

BLACK-E Disciplinary Procedure

1 Introduction

The purpose of the Organisation's Disciplinary Procedure is to help and encourage all employees to achieve and maintain required standards of conduct and work performance. The aim is also to ensure that the Organisation's services are maintained and effective while all staff are treated fairly and equitably.

This procedure sets out the action that will be taken in response to alleged misconduct or poor work performance.

Line managers must ensure that their staff are aware of general and specific rules, standards and procedures covering work and conduct.

Employees must familiarise themselves with these standards and procedures and follow them.

In appropriate cases of minor misconduct or unacceptable performance or behaviour, managers should use informal action before formal disciplinary action is taken. This may include setting clear targets and expectations, monitoring progress over a reasonable time period and providing additional coaching or training.

No disciplinary action will be taken until a case has been thoroughly investigated. When starting an investigation into an allegation of misconduct or poor performance, there shall be no assumption that disciplinary action will automatically follow.

Employees will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty will be dismissal without notice and without payment in lieu of notice.

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

2. Who is authorised to take disciplinary action?

- Informal action/First warning or Improvement note/Final warning: Line Manager
- Dismissal: Director or Chair of the Board of Trustees or other designated member or members of the Board of Trustees

3. What is gross misconduct?

Gross misconduct is defined as misconduct serious enough to destroy the employment contract between the Organisation and the employee which makes further working relationship and trust impossible. Gross misconduct is normally restricted to serious offences. The principal reasons for summary dismissal could include but are not limited to:

- criminal offence which affects the individual's ability to carry out his/her job;
- physical assault by an employee on any other person;
- theft, misappropriation or unlawful destruction of property: the Organisation's, employees' or others';
- the giving or receiving of bribes or unauthorised gifts;
- serious infringement of safety rules or negligence which causes unacceptable loss, damage or injury;

- supplying security access codes to any unauthorised person;
- unauthorised disclosure of information or misuse of trust of a serious nature;
- making malicious or unfounded allegations of a serious nature;
- deliberate falsification of any documents or claims, including time sheets, overtime or expense forms;
- misconduct at work or away from work of such a serious nature as to bring into disrepute either the employee's position or the organisation;
- serious discrimination relating to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- harassment of a serious nature;
- deliberately accessing internet sites containing pornographic, offensive or obscene material;
- persistent alcohol or drug abuse;
- serious or persistent IT misuse:
- engaging in unauthorised employment during hours when contracted to work for the Organisation or during periods of designated leave, for example annual or sick leave, time off for training, etc.;
- failure to disclose unspent criminal conviction(s) or any convictions, whether spent or not, in respect of posts exempt under the terms of the Rehabilitation of Offenders Act 1974;
- providing false information on a job application form including false information concerning immigration status.

4 The procedure

If informal action fails to achieve the required improvement in performance or behaviour, then this procedure is followed. This procedure applies to all employees, once their probationary period is completed. The procedure for probationary employees is described in Section 6 below.

i. Invitation to a Disciplinary Meeting

Following an investigation the employee should, without unavoidable delay, be given a letter detailing the allegation, the possible consequences and inviting them to a disciplinary meeting. (The meeting should ideally be arranged within five to ten working days of the alleged misconduct or poor performance issue, allowing reasonable time for the employee to prepare their case.) This will also state that they have the right to be accompanied by a trade union representative or work colleague at the meeting.

At the same time the employee will be provided with copies of all documentation and supporting evidence to be presented at the meeting.

ii. Disciplinary Meeting

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

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

The Line Manager (or Chair of the Board of Trustees as appropriate) will open the meeting with an explanation of its purpose and will read aloud the allegations.

The employee and her/his representative can ask questions including of any witnesses called.

The Line Manager/Chair will then ask the employee if s/he wishes to take the opportunity to respond to the allegations or concerns or if there are any mitigating circumstances to be taken into account. The Line Manager/Chair may question the employee and any witnesses called.

The Line Manager (or Chair) will summarise the main points of the discussion and ask the employee if they have anything further to say.

The Line Manager (or Chair) will then consider the details heard in private. S/he must decide whether the case against the employee has been established on the balance of probabilities,

i.e. whether misconduct is confirmed or the employee's performance is found to be unsatisfactory.

If this is the case, when they are considering appropriate disciplinary action, s/he should also consider any special, mitigating circumstances, the employee's previous disciplinary or performance record, how the Organisation has dealt with similar cases in the past and whether the proposed action is reasonable in view of all the circumstances.

The Line Manager (or Chair) shall give the employee written confirmation of the decision normally within five working days of the meeting. This will include notifying the employee of her/his right of appeal and the procedure to be followed.

iii. Disciplinary Action

If following the disciplinary meeting it is decided to take action, one of the sanctions below may be applied.

Stage 1 - Written Warning

If conduct does not meet acceptable standards the employee will normally be given a written warning by his/her supervisor/line manager. S/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of their right of appeal. A copy of this written warning detailing the complaint; the change in behaviour required; and dates for review will be kept in the employee's personal file but will be disregarded for disciplinary purposes after a specified period.

Or

Improvement Note for Unsatisfactory Performance

If performance does not meet acceptable standards the employee will normally be given an improvement note by his/her supervisor/line manager. S/he will be advised of the reason for the note and of their right of appeal. A copy of this note detailing the performance problem; the improvement required; the set timescale for improvement; and dates for review will be kept in the employee's personal file but will be considered spent after a specified period – subject to achieving and sustaining satisfactory performance.

Stage 2 – Final Written Warning

If performance is still unsatisfactory or if a further misconduct occurs, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal (in effect both first and final written warnings), the employee will be given a final written warning. This will give details of the complaint; the improvement required; the set timescale for improvement; and dates for review. It will warn that dismissal may result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months (in exceptional cases duration may be longer) subject to achieving and sustaining satisfactory conduct or performance.

Stage 3 - Dismissal

If conduct or performance is still unsatisfactory and the employee fails to reach the prescribed standards, or if the offence constitutes gross misconduct, dismissal will normally result. The employee will be provided as soon as reasonably practicable with written reasons for dismissal, the date on which his/her employment will terminate and be advised of the right of appeal.

iv. Appeal

An employee may appeal against the decisions of the disciplinary meeting taken under this procedure to the Chair of the Board of Trustees, or if the Chair has already been involved in an earlier stage of the procedure, to the Vice-Chair of the Board of Trustees.

The employee wishing to appeal against a disciplinary decision, must do so in writing within ten working days of receiving written notification of the disciplinary action, stating the reasons for the appeal.

Arrangements for the appeal meeting will be made by the Chair (or Vice-Chair if appropriate) who will ensure that a note-taker is present if possible. A maximum of 4 weeks will be allowed for people involved to provide evidence. The appeal meeting should then be held without unavoidable delay. Where possible, at least two members of the Board will constitute an Appeal Panel and excluding any who line-manage the employee and who made the decision which is the subject of the appeal.

The decision of the Appeal Panel or person hearing the appeal shall be final.

5 Suspension

Suspension is not a disciplinary action and will normally be on full pay. It should only take place where it is considered that the employee may impede the disciplinary investigation or commit further offences if he/she remains at work.

The Chief Executive or Chair of the Board of Trustees will inform the employee in writing that s/he is to be suspended immediately: stating the nature of the alleged offence, the purpose of suspension, and its anticipated duration.

Suspension in these circumstances should be no longer than required to complete the investigation.

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

Probationary employees

This full procedure does not apply to probationary employees.

However in all cases the requirements as outlined in the Acas Code of Practice on Disciplinary and Grievance Procedures must be followed.

The Line Manager of a probationary employee will assess the employee's performance through the probationary supervision and review process. Warnings will normally be given to employees before any final action being taken should there be concerns about performance or conduct.

Where dismissal of the probationary employee is considered due to unsatisfactory performance or conduct, or in cases of gross misconduct, the employee will be notified in writing of the problem, the time and venue for the probationary review meeting, their right to be accompanied by a trade union

representative or a work colleague of her/his choice and the potential dismissal outcome. A meeting will be held and the employee will be entitled to appeal.

If the employee wishes to appeal against the dismissal, he/she must do so in writing to the Chair within five working days of receiving written notification of the dismissal, stating the reasons for the appeal.

Any documents submitted in support of the appeal must be attached.

Arrangements for the appeal hearing will be made by the Chair who will ensure that a note-taker is present if possible. Where possible, at least two members of the Board will constitute an Appeal Panel and excluding any who line-manage the employee and who made the decision which is the subject of the appeal. The employee may be accompanied by a trade union representative or a work colleague of his/her choice at any appeal hearing.

The decision of the Appeal Panel or person hearing the appeal shall be final.

-Revised January 2017