



NHS Wales Disciplinary Policy and Process (2026)

Fforwm Partneriaeth Cymru
Welsh Partnership Forum

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1. Introduction

- 1.1 We are committed to building a culture that is led by our values and based on respect, fairness and accountability. In healthcare environments, safety, compassion and teamwork are important. Employee conduct (behaviour) and the day-to-day running of the workforce are not only a reflection of an organisation's values, but are also vital to providing high-quality care. Working in line with NHS standards is essential to maintaining public trust, protecting patient safety and making sure teams work together successfully. This policy sets out clear expectations for behaviour, to make sure all staff understand what is required of them and how, if they do not meet these expectations, this will be managed in a fair, balanced and transparent way.
- 1.2 Managers should address concerns with staff early, have constructive conversations and aim to settle any problems through learning and reflection whenever possible, while also upholding the standards we expect of all employees, including those who are accountable to professional regulatory bodies.
- 1.3 By promoting shared expectations, respectful communication and a commitment to improvement, this policy supports effective teamwork, positive working relationships and a safe, inclusive environment where staff feel valued, supported and responsible for their contribution to the organisation. It also sets out the expected standards of behaviour for all employees, providing clarity and consistency in line with our values.

2. What is this policy for?

- 2.1 This policy must be used to constructively address behaviours and misconduct (see the appendix at the end of this policy for an explanation of what may be considered misconduct) in a way that does the following.
 - Makes sure only situations that need formal action are dealt with through the disciplinary process. Early intervention, approaches which aim to improve behaviour and alternative policy frameworks should be considered whenever appropriate. We will take a restorative approach. This is a framework for building community and managing conflict that focuses on repairing harm and strengthening relationships.
 - Puts the principles of openness, honesty and psychological safety at the heart of the organisation, using a structured fact-finding assessment to support decision-making. Psychological safety is when employees feel able to challenge others, including authority figures, without fear of negative consequences.
 - Promotes handling disciplinary matters fairly, consistently and as soon as possible to reduce avoidable harm and distress to those involved.
 - Makes sure the roles and responsibilities of everyone involved in disciplinary matters are clear so everyone can take part respectfully and with full understanding.
 - Sets out clear expectations for behaviour in line with our values, and makes sure that everyone involved understands the disciplinary process.
- 2.2 This policy is underpinned by our commitment to equality, inclusion and the ability to interact positively with people from different cultures. It recognises the importance of understanding and respecting diversity across all protected characteristics (age,

disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation). It acknowledges evidence of unequal disciplinary outcomes and poor experiences for people from minority groups, and aims to actively remove bias and encourage equal treatment.

- 2.3 Each case will be considered individually. Managers (and everyone else involved) should take individual circumstances into account. The fact-finding assessment is the first step in all cases and helps managers decide the most appropriate course of action and the most relevant policy framework (see section 7) to use.
- 2.4 This policy has been developed in partnership with trade unions and is underpinned by the ACAS Code of Practice on Disciplinary and Grievance Procedures. It also reflects learning from emerging research and discussions with staff, stakeholders and professional bodies.
- 2.5 To make sure this policy is followed consistently across organisations, we also provide a collection of 'How-to' procedures that include timescales and templates for discussions. If an employee needs adjustments or support at any stage due to a disability or other protected characteristic, they are encouraged to speak to their line manager, the Workforce and Organisational Development Team or their trade union representative as early as possible.
- 2.6 You may need to read this policy together with other workforce policies, including our Respect and Resolution Policy and our Anti-sexual Harassment Policy.
- 2.7 The roles and responsibilities for those involved in the disciplinary process are set out in section 8.

3. Principles

- 3.1 This policy is based on the following principles, which reflect our commitment to an inclusive, accountable and fair culture that is led by our values.
 - **Person-centred approach:** The employee is at the centre of the process – their individual needs, values and circumstances must be respected and appropriately addressed.
 - **Fairness and cultural understanding:** Unconscious bias, limited cultural awareness and different cultural norms can influence how behaviour is perceived and managed. Steps must be taken to make sure that all decisions are informed by cultural understanding and are free from bias. (Unconscious bias is when we make decisions or judgments on the basis of assumptions, prior experience or personal thought patterns that get in the way of impartial judgement.)
 - **Psychological safety and well-being:** The disciplinary process can cause anxiety and stress. Staff involved in the process must be understanding, clear and consistent to reduce the negative effect on mental well-being.

- **Timeliness and communication:** Disciplinary investigations should be carried out efficiently and only when necessary to reduce harm and cost to everyone involved. Everyone involved should regularly communicate to make sure the process and timelines are clear and understood.
- **Reasonable and early action:** Managers and disciplining officers should consider and use alternative ways of settling disputes and problems before taking formal disciplinary action (see section 12). This can include mediation, addressing issues early or applying another policy.
- **Using evidence to make decisions:** Decisions must be based on objective, complete and reliable information gathered during both the fact-finding and formal investigation stages.
- **Awareness of wider circumstances:** There is usually a reason why a person behaves in a certain way. Wider organisational and personal factors must be considered before starting or continuing with a disciplinary process.

4. Who this policy is for

- 4.1 This policy applies to all employees covered by the Agenda for Change Terms and Conditions. Although the principles of this policy may guide wider organisational practice, the policy does not apply to bank workers, agency workers, self-employed contractors or volunteers.
- 4.2 If disciplinary action is being considered against a trade union representative, the relevant full-time officer or senior member-elected representative (for example, a branch secretary) must be told by the commissioning manager before any action is taken.

5. Our commitment to a fair and equal approach

- 5.2 We are committed to making sure all employees can fully take part in standard disciplinary processes within their organisation. We will make every effort to remove potential barriers, including by providing additional language support, making reasonable adjustments and using a range of appropriate methods to gather information efficiently. No employee should be disadvantaged in any part of the process.
- 5.3 All our organisations must set and maintain standards of behaviour that challenge inequality and promote a culture where staff feel confident and supported to speak out about unfair treatment. We expect organisations to identify early warning signs of discrimination and to take action whenever evidence suggests that there is a problem. Managers involved in running processes, including investigators and decision-makers, may need to be trained in unconscious bias and cultural awareness, to better support fair decision-making.

- 5.4 Sexual harassment is illegal and must not be tolerated. We are committed to taking all reasonable steps to prevent employees or service users experiencing or witnessing sexual harassment.
- 5.5 Information from documents should only be removed in the following circumstances.
- To remove personal information.
 - To protect patient or staff confidentiality.
 - When concerns have been raised under the Speaking Up Safely process and it has been decided that documents should be anonymous.

If necessary, investigators may need to ask your organisation's data protection officers for advice. Documents must not be edited during investigations as a way of withholding information or only sharing information that the organisation considers relevant to the case.

6. Links with external bodies and agencies

- 6.1 Working with other organisations to manage behaviour concerns.
Concerns relating to safeguarding (including the welfare and protection of children and adults at risk) must be managed in line with the Wales Safeguarding Procedures and the formal framework set out in the Social Services and Well-being (Wales) Act 2014. These procedures support consistent responses across organisations and make sure we meet our legal and ethical responsibilities in protecting vulnerable individuals.
- 6.2 When there is enough evidence to suggest that an employee has been involved in a criminal offence (including fraud, corruption, bribery, assault, harassment or theft), the organisation must consider whether it is appropriate to refer the incident to the police or other relevant authorities. This decision should be guided by appropriate people within the organisation (for example, the local counter fraud specialist (LCFS), the Workforce and Organisational and Development Team or safeguarding teams) and the outcome of the fact-finding assessment.
- 6.3 In cases involving suspected fraud, corruption or bribery, discussions must take place with the organisation's LCFS to decide how the matter will be managed, including who will be responsible for reviewing and making the referral. Referrals to the LCFS or our counter fraud service (CFS Wales) must be made only by the responsible person within the Workforce and Organisational Development Team, and only after a fact-finding assessment has been carried out.
- 6.4 Not all disciplinary investigations will need to involve the LCFS, CFS Wales or the police. If outside agencies are involved (particularly when criminal investigations are ongoing) the disciplinary process may be delayed. Everyone involved in the investigation must make every effort to keep the employee updated and provide support to reduce the risk of avoidable harm to any employees who may be affected by a period of uncertainty or a delay in the disciplinary process.
- 6.5 An important principle of this policy is that behaviour and misconduct concerns are managed quickly, honestly and fairly. If delays are necessary because of external

processes (such as needing to involve the police), organisations must take steps to protect staff's well-being, make sure everyone involved understands each stage of the procedure and the organisation's actions continue as soon as reasonably possible.

- 6.6 Professional accountability and referring matters to regulatory bodies.
Our organisations have a legal and professional duty to refer concerns to the appropriate regulatory body if a registered employee is no longer fit to practise. These referrals are essential to maintain public trust and protect patient safety.
- 6.7 Managers must only make referrals that are based on clear evidence following a structured assessment process. This includes carrying out a fact-finding assessment and, when it is necessary, using decision-making to support consistency, openness and fairness.
- 6.8 Before any referral is made, managers must discuss the matter with the organisation's responsible officer or designated senior officer. This is to make sure the decision is based on clinical, professional and organisational circumstances, and that the threshold for referral is appropriately and fairly considered.
- 6.9 A referral to a professional regulatory body can cause significant stress and anxiety for the employee involved. Organisations must take steps to make sure that the process is handled sensitively, with clear communication and access to support provided to the employee. The potential emotional and professional effects for the employee involved should be recognised. Employees must be referred to appropriate well-being resources and trade union support, and given the opportunity to take part meaningfully in the disciplinary process.
- 6.10 The head of profession or designated senior officer (working with the Workforce and Organisational Development Team and the responsible officer) is responsible for making referrals. They must keep a record of all referrals and justify each one in line with regulatory guidance and the organisation's own policies.
- 6.11 Issues relating to disclosure and barring.
Our organisations have a legal duty to refer relevant information to the Disclosure and Barring Service (DBS) if there is a concern that someone may pose a risk of harm to children or vulnerable adults. This duty is a critical part of safeguarding and helps protect vulnerable people across health and care settings.
- 6.12 Disciplinary referrals must be made in line with DBS guidance and the organisation's own safeguarding policy, and only after a thorough assessment that is based on evidence. This includes carrying out a fact-finding assessment and working with safeguarding officers or designated professionals to decide whether the threshold for referral is met.
- 6.13 A referral to the DBS can be deeply distressing for the employee involved, particularly if their future employment or professional reputation may be affected. Organisations must make sure that the process is handled sensitively, openly and fairly. The reason for the referral should be clearly explained to the employee, and they should be supported to understand the process and referred to appropriate well-being and support resources.

- 6.14 Safeguarding responsibilities must remain the focus, but the emotional and psychological effect on staff must also be considered. Good communication, access to support and handling cases compassionately is essential to reducing avoidable harm and maintaining trust in the process.
- 6.15 The designated safeguarding officer or senior officer within the organisation (working with the Workforce and Organisational Development Team) is responsible for making referrals to the DBS. They must keep a record of all referrals and justify each one in line with legal guidance and the organisation's own policies.

7. The fact-finding assessment process

- 7.1 When there are issues in the workplace, including repeated behaviours, managers need to consider what appropriate action to take.
- 7.2 The disciplinary process cannot start without first carrying out a fact-finding assessment. The purpose of this assessment is to gather the initial relevant facts that are needed to make an informed decision. There is more information in the **How-to procedure: Fact-finding assessment**.
- 7.3 The fact-finding assessment has the following aims.
- It helps managers and the Workforce and Organisational Development Team decide the most appropriate action to take and how to put policies in place, based on the facts of the case.
 - It helps to settle problems early and avoid unnecessary action under formal disciplinary processes.
 - When problems within the organisation itself rather than individual fault have contributed to the issue, the assessment encourages reflection and learning.
 - It reinforces the importance of taking responsibility for our own actions by making sure that all staff keep to behaviour standards, and that concerns are dealt with reasonably.
 - It promotes fairness and reduces the risk of avoidable harm and distress for the employee involved, as well as the risk of their reputation being negatively affected.
- 7.4 Once the manager has gathered the relevant information, they can review it and decide which of the following options is the most appropriate.
- No further action is needed: when the concern is not based on enough evidence or can be solved through a simple explanation.
 - Informal action is needed: such as coaching, mentoring, feedback or a conversation.
 - Formal action is needed: through the disciplinary process set out in this document or by following a different workplace policy (for example, the Respect and Resolution Policy or Improving Performance at Work Policy). The fact-finding assessment will then form part of the initial assessment of the relevant policy if necessary.

7.5 This policy promotes a compassionate and supportive approach to making sure behaviour standards are met, and also reinforces the importance of individuals taking responsibility for meeting these standards. When standards are not met, and when behaviour poses a risk to safety, well-being or teams working together, formal action may be necessary and must be taken fairly and as soon as possible.

7.6 **No further action**

If no further action is needed, the manager should keep a copy of the fact-finding assessment as evidence of the discussion and outcome. There may be some learning to be shared within the organisation despite no further action being taken.

7.7 **Informal action**

Although there may be no need for formal action, informal outcomes may be put in place to avoid future issues and to provide personal support. Options for informal action include the following.

- **Reinforcing standard management practices:** The expected standards are raised and addressed through supervision sessions, personal appraisal and development reviews (PADRs) and team learning sessions.
- **A conversation based around improvement:** Informal, structured conversations can deal with misconduct, behaviour or relationship concerns early in a supportive way, creating a safe space to look into any factors which have contributed to the problem. If an employee needs to improve their behaviour, the manager must provide a clear statement outlining the areas which need to be improved and an explanation of the standard expected. (Managers should refer to the employee's job description, PADR objectives and any specific examples of issues of concern.) Whenever there is cause for concern, these discussions should be held in private as soon as possible. If it is appropriate, managers may put a note of the informal discussion on the employee's file. The note will be ignored and will not affect any future disciplinary hearings.
- **Targeted support:** If the fact-finding assessment identifies a health, training or organisational learning need, targeted support will be put in place. This may include offering extra training, guidance or mentoring to help the employee meet the expected standards.

7.8 A copy of the fact-finding assessment may be placed on an employee's file for up to one year and a copy should be given to the employee for their records as confirmation of the discussion and outcome.

7.9 **Formal action through the disciplinary process**

The decision to take action under the formal disciplinary process should be made in line with the organisation's policies.

The manager may need to carry out immediate action to support both the employee and the team's day-to-day duties. This could include the following.

- Providing well-being support to the employee through the organisation's well-being services.

- Supporting the wider team or department, for example, by improving communication.
- Providing support to any employee or team whose day-to-day role, or ability to carry out their role, has been affected by the disciplinary process, for example, by providing any necessary resources.
- Removing the employee from their usual work environment while an investigation is being carried out (the organisation's Workforce and Organisational Development Team should be involved in deciding to do this).

7.10 The formal outcome of a fact-finding assessment in line with this disciplinary policy may be one of the following.

- Carrying out a fast-track disciplinary (see section 9) because the employee has admitted to misconduct, or when the misconduct is not serious enough to be considered gross misconduct, which would lead to dismissal. Managers should refer to Appendix 1: Definitions at the end of this policy to support them in deciding whether an issue is 'misconduct' or 'gross misconduct'. The employee must agree to the fast-track process before it starts.
- Carrying out a formal investigation and considering whether it is necessary to temporarily suspend the employee or move them to a different department (redeployment).

7.11 The aim is to deal with disciplinary matters sensitively while respecting the privacy of everyone involved. Employees must keep all information about an investigation or disciplinary matter confidential. However, if the employee is a member of a trade union, they can share information with their trade union representative as soon as possible.

7.12 Employees are not allowed to record any meetings or hearings held under this policy. The organisation is responsible for recording details of meetings and hearings to produce official reports and statements.

7.13 Managers should usually tell the employee the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the investigating officer believes that a witness's identity should be kept confidential.

8. Roles and responsibilities

8.1 The following roles are involved the disciplinary policy.

8.2 **Employee (the person being investigated):** The employee must follow the requirements set out in this disciplinary policy, which include co-operating with the investigation process and giving their description of events. They have the right to take a companion (either a union representative or workplace colleague) to investigation meetings and any hearings.

8.3 **Manager:** The manager is responsible for dealing with issues informally when appropriate. However, if they feel that a more formal approach is necessary, they will fill in a fact-finding assessment form. This records important information related to a

particular issue, or series of issues. If the manager decides that a formal investigation is the appropriate next step, the commissioning officer (CO) will need to approve this. The manager is responsible for supporting the employee's well-being throughout the investigation process, but is not involved in any part of the process once they have submitted the fact-finding assessment to the commissioning manager.

- 8.4 **Companion:** If the employee is not a member of a trade union, the companion will usually be a workplace colleague. The companion provides support to the employee and attends meetings and hearings with them. The companion can make representations (give statements) and ask questions but cannot answer on behalf of the employee.
- 8.5 **Workforce and organisational development representative:** A workforce and organisational development representative advises managers, commissioning officers, investigating officers, deciding officers and Appeals Officer to make sure the disciplinary procedure is fair and follows this policy and the ACAS Code of Practice on Disciplinary and Grievance Procedures. They help to produce and gather necessary documents (such as letters and reports) and attend hearings as an advisor. They cannot make decisions about whether disciplinary action is needed.
- 8.6 **Commissioning officer:** This role is only needed in formal investigations. The commissioning officer receives the fact-finding assessment form once it has been submitted and is responsible for reviewing whether a formal investigation is needed. This role is more senior than the manager's. If the commissioning officer decides to go ahead with an investigation, an investigating officer and a workforce and organisational development representative are appointed. The commissioning officer should be brought in from a different department than the employee who is being investigated.
- 8.7 **Investigating officer:** The investigating officer is responsible for carrying out a fair and unbiased investigation. It is their responsibility to collect and review evidence, which may include interviewing witnesses. They must maintain confidentiality throughout the process and present their findings in an investigation report. The investigating officer does not make decisions within the process or make recommendations or judgements. They should look at the facts of each allegation and produce a factual report for the commissioning officer (with support from the Workforce and Organisational Development Team if necessary).
- 8.8 **Deciding officer:** The deciding officer should have had no previous involvement in or knowledge of the issues that are being investigated. They are responsible for chairing the disciplinary hearing, which reviews the evidence provided in the investigation report. The deciding officer's role is to make sure the disciplinary process is fair by putting in place this policy appropriately and allowing employee representation (advising employees of their right to be accompanied to the disciplinary hearing). They decide on the appropriate action to take (for example, no action, a warning or dismissal) with support from a workforce and organisational development representative. They may need to ask for more information or carry out interviews with witnesses before they make their decision.
- 8.9 **Panel member:** The panel member will act as an impartial member in the disciplinary hearing to keep the hearing fair, balanced and objective. They must have had no

previous involvement in the case and have no conflict of interest (for example, being a member of staff previously involved in raising a complaint against the individual). Their role is to review the evidence, contribute to discussions and support the panel in reaching a fair and reasoned outcome.

- 8.10 **Trade union representative:** Trade union representatives give support and advice to employees who are members of the union. They attend meetings and hearings with the employee and are included in any meetings to discuss suspending the employee or moving them to a different role within the organisation. They can make notes for the employee, question witnesses and present information on behalf of the employee. They can provide support if employees find the formal process distressing. Trade union representatives are also responsible for keeping the process fair and making sure policies and standard procedures are followed.
- 8.11 **Witnesses:** Witnesses can be individuals from within or outside the organisation who can provide an account of the facts in a formal interview if asked. After the interview the notes will be written up and included in the investigation report. Witnesses must co-operate with the investigating officer and help with the investigation.
- 8.12 **Appeal manager:** If a disciplinary decision is appealed, the appeal manager will organise an appeal hearing. This will consider whether the process was fair and reasonable. An appeal must be unbiased, and the panel at the appeal hearing will be more senior than the panel at the original disciplinary hearing. The appeal panel can decide whether to uphold, cancel or amend the original outcome. In most cases, the appeal manager will be more senior than the deciding officer and will not have been involved in or have any knowledge of the case.
- 8.12 Witness identity and support.
As part of a fair and transparent disciplinary process, employees will normally be told the names of any witnesses whose evidence is relevant to the case.
- 8.13 However, in some circumstances, if there is a genuine concern for the safety or well-being of a witness, the commissioning manager or investigating officer may decide that their identity should be kept confidential. This decision must be made carefully, recorded clearly and guided by the principles set out in the Speaking Up Safely framework for Wales.
- 8.14 While, in rare cases, it may be necessary to keep a witness's identity confidential, it is generally better to avoid this. Open testimony (where witness evidence is presented, questioned and discussed directly during the meeting, rather than relying on pre-written statements) supports trust, transparency and honesty. Witnesses should be encouraged and supported to speak up safely, with reassurance that their concerns will be handled respectfully and without any retaliation.
- 8.15 Being part of a disciplinary process can be emotionally challenging. Witnesses may experience stress, anxiety or fear of retaliation. Organisations must take practical steps to support everybody involved, for example, by doing the following.
- Providing access to well-being resources and staff support services.

- Offering representation from trade union representatives or colleagues where appropriate.
- Protecting employees' well-being and keeping details of cases confidential.
- Communicating clearly and kindly throughout the process.

8.16 Creating a culture where people feel safe to speak up and are supported when they do so is essential to learning, accountability and improvement.

9. Fast-track process

9.1 The fast-track process is designed to settle minor misconduct concerns that do not need a formal disciplinary investigation, for example, when the facts are clear and the employee accepts responsibility.

9.2 Following the fast-track process does not automatically mean that action will be taken against the employee. The process is intended to support learning and accountability so issues can be settled early. The process must still be fair and follow all standard procedures.

9.3 The fast-track process must not be used when there is any possibility of gross misconduct. In these cases, a full fact-finding assessment and formal disciplinary process must be followed.

9.4 The manager must discuss the case with the Workforce and Organisational Development Team before starting the fast-track process, to confirm that it is suitable and that the employee fully understands the process and is supported throughout it. The decision to use the fast-track service must be recorded clearly, and the employee must have the opportunity to be involved meaningfully in the decision and raise any concerns they have about using the fast-track process.

9.5 The fast-track process, including timelines, is set out in the **How-to procedure: Fast track**.

10. Formal investigation

10.1 There may be situations when the formal investigation procedure is needed. This might apply, for example, if informal action has not led to the necessary improvement, if expected behaviour standards are repeatedly not met or if the allegation is serious.

10.2 The purpose of an investigation is for the organisation to gather a fair and balanced view of the facts relating to any disciplinary allegations against the employee, before deciding whether to go ahead with a disciplinary hearing. The level of investigation that is needed will depend on the type of allegations and will vary from case to case. For example, the investigation may involve interviewing and taking statements from the employee and any witnesses, reviewing relevant documents and emails, or reviewing any CCTV or other footage.

10.3 No decision on disciplinary action will be made until after a disciplinary hearing is held.

- 10.4 Employees must co-operate fully in any investigation. This includes telling the organisation the names of witnesses when asked, sharing any relevant documents and attending interviews if necessary. If any employee deliberately tries to interfere with the investigation or influence the outcome (for example, by intimidating, harassing or bullying anyone involved), they may face further disciplinary proceedings, including disciplinary action against them. There is more information on the investigation process in the **How-to procedure: Formal investigation**.
- 10.5 If the employee is on sick leave, this does not stop the investigating officer from continuing with the investigation. However, they may need to get advice from the Occupational Health Team if there are concerns about whether the employee can continue to take part in the process.
- 10.6 To make sure that the formal investigation is carried out properly, there are specific responsibilities for those involved (see section 8).

11. Suspending or moving employees to other departments

- 11.1 Investigations into misconduct and concerns about an employee's behaviour can be complicated and emotionally challenging. It is essential that the situation is managed carefully and compassionately for the employee involved, as well as for colleagues, patients and the wider team. It may sometimes be necessary for the organisation to take steps such as temporarily removing the employee from their usual work environment while the investigation is ongoing.
- 11.2 The deciding officer should only consider suspending the employee when there is no safe or practical alternative. Suspension can have a deep emotional, psychological and professional effect on the employee, and may lead to avoidable harm if not handled with care. Whenever possible, organisations must consider other arrangements, such as moving the employee to a different department, allowing them to work from home or changing their duties, before suspending them. Suspension may sometimes be necessary due to the seriousness of the allegations and the possible risks involved. If the employee is suspended, there should be regular and compassionate contact with them from a senior manager to look after their well-being and make sure the procedure is fair.
- 11.3 When the deciding officer is considering whether to suspend the employee or take other action, they must follow the **How-to procedure for suspension and redeployment** and carry out a formal risk assessment. This is to make sure that decisions are proportionate to the allegations that have been made, based on evidence and in line with the organisation's principles of fairness, safety and well-being.
- 11.4 If more information becomes available during the investigation and this changes the level of risk, the deciding officer must reconsider whether the employee should be suspended. Suspension should never be treated as the standard action to take without considering alternatives, or as the best action to take to punish the employee. The

suspension must be reviewed regularly by an appropriate senior manager to make sure it is still necessary and appropriate.

- 11.5 The details of each case should be kept confidential whenever possible and the employee must be supported with clear communication, access to well-being resources and reassurance about their rights and the process.

12. Disciplinary hearing

- 12.1 Following an investigation, if the organisation considers that disciplinary action is necessary, the employee will need to attend a disciplinary hearing. The employee will be told in writing about the allegations against them, the reason the allegations have been made and what the likely consequences will be if the organisation decides that the allegations are justified. The organisation will also give the employee the following documents if appropriate.

- A summary of relevant information gathered during the investigation (an investigation report).
- A copy of all relevant documents or other evidence which will be used at the disciplinary hearing (including a copy of the fact-finding assessment).
- A copy of all relevant witness statements, except when a witness's identity is being kept confidential. In these cases, the organisation will give the employee as much information as possible without revealing who the witness is.

- 12.2 The organisation will tell the employee the date, time and place of the disciplinary hearing in writing. The hearing will be held as soon as possible, but the employee will be given a reasonable amount of time to prepare their case based on the information provided.

- 12.3 If there are reasons for carrying out any hearing remotely (for example, online), the organisation will explain this to the employee and give them details of all relevant arrangements and instructions for joining the hearing. In some cases, it may not be appropriate for the hearing to be held remotely (for example, if the employee has a hearing condition or does not have access to the necessary equipment or software). In these cases, the hearing will take place in person when possible.

- 12.4 The disciplinary hearing is an opportunity for the panel to examine the evidence and for the employee to comment on the evidence and share their views. The process is set out clearly so that every hearing is managed in the same way. The process is set out in the **How-to procedures: Managing the disciplinary hearing**.

- 12.5 If the employee being investigated is a registered professional, the panel must include a relevant head of profession or senior professional officer. This is to make sure that the panel has the necessary experience to assess matters relating to professional standards, codes of conduct and fitness to practise. It also supports informed, fair and reasonable decision-making, and reinforces the organisation's commitment to maintaining public trust and professional accountability.

12.6 Possible hearing outcomes.

The range of available outcomes for misconduct are set out below. There must be a hearing before any of the actions are taken. We aim to treat all employees fairly and consistently. Any disciplinary action taken in relation to another employee for similar misconduct will usually be considered, but this should not be treated as standard. Each case will be assessed separately.

12.7 The deciding officer will not usually decide to dismiss an employee for their first act of misconduct, unless the organisation decides it is gross misconduct. The possible hearing outcomes are listed below.

a) No disciplinary action

When the evidence presented did not support the allegations. If this is the case, the organisation is expected to carry out a review to identify opportunities for improving fact-finding and disciplinary processes.

b) First written warning

A first written warning may be given in the following circumstances.

- In cases that are too serious for informal action, but not serious enough to need formal action.
- In cases where the employee repeats minor acts of misconduct and a fact-finding assessment has been carried out.

A first written warning will be active for one year.

c) Final written warning

A final written warning may be given in the following circumstances.

- Misconduct where there is already an active written warning on the employee's record.
- When the misconduct is considered serious enough to mean a final written warning is needed, even if there are no other active warnings on the employee's record.

A final written warning will be active for two years. Written warnings will set out the type of misconduct, the change of behaviour that is needed, the amount of time the warning will remain active and what will happen if there is any further misconduct while it is active.

d) Dismissal

Dismissal will usually be appropriate in the following circumstances.

- When there is a final written warning on the employee's record and there is further misconduct.
- In gross misconduct cases, regardless of whether there are any active warnings on the employee's record.

If the employee is dismissed for gross misconduct, they will not be given a notice period or payment instead of notice.

e) Alternatives to dismissal

In some cases, the organisation may consider alternatives to dismissal. These can be authorised by a senior manager and will usually be accompanied by a final written warning. Examples of alternatives to dismissal include the following.

- The employee may be demoted to a less senior role.
- The employee may be transferred to another department, location or role.
- The employee's job banding (job grade and role) may be reduced.
- The employee may no longer be eligible for future pay increases through the pay progression policy.
- The employee may lose their right to do overtime.

The employee can consider any alternative to dismissal that they are offered and must respond, in writing, within seven days if they want to accept the offer. If the employee accepts alternative employment, they still have the right to appeal against the original decision to dismiss them.

- 12.9 If, after a disciplinary hearing, gross misconduct is proven but the employee has not previously been referred to the relevant professional regulatory body, the deciding officer must consider whether a referral is now necessary. This decision should be based on the type of misconduct, its effects on patient safety, public trust and professional standards, and the threshold for referral set by the regulatory body for concerns about an employee's fitness to practise. The deciding officer should discuss the case with the responsible officer or designated professional officer, and they should use referral decision tools and frameworks to make sure decisions are consistent and transparent. Being referred to a regulatory body can have significant emotional and professional consequences for the employee, so the process must be handled sensitively, with clear communication and access to appropriate support provided to the employee. The deciding officer must record the reason for referring the case, or the decision not to refer the case. For professional accountability and referral to regulatory bodies, see section 6.6. If the employee has already been referred to the appropriate regulatory body, the outcome of the disciplinary hearing should be shared by the responsible officer or designated senior professional lead with that regulatory body.

13. Right to appeal

- 13.1 All employees have the right to appeal against a decision within 14 calendar days of being told in writing that disciplinary action has been taken. There is a clear appeals' process to make sure appeals are dealt with consistently. The **How-to procedure: Appeals Procedure** has more information.
- 13.2 Following the appeal hearing, the organisation may:
- confirm the original decision;
 - withdraw the original decision; or
 - decide on a different action.

- 13.3 The employee will be told the organisation's final decision, in writing, as soon as possible. If possible, the organisation should also explain this to the employee in person.
- 13.4 Employees cannot make more than one appeal.

14. Right to be accompanied

- 14.1 Employees have the right to bring a companion with them to formal investigation meetings and formal hearings. This person can be a trade union representative or a colleague.
- 14.2 The companion is allowed reasonable time off from their duties without losing pay. Colleagues do not have to act as a companion if they do not want to. A union representative will act for a union member as far as their duties allow.
- 14.3 If the colleague or trade union representative the employee would like to have as their companion is not available, the employee should ask if another suitable person can take their place as soon as possible.
- 14.4 If the companion is not available at the time a hearing is scheduled and will not be available for more than five working days afterwards, the organisation may ask the employee to choose someone else.
- 14.5 The organisation may allow an employee to bring a companion who is not a colleague or trade union representative (for example, a member of their family) if this will help to overcome any disability-related disadvantage, or if the employee has difficulty understanding English.
- 14.6 There are clear rules about what a companion can and cannot do in the **How-to Procedure: Roles and responsibilities**.

15. Closing a disciplinary process and moving forward

- 15.1 We are committed to a culture that is led by our values and prioritises fairness, compassion and improvement. Once the disciplinary process has ended, it is essential that appropriate support is provided to the employee and any witnesses involved, and that we reflect meaningfully on the experience to identify opportunities for learning and growth.
- 15.2 Reintegrating an employee who has been through a disciplinary process is not simply about returning to work. It is about rebuilding trust and well-being, and making sure that employees feel valued and supported. Managers should work with staff and the Workforce and Organisational Development Team to support employees returning to work, deal with any lasting concerns and support teams who work well together.
- 15.3 A formal debrief exercise should be carried out by the deciding officer and workforce and organisational development representative to review the process, assess whether

it had the effect the organisation was aiming for and identify any factors within the organisation that may have contributed to the issue. This includes examining systems, culture, communication and leadership practices across the organisation. If the employee was not at fault, but conditions within the organisation played a significant role in the issue, this must be recorded and acted on to prevent or reduce the chance of the same problem happening again.

- 15.4 Learning within the organisation should be shared across teams and departments, with a focus on improving practice, strengthening the type of culture we are committed to and encouraging individuals to be responsible for their behaviour. This builds a fair working environment that balances learning with taking responsibility, and prioritises the well-being of employees and the wider workforce. Staff should always be mindful of confidentiality when sharing information.

Appendix 1: Misconduct and gross misconduct definitions

<p>Misconduct</p>	<p>The following are examples of what may be considered as misconduct.</p> <ol style="list-style-type: none"> 1. Failing to keep to working hours. 2. Taking time off that has not been agreed in advance. 3. Refusing or failing to follow a reasonable instruction. 4. Being involved in any criminal activities (other than those classed as gross misconduct). 5. Not following safety practices, procedures and rules. 6. Entering [INSERT ORGANISATION] property without permission. 7. Using certain equipment without permission. 8. Destroying, changing, adding to or deleting official documents without permission. 9. Being abusive to another employee, patient or member of the public. 10. Deliberately not meeting work schedules. 11. Deliberately misusing the organisation's IT equipment, facilities or procedures. 12. Failing to follow the organisation's procedures and policies. 13. Other actions which are, in the opinion of management, not good conduct and which are likely to damage the organisation's reputation.
<p>Gross misconduct</p>	<p>The following are examples of what may be considered as gross misconduct.</p> <ol style="list-style-type: none"> 1. Repeatedly failing to respond to previous informal action. 2. Sexual harassment – any unwanted behaviour of a sexual nature that has the purpose or effect of taking away a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. 3. Racism – any behaviour, action or comment that humiliates, excludes, or discriminates against a person based on their race, skin colour, nationality or ethnic or national background. 4. Other forms of discrimination, including sexism, homophobia, ableism or any discriminatory behaviour based on other protected characteristics. You can read more about protected characteristics at

<https://www.equalityhumanrights.com/equality/equality-act-2010/protected-characteristics>.

5. Harassment – any unwelcome behaviour (either verbal or physical) that creates an intimidating, hostile or offensive environment for an individual or group.
6. Assault – physical assault on a service user, a carer, another member of staff or a member of the public. This includes fighting, physical abuse and sexual assault.
7. Theft or stealing – taking property belonging to us, a service user, a carer or another member of staff without permission.
8. Bullying or threatening or menacing behaviour towards a service user, a carer, another member of staff or a member of the public.
9. Being reckless or careless in work – any action (or a deliberate failure to act) which threatens the health and safety of a service user, a carer, a member of the public or another member of staff.
10. Causing serious damage to property belonging to us, a service user, a carer or another member of staff.
11. Acts of fraud and corruption, including accepting gifts, money, goods and favours.
12. Breaking confidentiality – losing confidential information, accessing confidential information without permission, sharing confidential information or sharing personal information about a service user, a carer or another member of staff (except unless there is a legal duty to share information, for example, when there is a safeguarding concern).
13. Breaking the Professional Code of Conduct.
14. Hiding or destroying evidence.
15. Having an inappropriate or unprofessional relationship with any service user.
16. Deliberately accessing or downloading pornographic, discriminatory or offensive material.
17. Possessing or attempting to supply alcohol or other substances (these don't have to be illegal).
18. Being under the influence of alcohol or substances (these don't have to be illegal) either before reporting for duty or while on duty.
19. Sharing any material which breaks the organisation's equality and diversity policies.
20. Being involved in criminal offences (including fraud, corruption and bribery), issues relating to professional

	<p>regulatory bodies and issues relating to disclosure and barring.</p> <p>21. Making or sending malicious or distressing allegations against the employer, managers or colleagues.</p> <p>22. Unfair treatment of an employee who has raised concerns under the All Wales Raising Concerns policy.</p> <p>23. Giving false or misleading information at any time, including when applying for any role within the organisation. This can include information about previous jobs or qualifications, providing a false health declaration, or not declaring a criminal offence or being involved in ongoing legal proceedings relating to a criminal offence in line with the Rehabilitation of Offenders Act 1974.</p>
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