

Model disciplinary procedure

Employers must follow a full and fair procedure in line with the Acas Code of Practice on Disciplinary and Grievance Procedures, which can be downloaded from [www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures).

The procedure an employer follows, and an employee's actions will be taken into account if the case reaches an employment tribunal.

A failure to follow the Code does not, in itself, make the employer liable to proceedings. However, employment tribunals will take the Code into account when considering relevant cases. Tribunals will also be able to adjust any awards made in relevant cases by up to 25% for unreasonable failure to comply with any provision of the Code.

This means that if the tribunal feels that an employer has unreasonably failed to follow the guidance set out in the Code, they can increase any award they have made by up to 25%. Conversely, if they feel an employee has unreasonably failed to follow the guidance set out in the Code they can reduce any award they have made by up to 25%.

**Key issues to help ensure a fair disciplinary procedure:**

* Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
* Employers should act consistently.
* Employers should carry out any necessary investigations, to establish the facts of the case.
* Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
* Employers should allow employees to be accompanied at any formal disciplinary meeting.
* Employers should allow an employee to appeal against any formal decision made.

It is essential to have discipline and grievance procedures written down and for them to be specific and clear, so that everyone understands what is required.

All new employees should receive a copy or know where they can get a copy of the procedures within two months of starting their employment (as part of the statutory requirements for the written statement of terms and conditions).

The following model procedure can be used in the workplace as the basis for negotiations.

Please note that the text in square brackets ***[…]*** indicates where you need to complete information specific to your workplace, or elseare notes for you to consider in relation to your negotiations.

For help in drafting and negotiating a disciplinary procedure agreement, contact your [regional organiser](https://www.unison.org.uk/regions/).

# Policy Statement

The purpose of the ***[name of employer]****’s*Disciplinary Procedure is to help and encourage staff to achieve and maintain required standards of conduct and work performance.

The aim is also to ensure that ***[name of employer]****’s*services are maintained and effective while all staff are treated fairly, effectively and consistently.

This procedure provides a framework for dealing with issues where an individual’s performance and/or conduct has failed to reach the required standard.

It sets out the action that will be taken in response to alleged breaches of organisational policies, rules and procedures.

This procedure should only be used where problems with conduct cannot be resolved through advice and encouragement, training or increased support.

In cases of poor performance, this procedure will only be used once an employee has been referred from the organisation’s formal capability procedure.

## Compliance with ACAS Code of Practice

This disciplinary procedure follows the [ACAS Code of Practice on Disciplinary and Grievance Procedures](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures) issued under section 199 of the Trade Union and Labour Relations (consolidation) Act 1992 ***[in Northern Ireland, substitute with Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures 2011 (under Articles 90(7) and (17) and 107(3) of the Industrial Relations (Northern Ireland) Order 1992)]***.

# Scope of Policy

This policy applies to all staff who are employed at ***[name of employer]*** including part-time and temporary workers, regardless of hours worked or length of service.

***[Although the*** [***Acas Code***](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures) ***mainly applies to anyone legally classed as an employee, Acas states that “to help working relationships, employers might want to use the same procedure for workers.” Ideally, this disciplinary procedure should be used for all members of staff.***

***Sometimes a simpler procedure is agreed for newer staff during their probationary period, but the*** [***Acas Code***](http://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures) ***still applies.***

***Ideally, the full procedure is used for all staff.]***

All new members of staff will be made aware of this policy and procedure, and how it operates as part of their induction.

## General Principles

* **Fairness** – This procedure sets out to treat all staff fairly, consistently, impartially, promptly, reasonably and will be applied without discrimination. Workers will be heard in good faith and there will be no pre-judgement of the issue.
* **Investigation** – No disciplinary action will be taken until a case has been thoroughly investigated. When starting an investigation into an allegation of misconduct or poor performance, there shall be no assumption that disciplinary action will automatically follow.
* **Representation** – The worker at all stages in this procedure has the right to be represented and accompanied by their trade union representative, full-time union official or work colleague.

***[Employees only have a statutory right to be accompanied by either a fellow worker, a trade union representative or official employed by a trade union at the disciplinary or appeal meeting. However it would be important to try to negotiate for it to be also allowed at any investigatory meetings as well.***

***As the*** [***Acas guidance***](https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***explains: “The companion must be allowed to address the hearing in order to:***

* ***put the worker’s case***
* ***sum up the worker’s case***
* ***respond on the worker’s behalf to any view expressed at the hearing.***

***The companion must also be allowed to confer with the worker during the hearing. It is good practice to allow the companion to participate as fully as possible in the hearing, including asking witnesses questions. The employer is, however, not legally required to permit the companion to answer questions on the worker’s behalf, or to address the hearing if the worker does not wish it, or to prevent the employer from explaining their case.”***

***Please note that disciplinary and appeal meetings are often called hearings.]***

* **Confidentiality** – All documentation and records relating to this procedure including notes of meetings will be treated as confidential, stored securely and only accessed by those individuals essential for dealing with the case. They will be kept no longer than necessary in accordance with ***[name of employer]***’s data protection policy which can be found ***[provide link].*** Any breach of confidence may be treated as a disciplinary case of misconduct.

***[The*** [***Acas Code of Practice***](http://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures) ***advises employers to keep a written record of any disciplinary or grievances cases they deal with. The*** [***Acas guidance***](http://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***suggests that records should include:***

* ***the complaint against the employee***
* ***the employee’s defence***
* ***findings made and actions taken***
* ***the reason for actions taken***
* ***whether an appeal was lodged***
* ***the outcome of the appeal***
* ***any grievances raised during the disciplinary procedure***
* ***subsequent developments***
* ***notes of any formal meetings.***

***It stresses that records should be treated as confidential and be kept no longer than necessary in accordance with the data protection principles set out in data protection legislation.***

***Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken.]***

* **Natural Justice** – At all stages of this process the worker will be given a full explanation of the complaint in writing and will be given the opportunity to state their case before any decision is taken. If a warning is given as part of this procedure, the worker will be given full support by the employer to improve their conduct.
* **Right to appeal** – At all formal stages of this policy the worker has the right to appeal. The appeals will be heard in an appeal meeting by a senior manager/s who previously had no involvement with the case.
* **Recordings** – Audio/ visual recordings of the proceedings by the worker or their companion or by ***[name of employer]*** are not acceptable at any stage of this procedure. Any use of surveillance evidence submitted as part of the case must comply with the ***[name of employer]***’s surveillance policy and/or data protection policy which can be found ***[provide links]***.
* **Grievance** – The disciplinary procedure is to be used separately from the grievance procedure. If the worker is already being investigated as part of the grievance procedure, the disciplinary process will not begin until the grievance has been completed.
* **Equality and diversity** – This procedure will be applied without discrimination. If someone has an existing mental or physical health impairment which they have previously disclosed, ***[name of employer]*** will make reasonable adjustments to the process as necessary.
* **Process** – There are three stages of disciplinary action. A worker will not normally be dismissed for the first breach of discipline unless the worker is found guilty of gross misconduct, where the penalty may be summary dismissal without pay in lieu of notice. The procedure may be implemented at any stage if the worker’s alleged misconduct warrants such action.

***[Sometimes, when misconduct is so serious or could have such serious consequences it would be appropriate to dismiss someone without notice (sometimes called summary dismissal). However the employer should still follow a fair procedure with an investigation, an opportunity for the employee to put their side of the case at a meeting and the right to appeal as well as the right to be accompanied at the disciplinary meeting and appeal meeting. It should be made clear to the employee before the meeting takes place, that dismissal is a possibility.***

***After careful consideration, a short period of suspension with full pay (see below in the section headed ‘***[***Suspension’***](#_Suspension)***) may be used whilst the investigation is taking place.***

***It should be clear to staff what sorts of misconduct are considered gross misconduct and the procedure should give some examples (see below in section headed*** [***'Definitions'***](#_Definitions)***).]***

* **Criminal Offences** – Where a worker is convicted of a criminal offence, they will not be automatically dismissed. The employer will consider if the offence is one that makes the worker unsuitable for their role or unacceptable to other employees, partners or clients of the organisation and if so whether there is suitable alternative work available. Following this consideration the employer may initiate the disciplinary procedure. In cases where the police are involved in workplace misconduct, ***[name of employer]*** will liaise with the police regarding the disciplinary process and take advice on how to conduct a fair process.

***[Where an employer is charged or convicted of a criminal offence,*** [***the Acas guidance***](https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***states that “the question to be asked in such cases is whether the employee’s conduct or conviction merits action because of its employment implications.” In addition “where the conduct requires prompt attention the employer need not await the outcome of the criminal prosecution before taking fair and reasonable action. Where the police are called in they should not be asked to conduct any investigation on behalf of the employer, nor should they be present at any meeting or disciplinary meeting.”]***

* **Trade Union Representatives** – Disciplinary action will not be taken against an accredited Trade Union Representative unless the circumstances are sufficiently serious to warrant immediate action. In these circumstances the Head of Human Resources and the full-time official from UNISON should be notified of the case.

# Responsibilities of managers

Line managers should ensure that all workers are aware of this policy and understand their own and ***[name of employer]***’s responsibilities.

Line managers must ensure that their staff are aware of general and specific policies, rules, standards and procedures laid down for the regulation of work and conduct.

In appropriate cases of minor misconduct or unacceptable performance or behaviour, line managers should exhaust all other means of achieving the required standards before formal disciplinary action is taken. This may include setting clearly defined objectives and standards, monitoring them over a reasonable time period and providing additional coaching or training. In some cases this may also include reference to other appropriate sources of counselling and assistance.

***[Informal approaches are encouraged in the*** [***Acas Code of Practice for Disciplinary and Grievance Procedures***](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures)***. “A quiet word is often all that is required to resolve an issue.”]***

If the misconduct is believed to be a criminal offence, such as a hate crime, the line manager should advise the complainant to report the matter to the police as soon as possible and give them appropriate support.

Line managers must respond promptly and within the timescales as required as part of this disciplinary procedure

Line managers will be given training on how to operate this procedure fairly, effectively and consistently and in line with all its general principles.

# Responsibilities of workers

All staff should familiarise themselves with the policies, rules and procedures covering work and conduct, and to co-operate with their line managers and supervisors to ensure that they are followed.. Full details can be found in the staff handbook and on the staff intranet ***[amend as appropriate for your organisation.]***

Workers shall be protected from intimidation, victimisation or discrimination for filing a complaint or assisting in an investigation. Retaliating against a worker for complaining about or assisting in an investigation of misconduct is a disciplinary offence.

# Trade union involvement

Consultation will take place with the recognised trade union on the implementation, development, monitoring and review of this policy.

Union reps will be given training equal to that of managers and supervisors and sufficient time to carry out their duties.

***[The*** [***Acas guidance***](https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***states: “If the organisation recognises trade unions, or there is any other form of employee representation, it can be useful to undertake training on a joint basis – everyone then has the same understanding and has an opportunity to work through the procedure, clarifying any issues that might arise.”]***

# Review and monitoring

***[Name of employer]*** will ensure that all new workers, supervisors and managers will receive induction on the policy.

Adequate resources will be made available to fulfil the aims of this policy. The policy will be widely promoted, and copies will be freely available and displayed in ***[name of employer]***’soffices and through the staff intranet ***[amend as appropriate to your workplace].***

This policy will be reviewed jointly by unions and management, on a regular basis.

# Definitions

Misconduct is defined as failure in personal conduct, persistent poor performance or deliberate infringement of ***[name of employer]***’spolicies, rules and procedures.

Gross misconduct is defined as misconduct serious enough to destroy the employment contract between ***[name of employer]*** and the employee, which makes further working relationship and trust impossible. Gross misconduct is normally restricted to serious offences.

Gross misconduct may lead to a summary dismissal or dismissal without notice.

Reasons for disciplinary action may include the following disciplinary offences but are not limited to:

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| --- | --- |
| **Acts of misconduct** | **Acts of gross misconduct** |
| Dishonesty | Theft, fraud, deliberate falsification of records  |
| Misuse of the organisation’s name |  |
| Breach of confidentiality & data protection | Serious breach of confidentiality |
| Breach of financial regulations | Deliberate falsification of financial claims including overtime, expenses or flexitime |
| Misuse of the organisation’s equipment and materials |  |
| Engaging in activities on the premises that could bring the employer into disrepute | Criminal offence which affects the individual’s ability to carry out his/her job |
| Supplying false or misleading information when applying for employment |  |
| Health and Safety issues for example threatened or actual physical assault | Serious physical assault by a worker on any other person |
| Deliberate or reckless damage to the organisation’s property |  |
| Abusive, obscene language or gestures | Deliberately accessing internet sites containing pornographic, offensive or obscene material |
| Failure to observe health and safety rules and report accidents or injuries whilst at work | Serious infringement of safety rules or negligence which causes unacceptable loss, damage or injury |
| Creating or contributing to unsanitary conditions  |  |
| Entering or leaving the organisation property except by designated entrances and exits |  |
| Possession of offensive weapons |  |
| Performance related issues for example, serious neglect of duty which undermines the organisation  | Serious infringement of safety rules or negligence which causes unacceptable loss, damage or injury |
| Failure over time to perform work to satisfactory standards |  |
| Refusal to carry out a reasonable request of a manager | Wilful misconduct or disobedience of lawful and reasonable orders |
| Infringement of terms and conditions of service, for example absence from duty without permission of a line-manager | Engaging in unauthorised employment during hours when contracted to work or during periods of designated leave, for example sick leave or time off for training, etc. |
| Excessive infringement of flexitime/flexible working or regular excess of debit hours at the end of accounting periods | Deliberate and serious abuse of flexitime / flexible working systems |
| Breach of the organisations written policies, examples include anti-racism policy, harassment and bullying, (abuse of power over another worker will be taken into account when deciding what disciplinary action to take), alcohol and drug use, email, internet and social media use | With reference to the appropriate policy:Serious acts of harassment / bullying / discrimination relating to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) / persistent alcohol or drug abuse / serious misuse of email/internet/social media |

***[Amend as appropriate to your workplace.***

[***XpertHR’s 2022 survey into discipline and grievance***](https://www.xperthr.co.uk/survey-analysis/discipline-and-grievance-xperthr-survey-2022/166685/) ***showed that, in the public sector, misuse of email/internet/social media led to disciplinary action in around seven cases in 10 (70%) over the previous two years.***

***Unauthorised absences and bullying and harassment also figure high in the list of issues that led to disciplinary action.***

***The branch and trade union rep can also help raise awareness of relevant workplace policies and procedures amongst members, and encourage the employer to promote these policies widely and provide training for all staff with regular refreshers.]***

# Minor misconduct

Informal action should be taken in cases of minor misconduct.

The worker will be invited to attend an informal meeting by their line-manager where an explanation of the minor misconduct will be given. The line-manager will give constructive feedback and the worker should express their views on the issue. This is separate from the formal part of this disciplinary procedure.

The manager will explain to the worker what needs to be improved, and put in place any measures to support the worker. This may include setting clear targets and expectations, monitoring progress over a reasonable time period and providing additional coaching or training. In some cases it may also include reference to other appropriate sources of counselling and assistance.

The worker’s conduct will be reviewed at a later date and both parties will agree any informal action and a date for the review. Notes should be kept by the manager of this meeting but not placed on the worker’s file.

The worker should be advised if their conduct or performance does not improve they will be moved to Stage 1 of this procedure.

# Formal Procedure

If informal action fails to achieve the required improvement in performance or behaviour, then this procedure is followed.

Appropriate adjustments will be made to enable the complainant to participate in the disciplinary process without fear of victimisation.

## The Investigation

Disciplinary action will not be taken before an investigation to establish the facts has taken place.

***[The investigation is a crucial part of the disciplinary procedure, in order to ensure it is fair.***

***Where a serious level of disciplinary sanction is being considered, particularly if a potential dismissal is being considered, the investigation should ideally not be carried out by the same person as the person or people who make the disciplinary decision.***

***In some circumstances, employers may decide that they want an external HR consultant to undertake the investigation, but ultimate responsibility for the nature of the investigation still lies with the employer.***

***It would never be appropriate for the employer to ask an external consultant to undertake any disciplinary meeting and make any disciplinary decisions on behalf of the employer.***

***The aim of the investigation is to establish the facts before taking any disciplinary action, and an open mind should be kept. It should be carried out without unreasonable delay.***

***A fact-finding meeting with the worker and any witnesses may be necessary, or it may just involve collection of existing evidence, whatever is appropriate for the case.***

***But without some means of establishing the facts through an investigation, any subsequent decision on disciplinary action may be unfair. And, as the*** [***Acas guidance***](https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***states, it is important for the investigator “to keep an open mind and look for evidence which supports the employee’s case as well as evidence against.”]***

The investigation will usually be carried out by the staff member’s supervisor or line-manager. The worker will be informed as soon as possible that an investigation is taking place and the date when the investigation will conclude. The investigation should take no longer than 10 working days.

In serious cases, there may be instances where a worker is suspended with full pay while the investigation of allegations is carried out (see section headed [‘Suspension’](#_Suspension) below). Suspension in these circumstances does not constitute disciplinary action.

Depending on the case it may be necessary for the worker to attend an investigatory interview. If such an interview is held, it will be made clear that the interview is part of the investigation process and separate from the disciplinary meeting.

The worker will have warning in advance of any investigatory interview and given reasonable time to prepare.

The worker has the right to be accompanied at any investigatory interview by a trade union representative, full-time union official or work colleague.

***[Employees only have a statutory right to be accompanied by either a fellow worker, a trade union representative or official employed by a trade union at the disciplinary or appeal meeting. However it would be important to try to negotiate for it to be also allowed at any investigatory meetings as well. ]***

## Suspension

Suspension is not a disciplinary action and will normally be on full pay and benefits.

***[If pay and benefits may vary for some types of workers, the disciplinary procedure should specify how it is to be calculated during any period of suspension.***

***Suspension without pay is regarded as a form of penalty once a disciplinary decision has been made. It can only be used if it is expressly mentioned in the employee’s contract of employment otherwise the employee could take action for breach of contract.***

***Suspension with pay should be kept to a minimum of time and the investigation should be carried out speedily. As the*** [***Acas guidance***](https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***states: “It should only be considered exceptionally if there is a serious allegation of misconduct and:***

* ***there are reasonable grounds to believe that the employee might seek to tamper with or destroy evidence, influence witnesses and/or sway an investigation into the disciplinary allegation; or***
* ***working relationships have severely broken down to the point that there is a genuine risk to other employees, property, customers or other business interests if the employee remains in the workplace; or***
* ***the employee is the subject of criminal proceedings which may affect whether they can do their job.”]***

The worker will be informed in writing that they are to be suspended immediately, stating the nature of the alleged offence, the purpose of suspension, and its anticipated duration. A copy of this letter will be provided to the worker’s companion.

Suspension in these circumstances should normally be for a period of no more than five working days. However, in exceptional circumstances, the period may be extended. The worker will be informed in writing specifying the duration of the extension and the reasons for it. In cases of alleged gross misconduct, suspension may continue until the appeal process, if pursued, has been concluded.

If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

## Invitation to a disciplinary meeting

The disciplinary meeting will take place within 10 working days of the conclusion of the investigation and will be heard by a panel of at least two senior managers.

Without unavoidable delay, the worker should be given a notification letter:

* explaining why the disciplinary meeting is taking place
* giving at least five working days’ notice of the meeting date, time and venue
* explaining that the disciplinary meeting will be conducted under this procedure
* explaining the possible consequences such as a potential warning or dismissal
* stating the worker’s right to be accompanied by a trade union representative, full-time union official or work colleague
* providing the worker with all relevant information including statements and supporting evidence the employer wishes to use as part of this process.

***[The worker must receive the information in advance of any formal meeting. To suddenly produce new information or allegations at a disciplinary meeting is likely to be seen as unreasonable.***

***It will be unusual for witnesses to give oral evidence at a disciplinary meeting but if witnesses are to be called, the worker should be notified in advance.]***

***[Name of employer]*** will make provision for any reasonable adjustments to accommodate the needs of a disabled worker or their companion.

The worker will be notified of the name of witnesses along with the names of the disciplinary panel within two working days of the meeting.

The names of any witnesses being called by the worker must be made available to Human Resources no later than two working days prior to the meeting. It is the responsibility of the worker to organise their own witnesses and inform HR of any access requirements needed.

## Attendance at the disciplinary meeting

The worker should take all reasonable steps to attend the meeting on the date / time stated in the employer’s letter. However, the meeting will be rescheduled to another time if their companion is not available at the chosen time. In these cases the worker must propose another date within five working days of the original meeting date.

***[You may want to negotiate some flexibility and extension to this time period. The*** [***Acas guidance***](https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***suggests employers may wish to allow more time for a re-arranged meeting, “particularly in cases that might result in dismissal. An employer must always act fairly in order to avoid a finding of unfair dismissal. Where there is a request to postpone a hearing for more than five working days because a trade union representative or other companion is not available, it may be fair to allow the postponement if it does not cause unreasonable delay. The employer should consider the facts and decide what is fair and reasonable in the circumstances.”]***

Where a worker fails to attend or remain throughout a scheduled meeting through circumstances beyond their control, the meeting or the continuation of the meeting should be arranged for another time (within five working days).

If there is any additional evidence presented at the meeting the disciplinary panel may decide to adjourn a meeting and reconvene at a later date (within five working days of the original meeting date).

Workers may not be able to attend a meeting due to ill health. In these circumstances the worker may be required to submit a medical certificate from their GP. The matter may also be referred to an Occupational Health Practitioner who with the worker’s consent will discuss the matter with the individual’s GP to assess the length of time the worker is unable to attend meetings. If a worker does not give their consent, the disciplinary panel may have no option but to base any decision on whether to defer the meeting or proceed in the worker’s absence on the information available. Each case will be assessed on its own merits, but the prime objective is to minimise any delays in holding meetings.

***[If a worker fails to attend a disciplinary meeting, it is important to get the employer to agree to try and rearrange the meeting at least one more time, preferably more than once if necessary.***

***If the worker continues to be absent but has a good reason such as sickness (including stress-related illness), it would be particularly good practice to be more flexible about rearranging the meeting or offering to hold the meeting at a place or time more convenient to the worker, or allowing them to provide their response in writing or via their representative.***

***It is important that the worker has been given every opportunity to participate and put their side of the case, and warned what will happen should they not turn up again. Ideally the employer should also consider any written representations made or representations made by the representative if they attend alone.]***

## The disciplinary meeting

Where possible, a note-taker, who must be uninvolved in the case, will take down a record of the meeting.

If there are any witnesses, they should not be present throughout the meeting. They should be called in, one by one, to give their evidence and asked to leave once they have done so.

The chair of the disciplinary panel will open the meeting with an explanation of its purpose and will read aloud the allegations.

The worker and their companion can ask questions including of any witnesses called.

The chair of the disciplinary panel will then ask the worker if they wish to take the opportunity to respond to the allegations or concerns or if there are any mitigating circumstances to be taken into account. The chair may question the worker and any witnesses called.

The chair of the disciplinary panel will summarise the main points of the discussion and ask the worker if they have anything further to say.

The meeting may be adjourned by either the worker or by the chair of the disciplinary panel, if it is considered necessary to gather further information or evidence or clarify any issue. The meeting will be reconvened as soon as possible.

***[Sometimes issues are further complicated should the worker decide to invoke the grievance procedure. The*** [***Acas Code of Practice***](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures) ***suggests that the disciplinary process could be temporarily suspended to deal with a grievance. However they also add: “Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.”]***

The disciplinary panel will then consider the details heard in private. They must decide whether the case against the worker has been established on the balance of probabilities, i.e. whether misconduct is confirmed or the worker’s performance is found to be unsatisfactory.

If this is the case, when they are considering appropriate disciplinary action, they should also consider any special, mitigating circumstances, the worker’s previous disciplinary or performance record, how ***[name of employer]*** has dealt with similar cases in the past and whether the proposed action is reasonable in view of all the circumstances.

The worker will be provided with written confirmation of the decision normally within five working days of the meeting. This will include notifying the worker of their right of appeal and the procedure to be followed.

***[Employees should be informed in writing of any decision on whether disciplinary action is appropriate and how long the penalty will last, the improvement expected, the time period for improvement, and the procedure and time limits for appeal.]***

## Stages of disciplinary action

If following the disciplinary meeting, the decision is to take action, the table below sets out the stages of disciplinary action within this procedure.

The procedure may be implemented at any stage if the misconduct or poor performance warrants such action.

***[The*** [***Acas Code***](http://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures) ***does not suggest using oral or verbal warnings for disciplinary procedures as it can be confusing for example to have a verbal warning that is then recorded in writing. Instead they suggest using only first and final written warnings or dismissal for continuing misconduct or where the performance has still not improved within a specified time period.]***

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| --- | --- |
| Stage 1 – first written warning | If a worker’s conduct or performance does not meet the required standards, the worker will be given a written warning. This warning will be placed on the worker’s HR file for 6 months and then removed. The worker is advised at this stage that if their conduct or performance does not improve, the employer will move to the second stage of this disciplinary procedure. |
| Stage 2 – final written warning  | A final written warning will be issued to a worker if there is still a failure to improve conduct or consistent poor performance or if the misconduct is sufficiently serious to warrant a written warning but not dismissal. This final written warning will be placed on a worker’s HR file and removed after 12 months. The worker is advised at this stage that if their conduct or performance does not improve, the employer may move to the third stage of this disciplinary procedure. |
| Stage 3 – dismissal | If a worker’s performance or conduct continues to be unsatisfactory, or if the offence constitutes gross misconduct, then the worker will be dismissed. Only a senior manager can make the decision to dismiss a worker. Employees will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty will be dismissal without notice and without payment in lieu of notice.  |
| Stage 3 – action short of dismissal | In serious cases where dismissal is considered but it is decided to impose disciplinary action other than dismissal (such as disciplinary compulsory transfers without protection of wages or salary, demotion, loss of seniority or loss of increment), ***[these type of sanctions may only be applied if the employee’s contract of employment contains an explicit term covering such a provision or if the disciplinary procedure forms part of the contract or with the employee’s agreement]*** it may also be decided to retain a final warning permanently on the worker’s personal record and the worker be advised that any recurrence will lead to dismissal. Such a warning will be subject to review, at not less than 12-month intervals, at the request of the worker. |

***[The*** [***Acas Code***](http://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures) ***does not specify a particular period for warnings to be kept and used as the basis for monitoring and reviewing performance. The specified period could depend on the seriousness of the offence but must be consistent with past practice.***

***However, the*** [***Acas guidance***](https://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work) ***accompanying the Code, states “Normal practice is for different types of warnings to remain in force for different periods. For example, a first written warning might be valid for up to six months while a final written warning may remain in force for 12 months (or more in exceptional circumstances). Warnings should cease to be ‘live’ following the specified period of satisfactory conduct.]***

The disciplinary panel have the authority to:

* find that the worker has no case to answer and to discharge the case
* require satisfactory completion of a course of training or developmental activity by the worker
* issue a first written or final written warning and impose conditions in relation to such warnings
* extend the period of the final written warning as an alternative to dismissal
* decide on demotion or loss of seniority in relation to the worker’s current role
* dismiss the worker with the appropriate period of notice or payment in lieu of notice
* dismiss the worker without notice or payment in lieu of notice (summary dismissal).

## Decision and written notice

If the chair and disciplinary panel decide that disciplinary action should be taken, the worker will normally be notified in writing within five working days of the conclusion of the meeting.

If a disciplinary warning has been issued the written notification will set out all the conditions associated with the warning, i.e. reason for the warning, the improvement required, the set timescale for improvement, how monitoring will take place, the period for which the warning will be in force, the likely penalties for failure to meet conditions of the warning, and the worker’s right to appeal.

Where disciplinary action is dismissal, the written notification will state the reason for the dismissal, the date on which their employment contract will end (taking into account the worker’s required notice period if appropriate) and the worker’s right to appeal.

***[Employees with two years’ service or more have the statutory right to request a ‘written statement of reasons for dismissal’. In addition, a woman who is dismissed during pregnancy or maternity or adoption leave is automatically entitled to the written statement without having to request it and irrespective of length of service. The written statement can be used in evidence in any subsequent employment tribunal proceedings, for example, in relation to a complaint of unfair dismissal.]***

## Appeal

A worker can appeal against the decisions of the disciplinary meeting taken under this procedure.

The worker must submit a written appeal to the Head of HR within 10 working days of being informed of the disciplinary action. Any documents submitted in support of the appeal must be attached.

When lodging the appeal, the worker must state:

* the grounds of the appeal
* whether they are appealing against the findings that they committed the alleged act or acts of misconduct, or against the level of disciplinary action imposed, or against a failure to follow this procedure adequately.

Names of any witnesses to be called by the worker must be made available to Human Resources no later than two working days prior to the meeting. It is also the worker’s responsibility to inform witnesses where the appeal is taking place and the time.

The worker has the right to be accompanied to the appeal meeting by a trade union representative, full-time union official or work colleague.

The appeal will be heard by an appeal panel of at least two senior managers who have had not been involved in the original investigation nor the decision to impose the disciplinary action. The senior manager is obliged to consider any representations made by the worker, trade union rep or trade union official and those of the manager who conducted the investigation and the chair of the disciplinary panel who conducted the disciplinary meeting and imposed the disciplinary sanction.

On hearing the appeal, the appeal panel must make a judgement after reviewing all the evidence put forward from all parties, together with any further facts of evidence that may have come to light. The appeal panel must make a decision whether to uphold the disciplinary action.

In the event that the appeal panel finds for the worker, anything relating to the disciplinary action will be removed from the worker’s record.

Appeal meetings will normally take place within 14 days of receipt of the worker’s written notice of appeal.

Where possible, a note-taker, who must be uninvolved in the case, will take down a record of the meeting.

The worker should take all reasonable steps to attend the appeal meeting on the date/time stated in the written notification. However, the meeting will be re-scheduled to another time convenient for the worker if the worker’s companion is not available. The worker must propose an alternative date within five working days of the original date (this time limit may be extended only by mutual agreement).

Workers may not be able attend a meeting due to ill health. In these circumstances the worker may be required to submit a medical certificate from their GP. The matter may also be referred to an Occupational Health Practitioner who with the worker’s consent will discuss the matter with the individual’s GP to assess the length of time the worker is unable to attend the appeal meeting. If a worker does not give their consent, the appeal panel will have no option but to base any decision on whether to defer the appeal meeting or proceed in the worker’s absence on the information available. Each case will be assessed on its own merits, but the prime objective is to minimise any delays in holding the appeal meeting.

Upon completion of the appeal, the appeal panel will inform their decision to the worker. The decision will be confirmed in writing within five working days. The decision of the appeal panel is final.

When an appeal lies against a dismissal by the disciplinary panel, the disciplinary panel’s decision to dismiss will have had immediate effect and therefore, if the dismissal is by notice, the period of notice will have already commenced on the date the disciplinary panel gave their decision. If the disciplinary panel’s decision was to dismiss the worker summarily without notice, the organisation will be under no obligation to reinstate or pay the worker for any period between the date of the original dismissal and the appeal decision and the original date of termination will stand.

In the event that the disciplinary panel’s decision to dismiss is overturned, the worker will be reinstated with immediate effect, and they will be paid for any period between the date of the original dismissal and the successful appeal decision. A worker’s continuous service will also not be affected.

# Further information

Acas code of practice on disciplinary and grievance procedures

[www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures](http://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures)

Acas guide to discipline and grievance at work

[www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work](http://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work)

# Signatories

This agreement is made between ***[name of the employer]*** and UNISON, a registered trade union.

This agreement comes into force on:

Date:………………………………..

This agreement will be reviewed on:

Date:………………………………..

SIGNED ……………………………. for ***[name of the employer]***

Date ………………………………..

SIGNED …………………………….. for UNISON

Date ………………………………..