case to decide whether or not the allegations against the employee have been substantiated, and if they have, which level of disciplinary sanction is appropriate.
- The manager should bear in mind the need to satisfy the test of reasonableness in all the circumstances, taking into account any mitigating factors. If more time is needed to consider the matter, or further investigations are necessary, the hearing should be adjourned and resumed later.
- The disciplinary hearing is re-convened for all parties to hear a summary of the evidence and the decision. The outcome is notified in writing to all present within 5 working days.
- Alternatively, and by the mutual agreement of all the parties the decision can be conveyed in writing without reconvening the disciplinary hearing.

6.5 Decision

Following the hearing, the panel must decide whether disciplinary action is justified or not. Where it is decided that no action is justified the employee will be informed in writing within 5 working days. Where it is decided that disciplinary action is justified the panel will consider what form this should take and convey the outcome in writing also within 5 working days.

Before making any decision, the panel will take account of:

1. the employee's current disciplinary and general employment record;
2. the employee's length of service
3. actions taken in any previous similar cases;
4. the explanations or extenuating circumstances provided by the employee
5. and whether the intended action is fair and reasonable under the circumstances

Possible outcomes following the hearing are as follows:

- a. No further action (where the facts of the case indicate that there is no case to answer then the matter should be dropped and the employee should be notified in writing within 5 working days).
- b. Coaching, Counselling, Mentoring, Training and Retraining (the facts of the case when heard at the hearing may indicate that this matter should have been handled informally)
- c. Formal disciplinary sanction, where the facts of the case warrant a formal outcome:

- a verbal warning,
- first written warning,
- final written warning,
- other action short of dismissal
- dismissal
- or summary dismissal may be considered

7.0 DISCIPLINARY SANCTIONS

7.1 Verbal Warning

In the case of minor infringements of conduct the employee should be issued with a verbal warning after a disciplinary hearing. The employee should be advised in writing of the warning, the nature of the conduct, the improvement and/or standard required, and the time scale allowed for this. The employee will be notified that this constitutes the first step of the formal procedure and the period of time that the warning will remain 'live'.

The employee will be advised of their right of appeal. A copy of the letter notifying the employee of the verbal warning will be kept by the HRSG. The letter will be hand delivered or sent by 1st class mail and recorded delivery wherever possible to ensure receipt. The employee's immediate supervisor or manager will normally have the authority to issue first written warnings. A verbal warning will normally be disregarded after 6 months, provided there are no further and similar instances of misconduct or capability during this time.

7.2 First Written Warning

If the infringement is regarded as more serious, or if following a verbal warning the desired improvements have not been achieved, then the employee should be given a written warning. The employee should be advised in writing of the warning, the nature of the conduct warranting the warning, the improvement and/or standard required, and the time scale allowed for this. The employee will also be notified that failure to improve or modify behaviour may lead to further disciplinary action under this policy.

The employee will be notified of the period of time that the warning will remain 'live'. The employee will also be advised of their right of appeal. A copy of the letter notifying the employee of the First Written Warning will be kept by the HRSG. The letter will be hand delivered or sent by 1st class mail and recorded delivery wherever possible to ensure receipt. A copy will be sent to the employee's representative. The employee's immediate supervisor or manager will normally have the authority to issue first written warnings. A first written warning will normally be disregarded after 12 months, provided there are no further and similar instances of misconduct or poor performance during this time.

7.3 Final Written Warning

Where there is a failure to improve or achieve/maintain the required standard of conduct during the currency of a prior warning, or where the infringement is sufficiently serious, the employee should normally be given a final written warning. The employee should be advised in writing of the warning, the nature of the conduct warranting the warning the improvement and/or standard required, and the time scale allowed for this. The employee will also be notified that failure to improve or modify behaviour may lead to further disciplinary action under this policy, including dismissal or some action short of dismissal. The employee will be notified of the period of time that the warning will remain 'live'. The employee will also be advised of their right of appeal.

A copy of the letter notifying the employee of the Final Written Warning will be kept by the HRSG. The letter will be hand delivered or sent by 1st class mail and recorded delivery wherever possible to ensure receipt. A copy will be sent to the employee's representative. Final written warnings can be issued by Head of Departments and Centre Manager. A final written warning will be disregarded after a period of 12 months, provided there are no further and similar instances of misconduct or poor performance during this time.

7.4 Dismissal or action short of dismissal

If the employee's conduct fails to improve or the misconduct is so serious to warrant dismissal action, then the final step may be to dismiss. However, consideration should be given to a change in role, or demotion to a lower grade job as an alternative. This would normally be done in conjunction with the issue of a formal warning, and any such alternative to dismissal would be offered subject to the express agreement of the employee.

A letter should be sent to the employee confirming the reasons for the dismissal or other sanction within 5 working days. In the case of dismissal the letter should give the date of termination of employment, setting out the period of notice to which the employee is entitled and advise them of their right of appeal. The letter will be hand delivered or sent by 1st class mail and recorded delivery wherever possible to ensure receipt. A copy will be sent to the employee's representative. Authority to dismiss within LIC falls within the responsibilities of the Centre Manager and those Senior Managers specifically designated for this purpose.

7.5 Summary Dismissal

There are certain offences that are regarded as so serious that if they are committed by an employee then dismissal without notice would normally follow. These offences are regarded as gross misconduct, and some examples of gross misconduct likely to result in summary dismissal are listed in Appendix 3. In the event that an employee commits an act of gross misconduct, LIC will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

A letter should be sent to the employee confirming the reasons for the summary dismissal, the date of termination of employment and their right of appeal. The letter will be hand delivered or sent by 1st class mail and recorded delivery wherever possible to ensure receipt and a copy will be sent to the employee's representative. Authority to dismiss within LIC falls within the responsibilities of the chair of HRSG and any Officers of the MC.

8.0 SUSPENSION FROM DUTY

It is important to note that Suspension is a neutral act, is **not** a disciplinary sanction and does **not** represent disciplinary action. Any suspension from work should be for as short a period as possible. Suspension from work may be on full contractual pay (based on the average pay over the previous four weeks or the shift pattern, if more appropriate) and without prejudice pending formal investigation of the allegations.

Suspension may be used in cases of alleged gross misconduct, or where the continued presence of the individual could prejudice the conduct of the investigation, or where there may be a risk to staff or others.

The decision to suspend can only be taken once advice has been sought from the HRSG. In providing advice/ authorisation the HRSG will consider whether any alternative arrangements can be put in place for an investigation to be carried out without the individual being suspended. Alternatives include a temporary transfer,

where the employee will be directed to work in another department or requiring the employee to refrain temporarily from performing certain elements of their role.

Undertaking the suspension will normally be the responsibility of the most senior manager of the member of staff available at the time. Managers with the authority to suspend are those with the authority to dismiss. This authority may be delegated as appropriate during periods of absence.

Where possible the employee should be given the opportunity to be represented at the suspension meeting but proceedings will not be delayed significantly to allow a particular representative to attend. A reasonable amount of time should be provided for the employee to arrange representation. If the chosen representative is unable to attend, the suspension meeting will proceed. Suspension will be for a maximum of five working days in the first instance and will be reviewed on a weekly basis by the suspending Manager. Confirmation of the reasons for suspension will be provided in writing within 24 hours of the verbal notification and reviewed weekly.

If the individual suspended believes the suspension to be unfair, the HRSG will undertake a further review to consider whether it should continue. It is the general intention of LIC that the person will usually be suspended for as least time as possible.

Once suspended from work the employee must:

- hand in their mobile phone
- not contact staff, students, worshipers etc.
- not enter any LIC work premises without prior agreement from the suspending Manager.

Staff who become sick during a period of suspension must advise the investigating manager of this. They must comply with LIC's Sickness Absence policy and procedures, including the requirement to submit a self certification after the third day of sickness and a medical certificate after the day of sickness. For the duration of their sickness they will receive normal sick pay, not suspension pay. If they perceive that they are too unwell to be interviewed LIC reserves the right where appropriate to correspond with them by letter. This will however only be initiated following consultation with the HRSG and will be an opportunity for them to inform the Investigating Manager of their perception of events.

Staff who wish to take annual leave during a period of suspension must request leave in accordance with LIC's arrangements for the booking of annual leave. The line manager who receives the request for leave must notify the Investigating Manager and the HRSG of the request prior to agreeing the leave to ensure that the investigation is not unnecessarily delayed.

9.0 SPECIAL CONSIDERATIONS

9.1 Fraud

Where there is a suspicion that an employee is committing fraud, then before any further action is taken (including notifying the employee of any investigation) the manager must discuss the case with the HRSG who will determine whether they need to undertake a counter fraud investigation.

9.2 Criminal Offences

Criminal offences outside employment will not be treated as automatic reasons for disciplinary action. The main consideration will be the extent to which the offence

alleged or committed is connected with, or is likely to affect adversely, the employee's performance of his/her duties or to compromise the reputation and/or profile of LIC. An employee will inform management as soon as possible of any criminal proceedings being taken against him/her, which may be relevant to the performance of his/her job. Where the employee is remanded in custody, he/she should arrange for LIC to be informed at the earliest opportunity.

When the conduct of an employee is the subject of police enquiries or criminal charges and the alleged offence may affect the employee's work or LIC's duty of care, then the disciplinary procedure may be initiated at once and not as the consequence of criminal proceedings. Where any such situations arise, detailed advice must be sought from HRSG at the earliest opportunity.

9.3 A grievance raised during a disciplinary case

In the course of a disciplinary process an employee might raise a grievance that is related to the case being made against them. If this situation arises advice should be sought from HRSG in the first instance, so that an appropriate decision can be taken in each individual case. In this situation consideration may be given to suspending the disciplinary procedure for a short period whilst the grievance is dealt with if the grievance is found to have a material impact on the matter being investigated. If there is no material impact found, the disciplinary process will proceed unabated.

10.0 DISCIPLINARY APPEALS PROCEDURE

An employee will have the right of appeal against any formal disciplinary sanction awarded against them.

10.1 How to appeal

To exercise the right of appeal, the employee must write to the Chair of the Disciplinary Hearing, or in the case of dismissal, to the Chair of the HRSG within 10 working days of receipt of the letter informing them of the outcome of the formal hearing. When lodging an appeal, the employee should state:

- a. the grounds of their appeal
- b. whether they are appealing against the finding that they have committed the alleged act(s) of misconduct, or against the level of the sanction imposed.

A date for the appeal will be set within 10 working days of receipt of the appeal letter, unless exceptional circumstances arise in relation to the availability of the relevant parties. In such cases, the HRSG will notify the employee of the delay, which will not normally be more than an additional 10 working days and reason for it.

The employee should provide a full written statement of their case at least 10 working days prior to the appeal hearing including copies of any witness statement(s), which they intend to rely upon.

Management will provide a written statement of their case at least 5 working days prior to the appeal hearing, together with any witness statement(s), which they intend to rely upon. Both parties should identify in their statement of case any witnesses they intend to call. All statements will be submitted to the hearing(s) and where statements are not agreed this will be identified to the Chair, who will make the final decision regarding the validity of the content of the statement.

It is the responsibility of the parties concerned to arrange for the attendance of their witnesses. In the case where witnesses are employees of LIC, time off with pay, or time off in lieu will be granted for them to attend the hearing. It is not normal LIC policy to involve clients/relatives or members of the public as witnesses at the

meeting and the written statement will be relied on for evidence.

10.2 Level of Appeal

10.3 Verbal Warning

An employee's appeal against a verbal warning will normally be heard by the manager of the person who issued the warning or another manager in LIC.

10.4 Formal First Written Warning

An employee's appeal against a first written warning will normally be heard by the manager of the person who issued the warning or another manager in LIC.

10.5 Formal Final Written Warning

An employee's appeal against a final written warning will normally be heard by the manager of the person who issued the sanction or another manager in LIC. Where the warning has been issued by a Head of Department, then the appeal may be heard by another Head of Department or Centre Manager of LIC.

10.6 Dismissal or Action Short of Dismissal

An employee's appeal against dismissal or action short of dismissal will be heard by a three member panel of LIC MC which will include at least one Officer of the MC.

10.7 Appeal Outcome

Upon completion of the appeal, and after adjournment, the Chair of the hearing will convey the decision to the employee. This decision is final. The decision will be confirmed in writing within 5 working days of the hearing. In exceptional circumstances, the Chair of the panel may extend this deadline and will provide written explanation for the delay to the employee. The process to conduct the appeal hearing is contained in Appendix 4. An appeal hearing is not a rehearing of the case.

11.0 DOCUMENTATION

It is important to keep written records during the disciplinary process to include:

- the complaint against the employee,
- the employee's response,
- findings made and decisions taken,
- whether an appeal was lodged,
- the outcome of the appeal,
- any grievances raised during the disciplinary procedure;
- and subsequent developments.

Records will normally be kept on the employee's personal file and stored securely, which he or she can have access to in accordance with the 1998 Data Protection Act. Sanctions that have expired should be removed from the file but may be retained by LIC. Copies of meeting records should be given to the employee including - copies of any formal notes that have been taken.

12.0 DATA PROTECTION

As part of the Disciplinary process LIC is obliged to keep records pertaining to the nature of the investigation, the hearing, any sanctions taken and the reasons for them. These records will be kept in accordance with the Data Protection Act 1998 which gives individuals the right to request and have access to certain data if it is about them personally and forms part of a computerised file or a structured, paper based manual employee file. Minutes/notes of meetings will be given to the employee if requested, although in certain circumstances (for example to protect a witness) LIC reserves the right to withhold information to protect confidentiality in

respect of a third party who has been involved in the case.

13.0. REMOVAL OF EVIDENCE OF A DISCIPLINARY NATURE

Any information relating to a disciplinary matter which may be received by a manager should not be placed on an employee's personnel record without having been disclosed to the employee. Any warnings and associated documents will be removed from the personnel record after the stated period unless a further warning has been given which makes reference to the first.

14.0 PROCESS FOR MONITORING COMPLIANCE WITH AND THE EFFECTIVENESS OF THE POLICY

The HRSG will keep records of any disciplinary offences reported to it detailing the nature of the issue, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. The HRSG will also monitor use of this procedure by gender, age and race etc. All disciplinaries will be recorded confidentially by the HRSG in order to monitor the level and types of disciplinaries within LIC and also the effectiveness of the policy to tackle them. The HRSG will continuously review all formal cases to ensure procedures have been followed and any learning points noted and incorporated.

14.0.6 Quarterly statistics on active and resolved disciplinaries will be reported to Managing People Committee, a Sub-Committee of LIC Board.

15.0 REFERENCES

- The ACAS Guide - Discipline and Grievances at Work 2011
- Employment Act 2002 (Dispute Resolutions) Regulations 2004
- Employee Relations Act 2004

Appendix 1

Glossary of terms and phrases used in the disciplinary policy

- a. **Line Manager** is the person to whom the employee is directly responsible for the purpose of his/her duties.
- b. **Senior Manager** is the person to whom the line manager is directly accountable.
- c. **Professional Advisor** is someone that the disciplinary panel can rely on to give advice based upon their professional qualification and expertise
- d. **Suspension on full pay** means the pay an employee would have received in accordance with his/her duty, had he/she been at work during the periods of suspension.
- e. In an investigation situation **represented** is defined as answering for or making specific responses to actual questions addressed to the employee.
- f. **Accompanied** is defined as being present in a supportive role but not taking part in the questioning or ascertaining of facts.
- g. **Submissions** is an argument/case put forward for consideration
- h. **Misconduct** is where an employee has knowingly failed to meet required standards for reasons over which he/she has control
- i. **Gross misconduct** is misconduct of such a serious nature that it fundamentally breaches the contractual relationship between the employee and the organisation. In the event that an employee commits an act of gross misconduct, the employer may be entitled to dismiss the employee without notice.
- j. An **appellant** is a member of staff that is appealing against the outcome of the disciplinary hearing.

Appendix 2

Examples of misconduct other than gross misconduct include but are not limited to:

- a. Unauthorised absence from work
- b. Poor timekeeping
- c. Refusal to carry out a reasonable management request
- d. Minor neglect of duty
- e. Failure to observe operational procedures
- f. Failure to fulfil contractual obligations;
- g. Failure to give proper support to other members of staff
- h. Minor breach of any policy or procedure of LIC
- i. Conduct that contravenes the standard of professional behaviour required;
- j. The commission of criminal offences outside the place of work, depending on the circumstances.

Appendix 3:

Examples of acts which could be considered as Gross Misconduct

The following is a list of offences which, if substantiated, are serious enough to be considered gross misconduct, and which may result in dismissal or summary dismissal. The list is neither exclusive nor exhaustive.

- Theft: any instance of theft or unauthorised removal of LIC property or theft from a member of the general public or staff on LIC premises
- Fraud: any deliberate attempt to defraud LIC, its staff or visitors
- Falsification of qualifications that are a requirement for employment or which result in financial gain
- False and misleading statements e.g. on application forms, on medical questionnaire or at medical examination, at an accident investigation or at a disciplinary investigation
- Assault: the use of physical violence and/or menacing behaviour
- Negligence: wilful or deliberate action or failure to act, which would cause damage to property or equipment or threaten the health or safety of other people
- Malicious damage: to LIC property or equipment or anyone else's property on LIC premises
- Inappropriate behaviour with reference to the appropriate code of conduct
- Corruption: acceptance of money, goods, favours or excessive hospitality in respect of service rendered or in return for preferential consideration
- Being unfit for duty due to the influence of drugs or alcohol to the extent of being unable to carry out the duties of the post in a satisfactory manner or to endanger fellow employees or visitors. Investigations into allegation made under this banner will take into consideration the provisions of the appropriate policy documents
- Serious insubordination or continued failure to follow a reasonable management request
- Disclosure of information: serious breaches of confidential information to unauthorised persons both within and outside LIC, e.g. personal employee information
- Wilful and serious dishonesty leading to a breach of confidence and trust
- Health and safety: serious breaches of health and safety regulations endangering other people and including the misuse of safety equipment
- Behaviour at work: serious complaints in respect of abusive, bullying or threatening behaviour at work
- Discrimination: serious complaints of discrimination against other employees or members of the general public.
- Harassment: serious complaints of harassment
- Managers will also take account of mitigating factors and will exercise discretion in each individual case based on the merits of that case.

Appendix 4

1.0 Appeal Hearing Procedure

The following procedure shall be observed in the appeal hearing:

- Introduce all those present at the hearing and clarify roles
- Ensure that all parties have the required paperwork:
 - Management statement of case
 - Basis of appeal
 - Outcome letter and minutes from previous hearing
 - Copy of relevant policy
- Ensure that an opportunity for representation has been given
- Ensure that the appellant or his/her representative has had sufficient time to prepare for the appeal hearing
- Check whether either side intends to call witnesses that the panel have not been advised of in advance
- Check that no further paperwork is to be produced, that has not already been produced in accordance with timescales. If it is to be produced, obtain reasons why it was not produced in line with timescales. If necessary panel withdraw to consider whether to accept.

3.0 Hearing Procedure

- The appellant or his/her representative will put their case in the presence of LIC's representative and may call witnesses.
- LIC's representative will have the opportunity to ask questions of the appellant, their representative or witnesses.
- Members of the appeals panel will have the opportunity to ask questions of the appellant, their representative or witnesses and any relevant questions of LIC's representatives.
- The appellant or their representative will have the opportunity to re-examine their witnesses on any matter referred to in their examination by members of the appeal panel or LIC's representative.
- LIC's representative will state LIC's case in the presence of the appellant and his/her representative and may call witnesses.
- The appellant or his/her representative will have the opportunity to ask questions of LIC's representative and witnesses.
- The members of the Appeal panel will have the opportunity to ask questions of LIC's representative and witnesses, and any relevant questions of the appellant.
- LIC's representative will have the opportunity to re-examine their witnesses on any matter referred to in their examination by members of the appeal panel or the appellant or his/her representative
- The appellant or their representative and then LIC's representative will have the opportunity to sum up their case if they so wish. The appellant shall have the right to speak last. In summing up, neither party may introduce any new facts or evidence.
- Nothing in the foregoing procedure will prevent the members of the panel from inviting either party to clarify or amplify any statement they may have made.
- The Panel may, at members' discretion, adjourn the appeal in order that further evidence may be produced by either party for any reasonable reason/s.
- LIC's representative, the appellant and his/her representative, and witnesses will withdraw from the hearing. Any advisor will withdraw prior to a decision being reached.
- The panel will deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary, both parties will return, notwithstanding only one is concerned with the point giving rise to doubt. The panel will consider:

- a. Whether the misconduct/allegation was adequately investigated.
 - b. Whether the LIC's procedures were fairly and correctly implemented.
 - c. Whether the action taken was reasonable, at this stage taking into consideration the case presented.
- The non-attendance of witnesses will not halt proceedings where the panel feels that their evidence or submission is documented.
 - The Appeals panel will make one of three decisions:
 1. To uphold the decision made by the disciplining manager.
 2. To substitute a different outcome.
 3. To dismiss the appeal.
 - Where disciplinary action is fully revoked, reference to the disciplinary action should be expunged from the employee's record, and the individual notified accordingly.

Appendix 5 Disciplinary Flowchart

