

SECTION **G**

Resolving Issues at Work
Guidance in the use of Procedures

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G1. Introduction

G1.1 This Section provides guidance on the grievance and disciplinary procedures, resolving grievances and managing appeals from disciplinary or redundancy dismissals.

G2. Reasons for this Guidance

G2.1 This Guidance meets the requirements of the Employment Rights Act 1996, other relevant legislation and of associated Codes of Practice and Guidance, as published by ACAS. All employers shall ensure that a copy of this Guidance is accessible to their Operatives.

G2.2 The aim of the Guidance is to promote fairness in the treatment of Operatives and to indicate expected levels of performance and conduct.

G2.3 The Guidance also provides a comprehensive industry disputes procedure which can be invoked to resolve grievances and any appeals against disciplinary or redundancy dismissals, when matters have not been resolved through a company's domestic procedures.

G2.4 When an Operative fails to reach the required standards of performance and has not responded to the opportunities provided for improvement or has committed a breach of the rules, the appropriate disciplinary action, as set out in the Guidance can be taken.

G3. Application and Scope

G3.1 This Guidance, and the disciplinary proceedings included within it, applies to all Operatives employed under SJIB terms and conditions.

G4. Understanding the Guidance

G4.1 Any Operative requiring clarification should first approach the employer, then the Union or the SJIB.

G4.2 Only the SJIB can give definitive rulings on its application.

G5. Operative Conduct Expectations

G5.1 Policy Statement

The paragraphs below outline the broad expectations of Operative conduct and the procedures which may be applied when the expected standards of conduct and behaviour are breached.

G5.2 General Behaviour

Operatives are expected to behave in a professional manner and to extend courtesy and respect to customers, clients and colleagues at all times.

G5.3 Timekeeping

- a) Frequent, or excessive, lateness, or leaving the job early or extending any breaks, without permission, can result in disciplinary action being taken.
- b) Operatives who agree to work overtime but who later fail to honour their undertaking, without good reason, will be regarded as absent without permission.

G5.4 Sickness

An Operative who is too ill to come to work should inform his/her employer on the first day of absence. A self-certificated absence form is required to cover the first seven days of absence. If the illness persists for more than seven days, including weekends, the absence must be supported by a Statement of Fitness for Work.

G5.5 Unauthorised Absence

- a) Unauthorised absence can result in disciplinary action being taken.
- b) Unauthorised absence or lateness in attending college by Adult Trainees and Apprentices will be treated in the same way as an absence from their place of work.

Note: For further information refer to the SJIB Apprentice and Adult Training Schemes Guide.

G5.6 Permission for time off work, e.g. to accommodate an Operative's domestic and personal requirements including, but not limited to, bereavement, travel disruption and other emergency situations should, where possible and appropriate, be sought in advance.

G5.7 All Operatives are expected to carry out their work to acceptable standards.

G5.8 The planning and supervision of work is primarily the responsibility of the employer but Operatives are expected to co-operate in anticipating delays and achieving an acceptable level of performance and productivity.

G5.9 Refusing to obey a reasonable instruction will be regarded as non-co-operation and may lead to disciplinary action.

G5. Operative Conduct Expectations continued

- G5.10 Misuse of materials, plant, equipment, tools and employer's or client's property, or a breach of instructions can result in disciplinary action.
- G5.11 **Health, Safety and Welfare**
- (a) All Operatives are required to observe statutory requirements and company rules specified by their employer relating to health, safety and welfare.
 - (b) For health and safety reasons Operatives should be suitably and safely dressed and, where required, wear the appropriate Personal Protective Equipment (PPE). Employers may specify in more detail the particular arrangements applicable to their own organisations, for example, whether certain styles of clothing and footwear are appropriate in the prevailing conditions on site and are acceptable for safety reasons.
- G5.12 Refusing, neglecting or failing to observe safety rules and precautions, or a failure to properly use and maintain PPE provided by the employer, may result in disciplinary action.

G6. Disciplinary, Grievance and Dismissal Appeals Procedures

- G6.1 All employers are required to have formal company procedures in place, based on the ACAS Code of Practice, which addresses disciplinary issues, Operative grievances and the management of any appeals arising from disciplinary and redundancy dismissals and the resolution of grievances.
- G6.2 If the matter cannot be resolved through the company's domestic procedures, the SJIB Formal Disputes Procedures may be invoked to resolve any grievance, disciplinary or redundancy appeals issues.
- G6.3 These procedures deal fully with the processing and presentation of relevant material, administrative control, time scales of the various stages of applications and give general guidance to all parties.
- (a) Where disciplinary and redundancy issues cannot be resolved through the company domestic appeal process, the SJIB Procedure for Handling and Resolving Disciplinary and Redundancy Dismissal Appeals, referred to in Appendix G7, shall be followed.
 - (b) Where grievance situations cannot be resolved through the company domestic process, the SJIB Procedure for Handling and Resolving Individual and Collective Grievances, referred to in Appendix G8, shall be followed.
- G6.4 Where an employer has exhausted the opportunity for resolving an issue using his domestic procedures, that issue can be referred to Stage 2 of the SJIB Procedure, as set out in Appendix G8, and any subsequent stages of that Procedure, as appropriate.

G7. Handling Disciplinary Issues in the Workplace

- G7.1 Once an employer has identified an issue of poor performance, absenteeism/lateness or minor misconduct involving an Operative, it is good practice to seek to address the issue with the Operative directly, either informally (e.g. informal verbal caution) or as part of a more formal process established by the employer (e.g. absence management, individual Operative assessment, job appraisal review etc.).
- G7.2 An Operative's performance on the job may fall short of the required standard because the Operative has not had adequate training, or is unable to do the work to the required standard for another reason. Prior to invoking a formal capability procedure which could lead to dismissal, an employer must:
- Identify the particular issues with the Operative's performance.
 - Ensure the Operative understands what those issues are.
 - Provide the Operative with appropriate support and training to address the performance issues identified.
- G7.3 It is important that the employer carries out the necessary investigations of potential disciplinary matters within five working days, to establish the facts of the matter and to determine whether it is appropriate to convene a disciplinary hearing.
- G7.4 Where the employer considers that he cannot allow the Operative to remain at work while a matter is being investigated, the Operative can be suspended, with pay, unless and until a decision about any disciplinary action has been taken. An Operative should be notified in writing of his suspension (see Appendix G2).
- G7.5 The period of suspension should be as brief as possible, should be kept under review and it should be made clear to the Operative that the suspension is not considered to be punitive and is not a disciplinary sanction.
- G7.6 Nevertheless, it should be made clear that, once an investigation is completed, a hearing may be convened and disciplinary action may follow.
- G7.7 Following the conclusion of the investigation(s) referred to in Paragraphs G7.3 and G7.4 above, a decision shall be made as to whether there is a case to answer.

G7. Handling Disciplinary Issues in the Workplace continued

- G7.8 If a disciplinary hearing is to be convened, the Operative should be notified of this in writing no later than five working days following the decision. The hearing itself should be convened no later than ten working days following the notification. The notification should contain sufficient information to enable the Operative to prepare to defend his position at a disciplinary hearing. Operatives have the right to request any evidence relevant to the case prior to the disciplinary hearing. The time and venue of the disciplinary hearing should be set down and the Operative advised of his right to be accompanied at the hearing either by a fellow worker, a trade union representative or an official employed by the Union who has been certified by the Union as being competent to accompany an Operative (see Appendix G3).
- G7.9 The Operative should be given the opportunity to state his position at the hearing, allowing the employer to fully consider the matter before reaching a decision.
- G7.10 No disciplinary sanction shall be applied until a disciplinary hearing has taken place.

G8. Appropriate Disciplinary Action, Communication and Duration of Warnings

- G8.1 In reaching a decision following a disciplinary hearing, the employer should decide whether or not any further disciplinary or any other action is justified and inform the Operative accordingly in writing.
- G8.2 Verbal warnings may well suffice e.g. for minor time-keeping offences, or careless inattention to detail, not resulting in serious faults. The purpose of such warnings is to improve future performance. The employer will provide training/support as appropriate. A record should be kept on the file of the Operative concerned for a period of six months (see Appendix G4).
- G8.3 Where misconduct is confirmed or, where, after a period of further training/support on the job, the Operative continues to perform unsatisfactorily, the Operative may be given a written warning. A record should be kept on the file of the Operative for a period of six months (see Appendix G4).
- G8.4 A further act of misconduct, or failure to improve on performance within a set period, may result in a final written warning. A record of the written warning should be kept on the file of the Operative concerned for a period of 12 months (see Appendix G4).

- G8.5 Written warnings should contain the information shown in Appendix G4, which is in the form of a template letter.
- G8.6 If the Operative's misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This may happen where the Operative's actions have had, or are liable to have, a serious or harmful impact on the organisation.
- G8.7 A written, or final written warning should set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required (with timescales). The Operative should be told how long the warning will remain current. The Operative should be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a warning.
- G8.8 The intention is that most disciplinary action will have the effect of improving behaviour or work performance. Accordingly, except where gross misconduct has occurred, an Operative would not normally be dismissed for a first breach of discipline.
- G8.9 When an Operative's actions are so serious that they fall into the category of gross misconduct, dismissal without notice, even for a first offence, may be appropriate. Examples of gross misconduct are set out in Appendix G1.
- G8.10 It is important that no dismissal should take place without going through the steps detailed within Appendix G7.
- G8.11 Employers are responsible for ensuring that Operatives know who their immediate Line Manager is. Employers are advised to publicise job titles and those individuals who have the authority to dismiss and/or who will hear appeals. A decision to dismiss should only be taken by a manager who has the authority to do so. At the very least, wherever possible, no dismissal must be actioned by the Operative's immediate Line Manager without any reference to the next level of management. However, in many small organisations, there may be only one person, perhaps a sole proprietor, who alone has the authority to discipline and dismiss Operatives and to hear appeals, and he will have the ultimate responsibility in such cases.
- G8.12 An Operative should be informed within five working days of the reasons for his dismissal, the date on which the employment contract will end, the appropriate period of notice, if any, and his right of appeal (see Appendix G4). Where an Operative is persistently unable or unwilling to attend a disciplinary meeting, without good cause, the employer can make a decision on the evidence available and confirm the decision in writing (see Appendix G4). However, the Operative should be given an opportunity to attend in the knowledge that a decision could be made in his absence.

G8. Appropriate Disciplinary Action, Communication and Duration of Warnings

continued

- G8.13 Employers should keep records detailing the nature of the breach of disciplinary rules, the action taken and the reasons for it, whether an appeal was lodged and its outcome and subsequent developments. This is essential to the process, particularly if further formal stages of procedure are invoked.
- G8.14 Employers are advised that all warning letters/statements, particularly final warnings, issued to Operatives who are Union members, should, upon request, be copied to the Union Regional Officer. Details of all disciplinary action to be taken against an accredited Shop Steward, or other properly appointed Union representative, should be given to the Union in advance of any such disciplinary action. Written warnings should not be issued to shop stewards, or other properly appointed Union representatives, nor should their dismissal be effected, without first giving prior notice to the Union and discussing the circumstances of the case with the Union Regional Officer.

G9. Exceptional Cases

G9.1 **Shift Work and Isolated Locations**

- (a) Employers will need to make special provisions, where required, when dealing with disciplinary matters where e.g. Operatives are working on night shift, or on isolated sites, where a supervisor or manager, with authority to take disciplinary action, is not on site at the time. That an incident does not come to an employer's attention until some time after the event will not preclude disciplinary action being taken, provided the matter is dealt with promptly once the employer is made aware of the circumstances.

G9.2 **Union Representatives**

- (a) Shop Stewards and other properly appointed Union representatives are subject to the same disciplinary arrangements as all other Operatives insofar as they relate to their workmanship and conduct as specified elsewhere in this Guidance. Their legal rights and those of other Operatives, where Union activities are concerned, will be respected by their employers. The reference to Shop Stewards and other Union representatives in no way implies that separate standards or conditions apply to them, but simply recognises that industrial relations problems can arise if disciplinary action is perceived to be an attack on the Union's function where the employer's stated intention is to ensure that standards are consistently applied. That is to say, employers will accord reasonable facilities to the Shop Stewards and other Union officials for the purpose of carrying out their Union duties, and will in no way victimise or penalise them for so doing, but such persons should otherwise conduct themselves in accordance with this Guidance which applies equally to themselves and to their workmates.

- (b) Prior to commencing any form of disciplinary action (or disciplinary investigation) against a recognised Union Senior Shop Steward/Shop Steward/Health and Safety Representative, the employer will contact the appropriate local Union Regional Officer.

G9.3 **Criminal Offences Outside Employment**

- (a) The ACAS Code of Practice states that criminal offences outside employment should not be treated as an automatic reason for dismissal, regardless of whether the offence has any relevance to the duties of the Operative. The main consideration should be whether the offence is one that makes the Operative unsuitable for this type of work or unacceptable to other Operatives.
- (b) Operatives will normally not be dismissed simply because a charge against them is pending or because they are absent having been remanded in custody.
- (c) However, if an Operative is remanded in custody and the employer's work requirements are such that it must recruit a replacement, the employer may terminate his employment and this should be communicated in writing to the Operative in custody. It should be made clear to the Operative that, on release from remand, he may be considered for any subsequent vacancy that arises.
- (d) If an Operative is imprisoned, he should be informed in writing by letter that his employment has been terminated, on the grounds that he is unable to perform the contract of employment.

G9.4 **New Operatives Working a Probationary Period**

- (a) If employers operate a probationary period, during which employment can be terminated by either party, they must make clear to the Operative the length of the probationary period, what the required standards are and give any warnings necessary during the probationary period in a formal manner, so that Operatives understand the standards required of them.
- (b) The Written Statement of Employment Particulars provided to the Operative should state clearly what process will apply in the event that the Operative fails to meet the standards required in the probationary period and that the employment may be terminated during the probationary period.
- (c) The probationary period for Apprentices is six months, as specified in the SJIB Training Schemes Guide (see Section J - Apprentice and Adult Training Schemes Guide).

G10. Domestic Appeals Procedure

- G10.1 Operatives have the right of appeal against formal disciplinary action. In all disciplinary cases, appeals will follow the SJIB Procedures for Handling and Resolving Disciplinary and Redundancy Dismissal Appeals (see Appendix G7).
- G10.2 Any appeal against a verbal, written, final warning or notice of dismissal should be made, in the first instance, through the employer's disciplinary procedure which should provide for a domestic appeals meeting.
- G10.3 The appeal should be made in writing by the Operative no later than ten days after the decision of the Disciplinary Hearing was made known.
- G10.4 An Operative appealing against such a decision will be invited, in writing, to an Appeal Hearing to be held at a mutually convenient time but no later than ten days from the receipt of the appeal request. (See Appendix G5).
- G10.5 A written decision following an appeal should be issued within five working days and should specify the reasons for the decision (see Appendix G6).

G11. Revision to this Guidance

- G11.1 The SJIB, that is the employers and the Union, will periodically review this Guidance in the light of developments in employment legislation, or industrial relations practice and, if necessary, revise it in order to ensure its continuing relevance and effectiveness, and, in the event of any such changes, make appropriate arrangements to publicise them to its members. Alterations to this Guidance will be made by the SJIB.

Appendix G1

GROSS MISCONDUCT

Actions leading to dismissal without notice, for a first offence, will be serious breaches of conduct, negligence or breaches of the National Working Rules and include, but are not limited to the following:

- (a) Violent or threatening behaviour including wilful damage to employer's or client's property.
- (b) Fraud or theft.
- (c) Incapacity due to alcohol and/or drugs.
- (d) Contravention of employers, clients or statutory regulations, including safety regulations.
- (e) Indecent behaviour.
- (f) Contravention of the Company Rules which are normally displayed on notice boards and in the canteen and are explained at Operative Induction sessions.

Note: The above categories do not constitute an exhaustive list of offences and are by way of example only.

Appendix G2

COMPANY SUSPENSION LETTER (SAMPLE)

[Address]

[Date]

Dear [Operative's Name],

This letter is to advise you that, from **[date]**, you are suspended, on basic pay, in order that the company may conduct an investigation into an allegation that you have **[Detail of possible offence]**.

During your suspension, you may not attend your place of work other than for the purpose of attending an investigation review and/or Disciplinary Hearing. You will not be permitted to contact any other Operatives, staff, suppliers or customers of the company without the company's consent, with the exception of your Union representative.

I will write to you further within five working days to arrange a suitable date for your Disciplinary Hearing where this matter can be discussed in detail.

Yours sincerely,

[Signature of Immediate Line Manager]

Appendix G3

COMPANY LETTER INVITING AN OPERATIVE TO A DISCIPLINARY HEARING (SAMPLE)

[Address]

[Date]

Dear [Operative's Name],

This letter is to invite you to attend a Disciplinary Hearing on **[Date of Hearing]** at **[Time of Hearing]** which is to be held at **[Place of Hearing]**. The possibility of disciplinary action being taken against you, in accordance with the SJIB or Company's Disciplinary Procedure, will be considered at this interview with regard to **[Specific behaviour / conduct to be considered and relevant dates on which the incident (s) took place]**.

You are entitled, if you wish, to be accompanied either by a fellow worker, or your Union representative, or an official employed by the Union who, to the satisfaction of the employer, has been certified by the Union as being competent to accompany a worker. **In the case of an Apprentice, the company would prefer the Operative to be accompanied by their parent or guardian.**

If, for good reason, you, or the person you wish to accompany you, cannot attend this interview, please inform **[details]** office as soon as possible in order to arrange an alternative date.

Yours sincerely,

[Signature of Immediate Line Manager]

Appendix G4

COMPANY LETTER ADVISING AN OPERATIVE OF POST HEARING DECISION (SAMPLE)

[Address]

[Date]

Dear [Operative's Name],

This letter is to confirm the decision taken at the Disciplinary Hearing held on **[Date of Hearing]** that you **[be summarily dismissed without notice or payment in lieu of notice or be issued with a Verbal / Written / Final Written warning]** in accordance with the SJIB or Company Disciplinary Procedure.

Your last day of employment with the company was **[Date of Last Day of Service]** (only applicable if dismissed).

OR

This warning will remain on your file for a period of **[6 months or 12 months, see sections G8.2, G8.3, G8.4 & G8.6 for guidance]**.

The reasons for this disciplinary action are:

[Nature of relevant offence/ conduct and the dates on which the incident (s) took place].

You have the right to appeal against this decision in writing to **[Addressee of such an Appeal Letter]** within ten normal working days of receiving this letter. Your letter should state the grounds on which you are appealing.

Yours sincerely,

[Signature of Immediate Line Manager]

Present at Interview: **[Names of those present at Hearing]**

Signed: **[Signature of Operative]** (or, if he refuses to sign, a note to that effect)

Date: **[Date Decision Issued]**

Appendix G5

COMPANY LETTER CONFIRMING DATE OF APPEAL HEARING (SAMPLE)

[Address]

[Date]

Dear [Operative's Name],

You have appealed against the **[verbal / written / final written warning / notice of dismissal]**, confirmed to you in writing on the **[Date of Confirmation]**.

Your appeal will be heard by **[Name]** in **[Place of Appeal]** on **[Date of Appeal Hearing]** at **[Time]**.

The decision of this Appeal Hearing is final. You have the right to attend this meeting alone, or to be accompanied by a fellow worker, your Union representative, or an official employed by the Union who, to the satisfaction of the employer, has been certified by the Union as being competent to accompany a worker. **In the case of an Apprentice, the company prefers the Operative to be accompanied by their parent or guardian.**

Yours sincerely,

[Signature of Immediate Line Manager]

Appendix G6

COMPANY LETTER ADVISING AN OPERATIVE OF APPEAL DECISION (SAMPLE)

[Address]

[Date]

Dear [Operative's Name],

You appealed against the decision of the Disciplinary Hearing that you be given a **[Level of warning issued / dismissal]**. The Appeal Hearing was held on **[Date of Hearing]**.

This letter is to confirm the decision taken by the Manager who conducted the Appeal Hearing, namely, that the decision to **[issue a _____ warning / dismiss] [stands] or [be revoked]**.

[Specify the reasons for the decision, particularly if the original decision is revoked]

Yours sincerely,

[Signature of Immediate Line Manager]

NB. Guidance Note

Any appeals against verbal and formal written warnings are exercised solely by means of an employer's disciplinary procedure and the procedure ends at this stage, there being no further right of appeal.

In respect of dismissal appeals only and following exhaustion of an employer's disciplinary procedure, an employee has the right to invoke the National Disputes Committee appeals procedure using the provisions of the SJIB Procedure for Handling and Resolving Disciplinary and Redundancy Dismissal Appeals, (see Appendix G7).

Appendix G7

THE SJIB PROCEDURE FOR HANDLING AND RESOLVING DISCIPLINARY AND REDUNDANCY DISMISSAL APPEALS

1.0 Domestic Appeals

(a) Disciplinary dismissals (excluding probationary period)

Where an employee is either dismissed on notice for misconduct or dismissed summarily without notice for gross misconduct his right of appeal against such dismissal shall be determined as follows:

(i) Domestic appeal

The employer's disciplinary procedure must make provision for a domestic appeal meeting to be made available to the dismissed Operative. Minutes of the proceedings and the outcome of the appeal meeting are to be confirmed in writing by the employer and sent to the Operative. If the domestic appeal meeting fails to resolve matters to the satisfaction of the employee, then the Operative may refer it to the Union Regional Officer and request a Stage 2 meeting.

(ii) Disciplinary dismissals during the probationary period

During a probationary period, any appeal against dismissal must be made using the relevant appeal provisions included in the employer's disciplinary procedure (see paragraph G9.4).

(iii) Disciplinary action short of dismissal

Any appeal against disciplinary action, short of dismissal (i.e. disciplinary transfer, disciplinary suspension and/or warning) must be made using the relevant appeal provisions included in the employer's disciplinary procedure.

(b) Redundancy Dismissals

Where an Operative wishes to challenge his selection for redundancy, the employer must make arrangements to hold a domestic appeals meeting. Minutes of the proceedings and the outcome of the appeal meeting shall be confirmed in writing by the employer and sent to the employee. If this appeal meeting fails to resolve matters to the satisfaction of the Operative, the issue may be referred to the Union Regional Officer, for consideration of a Stage 2 meeting.

2.0 Stage 2 Meeting

If the domestic appeal meeting in respect of either disciplinary or redundancy dismissal fails to resolve matters, the Operative may refer to the Union Regional Officer and request that a Stage 2 meeting be arranged. The minutes of the relevant domestic appeal meeting shall be made available at this meeting, which shall normally take place within ten working days from the employer receiving such a request from the Union Regional Officer, or as otherwise mutually agreed.

Minutes of the proceedings and the outcome of the Stage 2 meeting shall be set down by the employer and agreed by the parties. This is an essential part of the process; the minutes of the Stage 2 proceedings and those from the relevant domestic appeal meeting are central to discussions in any further stages of the procedure.

If a resolution is not reached at Stage 2, the Union Regional Officer, on behalf of and at the request of the Operative, may pursue an appeal through the National Dispute Committee.

Appendix G7 continued

3.0 **National Dispute Committee**

(a) **Application to the National Dispute Committee**

The Regional Officer of the Union will inform the employer, within five working days of the failure to agree at Stage 2, if it is their intention either to apply to the National Dispute Committee for an appeal hearing or to withdraw the claim. If the Regional Officer decides to proceed, an application shall be made to the Secretary to the SJIB for the matter to be heard by the National Dispute Committee.

Annex G7 to this Agreement sets out, in full, the directions, timescales and guidance on the documentation required in respect of an application to the National Dispute Committee. The order of business of the hearing is also set out.

(b) **Composition of the National Dispute Committee**

The National Dispute Committee will consist of the SJIB Chairman, the Secretary of the SJIB, the lead Union representative and the lead employer representative. The Secretary of the SJIB shall not have a vote.

(c) **Committee's Decisions**

Decisions of the National Dispute Committee, which must be unanimous, are final and binding and will fall within the following categories:

- (i) Confirmation of dismissal; or
- (ii) Re-employment on a specified date, without continuity of employment; or
- (iii) Re-instatement with continuity of employment and without loss of pay; or
- (iv) In conjunction with either (ii) or (iii) above, and if appropriate, a written warning.

It is not within the jurisdiction of the National Dispute Committee to award a financial settlement other than as part of (iii) above.

An agreed statement of the decision shall be provided within five working days for circulation to the parties.

Further practice directions on the submission of a reference in respect of an appeal against dismissal and the conduct of hearings are set out in Annex G7.

If, in the opinion of the National Dispute Committee, the matter at issue has implications for the industry in general, it may decide to refer the matter directly to the National Board and to recommend arrangements which should prevail in the interim.

It is recognised that an eligible employee may decide to submit an Employment Tribunal claim in relation to the same matter. If so, the Operative should submit this, within three months of the event, but accompanied by a request to the Employment Tribunal that the claim be stayed, i.e. held in abeyance, until the decision of the National Dispute Committee is known.

4.0 **Mediation**

It may be appropriate to invite the Secretary of the SJIB to provide mediation at any stage of the procedure.

Annex G7

APPEALS AGAINST DISMISSAL – NATIONAL DISPUTE COMMITTEE PRACTICE DIRECTIONS

1.0 Application for a National Dispute Committee Appeal Hearing

- (a) Failing settlement at Stage 2, the Regional Officer of the Union may submit an application for the matter to be heard by the National Dispute Committee.
- (b) In the interests of best practice and to ensure speedy processing of material, copies of the application for a National Dispute Committee Appeal Hearing must be prepared and submitted to the Secretary to the SJIB no later than ten working days from the date of the failure to agree Stage 2.
- (c) The Application must be accompanied by the case papers, collated and indexed, which must include the jointly agreed domestic appeal and Stage 2 minutes.
- (d) The Secretary of the SJIB, in consultation with the Chairman of the SJIB, the lead Union Representative and the lead employers' representative will arrange a hearing date, which shall provide the employer (the respondent) with no less than 21 days notice of the National Dispute Committee Appeal Hearing.
- (e) The respondent will be advised of the date of the Hearing and supplied with the case papers. If he so chooses, the respondent shall be provided with the opportunity to submit a written response to the Application made by the Union Regional Officer, and to submit any further relevant documentation to the Secretary of the SJIB which is to be received no later than ten working days prior to the Hearing.
- (f) Upon receipt of the response, the Secretary of the SJIB will circulate the full case papers to the parties and the members of the National Dispute Committee.

2.0 Order of Business at a National Dispute Committee Appeal Hearing

- (a) Committee meets in private and;
 - Considers written evidence.
 - Agrees conduct of hearing.
- (b) Committee invites both the applicant's representatives and respondent's representatives into room.
- (c) Chairman;
 - Introduces.
 - Explains how the hearing will be conducted.
 - Invites both parties involved to introduce themselves.
- (d) Applicant's representative presents case.
- (e) Committee questions* applicant's representative.
- (f) Respondent's representative questions* applicant's representative.
- (g) Respondent's representative presents case.
- (h) Committee questions* respondent's representative.
- (i) Applicant's representative questions* respondent's representative.
- (j) Applicant's representative sums up**.

Annex G7 continued

- (k) Respondent's representative sums up**.
- (l) Committee considers its decision in private, based on its assessment of all relevant circumstances. (Appendix G7, 3.0 (c) sets out the range of options that may be considered).
- (m) Committee gives its formal decision to both parties.
- (n) An agreed statement of the decision shall be provided within five working days for circulation to the parties.

Note: * Questions are to be confined to questions of clarification.

** No new evidence should be presented in the final summing up

Appendix G8

THE SJIB PROCEDURE FOR HANDLING AND RESOLVING INDIVIDUAL AND COLLECTIVE GRIEVANCES

1.0 **Company Grievance Procedures**

- (a) Each company in membership of the SJIB will ensure that it has in place a formal, written grievance procedure. The terms of this procedure shall be consistent with the requirements of Section G of the SJIB Handbook, Resolving Issues at Work.
- (b) Observance of these requirements is deemed to constitute compliance with good practice, as outlined in the ACAS Code of Practice on Disciplinary and Grievance Procedures.

2.0 **Normal Working**

- (a) There shall be no stoppage of work, or any other industrial action, while any of the domestic or external stages of the procedure are being used.
- (b) The status quo (i.e. whatever conditions, practice or agreement on working and management arrangements, established in accordance with the National Working Rules which applied prior to the dispute) will be maintained until a resolution is achieved through the procedure, or the procedure is exhausted.
- (c) Any unprocedural action by an Operative contrary to the above paragraph shall entitle the employer:
 - (i) To make deductions of pay, benefits, allowances and other contractual payments for the relevant period(s) and;
 - (ii) To take disciplinary action.

3.0 **Domestic Resolution (Informal)**

- (a) It is usually best for all involved if grievances are resolved speedily and informally. Accordingly, the Operative concerned should, normally, in the first instance, bring any issue or complaint to the attention of the foreman or other immediate supervisor.
- (b) In a situation where a collective grievance exists, a designated employee, together with a Union representative, should bring the issue or complaint to the attention of the foreman or other immediate supervisor.
- (c) The employer is normally expected to respond to the Operative within seven working days.

Appendix G8_{continued}

4.0 **Summary of the Stages of the Formal Procedure and Appropriate Representation**

(a) **Stage 1 – Domestic**

Individual/Shop Steward or the Union Regional Officer/Employer designated representative

Note: Where a small company does not have a Shop Steward, the Union Regional Officer may be called in. In these circumstances Stages 1 and 2 of this Procedure may be combined.

(b) **Stage 2 – Domestic**

Individual/Union Regional Officer/Senior employer representative.

(c) **Stage 3 – Regional Dispute Committee**

Union representative/Secretary of the SJIB/Employer representative/Record clerk.

(d) **Stage 4 – National Dispute Committee**

- SJIB Chairman.
- Lead Union representative/Lead employers' representative/Secretary of the SJIB.

5.0 **Domestic Resolution (Formal): Stage 1**

Following failure to resolve the matter on an informal basis, it may then be referred, using the procedure, to the Shop Steward or the Union Regional Officer for formal consideration with the employer's designated representative. Minutes of the proceedings and the outcome of the meeting shall be set down by the employer and agreed by the parties.

6.0 **Stage 2**

If a settlement is not achieved at Stage 1, the Operative may refer to the Regional Officer and request a Stage 2 meeting. The Stage 1 minutes shall be made available at the meeting, which shall take place within ten working days of the receipt of notification of the issues by the Union Regional Officer, or as otherwise mutually agreed. Minutes of the proceedings and the outcome of the Stage 2 meeting shall be set down by the employer and agreed by the parties. This is an essential part of the process; the minutes of the Stage 2 proceedings and those from the Stage 1 meeting are central to discussions in any further stages of the procedure.

7.0 **Mediation**

If settlement is not reached at Stage 2, it may be appropriate at this point for either party to invite the Secretary of the SJIB to provide mediation.

Note: Separate provisions apply in the event of a failure to agree at Stage 2 in relation to disciplinary dismissal and redundancy appeal cases.

8.0 **Next Stage of Procedure**

If settlement is not reached at Stage 2 or following mediation, and either party wishes to pursue the case further the next stage of the procedure shall be Stage 3.

Note: Separate provisions apply in the event of a failure to agree at Stage 2 in relation to disciplinary dismissal and redundancy appeal cases.

9.0 **Stage 3**

Failing settlement at Stage 2, the Secretary of the SJIB, following consultation with the leaders of both parties, may deem the procedure to be exhausted on matters which are not SJIB related.

Where it is not possible to resolve the matter, either party may pursue the matter further by referring it to a Regional Dispute Committee of the National Board. The Secretary of the SJIB, in consultation with the leaders of the parties, will appoint an employer representative and a Union representative to serve on the Regional Dispute Committee. A record clerk will also be appointed to minute the proceedings. Neither the employer nor the Union representative shall be directly involved in the dispute. Neither the Secretary of the SJIB nor the record clerk shall have a vote.

Annex G to this Procedure sets out in full the directions, timescales, and guidance on the documentation required in respect of an application to the Regional Dispute Committee. The order of business of the hearing is also set out.

In consultation with the record clerk, minutes of the Stage 3 proceedings and the outcome of the meeting shall be set down by the Secretary of the SJIB and agreed by the parties. This is essential, particularly if there is a failure to agree and the matter is to be pursued to Stage 4.

After hearing the presentation of the case together with all relevant evidence, the Regional Dispute Committee shall make a decision, which shall be unanimous, on all matters referred from the preceding stage of the procedure. Where a unanimous decision is reached on the matters at issue, the procedure will be regarded as exhausted. There is no further right of appeal.

The decision will be final and binding on all parties.

An agreed statement of the decision will be prepared on the day for immediate circulation to the parties.

10.0 **Stage 4**

Failing a unanimous decision at Stage 3 the employer or the Operative may pursue the matter further by referring it for a final hearing and decision at Stage 4, the National Dispute Committee.

Annex G8 to this Procedure sets out, in full, the directions, timescales and guidance on the documentation required in respect of an application to the National Dispute Committee. The order of business of the hearing is also set out.

The National Dispute Committee will consist of the SJIB Chairman, the leader of the Union side, the leader of the employer's side and the Secretary of the SJIB. The Secretary of the SJIB will not have a vote.

After hearing the presentation of the case together with all relevant evidence, the National Dispute Committee shall make a decision, which shall be unanimous, on all matters referred from the preceding stage of the procedure.

The decision will be final and binding on both parties and there will be no right of appeal.

An agreed statement of the decision shall be provided within five working days for circulation to the parties.

If, in the opinion of the National Dispute Committee, the matter at issue has implications for the industry in general, it may decide to refer the matter directly to the National Board and to recommend arrangements which should prevail in the interim.

Annex G8

REGIONAL DISPUTE COMMITTEE (STAGE 3) PRACTICE DIRECTIONS

- 1.0 **Application to Regional Dispute Committee (Stage 3)**
- (a) Failing settlement at Stage 2, either party may pursue the matter further and refer it to a Regional Dispute Committee of the National Board.
 - (b) In the interests of best practice and to ensure speedy processing of material, copies of the Application to Stage 3 and case papers must be prepared and submitted to the Secretary of the SJIB, no later than ten working days from the date of the failure to agree at Stage 2.
 - (c) The Application must be accompanied by the full case papers collated and indexed, including the jointly agreed Stage 1 and Stage 2 minutes and any supporting documentary evidence, for example, signed witness statements.
 - (d) On receipt of these documents the Secretary of the SJIB will circulate copies to the other party to the dispute. At the same time, the Secretary of the SJIB, in consultation with the leaders of the parties, will appoint an employer and Union representative and a record clerk to serve on the Committee. The date for the hearing will also be set.
 - (e) The other party to the dispute will be expected to submit a written response to the Application, no later than ten working days in advance of the Dispute Committee hearing. The response shall contain any necessary supporting documentation.
 - (f) Upon receipt of the response, the Secretary of the SJIB will circulate the full case papers to the parties and the members of the Regional Dispute Committee.

NATIONAL DISPUTE COMMITTEE (STAGE 4) PRACTICE DIRECTIONS

- 2.0 **Application to National Dispute Committee (Stage 4)**
- (a) Failing settlement at Stage 3, either party may pursue the matter further by referring it for a final hearing and decision at Stage 4, the National Dispute Committee.
 - (b) In the interests of best practice and to ensure speedy processing of material, copies of the Application to Stage 4 must be prepared and submitted to the Secretary of the SJIB no later than ten working days from the date of the failure to agree at Stage 3.
 - (c) The Application must be accompanied by the collated and indexed case papers and the jointly agreed Stage 1 and Stage 2 minutes which were presented at Stage 3, and must additionally contain the jointly agreed Stage 3 minutes.
 - (d) On receipt of these documents, the Secretary of the SJIB will circulate copies to the other party to the dispute, and to the members of the National Dispute Committee. The date of the hearing will also be confirmed by the Secretary of the SJIB.

3.0 **Order of Business at Regional and National Dispute Hearings**

- (a) Committee meets in private and;
 - Considers written evidence.
 - Agrees conduct of hearing.
- (b) Committee invites applicant's representatives and respondent's representatives into room.
- (c) Chairman;
 - Introduces.
 - Explains how the hearing will be conducted.
 - Invites both parties involved to introduce themselves.
- (d) Applicant's representative presents case.
- (e) Committee questions* applicant's representative.
- (f) Respondent's representative questions* applicant's representative.
- (g) Respondent's representative presents case.
- (h) Committee questions* respondent's representative.
- (i) Applicant's representative questions* respondent's representative.
- (j) Applicant's representative sums up **.
- (k) Respondent's representative sums up **.
- (l) Committee considers its decision in private, based on its assessment of all relevant circumstances.
- (m) Committee gives its formal decision to both parties.
- (n) An agreed statement of the decision shall be provided within five working days for circulation to the parties.

Note: *Questions are to be confined to questions of clarification.

** No new evidence should be presented in the final summing up.

