



# Employee Disciplinary Policy and Procedure 2020-21

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## 1. Introduction

1.1 NMITE's Disciplinary Policy is intended to assist and encourage all those involved with NMITE to maintain standards of behaviour, or to improve those when something goes wrong. It is also designed to enable management to deal effectively with those who do not comply with our standards of behaviour and performance in the workplace. The policy and its related procedures are designed in a manner which is non-discriminatory and fair and, if applied in a timely and consistent manner, effective.

## 2. Policy Statement

2.1 Disciplinary actions are designed to deal directly with the nature and actions of poor conduct that is within someone's control. As a baseline, we expect good and appropriate behaviour from all individuals we have engaged to work with NMITE. Behaviour frames the environment in which we all work, and our managers are expected to maintain satisfactory standards of behaviour and to encourage improvement where necessary both for themselves, for those they lead, and for others who may be working with NMITE.



- 2.2 It is our policy to ensure that any disciplinary matter is dealt with fairly and that organised steps are taken to establish each situation's facts and to give others involved in the situation the opportunity to respond before taking any formal action.
- 2.3 This procedure does not form part of any employee's contract of employment and it may be amended or varied, including any time limits, as deemed appropriate.

### **3. Confidentiality**

- 3.1 Our aim is to manage matters sensitively and with due respect for the privacy of any individuals involved. Consequently, all parties involved in a disciplinary matter must treat information related to any investigation or disciplinary matter confidentially and not divulge information to colleagues, friends and family members who are not party to the case.

### **4. Informal Procedure**

- 4.1 Ideally, working toward an improvement in behaviour, actions or discipline through informal discussion is our preferred approach for minor conduct issues and are part of an effort to avoid the need for more formal processes to be undertaken. Informal approaches to improving performance will normally involve a discussion between an individual and a manager so that problems can be promptly addressed and steps to undertake to correct the situation agreed.
- 4.2 Managers are expected to outline the problem, help the individual understand the problem, confirm the required standards which should be in place, and establish the timeframe during which a change is expected. The individual will also be told, where appropriate, that failure to improve may result in the start of a formal disciplinary procedure.
- 4.3 Any informal discussions, and/or informal letters of concern or verbal warnings given may then be placed in an employee's personnel file or lodged within a similar repository as a reference to the event in case of any further issues arising.

### **5. Investigations**

- 5.1 Investigations allow NMITE to fairly establish the facts relating to any disciplinary allegations before deciding whether to proceed with a disciplinary hearing. The approach to what investigation is required will always depend on the nature of the allegations. NMITE may appoint either an internal or external Investigating Officer to carry out the investigation at our discretion.
- 5.2 Investigative interviews (whether internal or external) are solely to establish the facts of a situation. Individuals are normally expected to attend an investigative interview by themselves but may be allowed to bring another if it helps them to overcome any disability, or any difficulty in understanding English, or in other similarly appropriate circumstances.



- 5.3 Those involved in any situation requiring investigation are expected to co-operate fully with the investigation, including informing it of the names of any relevant witnesses, disclosing any relevant documents, and attending investigative interviews if required.

## 6. Criminal Investigations

- 6.1 Should criminal investigation, charge or conviction be related to someone's conduct, NMITE would normally still conduct an internal investigation and reserve the right to take our own action as applicable.
- 6.2 If the individual involved is unable or has been advised not to attend a disciplinary hearing or to say anything about a pending criminal matter, NMITE reserves the right to take a disciplinary decision based on the available evidence.

## 7. Suspension

- 7.1 In some circumstances NMITE may need to suspend an employee or other contributor (such as a volunteer, partner or vendor) from work or attendance at NMITE events or premises.
- 7.2 The suspension will be for no longer than is necessary to fully investigate the situation and we will confirm the arrangements to the individual in writing.
- 7.3 While suspended, an individual is not allowed onsite at any of our sites or to contact students, contractors or staff, unless they have been appropriately authorised to do so.
- 7.4 However, they must make themselves available during working hours, should they be requested to attend the premises for further meetings or interviews associated with the investigation.
- 7.5 This is not a disciplinary penalty and does not imply that any decision has already been made about allegations. Employees and contractors will continue to receive their full remuneration during the period of suspension.

## 8. Disciplinary Code

### 8.1 Offences resulting in Disciplinary Action other than Gross Misconduct:

Where a breach of rules of expected standards of conduct occur and NMITE considers it necessary to take some form of disciplinary action, NMITE will, depending on circumstances of the case, normally take one of the actions listed below. However, please note that it is impossible to anticipate every disciplinary solution that may be required, so the list below is a general sample and NMITE reserves the right to tailor a disciplinary action to the specifics of a situation at any time.

- Verbal Warning
- Written Warning



- Final Written Warning
- Suspension
- Dismissal

## **8.2 Offences Resulting in Disciplinary Action - Gross Misconduct**

8.2.1 Gross misconduct is a serious breach of contract and includes misconduct which, in NMITE's opinion, is likely to prejudice our reputation internally and or externally, or irreparably damage the working relationship and trust between us.

8.2.2 Gross misconduct may lead to dismissal without notice or pay in lieu of notice (summary dismissal), cancellation of contract (in the case of a vendor or partner), or (in the case of a volunteer) rescinding of opportunity to work with members of the NMITE community.

8.2.3 Under this heading the most serious offences are grouped, and any individual found guilty of gross misconduct will normally be dismissed or otherwise separated from interaction with NMITE without notice.

8.2.4 The following are examples of Gross Misconduct:

- i. Fighting on NMITE premises
- ii. Threatening or provoking violence on NMITE premises
- iii. Theft from NMITE or any member of the NMITE community
- iv. Deliberate damage to NMITE property, or another's property whilst on NMITE premises
- v. Fraud or deliberate criminal acts on NMITE premises or relevant to NMITE activities
- vi. Serious breach of the Bullying & Harassment Policy
- vii. Deliberate unauthorised interference with NMITE's IT Systems or data
- viii. Abuse of NMITE's Sick pay scheme
- ix. Serious insubordination

This list is intended as a guide and is not exhaustive.

## **9. Notification of a Hearing**

9.1 If it is considered there are grounds for disciplinary action following an investigation, the individual in question will be required to attend a disciplinary hearing. NMITE will inform the individual in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if NMITE decides after the hearing that the allegations are founded.



- 9.2 NMITE will give the individual written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but the individual will be given a reasonable amount of time, usually at least two to seven days, unless in exceptional circumstances, to prepare their case based on the information provided to them.
- 9.3 In the case of a hearing, an individual will have the right to a fellow employee or a Trade Union Representative (if applicable) to the hearing.

## **10. Procedure at Disciplinary Hearings**

- 10.1 If the individual and/or their representative cannot attend the hearing, they should inform NMITE immediately and an alternative time will be arranged. However, every effort to attend the hearing should be made and failure to attend without good reason may be treated as misconduct itself. If the individual fails to attend without good reason, or is persistently unable to do so, NMITE may have to convene the hearing and determine the outcome based on available evidence.
- 10.2 The hearing will be chaired by an appropriate Senior Leadership Team member. The Investigating Officer and/or Human Resources may also be present.
- 10.3 At the disciplinary hearing NMITE will go through the allegations against the individual and the evidence gathered. The individual will be able to respond and present any evidence of their own. The individual's representative may make representations and ask questions, and the individual may confer privately with their representative at any time during the hearing.
- 10.4 NMITE may adjourn the disciplinary hearing if further investigations such as re-interviewing witnesses in the light of any new points raised at the hearing. The individual will also be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.5 NMITE will inform the individual in writing of its decision and the reasons for it, usually within ten working days of the disciplinary hearing.

## **11. Forms of Disciplinary Action**

- 11.1 NMITE aims to treat all individuals involved with the organisation fairly and consistently, and any penalties imposed historically for similar situations will usually be considered but will not be treated as a precedent. Each case will be assessed on its own merits.
- 11.2 The following forms of disciplinary action may be issued concluding a Disciplinary meeting:
- i. Verbal Warning – Performance – a first written warning will usually be appropriate for poor performance in any individual situation. This should be issued as a Performance Improvement Plan (PIP) . The PIP should include



the performance problem, the improvement required, timescale for review, next review date and any support or training NMITE will provide.

- ii. Verbal Warning – Misconduct – a first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the individual's record.
  - iii. Written Warning – a warning issued if there is no improvement after the verbal warning is issued, or if the severity of the incident warrants moving straight to a written warning.
  - iv. Final Written Warning – a final written warning will usually be appropriate for misconduct where there is already an active written warning on the individual's record for the same or similar misconduct; or misconduct that NMITE consider sufficiently serious to warrant a final written warning even though there are no other active warnings on the individual's record or misconduct that is considered to be gross misconduct but where dismissal has not been considered necessary.
  - v. Dismissal or Permanent Removal of Access to NMITE Premises – dismissal or permanent removal will usually only be appropriate for further misconduct where there is an active final written warning on an individual's record or for any gross misconduct regardless of whether there are active warnings on record. Gross misconduct will usually result in immediate dismissal or removal without notice or payment in lieu of notice (summary dismissal).
- 11.3 Alternatives to Dismissal – in some cases NMITE may at our discretion consider alternatives to dismissal. These will usually be discussed with the individual and accompanied by a final written warning.

## **12. Recording of a Disciplinary Action**

- 12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further future misconduct.
- 12.2 A Verbal and Written warning will usually remain active for six months and a final written warning will usually remain active for twelve months. In exceptional cases a final written warning may state that it will remain active indefinitely.
- 12.3 After the active period, the warning will remain permanently on an individual's file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## **13. Appeals Against Disciplinary Action**

- 13.1 If any individual feels that the disciplinary action taken against them is wrong or unjust they should appeal in writing, stating their full grounds of appeal, to the HR Director (People and Culture) within seven working days of the date on which they were informed of the decision.
- 13.2 If an individual is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However,



if the appeal is successful the individual will be reinstated with no loss of continuity of service or pay. In the case of an employee, NMITE may have begun recruiting for a replacement for the employee's role. In this circumstance, although the recruitment process may continue, no permanent replacement will be appointed prior to the determination of the appeal.

- 13.3 If an individual raises any new matters in their appeal, NMITE may need to carry out further investigation. If any new information comes to light, NMITE will provide the individual with a summary. including where appropriate, copies of additional relevant documents and witness statements. The individual will have a reasonable opportunity to consider this information before the hearing.
- 13.4 NMITE will provide written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after receipt of the written notice.
- 13.5 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at NMITE's discretion depending on the circumstances of the case.
- 13.6 Where possible, the appeal hearing will be conducted by a more senior manager or Board member who has not been previously involved in the case. The individual may bring a representative to the appeal hearing. NMITE may adjourn the appeal hearing if it needs to carry out any further investigations in the light of any new points raised at the hearing. The individual will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 13.7 Following the appeal hearing NMITE may either:
  - i. Confirm the original decision;
  - ii. Revoke the original decision; or
  - iii. Substitute a different action (this will not be a more severe penalty than that originally imposed).
- 13.8 NMITE will inform the individual in writing of its final decision as soon as possible, usually within ten working days of the appeal hearing. There will be no further right of appeal.