

Landward Research

# DISCIPLINARY PROCEDURE



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# 1 Introduction

This document sets out the disciplinary procedure to be followed by managers when dealing with all acts of alleged misconduct within the workforce.

- This procedure applies to all staff members, including all employees, volunteers – (including directors), seconded staff, agency staff, interns, students on work placement and anyone who is subcontracted to undertake specific duties.
- This procedure supports staff members to meet the required standards.
- This procedure is to make staff members aware of the consequences if they fail to meet the required standards.
- This policy applies equally and fully to Landward Research Ltd and to all subsidiary companies of Landward Research Ltd (on 24<sup>th</sup> June 2021: Landward Research Teoranta, Landward Limited Liability Company and Landward Limited).

The purpose of the Landward Research's Disciplinary Procedure is to help and encourage all staff members to achieve and maintain required standards of conduct and work performance. The aim is also to ensure that the Landward Research's services are maintained and effective while all staff members are treated fairly and equitably.

All action taken, either informal or formal should aim to resolve issues and/or aid improvement.

This procedure sets out the action that will be taken in response to alleged misconduct.

Line managers must ensure that their staff members are aware of general and specific rules, standards and procedures covering work and conduct. Staff members must familiarise themselves with these standards and procedures and follow them.

The Disciplinary Procedure relates to matters of misconduct. Matters relating to incapability due to ill health or disability shall be dealt with using the Sickness Absence Management procedure. Matters relating to work performance shall be

dealt with via the Capability procedure. In some circumstances Human Resources may need to determine the most appropriate procedure.

## 2 Principles

Informal action will be considered, where appropriate, to resolve problems. In appropriate cases of minor misconduct or unacceptable performance or behaviour, managers should use informal action before formal disciplinary action is taken. This may include setting clear targets and expectations, monitoring progress over a reasonable time period and providing additional coaching or training.

No disciplinary action will be taken until a case has been thoroughly investigated. When starting an investigation into an allegation of misconduct or poor performance, there shall be no assumption that disciplinary action will automatically follow.

For formal action the staff member will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made at a disciplinary meeting.

Staff members will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.

At all stages of the procedure the staff member will have the right to be accompanied by a trade union representative, or work colleague.

Staff members will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty will be dismissal without notice and without payment in lieu of notice.

An staff member will have the right to appeal against any disciplinary action.

The procedure may be implemented at any stage if the alleged misconduct or poor performance warrants such action.

## 3 The Procedure

### 3.1 Informal Action

When a potential misconduct situation occurs the first step is for the manager to make brief preliminary enquiries to assess whether further action may be required. This may include meeting with the staff member and asking them for a response on the matter. If formal action might be considered as the next step, this should be made clear to the staff member.

An attempt should be made to correct a situation and prevent it from getting worse through advice or informal action.

Managers should make and retain notes of any issue raised and discussed informally, including any agreed outcomes and support, securely and confidentially in accordance with Data Protection principles.

No formal disciplinary hearing will be arranged until the matter has been investigated. Investigations should be made as quickly as is practicable and without unreasonable delay in order to decide whether there is a case to answer.

The investigation process will depend on the nature of the alleged misconduct, the initial evidence against the staff member, and whether the individual has admitted to the misconduct. In cases where the facts are very clear and not in dispute, the investigation will be very short and it may be appropriate for it to be undertaken by the manager who receives the allegation(s).

In some circumstances, the manager may need to suspend an staff member from work on full pay while matters are investigated. Suspension is a neutral act and not a disciplinary sanction. This would only be upon consultation with Human Resources and for as short a period as possible, with regular reviews. Suspension will only be applied in exceptional circumstances.

If following investigation there is found to be a case to answer, informal action may be taken, or where appropriate a formal disciplinary meeting will be arranged.

Prior to commencing formal action, a manager should

- liaise with HR to ensure all appropriate and reasonable informal resolution has been considered; and
- make the staff member aware that formal action is now being considered.

## 3.2 Formal Action

If informal action fails to achieve the required improvement then this procedure is followed. This procedure applies to all staff members.

### 3.2.1 Invitation to a Disciplinary Meeting

Following an investigation the staff member should, without unavoidable delay, be given a letter detailing the allegation, the possible consequences and inviting them to a disciplinary meeting. The staff member will be advised in the letter of the seriousness of the alleged misconduct and possible outcomes. This will also state that they have the right to be accompanied by a trade union representative or work colleague at the meeting.

No less than seven calendar days in advance of the meeting the staff member will be provided with all the evidence that will be referred to during proceedings. This may include written documents and witness statements, depending upon the details of the case. The exact material to be provided to the staff member shall vary according to details of the case. Where further time is required to consider the evidence, there will be the ability to seek a reasonable adjournment where appropriate.

If upon receipt of all the available documentation the staff member accepts the allegation(s) and does not plan to contest the findings, they should advise their Line Manager (or Chair of the Board of Directors as appropriate).

Where the staff member decides to rely upon any evidence, they should provide this in advance of the disciplinary hearing. This may include written documents and witness statements. The staff member will have a reasonable opportunity to call relevant witnesses. The purpose of calling a witness would normally be to contribute to establishing the facts of the case. Witnesses who are to testify to the character of an individual can do so in writing. The staff member will be advised in writing of the timescales (which will usually be a minimum of seven calendar days unless agreed otherwise) and the process for providing such information. Where further time is required to consider the evidence, the panel have the ability to implement a reasonable adjournment.

If an staff member fails to attend a disciplinary meeting, Landward Research will try and rearrange the meeting at least one more time. If the staff member continues to be absent but has a good reason such as sickness, then we will seek to be flexible about rearranging the meeting more than once if possible, or will offer to hold the meeting at a place or time more convenient to them, or allow them to provide their response in writing or via their representative.

Ultimately, we may have to go ahead with the meeting in the absence of the staff member and make a decision based on the information we have. In this instance, the staff member will be given every opportunity to participate and put their side of the case. The staff member will be warned that this will happen should they not turn up again. We will also consider any written representations made or representations made by the staff members representative if they attend alone.

### **3.2.2 The Disciplinary Meeting**

Where possible, a note-taker, who must be uninvolved in the case, will take down a record of the meeting.

If there are any witnesses, they should not be present throughout the meeting. They should be called in, one by one, to give their evidence and asked to leave once they have done so.

The Line Manager (or Chair of the Board of Directors as appropriate) will open the meeting with an explanation of its purpose and will read aloud the allegations.

The staff member and their representative can ask questions including of any witnesses called. The Line Manager/Chair will then ask the staff member if they wish to take the opportunity to respond to the allegations or concerns or if there are any mitigating circumstances to be taken into account.

The Line Manager/Chair/panel may question the staff member and any witnesses called.

The Line Manager/Chair will summarise the main points of the discussion and ask the staff member if they have anything further to say.

The Line Manager/Chair/panel will then consider the details heard in private.

They must decide whether the case against the staff member has been established on the balance of probabilities, i.e. whether misconduct is confirmed or the staff member's performance is found to be unsatisfactory. If this is the case, when they are considering appropriate disciplinary action, they should also consider any special, mitigating circumstances, the staff member's previous disciplinary or performance record, how Landward Research has dealt with similar cases in the past and whether the proposed action is reasonable in view of all the circumstances.

The Line Manager/Chair shall give the staff member written confirmation of the decision normally within seven working days of the meeting. This will include notifying the staff member of their right of appeal and the procedure to be followed.

Formal action will be either:

- A written warning
- A final warning
- Dismissal or other sanction

Any formal action will reflect the seriousness of the staff member's misconduct.

### **3.2.3 Disciplinary Action**

If following the disciplinary meeting it is decided to take action, one of the sanctions below may be applied.

#### **3.2.3.1 Stage 1 - Written Warning**

If conduct does not meet acceptable standards the staff member will normally be given a written warning by their line manager. This will be in writing and set out the nature of the misconduct, the improvement required, any support which will be available, and the right of appeal. The warning will also inform the staff member that a final written warning may be considered if there is no sustained satisfactory improvement or change, or if further misconduct occurs. A record of the warning will be kept, which will be disregarded for disciplinary purposes after a period



specified in the letter (eg, six months), commensurate with the seriousness of the staff member's misconduct.

### 3.2.3.2 Final Written Warning

If the offence is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal (in effect both first and final written warnings), or if there is further misconduct or a failure to improve behaviour during the currency of a prior warning, the staff member will be given a final written warning. This will give details of the complaint, the improvement required, any support which will be available, the timescale for improvement, and dates for review. It will warn that dismissal may result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept by the line manager, it will be disregarded for disciplinary purposes after a 12 months (in exceptional cases duration may be longer) subject to achieving and sustaining satisfactory conduct or performance.

### 3.2.3.3 Other Sanction Short of Dismissal

Other action short of dismissal may be considered, including (this is not intended to form an exhaustive list):

- Demotion
- Unpaid suspension
- Restriction of duties/change to terms of employment

If some action short of dismissal is deemed appropriate the staff member will receive written details, including any support which will be available. The letter will warn the individual that further related misconduct may lead to dismissal, and it will refer to the right of appeal.

In the case of action short of dismissal a copy of the written details will be kept on the individual's record, it will be disregarded for disciplinary purposes after a specified period subject to achieving and sustaining satisfactory conduct. This period will ordinarily be for a maximum of 12 months unless exceptionally agreed by Human Resources.

### 3.2.3.4 Dismissal

If there is still further misconduct, the staff member fails to reach the prescribed standards, or if the offence constitutes gross misconduct, then the final step in the procedure may be dismissal. In reaching a decision to dismiss, prior careful consideration of other options will be given. Dismissal decisions can only be taken by the appropriate senior manager, and the staff member will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

## 3.3 Appeals

A staff member may appeal against the decisions of the disciplinary meeting taken under this procedure to the Chair of the Board of Directors, or if the Chair has already been involved in an earlier stage of the procedure, to another member of the Board of Directors.

The staff member wishing to appeal against a disciplinary decision, must do so in writing within seven working days of receiving written notification of the disciplinary action, stating the reasons for the appeal. Any documents submitted in support of the appeal must be attached.

Arrangements for the appeal meeting will be made by the Appeal Chair, who will ensure that a note-taker is present.

The appeal meeting should be held without unavoidable delay. Where possible, at least two members of the Board will constitute an Appeal Panel and exclude any person who line-manages the staff member and/or who made the decision which is the subject of the appeal.

The appeal is not a rehearing of the original hearing, but rather a consideration of the specific area with which the staff member is dissatisfied in relation to the outcome of the original hearing. The appeal panel will therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.

Witnesses may only be called with the permission of the Appeal Chair, this permission shall usually only be given where there was good reason for the witnesses not being called to give this evidence at the disciplinary hearing. If the

staff member requests a witness to be called, they should name the individual and explain the reasons for the request in the grounds for appeal.

At the appeal meeting the documentary evidence made available at the original hearing will be made available for reference purposes. As the purpose of the appeal is not a reconsideration of all matters, it is the responsibility of the staff member to state their case and bring to the attention of the panel all relevant documentary evidence that should be considered. Based on the appeal case presented and the associated evidence, the appeal panel may either uphold or reject the grounds for appeal.

The decision of the Appeal Panel or person hearing the appeal shall be final.

### 3.4 Other Provision

#### 3.4.1 Right to be Accompanied

During formal proceedings, including appeals, the staff member can be accompanied by a companion. This may be: either a fellow worker; a workplace Trade Union representative; or an official employed by a Trade Union. The staff member should advise whether the line manager/panel should copy the staff member's representative into all the relevant documentation.

At any disciplinary or appeal meeting, the staff member's companion will be able to address the hearing/meeting in order to: put the staff member's case forward; sum up the case; respond on the staff member's behalf to any view expressed at the hearing; and confer with the individual. The representative should not usually answer questions on behalf of the staff member, but may do so with the agreement of the line manager/panel.

#### 3.4.2 Concurrent Formal Procedures

Where an staff member seeks to activate a formal procedure, e.g. submits a grievance or an appeal within another procedure, during a disciplinary process which is related to the case the disciplinary panel may deem it appropriate to deal with the issues as part of, or concurrently with this procedure. Alternatively the line manager/disciplinary panel may deem it appropriate to temporarily suspend the

disciplinary proceedings pending the outcome of the other procedural process in order to safeguard the fairness of the process.

### 3.4.3 Reasonable Adjustments

Where an staff member believes that disability (e.g. hearing difficulties, chronic fatigue, dyslexia etc) or language skills (e.g. English is not his/her first language) may impact on the ability to participate as appropriate in the procedure, it is the individual's responsibility to raise this with Human Resources as soon as possible. In such cases Landward Research will consider providing appropriate reasonable support/adjustments during formal proceedings. Panel members shall be advised of any reasonable adjustments to be made.

### 3.4.4 Criminal Offences

Where staff members are charged with, or convicted of a criminal offence they are required to inform Landward Research as soon as possible. This shall not be regarded as an automatic reason for disciplinary action. Consideration will be given to whether the staff member's conduct or conviction merits action because of its employment implications. Factors may include, for example: whether the offence or the type of conduct that it exemplifies makes the individual unsuitable in relation to the type of work they do, or unacceptable to other staff members; and the likelihood and potential severity of damage to Landward Research's reputation. The facts of the case will be established to determine whether the conduct may warrant formal disciplinary action. Any investigation and subsequent disciplinary action will be separate to any police investigation and judicial process. Landward Research may take fair and reasonable action in relation to employment prior to the outcome of legal proceedings.

## 4 Misconduct and Gross Misconduct

### 4.1 Misconduct

The following are examples of misconduct although this is not intended to form an exhaustive list:

- unauthorised absence
- failure to comply with reasonable and legitimate instructions

- unsatisfactory timekeeping
- verbal abuse
- conduct detrimentally affected due to alcohol, drug, or substance misuse.

## 4.2 Gross Misconduct

Gross misconduct may be sufficiently serious to warrant summary dismissal, which is dismissal without notice or payment in lieu of notice, even in the absence of any prior disciplinary warnings, and which is sufficiently serious to destroy Landward Research's trust and confidence in the employment relationship.

The following list provides some examples of offences which are normally regarded as gross misconduct:

- theft or fraud
- physical violence or bullying
- deliberate and serious damage to property
- serious misuse of an organisation's property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- unlawful discrimination or harassment
- the giving or receiving of bribes or unauthorised gifts
- bringing Landward Research into serious disrepute
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- engaging in unauthorised employment during hours when contracted to work for Landward Research or during periods of designated leave, for example annual or sick leave, time off for training, etc
- failure to disclose unspent criminal conviction(s) or any convictions, whether spent or not, in respect of posts exempt under the terms of the Rehabilitation of Offenders Act 1974
- providing false information on a job application form including false information concerning immigration status
- a serious breach of health and safety rules
- a serious breach of confidence
- all forms of sexual violence and sexual harassment.

If you are accused of an act of gross misconduct, you may be suspended from work on full pay, normally for no more than seven working days, while the alleged offence is investigated. If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

## 5 Other Related Documentation

Where necessary, this policy should be read in conjunction with other Landward Research Policies, such as:

- Grievance Procedure
- Sickness Absence Management Procedure
- Capability Procedure
- Conduct Code
- Preventing Sexual Harassment Policy
- Equity, Diversity, and Inclusion Policy
- Preventing Bullying, Harassment, and Discrimination Policy

## 6 Review

Landward Research will review this Procedure on an ongoing basis and carry out a formal review not less than every 3 years. Such review shall take into account the operation of the Procedure since the last formal review, any legal or regulatory developments, an assessment of current best practice in relation to fair trading and any other relevant information.