Template letter: Decision on grounds – disciplinary finding

[Address]

Dear [insert name],

I refer to my letter dated [insert date of show cause on disciplinary findings letter] in which I invited you to respond to allegations against you, and to show cause why a disciplinary finding should not be made against you on the ground of [insert specific section] of the *Public Sector Act 2022* (Act).

I acknowledge receipt of your response on [insert date received].

The allegation[s] made against you are as follows:

* Allegation [list allegation[s] included in show cause notice on disciplinary finding, number them if more than one].

I have carefully considered all the evidence, including your response and determined that allegation [list number of allegation if more than one e.g. allegation 1] [is/is not or, are/are not] substantiated. [Include analysis of evidence and reasons for the finding. Where appropriate distinguish between factual findings about conduct/performance and findings about disciplinary grounds (i.e. the facts may establish that a particular event occurred but the delegate may not be satisfied that it constitutes a ground for discipline)]*.* [Repeat for each allegation, and if more than one include the allegation number for each.]

[**Option one** – use this content if no discipline ground established.]

The disciplinary process is now finalised because I have found no disciplinary ground exists.

Records relating to this process will be retained on a confidential departmental file.

[**Option two** – use this content if discipline ground is established, but no further action or management action is to be taken.]

Based on the substantiated finding in relation to allegation [list number of allegation if more than one], I have determined that you have contravened section [insert section and subsection] of the Act. In particular, [outline the behaviour/conduct that supports the specific disciplinary ground].

[Repeat this format for each allegation and make a finding whether each allegation is or is not substantiated.]

Based on consideration of all the facts, I have determined that no disciplinary action should be imposed against you, and the formal discipline process is now concluded. [If management action is to be taken provide the details and explanation e.g. I have determined that the following management action will be taken:].

A record of this action will be retained on a separate, confidential disciplinary file and may be a factor in the consideration of any future disciplinary process initiated against you. Your personnel file will contain only the outcome of the disciplinary process and a notation that a separate disciplinary file exists.

If you believe my decision to find the allegation[s] substantiated above is unfair and unreasonable, you may lodge a fair treatment appeal under the public sector fair treatment appeal provisions of section 130(1)(d) of the Act within 21 calendar days of your receipt of this decision.

The Queensland Industrial Relations Commission Industrial Registry can provide further information about public sector appeal procedures. Visit [www.qirc.qld.gov.au](http://www.qirc.qld.gov.au), or telephone 1300 592 987 or (07) 3227 8060.

[**Option three** – use this content if discipline ground is established and show cause on discipline action is to take place.]

After considering all the information and evidence, including [include all information considered in determining outcome], I am now able to make the following finding in relation to the allegation[s].

Allegation [list number of allegation from show cause notice on disciplinary finding].

I have determined that on the balance of probabilities, that allegation [list number of allegation if more than one] [is/is not] substantiated on the basis that [support why the allegation is/is not substantiated, analyse and summarise the evidence relied upon and the employee’s response. Outline how this information lead the decision maker to determine the allegation is/is not substantiated].

On the basis of the substantiated finding in relation to allegation [list number of allegation if more than one], I have determined that you have contravened section [insert section and subsection] of the Act. In particular:

* [outline the behaviour/conduct that supports the specific disciplinary ground].

[Repeat this step for each allegation and make a finding for each allegation.]

Having determined that the above discipline grounds exist, I will consider if disciplinary action should be imposed against you.

Section 93 of the Act states that the chief executive may take action that considers reasonable in the circumstances. Section 92 lists examples of disciplinary action that may be taken.

As previously noted, I have been delegated the functions of the chief executive for this matter.

I am currently giving serious consideration to imposing the following disciplinary action:

* [insert the proposed disciplinary action and reasons this is proposed, considering the requirements outlined at c9.5(d) of the Discipline directive].

In providing natural justice to you, no final decision about the disciplinary action to be taken will be made until you have had the opportunity to respond.

You have [timeframe for response – minimum seven days] from the date of receipt of this letter to show cause as to why the above disciplinary action should not be imposed. Your response will be considered in my final decision on the disciplinary action, together with consideration of the following: [insert the following where relevant]

* seriousness of your conduct
* your overall work record, including any previous disciplinary findings and disciplinary actions
* any explanation you provide
* any extenuating circumstances which may have had a bearing on your actions
* the degree of risk to the health and safety of employees and customers
* the impact the disciplinary finding has on your ability to perform the duties of your position
* the impact of your conduct on the public and customer confidence in the agency.

If no response from you is received within [timeframe for response – minimum seven days] I will make a final decision based on the material I currently have.

**[Appeal entitlements for option three]**

[Use this content where the proposed discipline is not termination.]

If you believe that my decision (to find that the allegation[s] above are substantiated – disciplinary finding decision) is unfair and unreasonable, you may lodge a fair treatment appeal within 21 days of receiving this decision under section 131(1)(d) of the Act.

The Queensland Industrial Relations Commission Industrial Registry can provide further information about public sector appeal procedures. Visit [www.qirc.qld.gov.au](http://www.qirc.qld.gov.au), or telephone 1300 592 987 or (07) 3227 8060.

[Use this content where proposed disciplinary action is termination of employment.]

If you believe that my decision (to find that the allegation[s] above are substantiated –disciplinary finding decision) is unfair and unreasonable, your appeal rights vary depending on my final decision on the discipline to be imposed.

If, after considering any submission you may make, I decide the disciplinary action is termination of employment, your Act appeal rights lapse once the termination decision is implemented.

Therefore, if you wish to lodge a fair treatment appeal within 21 days under the appeal provisions of the Act about the disciplinary finding decision, you must exercise your appeals rights urgently and before a decision to terminate (if it were to be made) is implemented.

If a decision to terminate is implemented, you may still lodge an application for reinstatement under the Industrial Relations Act 2016 with the Queensland Industrial Relations Commission (QIRC).

The QIRC Industrial Registry will be able to provide further information about an application for reinstatement. Visit [www.qirc.qld.gov.au](http://www.qirc.qld.gov.au), or telephone 1300592987 or 32278060.

If, after considering any submission you may make, I determine that the appropriate disciplinary action is not termination and I decide to impose a less serious disciplinary action, you will retain appeal rights under the Act and will be advised of these at that time.

[Use this content for matters that have not been assessed as corrupt conduct and subject to oversight by the Crime and Corruption Commission.]

In my first letter regarding this disciplinary process, I advised you the matter would be reviewed at regular intervals as required under the directive to determine whether it should continue. These reviews will continue for the duration of the matter.

I also advised you of your option to request a review of a procedural aspect of the handling of this matter from the Public Sector Commission (Commission). However, as I have decided that the allegation[s] against you are substantiated and you now have a right to appeal this decision to the Queensland Industrial Relations Commission, the option of seeking a procedural review of this discipline process by the PSC no longer applies.

In making this decision on your liability for discipline, I have considered any potential limitations on your human rights under the *Human Rights Act 2019,* including: [include each human right that is potentially limited e.g. right to take part in public life, right to privacy and reputation or right to freedom of movement].

I am of the view that any limitation of your human rights is justified [include rationale and what was considered, including risks and how this outweighs the potential impact on the employee’s human rights].

The [insert name of department, agency or entity’s employee assistance service] is available to you as an employee. The service is a confidential counselling and support service and is available on [insert telephone number]. You may also wish to seek advice and assistance from your union.

Please note, this matter remains confidential and should not be discussed in the workplace.

If you have any questions about the contents of this letter, please do not hesitate to contact [insert name of contact] on telephone number [(07) number].

Yours sincerely

Decision maker

[Address]