

WYCLIFFE HALL

- OXFORD -



Disciplinary Procedure/Policy

1 Background and Scope

- 1.1 Wycliffe Hall is wholeheartedly committed to the effective and timely resolution of difficulties, misunderstandings and problems that may arise in the workplace. This policy/procedure has been designed to ensure that consistently fair and effective arrangements exist for dealing with employee disciplinary issues, and to implement and maintain clear and uniform standards that apply to employees' performance and behaviour at Wycliffe Hall. It is designed to contribute to an environment of dignity, respect, open communication and two-way dialogue. In conformity with Wycliffe Hall's policy of supporting and encouraging individuals' performance, behaviour and development, the purpose of this policy is not to punish people, but to help individuals who are not meeting the required standards to improve their conduct to the level required.
- 1.2 This policy applies to all employees of Wycliffe Hall, who have successfully completed any probationary period of paid employment. It does not apply to employees who are in a contractual probationary period for which other provisions are made.
- 1.3 This policy aims to bring prompt and successful resolution to problems linked to conduct-related issues where an employee is not fully meeting expected requirements of behaviour and conduct. At each point in the procedure, the employee will be given a full explanation of the perceived weaknesses or deficiencies in conduct.
- 1.4 The provisions of this policy in relation to dismissal do not apply where dismissal arises out of:
 - the expiry of a fixed term contract of employment;
 - the termination of casual or temporary contracts of employment;
 - redundancy; or
 - the termination of a probationary contract under the rules of the relevant probation arrangements.
- 1.5 Wycliffe Hall does not regard medical capability as a disciplinary matter. However, where an employee's sickness absence is considered to have rendered him or her incapable of satisfactorily carrying out his or her duties, with the result that Wycliffe Hall cannot continue to sustain his or her employment, the formal procedures set out in Wycliffe Hall's *Capability Policy* will be used as a medical capability procedure to warn the employee of his or her position and, where necessary, to terminate employment. In such cases correspondence with the employee will, of course, refer to medical capability and not to misconduct or poor performance.
- 1.6 Time limits are indicated in working days and are included in this policy for the benefit of both employer and employee in order to ensure that matters are dealt with promptly and without undue delay. No party should unreasonably delay meetings, hearings, appeals, decisions or confirmation of those decisions. However, in complex matters it may be appropriate to extend time limits provided in the policy, and this should be clearly communicated.

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2 Roles and Responsibilities in Managing Discipline

- 2.1 Wycliffe Hall's employees have a responsibility under their terms and conditions of employment to conduct themselves with integrity and in an appropriate manner at work and in work-related settings. Further guidance on the standards required is detailed under 6. *Expectations regarding Staff Conduct.*
- 2.2 Wycliffe Hall's line managers are responsible for managing the performance and conduct of employees reporting to them and instigating the formal disciplinary process when informal efforts to resolve conduct issues have proved fruitless. Where a perceived conflict of interest occurs, the Principal may identify an alternative individual who is considered to have an appropriate level of capacity, experience and authority to instigate the proceedings.
- 2.3 The Principal is responsible for the oversight and management of the entire disciplinary process in the formal stages, supported by the Bursar in his or her role as the effective Head of Human Resources (HR) for Wycliffe Hall. Any disciplinary action concerning a member of the Senior Management Team will be discussed with the Chair of the Hall Council at a very early stage.
- 2.4 Authority with regard to overseeing the formal stages of the disciplinary procedure may be delegated to another member of the Wycliffe Hall Senior Management Team or Hall Council in accordance with the wishes of the Principal, or the Chair of the Hall Council.
- 2.5 Wycliffe Hall may utilise the services of an external HR professional advisory service as required to provide advice and guidance and to ensure that disciplinary matters are handled fairly, reasonably and in compliance with current legislation and Wycliffe Hall's procedure.
- 2.6 All subsequent references to the formal procedure will understand these arrangements regarding roles and responsibilities to be implicit.

3 Record keeping

- 3.1 Written contemporaneous records will be kept at each stage of the formal procedure. Depending on the complexity of the case, a formal note-taker from the Wycliffe Hall staff may be invited to meetings to take the required formal record (this will be a summary rather than verbatim notes). Attendees of any meeting(s), hearing(s) or appeal(s) during the formal procedure will be asked to sign and date meeting notes and/or any other record of events without unreasonable delay. Should it prove impossible to reach agreement over a meeting record and at least one party does not wish to sign and date the account, the individual or individuals should state their reasons for disagreement immediately in writing and this should also be kept on record. Supporting documentation supplied as evidence by any party will also be retained and shown to all parties.
- 3.2 Records of the formal proceedings include:
 - the nature of the conduct issues
 - identities of employee and parties involved in proceedings
 - related correspondence
 - what was decided and actions taken
 - the reason for the actions
 - whether an appeal was lodged
 - the outcome of the appeal
- 3.3 Records will be treated as confidential, retained and only disclosed in accordance with the Data Protection Act 1998.

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4 Reasonable Adjustments for Special Requirements

- 4.1 Wycliffe Hall is committed to ensuring that employees and their representatives do not experience any disadvantage because of disability or any special requirements. Further details are available in Wycliffe Hall's Disability Equality Policy. The employee is encouraged to raise any queries relating to disability or other needs at the earliest opportunity. Wycliffe Hall will make attempts to accommodate such requests, where reasonably practicable.

5 The Right to be Accompanied

- 5.1 All employees have the right to be accompanied by a work colleague at meetings, hearings and appeals under this policy. If the work colleague is not an employee of Wycliffe Hal, then the employee must seek the prior agreement of Wycliffe Hall (such agreement not to be reasonably withheld). The colleague will be entitled to reasonable, paid time off to prepare for and attend proceedings. The employee's representative will not be acting in a legal capacity.
- 5.2 The member of staff must make all such arrangements for his or her own representative to attend the meeting(s)/ hearing(s). Correspondence relating to each stage of the procedure should be copied to the employee's representative, once known.
- 5.3 Employees will always be consulted about the date and time of a proposed meeting, hearing or appeal and allowed adequate time to arrange representation. Members of staff and their work colleagues are required to make every effort to attend the meeting, hearing or appeal. If a representative or work colleague is unavailable on the date of a formal disciplinary meeting, hearing or appeal, the Chair should arrange a suitable alternative date, provided this is within a reasonable timescale e.g. within five to ten working days after the date initially proposed.
- 5.4 The work colleague accompanying the employee is entitled to:
- address the meeting/hearing to put and sum up the employee's case;
 - address the meeting/hearing at the employee's request;
 - ask questions to clarify understanding of the proceedings;
 - to confer with the employee during the meeting/hearing; and
 - request adjournments at reasonable intervals to discuss and give advice to the employee.
- 5.5 The employee's representative will not have a right to answer questions on behalf of the employee and will not be permitted to address the meeting or hearing if the employee does not wish it. Those present must not behave in a way that prevents any other person present explaining his or her views or from making a contribution to the hearing.
- 5.6 All subsequent references to the formal procedure will understand these arrangements regarding employee representation to be implicit.

6 Expectations Regarding Staff Conduct

- 6.1 Given the varied nature, scope and responsibilities of employees' roles and the work they undertake, so will expectations regarding conduct. Rather than attempting to provide an exhaustive list of potential 'offences', this policy sets out the Hall's general expectation of the way in which its employees will conduct themselves. For the avoidance of doubt, therefore, it should be noted that in addition to the specific examples given of unsatisfactory conduct, misconduct and gross misconduct in this policy, a breach of other conditions, procedures and rules set out in the Staff Handbook and other Wycliffe Hall policies may also result in the disciplinary procedure being implemented.

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6.2 Among the acts of misconduct which may be the subject of disciplinary procedures are:

- conduct which disrupts the work effort of others;
- unsatisfactory attendance at work, e.g. unauthorised absenteeism, lateness, leaving work without permission, overstaying lunch or tea breaks;
- failing to observe Wycliffe Hall's procedures for the reporting of sickness, and time off work;
- deliberate failure to conform to agreed working practices;
- refusing or failing to carry out a reasonable and lawful management instruction;
- using Wycliffe Hall's property, equipment or transport for private use without authorisation;
- disclosing confidential information deliberately without authorisation;
- failure to comply with the Wycliffe Hall's No Smoking Policy;
- deliberate failure to comply with any other Wycliffe Hall policy.

The above examples are illustrative and non-exhaustive and offences of a similar nature will be dealt with accordingly.

6.3 Certain types of behaviour will not be tolerated in any form by Wycliffe Hall and constitute Gross Misconduct. As such, they will normally result in the immediate dismissal of any employee found to have committed one of them. The following is an illustrative and non-exhaustive list of behaviours considered by Wycliffe Hall to be acts of Gross Misconduct:

- theft, fraud, deliberate falsification of records of all types;
- physical violence, assault, threatening or intimidating behaviour;
- deliberate damage to Wycliffe Hall's property;
- any act likely to cause substantial reputational damage to Wycliffe Hall;
- wilful misuse of Wycliffe Hall's property and services, including inappropriate use of IT facilities;
- being under the influence of alcohol, illegal drugs or other deliberately misused substances (please refer to the Staff Handbook for further guidance on Wycliffe Hall's Alcohol and Drugs Policy);
- an act or omission at work which results in unacceptable loss, damage or injury;
- repeated wilful disobedience or refusal to obey the reasonable and lawful instructions of a manager;
- any act constituting harassment, discrimination or victimisation (including on the grounds of sex, race, disability, sexual orientation, religion and belief, gender reassignment, pregnancy and maternity, marriage and civil partnership, or age);
- grossly indecent or immoral behaviour, including deliberate acts of unlawful discrimination or harassment or physical, verbal or psychological bullying of any type;
- establishing or pursuing a sexual, romantic or improper emotional relationship with a person with whom a member of staff has come into contact in the course of their duties who is vulnerable to an abuse of trust or power;
- serious breach of confidentiality;
- deliberate disregard of a health and safety or hygiene regulation or requirement;
- improper use of the employee's position, power and/or authority for his or her or another's private/business/sexual/other advantage, or an attempt to do so, either on Wycliffe Hall's property, within the wider UK and/or abroad;
- deliberate contravention of Wycliffe Hall's Financial Procedures;
- criminal activities outside work, where such conduct is judged to be incompatible with the individual's employment;
- taking any form of inducement or bribe from contractors, suppliers and/or other

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stakeholders with an existing relationship with Wycliffe Hall or who may wish to provide products and/or services to Wycliffe Hall in the future (employees should be familiar with the contents of Wycliffe Hall's Bribery policy).

7 Suspension

- 7.1 Where a credible allegation of a serious offence has been made against a member of staff, for example an offence that may amount to gross misconduct, it may be appropriate to suspend the member of staff from duty on full pay. This will provide an opportunity for a full investigation to be undertaken to gather relevant evidence and determine whether a disciplinary hearing should take place. Suspension from duty is not a disciplinary measure in itself but is carried out, without prejudice, to permit a full and proper investigation.
- 7.2 In all cases, suspension may only be carried out on the authority of the Principal. Should the matter concern a member of the Senior Management Team, the Chair of the Hall Council will be responsible for determining whether suspension is appropriate.
- 7.3 The period of suspension will be as brief as possible and will be kept under regular review.
- 7.4 Wycliffe Hall will consider alternatives to suspension, for example home working, additional supervision or the restriction of duties, as is deemed reasonably practicable and appropriate in the circumstances.
- 7.5 If an incident occurs outside office hours and is considered sufficiently serious to warrant suspension (e.g. a member of staff is under the influence of alcohol and unfit to work or a physical assault has taken place) the individual's line manager or a member of the Senior Management Team shall as soon as practicable inform the Principal of the circumstances and of any action taken in consequence and may instruct the employee to cease work and/or not attend work, pending a determination by the Principal (or his nominated delegate) as to whether suspension is appropriate.
- 7.6 Any conditions of suspension will be notified to the employee at the point of formal suspension and confirmed in writing within three working days. If the employee is unavailable he or she will be informed of the decision to suspend in writing. At the time of suspension and in the written confirmation, the employee will be informed of the conditions of their suspension, for example, prior permission in order to enter Wycliffe Hall or associated premises. The employee will be informed of the date on which their suspension will be reviewed if this date falls before the investigation has been completed or before a disciplinary hearing, where appropriate. The employee will also be advised that the suspension is not a disciplinary sanction in itself and will also be advised at regular intervals of the manner in which the investigation is to proceed.
- 7.7 Except for approved leave of absence, the employee must remain generally contactable and available during normal working hours in order that he or she can attend hearings. Any change of address, including email address or telephone number, during this period should be notified immediately to the Bursar.

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8 Guidelines for Informal Action

- 8.1 Wycliffe Hall actively encourages employees and line managers to seek resolution of potential difficulties in the workplace through informal means as quickly as possible.
- 8.2 When a line manager has concerns about the conduct of an employee, they may wish to consult their manager about the most appropriate means of dealing with the perceived problem.
- 8.3 Cases of minor misconduct are usually best dealt with by a manager informally, and without delay. Informal action is expected to be taken in the form of a confidential one-to-one conversation between the employee and his or her line manager and is most appropriate where alleged misconduct is not of a serious nature. The line manager is expected to explain why the expected standards of conduct do not appear to have been met, and discuss the occasion(s) when deficiencies have occurred. The line manager is expected to also define the expected standard of conduct and describe the improvement in behaviour that is needed.
- 8.4 The employee may wish to give mitigating reasons and explain factors for any deficiencies in conduct and it may be that the informal meeting may need to reconvene after the line manager has had opportunity to fully reflect upon these.
- 8.5 Together, the employee and his or her line manager are expected to informally discuss ways in which the employee can achieve the necessary improvement and how future progress will be monitored. At this stage, the employee should be cautioned that if their conduct does not improve they may be subject to formal disciplinary action as set out below.
- 8.6 A record of informal action should normally be put into writing by the line manager and shared with the employee to support the process and/or ensure clarity on timescales, objectives and expectations. The line manager will then review the employee's progress, keeping the employee informed of any updates.

9 Formal Procedure: Investigation

- 9.1 If the line manager considers it has not been possible to remedy the issue or issues informally, or exceptionally where the issue is sufficiently serious to warrant formal action without initial informal considerations, the line manager will be expected to bring the matter to the attention of their manager and/or the Principal, and recommend that the formal disciplinary procedure be invoked.
- 9.2 If in the opinion of the Principal, there is a prima facie case for invoking the formal disciplinary procedure, an investigation will be launched to gather relevant information and establish where there is in fact a formal disciplinary case to answer. No formal disciplinary meeting or hearing will be convened without a reasonable investigation of the circumstances.
- 9.3 The purpose of the investigation is to gather relevant information and to determine if there is a potential disciplinary case to answer. The extent of the investigation will be proportionate to the seriousness and complexity of the case. The investigation process will depend on the nature of the alleged problem or misconduct and the initial evidence against the employee.
- 9.4 An employee who is the subject of an investigation will be informed as soon as is practicable and appropriate that the investigation is going to take place and why. This information will be confirmed in writing as soon as possible.
- 9.5 The Investigating Officer will be an individual who is considered by Principal to have an appropriate level of capacity, experience and authority to undertake the investigation, which again will be proportionate to the complexity and seriousness of the case. The Investigating Officer must not be the employee's line manager, the line manager of any person making a complaint that led to the investigation or the person expected to conduct any resulting formal meeting.

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- 9.6 The Investigating Officer may make one of three recommendations to the Principal:
- That there is no case to answer and no further formal action should be taken;
 - That the issues raised should be resolved informally, with training and support provided as appropriate; or
 - That the investigation has demonstrated that there is a case to answer and that the formal capability procedure should be invoked accordingly.

9.7 The employee will be advised of the outcome as soon as is practicable and will be advised on any next steps.

10 Formal Procedure: First Formal Meeting

10.1 Following consultation with the Investigating Officer and/or the Principal, the line manager will invite the employee to a formal meeting. At least five working days' notice of the meeting should be given.

10.2 During the meeting, the line manager will:

- a) remind the employee that this is the first formal meeting in Wycliffe Hall's disciplinary procedure;
- b) confirm the role of the employee's representative;
- c) inform the employee that their conduct on one or more occasions does not meet the standard expected, giving precise details of what is expected;
- d) state the details and provide evidence of the poor conduct and the impact this has had/is having on service delivery;
- e) give the employee the opportunity to give an explanation of any mitigating circumstances and in an environment of open communication endeavour to establish the root cause of the unsatisfactory conduct;
- f) discuss with the employee the range of available options at this stage of the process including that of a Formal Written Warning, to enable the employee to improve to the required standard;
- g) agree with the employee an appropriate way forward and set a timeframe for a plan of action to be drawn up, including specific targets, if appropriate, with timescales;
- h) explain how progress will be assessed and set a review date, which will be dependent on the circumstances of the case; and
- i) explain that failure to reach the required standard during the review period may lead to further formal action, including the possible termination of employment.

10.3 The employee may be issued with a Formal Written Warning as a result of the meeting.

10.4 The outcome of the meeting will be formally recorded in a letter to the employee within 5 working days of the meeting. Where a formal written warning is given, a record of the warning will be placed on the employee's personnel file and will be kept on that file for a period of 12 months, subject to satisfactory conduct.

11 Formal Procedure: Second Formal Meeting

11.1 If conduct remains below the standard required by Wycliffe Hall beyond a specified timeframe for improvement, then a second and final formal meeting between the employee and the line manager's manager will take place. In the event that the line manager's manager is unavailable, the Principal may identify an alternative member of staff or Hall Council member to undertake the task. Employees should always be given at least 5 working days' notice.

11.2 The second formal meeting will be conducted in the same manner as in the first formal meeting, but in addition to the relevant matters listed under the first formal meeting the manager will:

- a) Consider the extent to which the employee's conduct has failed to reach the set standards. Any shortfall against management expectations must be identified clearly and openly.
- b) Invite the member of staff to give their opinion on progress made, any relevant support and training made available and any other options they have considered.

11.3 Following the meeting the employee will be notified in writing within 5 working days of the

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improvements required and the timescale for improvement and a date will be set for a further review. The outcome of this meeting will also be communicated at this time; at this point the employee may also be issued with a Final Written Warning.

- 11.4 The employee will be notified of the improvements required and the timescale for improvement and, if appropriate, specific targets set. Where a formal written warning is given, a record of the warning will be placed on the employee's personnel file and will be kept on that file for a period of 12 months, subject to satisfactory conduct.

12 Formal Procedure: Disciplinary Review Hearing

- 12.1 Should an employee's conduct remain at an unsatisfactory standard then the employee will be informed of the need to attend a disciplinary review hearing to decide whether dismissal or other appropriate action such as change in role and/or demotion may be taken.

- 12.2 The disciplinary review hearing will have a panel appointed by the Principal.

- 12.3 The disciplinary review hearing will be heard by a Panel comprising two members of staff or Hall Council not previously involved in the disciplinary procedure. The panel will be appointed by the Principal.

- 12.4 For the avoidance of doubt, should the disciplinary procedure concern a member of the Senior Management Team and the person leading the hearing is a member of Hall Council, there should be an additional member of Hall Council appointed to serve on the panel.

- 12.5 The hearing will proceed as follows:

- a) Introductions of those present and their roles.
- b) Confirmation of the role of the employee's representative, i.e. that the representative will be able to address the hearing to put the employee's case forward, sum up the case, respond on the employee's behalf to any view expressed at the hearing and conferring with the employee but will not directly respond to questions on behalf of the employee.
- c) Exploration of the issues underlying the employee's conduct – both the employee and line manager will be invited to state their case.
- d) After the issues in question have been explored, the chair of the panel may consider whether to:
 - give all the opportunity to review what has been said and consider whether there is anything they wish to clarify;
 - to add in closing remarks and enable the panel to review what they have heard;
 - seek clarification on any issues before bringing the hearing to a close.

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- e) If the panel is unable to make a decision as further information or time is required, the chair will adjourn the hearing and ensure that there is a clear understanding as to how matters will be communicated, including (where applicable) the time when the hearing will be reconvened.

12.6 Following the hearing the panel will decide either:

- the assertion of misconduct has not been proven;
- the assertion of misconduct has been proven and that the appropriate action in the circumstances is that the employee should be dismissed;
- the assertion of misconduct has been proven and that the appropriate action in the circumstances is that the employee should not be dismissed but to offer a change in role or demotion instead; or
- the assertion of misconduct has been proven and that the appropriate action in the circumstances is to give the employee a further opportunity of a six month review period to demonstrate that he or she is capable of achieving and sustaining the required level of conduct and behaviour.

In the event the panel selects option iv, and the employee is placed under review, the panel will suggest arrangements to monitor the employee's ongoing progress, and advise the employee of the consequences of any subsequent misconduct. The Principal will also formally review the fulfilment of conduct requirements at intervals to be agreed by the panel and communicated to the employee at the start of the probation period. If it becomes apparent that these requirements are not being fulfilled, then the Principal in consultation with the Senior Management Team may decide either to:

- re-convene the panel to consider only what has transpired in the review period; or
- re-convene the panel for a full hearing of the whole case;

12.7 Where it is identified that further essential information or clarification is required, the panel may decide to adjourn the hearing to enable further investigation. In such a case, an indication of the timeframe for this should be provided. Once completed the panel should be reconvened.

12.8 Depending upon whether the panel has been able to make a decision, the employee will receive confirmation or notification of its decision in writing usually within 5 working days of the hearing from the Principal (or Chair of Hall Council if concerning a Senior Management Team member). If a decision to dismiss the employee is made then the dismissal letter will include the following:

- a) the reason for dismissal;
- b) the date on which the employment will terminate; and
- c) confirmation of the employee's right of appeal

13 Formal Procedure: Appeals

13.1 An employee who wishes to appeal against a disciplinary warning or dismissal, shall inform the Principal within 10 working days of the date of the written notification of the warning or dismissal; full details of the grounds of appeal must be included.

13.2 An appeal against a disciplinary warning, up to and including the level of formal, final written warning, will be heard without unreasonable delay by an appropriate senior manager/officer not previously involved in the case, nominated by the Principal.

13.3 An appeal against dismissal will be heard by an Appeal Panel comprising two members of the Senior Management Team not previously involved in the disciplinary procedure nominated by the Principal. In the event of Senior Management Team members not being available to hear the appeal, Hall Council members will be called upon to facilitate the appeal hearing.

13.4 In cases of an appeal against dismissal, the decision of the Appeal Panel will be reported to the Hall Council.

13.5 All appeal hearings will involve the appellant and the manager who took the action resulting in the appeal.

13.6 An employee raising an appeal will normally be given at least 5 working days' written notice of the date of an appeal hearing.

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13.7 Employees are expected to attend the appeal hearing. In exceptional circumstances where the employee is unable to attend the appeal hearing, he or she must, as soon as possible, inform the person who sent the letter inviting them to attend as soon as possible. Should an employee request a postponement to an appeal hearing on more than one occasion, Wycliffe Hall reserves the right to hold the hearing in the employee's absence.

13.8 In all cases, the person(s) hearing the appeal shall have the authority to reach any of the following conclusions:

- that the original decision of the hearing be upheld in its entirety;
- that the grounds for appeal be upheld in their entirety and that the disciplinary action be expunged from the appellant's employee record or that the dismissal is overturned;
- that a lesser sanction be substituted for that imposed by the original formal hearing.

14 Overlapping Grievance, Capability and/or Disciplinary Cases

14.1 If an employee raises a grievance during a disciplinary procedure, and the grievance and disciplinary cases are related, both cases will normally be dealt with concurrently.

14.2 Where it is not appropriate to deal with both issues concurrently the disciplinary procedure may be temporarily suspended in order to deal with the grievance.

14.3 If a disciplinary matter arises during a capability procedure, both cases will normally be dealt with concurrently.

14.4 In all cases every attempt will be made to avoid multiplicity of procedures and associated delay.

15 Equal Opportunity

15.1 All parties involved in the operation of this policy shall ensure that its application is in alignment with the Equality Act 2010 and the principles contained within Wycliffe Hall's Equality Policy.

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VERSION CONTROL					
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Version 7	AJB	4.3.15	Governance	4.3.15	October 2015