

Disciplinary Policy

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Disciplinary Policy and Procedure

A. PURPOSE AND SCOPE

1. This Policy and Procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, to behave in line with our [Values](#) and to ensure that disciplinary matters are handled fairly and consistently.
2. It does not in any way interfere with the responsibility and capacity of managers to raise any matters of concern informally with individuals. Managers will aim where possible to resolve concerns as to apparent unsatisfactory conduct or behaviour informally, without resort to formal procedures.
3. It applies to all employees and workers, whether on non-time-limited or fixed-term contracts who have satisfactorily completed their probationary period, but does not apply to honorary appointees or those who are not directly employed by the ICR, e.g. agency staff, consultants, contractors, or to students who do not hold an ICR contract of employment, to volunteers or those on work experience or internships., for whom alternative procedures may apply.
4. This Policy and Procedure relates to concerns about conduct, ie: issues related to an employee's behaviour; inappropriate, negligent or reckless actions; or wrongful acts or omissions. It does not apply to cases of inadequate performance, incapacity due to ill health, to the expiry or non-renewal of fixed-term contracts, or to termination of employment on grounds of redundancy or retirement, for which separate policies exist. Examples of conduct likely to lead to disciplinary action are set out in [Appendix 1](#).
5. This Policy and Procedure is not contractual and may, after consultation with Staff Side trade union representatives, be amended by the ICR.

B. ACCESSIBILITY

6. If any aspect of this Policy or Procedure causes you difficulty on account of any disability that you may have, or if you need assistance because English is not your first language, you should raise this with your [HR contact](#), who will make appropriate arrangements.

C. PRINCIPLES

7. This Policy and Procedure is compliant with employment law and with the principles of the ACAS Code of Practice '*Disciplinary and Grievance Procedures*' March 2015.
8. All staff working at ICR are expected to maintain high standards of behaviour, conduct and integrity. Examples of conduct likely to lead to disciplinary action are set out in [Appendix 1](#).
9. It is the responsibility of managers to be acquainted with the provisions of the Policy and Procedure, to be aware of their responsibilities within it and to operate it conscientiously. Managers should consult with and involve the Human Resources Department at every stage, including the conduct of investigations. An HR adviser will be present at all formal hearings.
10. No disciplinary action will be taken against an employee until the case has been fully investigated. This will normally entail the appointment of an Investigator. The investigation may, as appropriate, include the holding of an investigatory meeting or meetings. [Appendix 2](#) provides guidance for managers and Investigators as to the conduct of investigations.
11. In all normal cases, the employee will be notified that an investigation is being undertaken. However, in cases of apparent gross misconduct, including fraud or theft, investigations may be conducted and completed before the individual is made aware of any allegation, so that the investigatory process is not compromised.
12. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the sanction may be dismissal without notice or payment in lieu of notice.
13. At every stage of the Procedure, the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
14. Before a disciplinary meeting is held, the employee's attention will be drawn to this document.
15. The Procedure may be initiated (or accelerated) at any stage if the employee's alleged misconduct warrants such action.
16. Employees will have the right to appeal against any decision to take disciplinary action.
17. In operating this procedure, all parties will be treated equally irrespective of their sex, being married or in a civil partnership, gender reassignment, sexual orientation, race (including colour, nationality and ethnic or national origins), religion or belief, age, pregnancy and maternity or disability.
18. If any aspect of this Policy or Procedure causes an employee difficulty on account of any disability, or if they need assistance because English is not their first language, they should raise this with the HR Department, who will make appropriate arrangements or consider reasonable adjustments, as appropriate.
19. Any warning given will normally include a time limit for its operation (see paragraph 53).
20. Staff Side trade union representatives are expected to observe the same standards of conduct as other members of staff. However, no formal disciplinary action will be taken against a trade union representative until the circumstances have been discussed with a permanent trade union official.
21. Any performance-related pay increase for which an employee may be eligible will be withheld pending the outcome of a disciplinary hearing or subsequent appeal until the outcome is known. Should

the outcome of a disciplinary hearing be that a warning is given (or, following an unsuccessful appeal against a warning), the payment will not be paid. Employees will also be ineligible to receive any future performance-related pay increases until the 'live' period of any formal warning has ended.

22. Should it come to light that the employee's conduct or behaviour may be linked to substance abuse, the employee will be offered support, e.g. via the Employee Assistance Programme, Occupational Health or other appropriate sources.

Representation

23. At all formal stages, including appeals, the employee has the right to be accompanied by a work colleague, or by a Staff Side/trade union representative who is either an employed official or another union official who has been certified by the union to act as a companion. External representatives such as solicitors and third parties such as family members will not be permitted to attend, save in very exceptional circumstances.

24. At a disciplinary hearing, the employee's companion or Staff Side representative is entitled to address the meeting, to put the employee's case, to confer with the employee, to respond on their behalf to points made and to sum up - but they are not entitled to answer questions on the employee's behalf.

25. If an individual wishes to be accompanied, they must give the name of their companion or Staff Side representative to the manager holding the meeting at least two working days before the hearing. It is the responsibility of the employee to provide their companion/Staff Side representative with any documentation or information necessary for them to represent them.

26. Employees are not entitled to bring a companion or Staff Side representative to investigatory meetings.

Investigations

27. Where an allegation or complaint of misconduct arises, the manager will, with advice from the HR Department, decide whether a formal investigation is necessary. If so, the HR Department will advise whether it is appropriate for the manager to conduct the investigation, or whether it should be undertaken by another person, such as an Investigator from outside the ICR.

Criminal Investigations

28. Where an individual is under police investigation, or is charged with or convicted of a criminal offence, this is not in itself a reason for disciplinary action. The ICR will consider whether action is warranted under this Policy and Procedure, either after or, where appropriate, before the outcome of police investigations or other legal proceedings are known. Disciplinary action may be appropriate because of legitimate concerns as to the employee's suitability to do their job; risk to others (including to the ICR itself) or their relationship with the ICR, colleagues, students or clients. In such cases, the individual's manager should consult the Director of Human Resources or the Head of HR Operations.

Suspension

29. In some circumstances, it may be appropriate for the employee to be suspended on full pay while the issue is investigated and the disciplinary process undertaken. An employee will only be subject to suspension after careful consideration and where it is considered that their continued presence in the workplace either represents a risk to others, or raises a real risk of further misconduct or it is considered necessary to ensure the investigation of the complaints/allegations is not compromised.

30. Any suspension will be for as short a period as is reasonably practicable and will be kept under regular review. The suspension will be confirmed in writing without delay and it will be made clear to the employee that the suspension itself is a neutral step and is not a disciplinary action.

31. During the period of suspension, arrangements will be made to enable the employee to have appropriate access to such of the ICR's premises, documents and/or staff as is necessary to enable them to prepare their response to the complaint(s) or allegation(s).

32. The decision to suspend an employee from work and/or to suspend access either to ICR premises or to their ICR IT account may be taken (following advice from HR) by a Head of Division, Professional Services Director or manager who directly reports to either. The suspending manager's decision should be relayed to the employee by their line manager or by the Deputy Director, HR Operations or by an HR Manager.

Postponements

33. If the employee or their companion/Staff Side representative cannot attend a hearing (or appeal) on the proposed date, they are entitled to postpone the meeting by proposing another date, provided that the alternative date is reasonable and is normally no later than five working days after the original date proposed. After a postponement to an alternative date has already been granted, it may in exceptional circumstances be necessary to conduct the disciplinary hearing in the employee's absence. In such cases, the employee will normally be invited to submit written representations, or to authorise their representative to present their case to the hearing in their absence.

Records of Meetings

34. A record of all investigation meetings, formal hearings and any subsequent appeals will be made by a HR representative, and copies will be made available to all relevant parties.

35. The employee, or any person acting on their behalf, is not normally permitted to electronically record any meeting held as part of the disciplinary process. This is to encourage openness and full participation by all parties during meetings. However, in certain limited circumstances - where, for example, the employee is disabled and it is appropriate as a reasonable adjustment - the ICR may permit the meeting to be recorded electronically. Any party wishing to overtly record proceedings must seek the consent of all participants before the recording begins. Covert recordings may be considered as gross misconduct. Further guidance can be found in (guidance document).

D. DISCIPLINARY ACTION - INFORMAL STAGE

36. Where possible, concerns as to unsatisfactory conduct or inappropriate behaviour will be raised with employees without undue delay by their manager as part of the normal management process. If appropriate, informal support, such as guidance, training or supervision will be provided in order to help resolve the problem without recourse to formal disciplinary action. Where, however, this is not appropriate, or if following informal support, an employee fails to improve, or to sustain an improvement in their conduct or behaviour, the formal disciplinary procedure will be applied.

37. There is no entitlement to be accompanied at the informal stage of this policy, or at regular appraisal or 1-to-1 meetings between a manager and employee.

E. THE FORMAL STAGES OF DISCIPLINARY ACTION - PROCEDURE

Notification of Disciplinary Hearings

38. Where it is felt necessary after an investigation to take formal action under this Procedure, a disciplinary hearing will be convened as soon as is reasonably practicable. This will normally be chaired

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by the employee's line manager. However, where that line manager has had direct involvement in the case, or may be required as a witness, an alternative manager of the same or a higher grade than the line manager will chair the hearing.

39. The employee will be given at least five working days' notice in writing of the time, date and location of the disciplinary hearing, and details of the matter(s) to be considered, any documents to be considered as part of the hearing (including any Investigator's Report and any witness statements), together with a copy of this Procedure, if it has not already been provided. The employee will normally be informed of the stage of this Procedure under which the matter is being considered (see paragraph 44). The employee will be informed of their right to be accompanied (see paragraphs 23 to 26).

40. If the employee wishes to submit a written response to the allegations or documents, they must submit these to the manager conducting the hearing at least two working days in advance of the meeting. Copies will be given to the person presenting the management case.

Conduct of Disciplinary Hearings

41. At the hearing, the manager conducting the proceedings will be accompanied by an HR representative who can advise on procedure and take notes. At the outset, the manager will normally: outline the status of the hearing; confirm their role; explain the procedure for the hearing; introduce the parties present; check that the parties have had the documents to which reference will be made and confirm any witnesses to be called by either side.

42. The Investigator's Report and any witness statements will be submitted to the manager conducting the hearing in advance; the manager should seek any necessary clarification from the Investigator prior to the hearing. During the hearing, the employee or their companion or Staff Side representative will be invited to respond to the allegation(s) or complaint(s). The manager hearing the case (and the HR representative, for clarification where necessary) may ask questions, after which the employee or representative will be given the opportunity to sum up. If a new witness is put forward, the hearing should be adjourned to allow the manager to speak to them before reconvening the hearing.

43. The hearing will then be adjourned while the case is considered, and a decision made by the manager hearing the case. If deemed necessary, the adjournment may be extended to allow further investigation to take place.

44. Normally, the hearing will be reconvened after a short period and the decision conveyed verbally to the employee and later confirmed in writing. Every possible effort should be made to advise the employee of the outcome at the end of the hearing, having given full consideration to all information available. In exceptional circumstances, the manager may decide to give further consideration before subsequently confirming their decision to the employee in writing. In either case, written confirmation of the outcome of the hearing will be provided to the employee normally within five working days.

Where the outcome of the hearing is a verbal (e.g. informal) warning, the subsequent letter confirming this decision should clearly state that this does not convert the verbal warning to a more serious written (e.g. formal) warning.

45. The manager hearing the case could decide:

- to take no further action; or
- to give a warning as appropriate (see paragraphs 50 and 51); or
- to dismiss (in cases where the hearing has been convened to consider misconduct following an earlier warning, or gross misconduct).

F. THE FORMAL STAGES OF DISCIPLINARY ACTION - WARNINGS

46. There are three levels of disciplinary action available under the formal Procedure, following a disciplinary investigation and a hearing:

- Written Warning;
- Final Written Warning;
- Dismissal or Summary Dismissal (see paragraphs 55 and 56).

47. Disciplinary action will normally be progressive. However, the level of warning(s) issued will depend upon the gravity of the misconduct, the frequency of the offence(s), any mitigating circumstances presented by the employee, and the employee's previous disciplinary record where warnings are still live. Accordingly, disciplinary action, where appropriate, may commence at any level.

48. Examples of the kinds of misconduct normally regarded as falling into each category are set out in [Appendix 1](#), though these are for illustrative purposes only and are not intended to be an exhaustive list.

49. If a warning is given, this will specify:

- the level of the warning;
- the reason for the warning;
- any action required by the member of staff to improve/remedy the conduct or behaviour, and, where appropriate, the time allowed for such action to occur before a further review;
- the implications of a failure to improve, or of subsequent incidences of misconduct/inappropriate behaviour;
- the time period during which the warning will remain in force ('live');
- the right of appeal (see paragraphs 57 to 61).

Written Warning

50. Where, following a disciplinary investigation and hearing, the manager hearing the case finds that conduct has not met acceptable standards or an offence of misconduct/inappropriate behaviour has occurred which is serious, but not very serious, they may issue a written warning to the employee.

Final Written Warning

51. Where, following a disciplinary investigation and hearing, the manager hearing the case finds that there has been either further misconduct/unacceptable behaviour following a written warning or that there has been a very serious breach of discipline, they may issue a final written warning to the employee.

Records and Duration of Warnings

52. Records of warnings issued to an employee, together with supporting documentation, will be placed on the individual's personal file and held in confidence by the HR Department. A period will normally be specified, during which the warning will remain 'live' and will be taken into account when considering any subsequent disciplinary issues. Once any time limit has expired with no repetition of that (or any other) misconduct, it will normally be disregarded for disciplinary purposes.

53. The time periods during which disciplinary warnings are 'live' are normally:

- First written warning: 6 months;
- Final written warning: 12 months.

54. **In exceptional circumstances** (for example where an employee has a record of repeated misconduct short of gross misconduct, especially following the expiry of previous warnings), a first written warning may be imposed for 12 months, and a final written warning may be imposed for up to 36 months. In such cases, the employee will be advised at the time of the duration of the warning. Should a warning still be live on 1 August, any pay increase for which the employee may have been eligible will be withheld but only for the duration of the warning, to a maximum of 24 months, from the date that the warning is issued, and the employee will become eligible to be considered for a pay award in the August after this point, based on their next performance appraisal review outcome.

Examples may include but are not limited to:

- serious acts of bullying or harassment;
- breaches of confidentiality;
- breaches of health and safety policy

which are considered to be:

- short of gross misconduct,
- acts of misconduct that would otherwise have been considered as gross misconduct but for circumstances accepted by the hearing Chair as extenuating;
- acts of misconduct where it could reasonably be expected that the employee knew that their conduct was unacceptable.

These are only examples and there may be other circumstances in which a warning may be imposed for longer than the standard time set out in paragraph 53.

Dismissal and Summary Dismissal

55. Where, following a disciplinary investigation or hearing, the manager finds that there has been either a further act of misconduct during the currency of a warning, or an act of gross misconduct, then the outcome could be dismissal.

56. Where the outcome of the hearing is that dismissal is appropriate, the employee will be given written notice of their dismissal, including a statement of the grounds for this. The dismissal will normally be with contractual notice (or pay in lieu of notice), but in cases of gross misconduct (see [Appendix 1](#)) the sanction may be summary dismissal (ie: dismissal without notice or pay in lieu of notice). The notice of dismissal will normally be sent to the employee within five working days of the hearing and will include notification of their right to appeal. In the case of a summary dismissal, where a member of staff is escorted from the premises, a member of HR should be present (though not one involved with the disciplinary process).

G. APPEALS

57. An employee has the right to appeal against any decision to give a formal warning or to dismiss under this Procedure. Any formal warning given, or any dismissal, will remain in force pending the outcome of any appeal. The appeal should be sent in writing to the Chief People Officer within ten working days of the employee receiving the written decision and must state the grounds for appeal.

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58. The appeal will be heard by a manager who has had no prior involvement in the case - and, wherever possible, by a more senior manager or by a manager of at least the same level as the manager who made the decision.

59. The appeal hearing will be convened as soon as practicable and will be undertaken as a review of the decision to issue a formal warning, or to dismiss, rather than as a full re-hearing of the facts of the case. The employee will be given at least five working days' notice of time, date and location of the hearing.

60. The procedure will normally be for the employee (or their representative) to set out the grounds for the appeal; for the manager who has made the decision to give their response; then, for the manager hearing the appeal to ask questions and explore the issues with the parties; and finally for each party to the appeal to sum up their cases. The hearing will then be adjourned for the manager hearing the appeal to consider the issues.

61. The decision may then be given verbally at the appeal hearing, or subsequently, but it will be confirmed in writing within five working days of the hearing. The decision on the appeal shall be final.

H. OTHER RELEVANT POLICIES AND APPENDICES

[Capability Policy and Procedure](#)

[Incapacity on Health Grounds](#)

[Sickness Absence Policy](#)

[Redundancy Policy](#)

[IT Acceptable Use Policy](#)

[Appendix 1 - Examples of conduct likely to lead to disciplinary action](#)

[Appendix 2 - Disciplinary Investigations: Guidance for managers](#)

[Appendix 3 - Roles at Disciplinary and Grievance Hearings](#)