

# NHS Wales Disciplinary Policy and Process (2026)

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## How-to Procedures

1. Fact-Finding Assessment
2. Suspension and Redeployment
3. Running a Fast-Track Process
4. Disciplinary Investigation
5. Disciplinary Hearing
6. Appeal Hearing

<sup>1</sup>These procedures will be embedded via links into the Disciplinary Policy and Process (2026):

<https://www.nhsconfed.org/wales/nhs-wales-employers/welsh-partnership-hub/nhs-wales-disciplinary-policy-and-process-2026>

## How to Procedure (1): Fact-Finding Assessment

### Fact-Finding Assessment

This document sets out the procedure to be followed when undertaking a Fact-Finding Assessment.

#### Key considerations:

- The purpose of this assessment is to support the manager in gathering the facts and deciding the next appropriate course of action. This replaces the initial assessment of fact process that may exist in your organisation.
- You should read the Disciplinary Policy before completing this review as a guide to the process and your approach.
- This process aims to embed a learning, restorative and just culture, which values openness and compassion.
- It must be applied fairly and consistently, ensuring that due consideration is given to how power, privilege, unconscious bias and systemic or institutional discrimination may have contributed to the workplace issue.
- This review should be completed timely, with the individual subject to the assessment informed of the timeframes and outcomes, with the completed document shared with them.
- You can contact your Workforce and Organisational Development team to seek further advice at any stage.

#### SECTION 1: Employee details

Name of Employee and Employee No:	Job Title:	Department and Work Location:	
Name of Manager undertaking the assessment:	Date of review:	Dates of incident or issue:	Name of TU representative or work colleague (if applicable):

## SECTION 2: Information Gathering

**Summary of concerns/issues raised and information available:** It is important to state clearly and succinctly what the issue is, how it was raised and what information is available (e.g. management info, Datix)

### Discussion Records - Perspectives of individuals affected by the concern/issue:

- You should actively seek the facts (what happened) and perspectives (how and why it happened) from those individuals who may be impacted by the concern/issue
- Use this section to detail witness accounts (if applicable), ensure names and dates are included if appropriate.

### Reflection of events from the employee:

## SECTION 2: Chronology of events

- It may be helpful to use this box to keep a chronology of the events relating to the issue or concern raised.
- Please add rows or continue on a separate sheet if required.

Date	Event	Relevant documents	Persons involved


#### SECTION 4: Forming a recommendation

- Review the information you have gathered and consider the following set of questions to support your decision-making to ensure that all key considerations are taken account of. You do not have answer each question, but they are prompt for you to consider wider issues.
- Please evidence your decision making in **SECTION 5**.
- You must keep a written record of all informal discussions held.
- Where concerns raised about an individual's conduct during a patient safety incident, you may wish to refer the Being fair tool to support your decision making: [Being fair tool: Supporting staff following a patient safety incident](#)

##### Nature of the incident

- Was there wilful, reckless or malicious behaviour?
- Was the incident intentional or a result of negligence?
- Does the incident involve misconduct of a significant nature (e.g. safeguarding breach, patient harm, gross misconduct)?

##### Impact and harm

- Was there harm to patients, staff or the organisation?
- What was the severity and scale of the harm?
- Was there potential for harm, even if none occurred?

##### Evidence of deliberateness

- Is there evidence that protocols or policies were knowingly ignored?
- Were there clear, agreed protocols in place at the time?
- Was the action a repeated failure despite prior guidance?

##### Health, wellbeing and substance misuse factors

- Are there indications of mental ill health, stress or wellbeing concerns affecting performance?

<ul style="list-style-type: none"> <li>• Is there evidence of substance misuse that may have contributed?</li> <li>• Have appropriate health support processes been considered?</li> </ul>	
<p><b>Systemic and organisational factors</b></p> <ul style="list-style-type: none"> <li>• Were there gaps in training, induction or supervision?</li> <li>• Were resources, workload or system pressures a factor?</li> <li>• Were policies, procedures and guidance clear and accessible?</li> <li>• Is there evidence of a wider organisational or cultural issue?</li> </ul>	
<p><b>Comparability and substitution</b></p> <ul style="list-style-type: none"> <li>• Would others in a similar role, with similar training and experience, act the same way?</li> <li>• Were peers given equivalent support and guidance?</li> <li>• Was the individual given adequate supervision and resources?</li> </ul>	
<p><b>Prior history and context</b></p> <ul style="list-style-type: none"> <li>• Is there a history of similar behaviour or previous disciplinary issues?</li> <li>• Have informal approaches or improvement measures already been attempted?</li> <li>• Has the individual previously been supported to improve?</li> </ul>	
<p><b>Mitigating circumstances</b></p> <ul style="list-style-type: none"> <li>• Are there personal or situational factors that mitigate responsibility?</li> <li>• Did the individual act under duress, conflicting instructions, or exceptional pressure?</li> </ul>	
<p><b>Proportionality and learning</b></p> <ul style="list-style-type: none"> <li>• Would a disciplinary investigation be proportionate to the severity and nature of the incident?</li> <li>• Could the matter be addressed more effectively through other routes (e.g. performance improvement, coaching, mediation, learning review)?</li> </ul>	

## SECTION 5: Outcome

You should detail here the recommend outcome, with the reason for the decision and action to be taken.

<b>Outcomes to be considered:</b>	<b>Your recommendation:</b>	<b>Rationale and next steps (including timeframes):</b>
<b>No further action</b>		
<b>Informal action</b>		
<b>Fast Track Disciplinary Process</b>		
<b>Formal Disciplinary Investigation</b>		
<b>Refer to another workforce policy</b>		

### **SECTION 6: Stabilising the situation: Alternative Duties, Redeployment and Suspension**

There may be occasions when it is necessary for the organisation to stabilise the situation. This might include the employee being removed from their usual work environment while the investigation is underway. You should detail here the outcome, with the reason for the decision and action to be taken.

<b>Your recommendation:</b>	<b>Rationale and next steps (including timeframes):</b>

<b>Name of Manager:</b>	<b>Signature:</b>	<b>Date:</b>
<b>Name of Employee:</b>	<b>Signature:</b>	<b>Date:</b>

If the decision has been made to proceed to a formal investigation, in accordance with the Disciplinary Policy and Process, the Commissioning Officer, will need to approve next steps:

<b>Name of Commissioning Officer:</b>	<b>Signature:</b>	<b>Date:</b>

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Version date: March 2026

## NHS Wales Disciplinary Policy and Process (2026)

### How to Procedure (2): Alternative Duties, Deployment and Suspension

1. Whilst investigations are taking place it may be appropriate to suspend the employee, amend their duties or work pattern or to deploy the employee to another post or to another workplace on a temporary basis.
2. Where alternatives to suspension are being considered, this would only be done following a discussion with the employee and their companion and would take into account its reasonableness in all the circumstances.
3. LCFS / CFS Wales should always be advised of any decision to suspend or deploy an employee when the employee is under investigation by the LCFS/ CFS Wales.
4. In some circumstances it may be appropriate to consider suspension or alternative duties. This will be if the employees continued presence in their current role will likely cause one of the following listed items to occur:
  - a. Compound the offence.
  - b. Where relationships at work have broken down.
  - c. Interfere with or prejudice the investigation.
  - d. Jeopardise the safety or wellbeing of patients and / or employees.

#### Alternative Duties/Deployment

5. It may be appropriate to consider redeploying the employee to another post/work pattern or to another workplace on a temporary basis. Where alternatives to suspension are being considered, this would only be done following a discussion with the employee and their Companion and would consider its reasonableness in all the circumstances.
6. In many cases temporary alternative duties or deployment to another area or role will be suitable, and consideration to the following should be considered:
  - change in shifts or shift pattern
  - deployment to work in a different part of the organisation
  - working from home
  - work from a different office or site
  - temporarily removing as aspect of their job role– for example stop handling stock if you're investigating a large amount of stock going missing
  - allocation to work with different patient or customers
  - stop using a specific system or tool

7. The Organisation will endeavour to keep the reason for any temporary change confidential wherever possible and should discuss with the employee what others at work will be told about the temporary change.
8. If an employee, is deployed to another post / work pattern or to another workplace there should be no loss of earnings i.e. night allowance, weekend allowance and regular overtime. Excess travel and parking fees will apply where additional mileage is incurred as a result of a change on base. Such expenses or fees will only extend to the duration of suspension.

## **Suspension**

9. There may be instances where the suspension of an employee is necessary whilst investigations are carried out.
10. Suspension is not a disciplinary penalty and is without prejudice. Suspension from the workplace will be with full pay.
11. An employee should be informed of the fact that they have been suspended as soon as possible. Suspension should be reviewed regularly to decide whether it is still necessary and the suspended employee kept informed of progress.
12. If an employee is to be suspended from the workplace, under the All Wales policy then Organisation should support a suspended worker by:
  - a. Explaining the reason for the suspension.
  - b. Making it clear that suspension does not mean that it has been decided they have done anything wrong.
  - c. Maintaining protection of full pay and benefits.
  - d. Keeping the suspension as short as possible.
  - e. Keeping the suspension confidential wherever possible and staying in regular contact throughout.
13. Any decision to suspend must be taken by a senior manager following consultation with the Workforce and OD representative (where not available, another manager of equivalent seniority). The employee should be told of this decision immediately. The employee should be asked about any other organisation that they are engaged by, paid or voluntary, and these organisations will be advised of the suspension accordingly. Where possible the employee should be given the opportunity to be accompanied at the meeting when they are informed of their suspension if they so wish.
  - a. Unavailability of a preferred representative or workplace colleague will not, however, delay the meeting from taking place.
  - b. The employee should be given information regarding the support available to them e.g. Occupational Health.

14. Any decision to suspend should be followed up in writing following delivery of the decision to the employee. The letter should, among other things:
  - Make it clear that the employee is suspended and set out how long it is anticipated the employee will be suspended for.
  - Explain the employee's rights and obligations during the suspension period.
  - State that the employment contract continues but that the employee is not to report to work and must not contact colleagues, clients, customers or suppliers.
  - Notify the employee of a point of contact, such as an Workforce and OD representative, during their period of suspension, who can provide information and support as needed.
15. During suspension the employee must not (unless as a patient or to access sources of help e.g. to meet with their Companion) enter the organisations premises or their normal place of work without the express permission of their manager.
16. An employee who is suspended from duty should not undertake any other work, within or outside the NHS, without consulting their line manager beforehand and receiving authorisation to do so. It is the responsibility of the Organisation to advise other employers (where known) of the suspension.
17. Pay during suspension will be calculated according to the normal duty roster worked by the employee and during this period the employee will be recorded as on authorised paid leave to maintain confidentiality.
18. Employees who are suspended must make themselves available to attend meetings and interviews as part of the disciplinary process.
19. If an incident occurs or is reported out of hours and an employee's line manager or an appropriate Workforce and OD representative is not available, an appropriate senior member of staff can make a decision to send an employee home on the basis that there is a risk to themselves and/or others if they were to stay in work. The employee will be asked to report to their line manager on a specified day. This decision will not constitute suspension but is required in order that the facts of the case are reviewed as soon as reasonably possible. The employee will be recorded as on authorised paid leave and paid as per their normal shift.
20. The line manager must ensure that the period of suspension is kept to a minimum and that the investigation takes place as swiftly as possible. The line manager should review the suspension regularly but at least monthly, this should be recorded and any cases that continues beyond four months should be reported to the Board together with information on the expected completion of the investigation. Regular summary reports should be made to Board

meetings or an appropriate Board committee detailing the number of current suspensions and their duration. Information identifying individual employees should not, however, be presented in open Board meetings.

21. If an employee wishes to book annual leave during the period of their suspension they must apply to the line manager giving due notice. Such applications will be considered sympathetically but may reasonably be refused if the leave would delay the resolution of the disciplinary matter. Annual leave booked prior to the suspension will be honoured and will be deducted from the employees total annual leave entitlement.
22. The Organisation is required to review the need for suspensions on a monthly basis.

For full details about the NHS Wales Disciplinary Policy and Process (2026), visit <https://www.nhsconfed.org/wales/nhs-wales-employers/welsh-partnership-hub/nhs-wales-disciplinary-policy-and-process-2026>

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Version date: March 2026

### How to Procedure (3): Running a Fast-Track Process

1. The purpose of the fast-track disciplinary process is to allow for misconduct disciplinary cases to be dealt with in a timely manner, ideally within one month of the fact-finding assessment, although there will be circumstances that prevent such timescale from being reasonably practicable or achievable. The fast-track process will remove the need for a formal investigation report although a thorough examination of the relevant known facts will take place prior to a decision being made. An Investigating Officer will not, therefore need to be appointed in cases dealt with under the fast-track process.
2. The fast-track process will not be suitable for all cases, those situations where fast track may be suitable are as follows:
  - a. Incidents that are regarded as 'Misconduct' which would normally result in a first written warning. This process is not suitable for allegations capable of receiving final written warning or dismissal as a sanction; and
  - b. The employee against whom the initial allegations are made has admitted to them in full in writing and there are no existing live disciplinary sanctions on the employee's record.
3. An admission by the employee in respect of the allegations against them does not automatically guarantee that the fast track will be suitable, the outcome or the level of sanction applied. Each case will still be considered on its own merits.
4. If the above requirements are satisfied and the line manager feels that the fast-track approach is appropriate, they must, in the first instance, discuss this with a Workforce and OD representative and complete a Fact-finding Assessment. A review of the information will be undertaken in conjunction with the line manager, the employee and their companion and a decision taken as to whether the fast-track process should be adopted. This must be agreed by all parties in writing.
5. The Fact-finding Assessment acts as the evidence gathering required to conduct a fast track process.
6. If the decision has been made to use the fast track procedure, then the following process should be followed:
  - a. The Deciding Officer will ensure (if not done already) that there is a detailed written statement from the individual who reported the incident and also from the employee involved, together with any supporting

information gathered. The employee's statement should include an acknowledgement to the understanding that a sanction may be awarded to them, which will not exceed a written warning.

- b. The Deciding Officer will write to the employee involved asking them to attend the Fast Track Disciplinary Hearing and will provide a copy of all information gathered plus the date, time and venue of the hearing (this should be sent no less than 7 calendar days before the hearing).
- c. The invite will also set out:
  - i. the allegations the employee has admitted to;
  - ii. the right to be accompanied;
  - iii. the potential outcomes.
- d. The employee, upon receipt of the invite will have the final opportunity to consider and withdraw from the fast-track process and request the commencement of a formal investigation. An employee must not suffer a detriment if they choose to proceed with their right to a full investigation and any associated disciplinary hearing should this be appropriate.
- e. The Deciding Officer will be supported by a Workforce and OD representative and professional advisor, where appropriate (The Hearing Panel). The employee and their representative will also be present. No witnesses will be called as part of this process.
- f. The procedure for the fast track hearing is as follows:
  - i. Introductions are made of everyone present including the employee and their companion if one is in attendance.
  - ii. The Deciding Officer outlines the nature of the allegation(s) and advises that it may result in disciplinary action up to and including a written warning.
  - iii. The Deciding Officer confirms with the employee that they admit to the allegations previously stated or confirms the evidence available.
  - iv. The employee or their companion will have the right to put forward any comments or statements relating to the incident, including any mitigation.
  - v. The Hearing Panel may wish to question the employee.
  - vi. The Hearing Panel will adjourn briefly to give full consideration to the case.
  - vii. After reaching a decision the Hearing Panel will reconvene. The Deciding Officer will then communicate their decision to the employee and their representative. The penalty, if any, will not exceed a written warning.

7. The Deciding Officer will send a letter confirming the decision of the Fast Track Disciplinary Hearing to the employee within 7 days. The letter will confirm the admitted conduct; the sanction given and advise them of their right of appeal. The record of any warning will be kept on the employee's personal file.
8. If an issue arises as part of the fast-track process, which warrants a full investigation, the fast-track process will be stopped, and a full investigation will be instigated which may result in a disciplinary hearing (see How to Procedure Formal Investigation)
9. The sanction imposed will have the same weight and remain live on the employee's personnel file for the same period of time as a comparable warning issued at a full Disciplinary Hearing,
10. The employee will have the right to appeal the outcome, if they consider the fast track meeting has not been conducted in a fair manner. The employee will be given 14 calendar days (from the date on which the decision was sent or given to the employee to appeal their decision.
11. If any appeal is lodged, the matter may revert to a full formal investigation in accordance with the NHS Wales Disciplinary Policy and Process (2026).
12. If any appeal is heard via a further fast track meeting, the decision of the Appeal Manager in respect of any outcome will be final and there is no further right of appeal for the employee.

For full details about the NHS Wales Disciplinary Policy and Process (2026), visit <https://www.nhsconfed.org/wales/nhs-wales-employers/welsh-partnership-hub/nhs-wales-disciplinary-policy-and-process-2026>

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Version date: March 2026

## NHS Wales Disciplinary Policy and Process (2026)

### How to Procedure (4): Disciplinary Investigation

This Procedure sets out the process for conducting a formal disciplinary investigation in line with the Disciplinary Policy and Process. The aim is to ensure investigations are fair, thorough, and handled without unnecessary delay.

#### Commissioning an investigation

1. A formal investigation can only begin after a Fact-Finding Assessment has been completed by the manager. The Fact-Finding Assessment will help develop and inform the Terms of Reference for the investigation. The employee must be informed of all allegations and the possible outcomes. There may be situations where national safeguarding policy restricts what information the Organisation can disclose to the employee.

#### Preparing for the investigation

2. To ensure that the investigation is objective, it will be given to an objective and neutral Investigating Officer who will carry out the investigation on the Commissioning Officer's behalf.
3. The Commissioning Officer will hold responsibility for reviewing the information from the Investigating Officer and for making the decision.
4. The Investigating Officer should be given adequate time and support to avoid unreasonable delays. Information about the investigation's progress should be communicated clearly and regularly to the employee, their representative, and relevant managers.

#### Investigation process

5. The Investigating Officer gathers relevant evidence, including witness statements and documentary material, to produce an Investigation Report.
6. The employee under investigation will:
  - a. Be invited to an investigatory interview.
  - b. Have the opportunity to provide relevant information to the Investigating Officer.
  - c. Receive a written transcript of their interview to review, sign, and date.
  - d. Be given the opportunity to be accompanied by their companion if they choose.

7. The Investigating Officer may identify witnesses who have information relevant to the allegations being investigated. The Investigating Officer will arrange for the relevant witness to be interviewed. The order in which interviews are conducted will be considered carefully to ensure fairness. Normally, the employee under investigation will be the last person interviewed.
8. All evidence that is relevant and necessary for the employee's response must be shared with them in advance of questioning.

### **Outcomes during or following an investigation**

9. The Investigating Officer will limit their role to fact finding. They will draw out the evidence that supports or does not support each of the allegations and highlight where there may be insufficient evidence to support the allegations raised. The Commissioning Officer will receive the investigation report and will make a determination on how to proceed.
10. If the matter appears unsuitable for the disciplinary process, the Investigating Officer may raise this with the Commissioning Officer who will make a determination on the issue and will confirm the appropriate route.
11. If no evidence supports the allegation, the investigation should stop, and the employee should be informed. Consideration should then be given to workplace reintegration and any organisational learning.

### **Completion of the Investigation**

12. The Investigating Officer submits the Investigation Report to the Commissioning Officer. The report is also shared with the employee and their companion.

### **Concurrent Processes**

13. If other formal processes (e.g., a resolution request) are raised during the investigation, the Commissioning Officer or Deciding Officer will decide, in consultation with the Workforce and OD representative, employee, and their companion, whether the disciplinary process should pause or run alongside the other process.

For full details about the NHS Wales Disciplinary Policy and Process (2026), visit <https://www.nhsconfed.org/wales/nhs-wales-employers/welsh-partnership-hub/nhs-wales-disciplinary-policy-and-process-2026>

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Version date: March 2026

### How to Procedure (5): Disciplinary Hearing

1. The Disciplinary Hearing is an opportunity to examine the evidence and allows the employee concerned the proper opportunity to comment on the evidence and make any representations or offer their views concerning the allegations.
2. The Disciplinary Hearing must consider all the evidence and give the employee a fair opportunity to make their views known whilst at the same time ensuring that all evidence is examined thoroughly so that an appropriate decision can be reached.
3. Where a hearing is being convened the employee must be informed in writing confirming the allegations and that they have the right to be accompanied by their chosen companion at the hearing and will have the right to state their case; where the allegation(s) are considered gross misconduct the letter must also outline that disciplinary action may include dismissal.
4. The employee will have been passed all the relevant information, documents and witness statements collated as part of the investigation or disciplinary process.
5. The Deciding Officer conducts the hearing and makes the decision as to whether the allegations are proven. A panel will be present at the Disciplinary Hearing which will comprise of:
  - 5.1. The Deciding Officer
  - 5.2. Workforce and OD representative
  - 5.3. Panel Member
6. All members of the disciplinary panel will act with neutrality and objectivity at all times. If the employee has any concerns over the composition of the panel, they should make their concerns known, with evidence, to the Workforce and OD representative at the earliest opportunity.
7. Practical arrangements for holding the Disciplinary Hearing will be made as soon as possible. Notes must be taken at all hearings. Electronic recordings should only be made with the prior consent of all participants. Also, anyone attending the hearing including the companion and any witnesses must not make covert electronic recordings of any meetings or hearings conducted under the NHS Wales Disciplinary Policy and Process (2026).

8. The employee must attend a disciplinary hearing when requested to do so. Where they are unable to attend for any reason, they must notify the manager in order that the meeting can be rearranged.
9. Where an employee has a justifiable reason for failing to attend a disciplinary hearing, such as an accident or personal emergency, the hearing should be adjourned in the first instance and rearranged as soon as possible. The employee must be warned if they fail to attend for a second time, the hearing will be held in their absence, and a decision may therefore be made on the information available to the panel at that time.
10. All documentation supporting the allegation/s will be passed to the employee as soon as possible but no later than 21 calendar days prior to a Disciplinary Hearing. This will include any investigation report which will contain a copy of the Fact-finding assessment document, interview notes, any witness statements and all other documentary evidence that is to be considered. Any additional information which the employee wishes to rely upon should be submitted to the Deciding Officer as soon as possible but no later than 10 calendar days prior to the hearing. In exceptional circumstances, the employee may request to make a submission which has not been made available within the above timescale.
11. At the same time, the list of agreed witnesses will be provided no later than 14 calendar days before the hearing date.
12. The Deciding Officer will make arrangements for the attendance of all appropriate witnesses required at the hearing
13. No new written evidence may be produced by either party after the exchange of case papers without the agreement of all parties
14. **Order of proceedings for disciplinary hearing**
15. The Disciplinary Hearing itself should normally follow the sequence described below, requiring the designated Deciding Officer to:
  - (a) Introduce those present to the employee and explain why they are there and their role in the hearing.
  - (b) Introduce and explain the role of the employee's companion if present.
  - (c) Explain the purpose of the Hearing, i.e. indicate that it is a Disciplinary Hearing convened in accordance with the Organisation's Disciplinary Policy to address the allegation(s) as detailed and (where applicable and appropriate) to consider a report concerning the issue(s), together with all other documentation to be relied upon as evidence.

- (d) Outline the nature of the Disciplinary Hearing, i.e. that the allegation(s) is/are viewed most seriously and may result in disciplinary action, including dismissal, where appropriate.
- (e) Explain the principles which govern the hearing:
  - i. that full and fair consideration will be given to all issues pertinent to the case.
  - ii. that all evidence will be considered, and
  - iii. that the employee or their representative will have the opportunity to deny, or to defend themselves/the employee against the allegation(s).
- (f) Describe the procedure to be followed at the Disciplinary Hearing and ensure this is understood by the employee.
- (g) A Workforce and OD representative is available to attend the Disciplinary Hearing to support and advise the investigating officer but will not answer questions directly on their behalf.
- (h) A final check should be made to ensure no reasonable adjustments are required.
- (i) Unless otherwise agreed, the Chair should also consider informing the employee that they must not record the hearing and ask them to confirm that they are not doing so.
- (j) In the first instance, the Investigating Officer will present an overview of the complaint raised, their investigation and findings. They will clarify any points raised by the panel or employee.
- (k) Witnesses called by the panel shall be asked by the panel to clarify any issues as appropriate.
- (l) The witnesses will then answer questions from the employee or their companion.
- (m) The employee or their companion will then be invited to make statements and present evidence, whether oral and/or written, to explain, deny, and offer mitigating circumstances or otherwise comment upon the allegations made against them.
- (n) The employee will then answer questions from members of the panel.
- (o) Witnesses called by the employee or their companion will first be questioned by the employee or their companion and thereafter may be questioned by members of the disciplinary panel.
- (p) An opportunity will then be given to the Investigating Officer to restate the key points if the panel deems it necessary, and the employee or their representative to sum up their case and make any final comments or ask any final questions. The employee and/or their companion will speak last. No new information may be introduced at this stage.
- (q) Once the Disciplinary Hearing has examined all the evidence provided for in the report or presented at the hearing the panel will adjourn, to give full consideration to the case.

- (r) At this stage, further information may be requested if appropriate, in which case the Disciplinary Hearing will reconvene once the additional investigations have been completed.
- (s) The Deciding Officer with the advice of the panel then reaches a conclusion as to whether the evidence supports the allegation based on the balance of probabilities. They must be satisfied that the investigation and hearing have been conducted in accordance with this policy, that the disciplinary rules have been appropriately considered and applied and that the penalty is reasonable, and reflects the seriousness of the offence.
- (t) After reaching a decision the Disciplinary Hearing will reconvene and the employee will be advised of the Deciding Officer's decision as to whether the allegations have been proven, on the balance of probability, and the nature of the penalty imposed, if any.
- (u) The decision should be conveyed to the employee verbally on the same day; or, if a decision cannot be made on the day of the hearing, the employee should be informed of the decision within 7 calendar days. If the decision is likely to take longer for some reason, then the employee must be contacted by the Deciding Officer and informed of this fact, along with the reasons for the delay.

### **Post Disciplinary Hearing**

- 16. The employee will be sent a letter confirming the outcome of the hearing and any disciplinary action should be sent to the employee with a copy to their line manager no later than 7 calendar days after the notification of the outcome of the hearing.
- 17. The letter should confirm the date, time, and place of the Disciplinary Hearing and of those present. If the employee declined to be accompanied this should be noted in the letter.
- 18. The letter should:
  - (a) Confirm the allegations that were considered and specify those found unproven and, on the balance of probability, those that were found proven.
  - (b) State clearly the nature of misconduct or failure to reach the required standards.
  - (c) State the rationale for the decision.
  - (d) Specify the disciplinary action being taken and, if a warning is being imposed, state how long the warning will remain live on the employee's personnel file for.
  - (e) Outline any recommendations, training or support that must be actioned, within a reasonable timeframe, to improve conduct or behaviours in future or any management recommendations as appropriate.
  - (f) Where a warning is imposed, confirm that committing any further related offences or, failing to improve performance, could result in more serious disciplinary action, up to and including dismissal.

- Remind the employee that they have the right of appeal within 14 calendar days of receipt of written notification of the disciplinary action and state to whom the appeal should be made.
  - Reference that the appeal should be directed to the manager one level above the manager taking the disciplinary action and contact details for that person.
  - All such letters should be sent out by a recorded method of delivery, this can include email.
19. Where the investigation arises from a recent series of different incidents or a recent series of minor incidents of the same nature, they may be accumulated and taken into account at the same disciplinary hearing and dealt with by the same disciplinary action. The employee must have been informed of this in the original letter confirming the Disciplinary Hearing date.
20. Where the incident that leads to disciplinary action being taken occurs during a period when a warning is already in operation, this warning may be taken into consideration in deciding the appropriate action, so long as the most recent incident is of a similar nature to that for which the warning was imposed.
21. Where appropriate, the Deciding Officer shall, in discussion with the Workforce and OD representative on the Panel inform the employee's professional body and/or the DBS of the outcome of the hearing.
22. An in-person hearing is preferable, however, to ensure fairness, it may be reasonable to proceed with a remote Disciplinary Hearing where an employee works remotely and the employee is unable to travel from their home, or where an in-person hearing is difficult to facilitate.
23. Employees who are asked to attend hearings remotely should be given clear instructions on how to join a remote hearing and reminded of their obligations of confidentiality.

### **General Principles**

24. The following general principles will govern the operation of all disciplinary hearings:
- The Disciplinary Panel members shall have the right to ask questions of anyone present, at any time during the proceedings.
  - The employee or their companion shall have the right to ask questions of any witness.
  - The accompanying person may also ask questions and should be able to confer privately with the employee.

- The Investigating Officer shall remain in attendance throughout the hearing.
- Their role will be to present an overview of their report and to clarify points as required by the Deciding Officer, the employee, or their companion. They will not have the right to ask questions.
- No witnesses called either by the Deciding Officer or the employee may be present at the Disciplinary Hearing before giving evidence. After giving evidence witnesses may be asked to remain available for clarification purposes but shall not remain in attendance.
- If the employee becomes upset or distressed they will be offered the opportunity for a short break to regain composure before continuing.

For full details about the NHS Wales Disciplinary Policy and Process (2026), visit <https://www.nhsconfed.org/wales/nhs-wales-employers/welsh-partnership-hub/nhs-wales-disciplinary-policy-and-process-2026>

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Version date: March 2026

## NHS Wales Disciplinary Policy and Process (2026)

### How to Procedure (6): Appeals Hearing

1. All employees have the right to appeal against a disciplinary sanction or dismissal and this How to Procedure is intended to supplement section 11 of the NHS Wales Disciplinary Policy and Process.
2. The person to whom the employee submits their appeal must be specified in the letter informing the employee of the outcome of the Disciplinary Hearing and/or the disciplinary action to be taken (see How to Procedure – Disciplinary Hearings).
3. An employee who wishes to appeal against a disciplinary sanction or dismissal must lodge their intention to appeal within 14 calendar days of receiving written notification of the disciplinary action taken.
4. The notification of intention to appeal should indicate the grounds on which this appeal is based. The employee should be explicit as to whether this is an appeal against the judgement of the disciplining officer, against the disciplinary penalty imposed, or against the process of the disciplinary investigation and hearing itself.
5. An Appeal Manager will be appointed, and the administrative arrangements will be put in place within 14 calendar days and wherever possible the appeal heard within 28 calendar days of the notification of appeal being received. In exceptional circumstances it may be necessary to extend this deadline but every effort should be made to hear the appeal promptly.
6. The appeal panel will consist of an Appeal Manager and Workforce and OD representative and where appropriate a further panel member.
7. At least 7 calendar days before the Appeal Hearing, the Appeal Manager must receive the nature of the appeal and all documentary evidence in support of it. A failure to comply with this requirement may result in either the appeal being delayed, postponed or the appeal going ahead without this information.
8. There will be two levels of constitution of Appeal Hearings.
  - a. For appeals against disciplinary warnings short of dismissal, the appeal will normally be heard by a manager one level above the manager who imposed the penalty.
    - i. If organisational structures allow, the Appeal Manager should be from a separate directorate/locality in line with best practice.

- ii. The Workforce and OD representative will be in attendance in order to give advice and to support the Appeal Officer in ensuring that all aspects of the appeal are fully explored. The Appeal Manager must ensure they have access to appropriate professional advice, where necessary.
  - b. In cases of appeals against dismissal, the Appeal Officer will be a senior officer nominated (by the Director of Workforce and Organisational Development), in line with the organisation's scheme of delegated authority. Where appropriate, the Appeals Manager may be supported by a second senior manager who will provide any necessary professional advice if appropriate.
9. The officers nominated to hear an appeal must not have been involved in the disciplinary process at any earlier point.
10. The purpose of the appeal is to establish if the decision taken at the Disciplinary Hearing was reasonable in light of the grounds raised by the employee. The appeal is not a re-hearing of the original evidence.
11. The Appeal Hearing must restrict itself to looking at the grounds of appeal made by the employee and ensuring that these grounds are adequately examined in order to reach a proper judgement on whether the appeal should be upheld.
12. The Appeal Hearing will consider specifically whether the disciplinary action decided upon by the Deciding Officer was fair and reasonable at the time that the action was taken. The Appeal Hearing may look at whether the procedure was applied correctly when deciding on the disciplinary action.
13. The appeal will take account of any substantial new information cited in the grounds for appeal.
14. The decision reached by any level of Appeal Hearing is considered final. No further appeal mechanism will operate within the Organisation.
15. The Appeal Manager may decide:
- a. Uphold the original decision
  - b. Revoke the original decision
  - c. Substitute a different penalty

### **Conducting the Appeal Hearing**

16. The Appeal Manager will act as Chair of the Appeal Hearing and will introduce those present, explaining each parties' present and state the order of proceedings which is as follows:

- a. Both the Deciding Officer and the employee and their companion will remain present throughout the proceedings until the panel adjourn to deliberate in private.
- b. The employee and their companion shall confirm their grounds of appeal and provide information supporting their case. The Deciding Officer will have the opportunity to ask questions of the employee.
- c. The members of the Appeal Panel shall have the opportunity to ask questions of the employee.
- d. The Deciding Officer will present the justification for the decision that they took at the Disciplinary Hearing.
- e. The employee or the companion shall have the opportunity to ask questions of the Deciding Officer.
- f. The members of the appeal panel shall have the opportunity to ask questions of the Deciding Officer.
- g. The Deciding Officer will have the opportunity to sum up. New information must not be introduced at this stage.
- h. The employee or their companion will have opportunity to sum up. New information must not be introduced at this stage.
- i. The Appeal Panel may, at its discretion, adjourn the appeal hearing in order that further information may be sought and reviewed.
- j. The Appeal Panel shall deliberate in private only, recalling both parties to clarify any points of uncertainty on evidence already given. If a recall is necessary, both parties shall return.
- k. When a decision is reached by the Appeal Manager they should inform the employee and Deciding Officer of the outcome immediately in person or where the hearing is held remotely, via remote communication. If, it is not possible to reach a conclusion on the date of the appeal hearing, the employee will be notified within 7 calendar days.
- l. In either case, the decision will be notified to all parties in writing within 7 calendar days of the appeal.

17. The decision of the Appeal Manager is final. There is no further right to appeal within this policy.

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