



# **Irish Water Safety**

## **GRIEVANCE AND DISCIPLINARY PROCEDURE**

### **STAFF GUIDELINE DOCUMENT**

**Issued by the Irish Water Safety August 2003**

# **Grievance and Disciplinary Procedure**

## **Statement of Purpose**

Irish Water Safety acknowledges that most problems concerning an individual staff member and his/her employment will be dealt with satisfactorily in the course of the normal working relationship between the staff member concerned and his/her immediate supervisor. The purpose of an individual grievance procedure is to provide a framework for dealing promptly and fairly with individual staff members concerns or complaints about working environment, terms and conditions or workplace relationships which have not been or cannot be resolved through the normal working relationship.

Disciplinary issues arise when Irish Water Safety identifies problems of conduct or performance and management seeks to address them through well-structured procedures.

The purpose of this policy is to outline Irish Water Safety's agreed procedure in relation to dealing with grievances and disciplinary issues in employment.

## **Grievance Procedure**

### **1. Purpose**

1:1 The purpose of this policy and procedure is to enable all staff to raise any concerns or complaints about their working environment, terms and conditions and workplace relationships and to ensure that they are resolved quickly and satisfactorily.

### **2. Scope**

2:1 This policy applies to all staff employed by Irish Water Safety.

### **3. General Principles**

3:1 The procedure complies with the general principles of natural justice and fair procedures which include:

- that staff members' grievances are fairly examined and processed;

- that staff members are given the opportunity to avail of the right to be represented, by a work colleague or recognised Trade Union representative, and management reserve the right to be represented by the Personnel/Human Resources Department during the procedure, normally the Finance Commission or a representative.
- that staff members have the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, a staff member concerned and any other relevant or appropriate evidence, factors or circumstances.

#### **4. Policy**

- 4:1 It is acknowledged by all parties to this agreement that grievances are best resolved as close to the source of the dispute as possible.
- 4:2 It is recognised that there are different types of grievance that may need to be handled in different ways depending on the nature of the problem. If alternative procedures have already been agreed to address a grievance (e.g. equal opportunities, sexual harassment, bullying etc), these will be utilised.
- 4:3 It is the duty of all management and staff to ensure good working relationships and the resolution of personal frictions and matters of conduct.
- 4:4 However, there is a role for a formal procedure when grievances cannot be resolved through normal working relationships.

#### **5. Procedure**

- 5:1 Any staff member who feels that he/she has a grievance in respect of any matter regarding his/her employment shall, in the first instance, raise it informally with his/her immediate supervisor. Most complaints and grievances are resolved speedily and satisfactorily in this way.

Grievances may be raised at the next level in certain circumstances if that is deemed to be more appropriate.

- 5:2 Where the grievance cannot be resolved informally it will be dealt with under the formal grievance procedure.
- 5:3 The formal grievance procedure provides for the staff member to refer the grievance to the immediate supervisor at the earliest opportunity, but in any event within a reasonable time-scale. At this stage the grievance should be recorded in writing.

- 5:4 If agreement is not reached by this approach the procedure provides for the staff member to refer the grievance to the next highest level of management at the earliest opportunity.
- 5:5 If agreement cannot be reached through the above stages of the grievance procedure the issue in dispute may be referred by the staff member to the next level where appropriate.
- 5:6 A meeting will be arranged with the staff member concerned within two weeks. Every effort will be made by both parties to effect a settlement.
- 5:7 If the matter is not resolved at this meeting the issue in dispute may be referred to the Chairman who will arrange a meeting with all parties within two weeks.
- 5:8 Should the parties fail to resolve the issue, the matter may be referred by either or both parties to the Rights Commissioners Service/Labour Relations Commission or appropriate other third party e.g. Director of Equality Investigations.

## **6. Status Quo Clause**

- 6:1 During the course of the grievance procedure, the status quo will be maintained and work will continue without interruption.
- 6:2 No industrial action of any form will be taken by either side during the course of the procedure.

## **7. Equal Opportunities, Harassment and Sexual Harassment**

- 7:1 As highlighted at 4.2, it is recognised that there are different types of grievance that may need to be handled in different ways. Staff members with grievances in relation to equal opportunities, harassment (including bullying) and sexual harassment should, in accordance with Irish Water Safety's policies in this area, seek advice from any of the following:

- A member of the Finance Commission

# **Disciplinary Procedure**

## **1. Policy**

- 1:1 In Irish Water Safety, it is essential that certain standards of behaviour and performance be maintained to protect the smooth operation of the Association and the well being of its staff. The disciplinary procedure outlined below is designed to ensure fair treatment for those whose job performance is below an acceptable level and for those involved in breaches of discipline.
- 1:2 Depending upon the seriousness of the case and the circumstances surrounding it, the disciplinary procedures may be entered into at any of the stages outlined below. Except for cases of gross misconduct, dismissal will not be the first step.
- 1:3 In general, particular shortcomings on the part of a staff member in meeting job requirements or standards will be initially brought to his or her attention by the immediate supervisor in informal conversations accompanied by the offer of assistance towards achieving improvement.

## **2. Scope**

- 2:1 The procedure applies to all staff working with Irish Water Safety.

## **3. General Principles**

- 3:1 The procedure complies with the general principles of natural justice and fair procedures that include:
- i. that details of the allegations or complaints be put to the staff member concerned;
  - ii. that the staff member concerned be given the opportunity to respond fully to any such allegations or complaints;
  - iii. that the staff member concerned is given the opportunity to avail of representation by a work colleague or Trade Union representative. While there is no automatic obligation on Irish Water Safety to afford legal representations any request for legal representation will be considered on its merits;
  - iv. that the staff member concerned has the right to a fair and impartial examination of the issues being investigated, taking into account the allegations or complaints themselves, the response of the staff member concerned to them, any representations made by or on behalf of the staff member concerned and any other relevant or appropriate evidence, factors or circumstances.

3:2 Disciplinary actions may include: -

- (a) a verbal warning
- (b) a written warning
- (c) a final written warning
- (d) some other appropriate disciplinary action short of suspension without pay
- (e) suspension without pay
- (f) transfer to another task or section
- (g) demotion
- (h) some other appropriate disciplinary action short of dismissal
- (i) dismissal

Generally, the steps in the procedure will be progressive, for example, a verbal warning, a written warning, a final written warning, and dismissal. Following a written warning, other appropriate disciplinary action may be considered in individual cases prior to dismissal e.g. suspension without pay. However, for more serious offences a written warning may be issued as a first stage in the procedure and for proven gross misconduct dismissal without notice may be recommended.

Warnings will cease to have effect following the specified period of satisfactory conduct and will be disregarded for future disciplinary purposes. There may however be occasions where a staff member's conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where a pattern of such conduct emerges and there is evidence of an undermining of the disciplinary process, the staff member's previous disciplinary record may be borne in mind in determining the length of any future warnings.

#### **4. Procedure**

4:1 It is the intention of Irish Water Safety to endeavour to resolve problems through informal means. To this end, the supervisor will discuss any unsatisfactory work performance or conduct with the staff member and inform him/her of the required improvements. If the staff member concerned continues to fail to achieve the required work/conduct standards, the disciplinary procedure outlined below will be invoked.

4:2 **Stage 1: Verbal Warning**

A verbal warning, which will be issued by the Chief Executive, will clearly inform the staff member concerned of the standard/conduct he/she is failing to achieve and that repetition could result in further disciplinary action. The verbal warning will be issued at a meeting with the Chief Executive where emphasis will be placed on establishing the reasons for the failure to meet required standards and on assisting in the prevention of the recurrence.

4:3 A record of the verbal warning will be retained on his/her personal file and a copy will be given to the staff member. The verbal warning will be active on the personnel file for a period of 6 months. Subject to satisfactory service, the verbal warning will cease to have effect following the expiry of the 6 months and a note to that effect will be placed on the file. (See Record of Verbal Warning Letter – Appendix 1).

4:4 **Stage 2: Written Warning**

If the staff member's performance or conduct remains less than satisfactory in relation to that agreed at Stage 1, or there is a further breach of rules, a meeting will be arranged between the staff member and the Chief Executive. A letter of warning, signed by the Chief Executive will be issued to the staff member containing the following information:

- facts surrounding the misconduct or work standards not achieved;
- the Association's policy on the rule that was violated or the standards not achieved;
- details of previous meetings;
- statement that the written warning constitutes disciplinary action and failure to achieve the required standards will result in further disciplinary action;
- details of appeals procedure.

4:5 A copy of the written warning will be forwarded to the staff member's representative and a copy will be placed on his/her personal file. Subject to satisfactory service a written warning will cease to have effect after 9 months and a note to that effect will be placed on the file. (See Sample of Written Warning Appendix 2).

4: 6 **Stage 3: Final Written Warning**

If there is no improvement in the staff member's conduct or work performance, a meeting will be arranged between the staff member and the Chief Executive. A final letter of warning, signed by the Chief Executive will be issued to the staff member making it clear that his/her employment may be suspended or terminated if there is no improvement in conduct/performance.

4:7 A copy of the final written warning will be forwarded to the staff member's representative and a copy will be placed on his/her personal file. Subject to satisfactory service a final written warning will cease to have effect after 15

months and a note to that effect will be placed on the file. (See Sample of Final Written Warning Appendix 3).

- 4:8 If, after the final written warning has issued, there is still no improvement or there are further breaches of the rules, a comprehensive report on the facts of the case will be prepared by the relevant personnel so that appropriate action can be taken.
- 4:9 The Chairman will become involved at any stage of the disciplinary process as required.
- 4:10 The grievance and disciplinary procedure for senior staff e.g. Chief Executive will be identical to that for all staff with a designated Council Member taking responsibility for invoking the disciplinary action.

## **5. Suspension/Demotion/Transfer**

- 5:1 If a staff member's conduct or performance still fails to improve, following a final written warning, the appropriate e.g. Chief Executive may invoke a disciplinary action short of dismissal. The Chief Executive will act reasonably in all cases when deciding on appropriate disciplinary action.

A period of suspension without pay may arise at the end of an investigation that concludes that the staff member has been guilty of a breach of his/her employment contract amounting to misconduct but not gross misconduct. Similar action may be taken in cases of gross misconduct where there are mitigating circumstances. Any deduction from pay will be in accordance with the provisions of the Payment of Wages Act, 1991.

- 5:2 The procedure for informing a staff member of the disciplinary action being taken is as outlined above.

## **6. Dismissal**

- 6:1 If the staff member's conduct or performance still fails to improve the final step of the process will be dismissal. The decision to recommend dismissal to the Chairman will be made by the appropriate Chief Executive. The decision will be confirmed to the employee in writing and this letter will also outline to whom any appeal against the decision to recommend dismissal should be made. (See sample letter of decision to recommend dismissal Appendix 4).

## **7. Gross Misconduct**

- 7:1 Acts which constitute gross misconduct are those resulting in a serious breach of contractual terms and might include the following:
- theft, fraud and deliberate falsification of records;
  - physical violence, serious sexual harassment and bullying;



- deliberate damage to property;
- serious insubordination;
- misuse of Irish Water Safety's property or name;
- bringing Irish Water Safety into disrepute;
- serious incapability whilst on duty brought on by alcohol or illegal drug abuse;
- serious negligence which causes or might cause unacceptable loss, damage or injury;
- serious infringement of health and safety rules.

*This list is not exhaustive.*

- 7:2 In cases of gross misconduct the stages outlined in the disciplinary procedure do not normally apply and a staff member may be dismissed without recourse to the previous stages. If there is an allegation of gross misconduct, the staff member will be suspended on full pay pending the outcome of an investigation into the alleged breach of discipline. (See Sample Letter of Suspension Pending Investigation Appendix 5).
- 7:3 In the course of an investigation, the staff member concerned has the right to have all allegations brought to his/her attention and he/she also has the right to respond to all allegations. If the investigation upholds a case of gross misconduct, the normal consequence will be dismissal. The decision to recommend dismissal to the Chairman will be confirmed to the staff member in writing and this letter will also outline details of the appeals procedure. (See sample letter of decision to recommend dismissal Appendix 4).

## **8. Appeals**

- 8:1 All staff members have the right to appeal against disciplinary action.
- 8:2 An appeal against an oral warning, written warning or suspension should be made, in writing, to the Chairman, within 10 working days of the disciplinary action, stating the reasons for the appeal. He/she will arrange that a full review of the facts is carried out, which will normally include a further meeting with the Chief Executive and staff member concerned. Following this review, he/she will reply in writing outlining the outcome of the appeal. A copy of this letter will be forwarded to the staff member's representative.
- 8:3 If dismissal is being recommended, the employee has a right to a full hearing by the Chairman before a decision is taken. An appeal against a recommendation for dismissal should be made, in writing, to the Chairman, within 10 working days of the date of decision to recommend dismissal.

The Chairman will arrange that a full investigation will be carried out within 4 weeks, which may include a meeting with the Chief Executive and staff member concerned. Following this review, he/she will reply in writing outlining the outcome of the appeal. A copy of this letter will be forwarded to the staff member's representative.

## 9. General

- 9:1 **Staff on Probation:** Irish Water Safety may extend the probationary period where it is considered that performance/conduct is not satisfactory. If during the normal probationary period, the staff member on probation is considered to be unsuitable, there will be no cessation of employment prior to at least a verbal warning being issued. However, the situation will be constantly reviewed during the probationary period and sufficient training will be provided to ensure that the staff member on probation reaches the standards expected.

If the probationary period is extended, there will be no cessation of employment on the grounds of unsuitability until at least a written warning has been issued.

The Chief Executive will process disciplinary Matters in relation to a staff member on probation.

- 9:2 **Temporary Staff (with less than 12 month's service):** During the first 6 months of employment, if a temporary staff member is considered to be unsuitable his/her employment will not be terminated until at least a verbal warning has been issued.

After 6 months continuous service, employment will not be terminated until at least a written warning has been issued.

His/her Chief Executive will process disciplinary Matters in relation to a temporary staff member.

- 9:3 **Casual/Seasonal Staff:** Casual and seasonal staff shall be dealt with in relation to discipline and suitability as under (9:2) above.

- 9:4 **Substance Abuse:** While serious incapability whilst on duty brought on by alcohol or illegal drug abuse is considered by Irish Water Safety as gross misconduct, the policy of the Association is to provide support and assistance to staff members with alcohol and drug related problems. This support will be provided to a staff member in confidence on an individual basis.

If performance or behaviour is still affected, as a result of the staff member refusing to accept the assistance of the Association or, failure of the rehabilitation programme, the disciplinary procedure outlined above will apply.

- 9:5 **Criminal Charges or Convictions outside Employment:** These are not treated as automatic reasons for dismissal. The main consideration for Irish Water Safety will be whether the offence is one that makes the staff member involved unsuitable for the particular type of work. The Association will consider the seriousness of the conduct before determining on appropriateness of disciplinary procedures.

9:6 **Absenteeism:** Irish Water Safety has an Absenteeism Management Programme in place outlining the mechanism for reviewing of individual absences. The review mechanisms identified in the programme will be utilised together with the appropriate use of the disciplinary process. However, other disciplinary action measures outside of the disciplinary procedures may be considered and these include:

- temporary removal of uncertified sick leave privilege;
- forfeiture of sick pay;

Irish Water Safety's disciplinary policy, as outlined above, will be invoked where there is evidence that a staff member has deliberately breached the authority's sick leave guidelines, for example by:

- not reporting sickness in the correct way; or
- taking sick leave when he/she is not sick.

Appendix 1

**Sample Record of Verbal Warning Letter**  
**(Only issued after Verbal Warning has been issued)**

**DATE**

Dear

I refer to your attendance at a disciplinary meeting on \_\_\_\_\_ in the presence of your representative \_\_\_\_\_ and (outline all personnel in attendance at the meeting e.g. Personnel Representative).

I am writing to confirm the action taken at that meeting when you were given a verbal warning under the first stage of Irish Water Safety's Disciplinary Procedure.

This warning will be placed on your personal file but will be disregarded for disciplinary purposes after a period of 6 months provided your conduct improves/performance reaches a satisfactory level.

The nature of the unsatisfactory conduct/performance was

The conduct/performance improvement expected is

The time scale within which the improvement required is

The likely consequence of further misconduct or insufficient improvement is a written warning.

You have the right to appeal against this decision in writing to the Chairman, within 10 working days of the date of this disciplinary warning.

Yours sincerely

Chief Executive

CC Staff Representative

## Sample Written Warning Letter

### DATE

Dear

I refer to your attendance at a disciplinary meeting on \_\_\_\_\_ in the presence of your representative \_\_\_\_\_ and Mr./Ms. \_\_\_\_\_, (outline all personnel in attendance at the meeting e.g. Personnel Representative).

Having reviewed the submissions made at this meeting I am writing to inform you that you are being issued with a written warning under the second stage of Irish Water Safety's Disciplinary Procedure. The second stage of the Disciplinary Procedure is being invoked at this time as you were given a verbal warning on \_\_\_\_\_.

This written warning will be placed on your personal file but will be disregarded for disciplinary purposes after a period of 9 months provided your conduct improves/performance reaches a satisfactory level.

The nature of the unsatisfactory conduct/performance was

The conduct/performance improvement expected is

The time scale within which the improvement required is

The likely consequence of further misconduct or insufficient improvement is a final written warning.

You have the right to appeal against this decision in writing to the Chairman, within 10 working days of the date of this written warning.

Yours sincerely

Chief Executive

CC Staff Representative

## Sample Final Written Warning Letter

**DATE**

Dear

I refer to your attendance at a disciplinary meeting on \_\_\_\_\_ in the presence of your representative \_\_\_\_\_ and Mr./Ms. \_\_\_\_\_, (outline all personnel in attendance at the meeting e.g. Personnel Representative).

Having reviewed the submissions made at this meeting I am writing to inform you that you are being issued with a final written warning under the third stage of Irish Water Safety's Disciplinary Procedure. The third stage of the Disciplinary Procedure is being invoked at this time as you have previously been given a verbal warning on \_\_\_\_\_ and a written warning on \_\_\_\_\_.

This final written warning will be placed on your personal file but will be disregarded for disciplinary purposes after a period of 15 months provided your conduct improves/performance reaches a satisfactory level.

The nature of the unsatisfactory conduct/performance was

The conduct/performance improvement expected is

The time scale within which the improvement required is

The likely consequence of further misconduct or insufficient improvement is suspension/dismissal.

You have the right to appeal against this decision in writing to the Chairman, within 10 working days of the date of this written warning.

Yours sincerely

Chief Executive

CC Staff Representative

## **Sample Letter of Recommendation for Dismissal/Summary Dismissal**

### **DATE**

Dear

I refer to your attendance at a disciplinary meeting on \_\_\_\_\_ in the presence of your representative \_\_\_\_\_ and Mr/Ms \_\_\_\_\_, (outline all personnel in attendance at the meeting e.g. Personnel Representative).

I note that you have already been issued with a verbal warning on \_\_\_\_\_, a written warning on \_\_\_\_\_ and a final written warning on \_\_\_\_\_. The nature of the unsatisfactory conduct/performance was

I note that in the course of the disciplinary procedure your conduct/performance continuously failed to reach satisfactory levels.

In view of the above and taking into consideration all submissions in this case, I confirm that I am recommending to Council \_\_\_\_\_, the termination of your employment with Irish Water Safety.

***OR***

The disciplinary procedure arises from an incident on \_\_\_\_\_ that is considered by Irish Water Safety to be an act of gross misconduct. The details of the incident are as follows:

Having investigated the matter and considered all the relevant evidence I am of the opinion that an act of gross misconduct has taken place. Accordingly, I confirm that I am recommending to Council. \_\_\_\_\_, the termination of your employment with Irish Water Safety.

You have the right to appeal this recommendation, in writing to the Council, within 10 working days of the date of this letter.

Yours sincerely

Chief Executive

CC Staff Representative

## Appendix 5

### **Paragraphs to be included in a Letter of Suspension pending Investigation**

In order to allow Irish Water Safety to investigate the matter fully I confirm that you are suspended, on full pay, to facilitate the investigation. Your period of suspension commences on \_\_\_\_\_ (*Date*) and will continue until the investigation is completed.

You may be required to attend an interview in the course of the investigation in the near future. You may bring along a recognised trade union representative or a colleague of your choice to this interview.

Once the investigation has been completed you, together with your trade union representative or colleague of your choice, will be invited to attend a meeting to inform you of the findings of the investigation and to give you an opportunity to respond to same before a decision is made on what action, if any, may be taken.



## Sample Notice of Suspension

**DATE**

Dear

I refer to your attendance at a disciplinary meeting on \_\_\_\_\_ in the presence of your representative \_\_\_\_\_ and Chief Executive \_\_\_\_\_, (outline all personnel in attendance at the meeting e.g. Personnel Representative).

I am writing to confirm that, having considered all of the evidence, I have concluded that you have been

(a) guilty of a breach of your employment contract amounting to misconduct but not gross misconduct;

**OR**

(b) guilty of a breach of your employment contract amounting to gross misconduct. However I am aware of mitigating circumstances.

The nature of the misconduct was

Accordingly, your contract of employment with Irish Water Safety is being suspended for a period of XX months. The period of suspension will be at no pay and will not be reckonable service for increment, promotion, or superannuation purposes.

You have the right to appeal against this suspension, in writing, to the Chairman, within 10 working days of the date of this letter.

Yours sincerely

Chief Executive

CC Staff Representative

Appendix 7

### **Sample Notice of Disciplinary Interview**

DATE

Dear

I am writing to advise you that you are requested to attend a disciplinary interview on \_\_\_\_\_ at \_\_\_\_\_ am/pm which is to be held in \_\_\_\_\_.

At this interview the question of disciplinary action against you, in accordance with Irish Water Safety's disciplinary procedure will be considered with regard to:

You are entitled, if you wish, to be accompanied by another work colleague or recognised Trade Union Representative.

Yours sincerely

Chief Executive

## Sample Letter of Dismissal/Summary Dismissal

### DATE

Dear

I refer to your attendance at a disciplinary meeting on \_\_\_\_\_ in the presence of your representative \_\_\_\_\_ and \_\_\_\_\_, Chief Executive (outline all personnel in attendance at the meeting e.g. Personnel Representative).

I note that you have already been issued with a verbal warning on \_\_\_\_\_, a written warning on \_\_\_\_\_ and a final written warning on \_\_\_\_\_. (Please list any other actions taken e.g. suspension). The nature of the unsatisfactory conduct/performance was

I note that in the course of the disciplinary procedure your conduct/performance continuously failed to reach satisfactory levels. In the light of the above Mr./Ms. \_\_\_\_\_, Chief Executive, has recommended your dismissal. I note that you have been informed of this recommendation and that you were afforded the opportunity of an appeal.

**OR**

The disciplinary procedure arises from an incident on \_\_\_\_\_ that is considered by Irish Water Safety to be an act of gross misconduct. The details of the incident are as follows:

Having investigated the matter and considered all the relevant evidence it is considered that an act of gross misconduct has taken place. In the light of the above Mr./Ms. \_\_\_\_\_, the Chief Executive, has recommended your dismissal. I note that you have been informed of this recommendation and that you were afforded the opportunity of an appeal.

I note also that no appeal has been received from you or on your behalf.

**Or**

I note also that you appealed this decision on \_\_\_\_\_.

I have examined all the evidence presented to me in respect of this case and I have agreed to accept Mr./Ms. \_\_\_\_\_'s recommendation in relation to your dismissal.

Accordingly, I confirm that your employment with Irish Water Safety is being terminated with effect from today's date.

Yours sincerely

Chairman IWS  
CC Staff Representative