



## **DISCIPLINARY POLICY AND PROCEDURES**

### **Disciplinary Rules**

The Governing Body aims through this policy to encourage improvement in an individual's conduct. It has been written with regard to the March 2015 ACAS Code of Practice on Disciplinary and Grievance Procedures and its principles and the Discipline and Grievances at Work; the ACAS Guide (July 2020).

No set of disciplinary rules can cover all the circumstances that may arise within a school. The list of offences given as examples is not intended to be exhaustive, but to serve as a guide to the general standard of behaviour expected by the School of its staff. Special rules of conduct may apply to different sections of the staff (e.g. non-teaching) where failure to comply would amount to grounds for disciplinary action.

This Policy will apply to all teaching, non-teaching and support staff within the School, including the Headmistress. The Bursar will act in the place of the Headmistress in cases where the conduct or performance relates specifically to non-teaching staff managed by the Bursar's Office, e.g. Catering, maintenance staff etc.

The Disciplinary Policy and Procedures is distinct from the Grievance Policy and Procedures. There are separate Grievance and Capability Procedures/Policies. The Disciplinary Policy and Procedures does not apply to incompetence or poor performance unless this is attributable to misconduct.

### **Aims**

The aims of the Policy are:

- To define the standards of behaviour expected of members of staff.
- To provide a fair procedure in the event that disciplinary action is necessary.
- To set out clearly the process by which staff disciplinary matters will be dealt with.
- To indicate the responsibilities of individual members of staff.
- To set out the powers and responsibilities of the Governing Body.

### **Definitions:**

#### **Misconduct**

All employees are required by law:

- To conduct themselves appropriately.

- To obey the reasonable directions of the employer.
- To be loyal to the employer.
- To take care over the work assigned to them.
- To strive to maintain a good employment relationship.

Employees are expected to observe the reasonable rules, policies and procedures set out in the Staff Handbook. These cover amongst other things the Governing Body's rules on such issues as: timekeeping; standard of dress; health and safety; use of the School's facilities and equipment; discrimination, bullying and harassment.

Misconduct refers to behaviour which falls short of the standard expected of a registered teacher or member of the School's support staff, taking into account the School's rules and all relevant circumstances.

### **Misconduct examples:**

- Failure to achieve or maintain the required standards of performance.
- Unsatisfactory attendance record.
- Failure to comply with School routine or procedures.
- Conduct likely to give offence to parents, visitors, pupils or to other employees of the School.
- Unauthorised possession of the Governors' or School property.
- Any wilful conduct which undermines the maintenance of discipline and/or propriety among staff at the School.

### **Gross Misconduct**

Gross misconduct is conduct which seriously contravenes acceptable standards of behaviour in a school, considering the age, ability and aptitudes of the pupils, and all the relevant circumstances.

So serious is gross misconduct that the Headmistress/Governing Body may dismiss the employee without normal notice.

The following will be viewed as gross misconduct which, depending on the seriousness of the offence, could lead to summary dismissal (i.e. dismissal without previous warning); in extreme cases, dismissal may be instant (i.e. without notice or pay in lieu).

Some examples (this is not an exhaustive list) of what the School considers to be gross misconduct are:

- (i) Wilful damage to the Governors' or School property, the property of pupils or that of fellow employees.
- (ii) Theft or misappropriation of the Governors' or School property, the property of pupils or that of fellow employees.
- (iii) Indecent or violent behaviour whether committed at or outside work, including the promotion of either radical or extremist views.

- (iv) Any wilful or reckless act or omission constituting a serious danger to the health or safety of any person while in the course of employment, or any serious wilful neglect of normal precautions for the security and/safety of the property of the Governors or School, or of the School's employees.
- (v) Refusal or neglect to carry out reasonable orders or disobedience of any reasonable instruction given by a superior, verbally or through on-line material or social media.
- (vi) Bullying, harassment or victimisation of others on grounds of sex, race, disability, sexual orientation, religion, belief or age.
- (vii) Misuse of confidential information.
- (viii) Continued or lengthy absences from work without reasonable cause.
- (ix) Offences relating to drug abuse, sexual misconduct or abuse of children.
- (x) Loss of confidence or trust.
- (xi) Conduct at work or out-side work which brings the School into disrepute.

### **Criminal Proceedings**

Where a member of staff is charged with a criminal offence connected with his/her employment, the Governing Body may take disciplinary action against him/her in accordance with this code. Such action would be completely independent of any investigations being made by the Police.

Where a member of staff is charged with a criminal offence outside his/her employment and the nature of the allegation may have a consequence upon the individual's contract, the employee will be suspended on full pay and no further disciplinary action will be taken until circumstances are more clearly known.

A conviction or a plea which will lead to conviction would be considered adverse to the job and responsibility of the post holder and could, in some circumstances, be construed as gross misconduct.

**For details of Responsibility and Roles, please see Appendix I.**

### **The Procedure:**

Normally, an issue is investigated fully before a disciplinary penalty is imposed against an employee. The type of investigation depends on the nature of the allegations.

There are Informal and Formal Disciplinary Procedures.

#### **I. Informal Disciplinary Procedures**

Cases of minor misconduct will normally be dealt with informally by a line manager. Wherever possible a minor disciplinary issue should be dealt with through counselling. This might involve giving strong advice on how the employee's conduct could be improved. If an informal warning is deemed to be potentially necessary the line manager will inform the Headmistress so that she can consult the parties involved, establish the facts of the case and

proceed appropriately. Advice, counselling, other support or reprimand to effect resolution of the problem may be offered where appropriate at an informal stage.

The Headmistress may issue an informal verbal warning if she considers it appropriate.

It is the Headmistress's responsibility to determine at which point formal disciplinary action should be taken. The Headmistress must ensure that there is no confusion as to when formal procedures are being initiated.

## **2. Formal Disciplinary Procedures**

Routinely, all disciplinary issues will be fully investigated as a first step. Any investigation must be thorough and may require interviews of witnesses in support of both sides of the case. Appendix 3 provides guidance on how to conduct an investigation and is based on **ACAS guidance**.

At every stage employees will be advised of the problem promptly, will have the opportunity to state their case and request to be accompanied at any formal disciplinary hearing by a fellow employee or trade union representative.

### **Pre-Hearing Procedures**

The following pre-hearing procedure will be appropriate in formal disciplinary matters, e.g.

A minimum of five working days' written notice of the date of the hearing will be given to the employee.

The letter informing the employee of the hearing will contain details of all alleged offences together with details of any disciplinary committee and any witnesses who may be attending.

The employee will be informed that he/she has a right to be represented by a trade union official, a member of his/her association or a fellow employee at the hearing.

Any reports or documents which are to be used as evidence will be forwarded to the individual with the written notice of the hearing.

The employee will be requested to provide any papers for the hearing and the names of any witnesses and any companion who will accompany them at the hearing at least three days prior to the hearing.

The disciplinary committee will be issued with the documentation for the hearing at least two working days before the date of the hearing.

The employee has the right to request a postponement if proceeding would prejudice the individual's companion. Normally no more than one postponement will be agreed and not more than five working days after the date of the original hearing.

### **Suspension**

The Headmistress (or Chairman of the Governing Body) has the power to suspend a member of staff on disciplinary grounds, where the issue that is subject to disciplinary action is considered by the Headmistress (or Chairman) to involve gross misconduct, or it is in the

interests of the School, or a pupil, or an employee, or the member of staff facing the allegations. The Headmistress (or Chairman) may suspend an employee from work on full pay and benefits. An investigation may take place during the suspension. In taking a decision to suspend an employee the Headmistress (or Chairman) must consider the nature of the allegations and to whom they may apply. It may be appropriate to suspend other employees who may, on the face of it, be associated with the alleged misconduct.

Suspension is not a disciplinary action and will be reviewed at reasonable intervals by the Headmistress to ensure that it is not unnecessarily protracted.

### **Step 1. The Investigation Stage**

Normally, all disciplinary issues will be properly investigated as a first step; guidance is provided at Appendix 3. Where the facts are undisputed the Headmistress must nevertheless ensure that the employee is satisfied that no further investigation is called for.

The Headmistress (or Chairman) will appoint an appropriate Investigating Officer. The Investigating Officer will report his/her findings to the Headmistress (or Chairman) normally within five working days of appointment. Any witness statements must be dated and signed.

If after the investigation it appears that there are no reasonable grounds for continuing with the procedure, the person(s) concerned will be informed, and, if relevant, allowed to return to work as normal.

### **Step 2. The Notification**

If the Headmistress (or Chairman) determines that there are grounds for disciplinary action they will write to the employee concerned setting out the grounds for the action. In the same letter the Headmistress (or Chairman) will invite the employee to attend a disciplinary hearing not less than five working days (10 days out of term-time) later than the date of the letter, in order to give the employee time to consider his/her response.

The employee will also be informed that he/she may make a reasonable request to be accompanied by a School colleague or a trade union official of their choice at the disciplinary hearing. It will not be considered reasonable if the companion might prejudice the action or might have a conflict of interest. If the companion cannot attend on the day proposed, another date can be proposed by the employee, so long as reasonable grounds are given, the alternative date is reasonable and that the alternative date is not more than five working days (10 days out of term-time) after the date proposed by the Headmistress (or Chairman).

If the employee is unable to attend the meeting through unforeseen circumstances outside the employee's control (e.g. illness) the meeting will be rearranged. If the employee fails to attend without good reason, then the meeting should be held in his/her absence.

### **Step 3. The Hearing**

Routinely, any disciplinary hearing will be conducted by the Headmistress who has the power to dismiss an employee on disciplinary grounds. Where the Chairman of the Governing Body considers that, for whatever reason, it would be inappropriate for the Headmistress to conduct the hearing, the hearing will be conducted by the Chairman of the Governing Body's Disciplinary Committee comprising three members of whom at least two shall be Governors. One member of the Disciplinary Committee shall be appointed as its Chairman by the Chairman of the Governing Body. The Headmistress may not be a member of this Committee. She may appear as a witness to put the School's case.

## **Confidentiality**

In order to preserve the rules of the natural justice for the employee concerned, the Headmistress and Governors must ensure that matters relating to the allegations are not discussed prior to any formal hearing which may take place.

## **Rights of the Employee's Companion**

The employee's companion has the right to:

- Address the hearing, putting the employee's case.
- Sum up the employee's case.
- Respond on the employee's behalf to any views expressed at the hearing.
- Confer with employee during the hearing.

The companion may not answer on behalf of the employee any questions put directly to the employee and may not address the hearing if the employee indicates that he/she does not want the companion to do so.

The companion may not stop the employee explaining his/her case, nor prevent anyone else at the hearing from contributing.

## **Witness Statements**

If witness statements have been obtained during the course of the investigation all parties must be given copies of them at least 48 hours (on weekdays) before the hearing. A shorter period may be agreed by the parties.

## **Witnesses**

Any party may introduce witnesses to the hearing but must notify the other party(ies) **at least 24 hours** (not including weekends or public holidays) beforehand that they intend to do so.

## **Conduct of the Hearing**

The grounds for the disciplinary action will be set out by the Headmistress (or by the Chairman of the Disciplinary Committee). The Headmistress/Chairman may refer to the Investigating Officer's report and may have the Investigating Officer present to introduce the report. The Headmistress/Chairman may introduce witnesses.

The employee (or companion) may ask questions and cross-examine the Investigating Officer or witnesses.

The employee (or companion) will then respond to the allegations and present his/her defence. He/she may introduce witnesses. The Headmistress/Disciplinary Committee may ask questions and cross-examine the witnesses.

The Headmistress/Chairman will sum up the case on behalf of the School.

The employee (or companion) will sum up on behalf of the employee.

A detailed minute of the hearing will be taken on behalf of the Headmistress/Disciplinary Committee by the Clerk to the Headmistress/Disciplinary Committee who has no other role to play in the proceedings.

**Adjournment:**

The Headmistress/ Disciplinary Committee may adjourn the proceedings at any stage if this appears necessary or desirable. If the adjournment is for the purpose of enabling further information to be obtained the Headmistress/Disciplinary Committee will specify the nature of that information.

Any party may ask for an adjournment for the purpose of consultation.

Any adjournment will normally be for a specified time.

**Grievance**

If a grievance is raised during the course of the hearing the Headmistress/Disciplinary {Committee} must decide whether the procedure shall be suspended for a specified period while the grievance is dealt with.

**Decision-Making**

On completion of the hearing the Headmistress/Disciplinary {Committee} will retire to consider the decision. Neither the employee nor the companion, nor the Investigating Officer, (nor the Headmistress if she does not have the delegated power) may take any part in, nor be present at, the decision-making stage.

**Communication of the Decision**

The Headmistress/Disciplinary Committee will make a decision and communicate it in writing to the employee as soon as practicable, but normally within five working days of the conclusion of the hearing. The employee will be informed of the action to be taken with an explanation of the penalty to be imposed, and the right of appeal to the Governors' Appeal Panel.

If a decision has been taken to dismiss the employee he/she will be informed by letter of the reasons for the dismissal, the date on which the termination of the contract will take place, the appropriate period of notice (or pay in lieu of notice) as well as the notification of the right of appeal.

**Sanctions**

Depending on the nature of any misconduct found to have been committed and any mitigating circumstances, the Headmistress/Disciplinary Committee may impose any of the following sanctions:

- A formal written warning.
- A final written warning.
- Dismissal with notice.
- Summary dismissal in cases of gross misconduct.

An employee's contract of employment will not be terminated for a first offence unless the misconduct is gross misconduct.

For a serious case of misconduct, the Headmistress/Disciplinary Committee can issue a final written warning, whether it is a first or subsequent offence.

### **Currency of Warnings:**

An informal oral warning will not be recorded.

A formal written warning will be recorded and remain on file for 12 months from the date given.

A final written warning will be recorded and remain on file for up to 24 months from the date given.

### **Step 4. The Appeal**

#### **Right of Appeal**

The employee may appeal in writing against any disciplinary decision to the Governors' Appeal Panel within five working days (10 out of term-time) of being notified of the Headmistress's (or Committee's) decision. The employee must give full details of the reason for the appeal.

#### **Appeal Procedure**

A Panel of three Governors, of whom one shall be the Panel Chairman, will be appointed by the Chairman of the Governing Body (and reported to the next Governing Body meeting). It will not include the Headmistress, nor the Investigating Officer, nor any member of the original Disciplinary Committee, nor anyone who has an interest in the issues.

The Clerk to the Governing Body will arrange a hearing as soon as reasonably practicable, and normally within ten working days (fourteen out of term-time) from the date of the employee's letter making the appeal.

The procedure for the appeal hearing will be the same as that for the first disciplinary hearing, save that there will be no right of appeal from the decision of the Appeal Panel.

The Appeal Panel may decide to:

- uphold the decision of the Headmistress/Disciplinary Committee.
- uphold the appeal by totally withdrawing the previous sanction issued.
- issue a disciplinary sanction at a lower level than issued by the Headmistress/Disciplinary Committee.

A detailed minute of the hearing will be taken on behalf of the Appeal Panel by the Clerk to the Appeal Panel, who has no other role to play in the proceedings.

#### **Equal Opportunities**

In all the procedures all parties must take into account the School's Equality Policy and to ensure that there is no discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

## **Monitoring and Review**

The Headmistress or Clerk to the Governing Body, as appropriate, will inform the Governing Body when any formal disciplinary action has been taken but will give either no or no more than minimal details.

The Governing Body will review the policy every two years and after any formal disciplinary action has been taken.

This policy has regard to the guidance issued by the Secretary of State.

***Walthamstow Hall policies are approved, ratified and reviewed regularly by the Governing Body in the light of statutory requirements.***

Revised May 2021  
Next Review Date May 2022

Signed:.....Date: .....

Mrs J Adams  
Chairman of the Governing Body

## Appendix:

- 1      Responsibilities and Roles
- 2      Examples of Letters to be Used in Disciplinary Procedures
- 3      Investigation Guidance

### RESPONSIBILITIES AND ROLES

#### Governing Body

The Governing Body will:

- make and review periodically the Disciplinary Policy and Procedures.
- delegate to the Headmistress:
  - the power to arrange for investigation of alleged breaches of discipline.
  - the power to issue warnings where deemed necessary.
  - the power to dismiss an employee on disciplinary grounds.
- require the Headmistress to inform the Governing Body's Disciplinary Committee in the event that she considers that the Committee should consider terminating an employee's employment at the School (i.e. dismissal).

**The Chairman of the Governing Body** has the authority to appoint a Disciplinary Committee and to nominate a Committee Chairman. The Disciplinary Committee shall comprise 3 members (including the Committee Chairman) of whom at least 2 shall be Governors. The Chairman of the Governing Body must report his/her actions to the next Governing Body meeting.

Where the employee appeals the decision of the Headmistress/the Disciplinary Committee reached at or following a disciplinary hearing, the Chairman of the Governing Body will appoint an Appeal Panel comprising 3 Governors, of whom one shall be the Panel Chairman. No member of the Appeal Panel shall have been associated in any way with the disciplinary matter in question. The Chairman of the Governing Body must report his/her actions to the next Governing Body meeting.

Decisions of the Appeal Panel are final.

**The Clerk to the Governing Body** will be responsible for the arrangements for the Disciplinary Committee and/or the Appeal Panel in liaison with the School.

**The Headmistress** is responsible for the fair and effective management of the Governing Body's policy. In particular, the Headmistress is responsible for ensuring fair and proper investigation of the issues surrounding the alleged misconduct, and for deciding at which stage an employee's misconduct should be dealt with. The Headmistress may choose to issue:

- An informal oral warning.
- A formal written warning.
- A final written warning.

Following a final warning, or in cases of gross misconduct, the Headmistress may

#### EITHER

- refer the matter to the Governing Body's Disciplinary Committee for its consideration.

## **OR**

- where the Headmistress has the delegated power of dismissal, terminate the employee's contract, and refer the matter to the Governing Body's Appeal Panel via the Clerk to the Governing Body.

**The Bursar** will act in place of the Headmistress in cases where the conduct relates to non-teaching staff managed by the Bursar's Office, e.g Catering, maintenance staff etc.

### **Investigating Officer**

In appropriate cases the Headmistress (or Governing Body) may appoint an 'Investigating Officer' to investigate the matter and to advise the Headmistress (or Governing Body Disciplinary Committee). The Investigating Officer may either be a senior member of staff who has not been connected in any way with the alleged misconduct, or a person outside the School in cases where the Headmistress (or Governing Body) considers this to be appropriate.

The Investigating Officer must approach the task with professionalism and objectivity. The Investigating Officer will not discuss, or share any information about, the issue other than as provided within the Disciplinary Policy and Procedures and his/her brief. Guidance based on ACAS guidance is at Appendix 3. The Investigating Officer is expected to seek legal and professional advice where necessary.

### **Allegations made against the Headmistress or Bursar**

Where allegations of misconduct are made against the Headmistress or Bursar, the Chairman of the Governing Body will appoint an Investigatory Officer (who may be an external investigator). The Investigatory Officer will undertake the full investigation of the allegations and, if appropriate, present the case before a Disciplinary Committee appointed by the Chairman of the Governing Body and consisting of three Governors who have not been associated in any way with the matter investigated by the Investigatory Officer. If the Headmistress or Bursar appeals against the Disciplinary Committee's decision, the appeal will be heard by an Appeal Panel, consisting of three Governors appointed by the Chairman, who took no part in the original Disciplinary Hearing.

Neither the Chairman of the Governing Body nor the Investigatory Officer will be able to be a member of the Disciplinary Committee nor Appeal Panel.

**EXAMPLES OF LETTERS TO BE USED IN DISCIPLINARY PROCEDURES**

**A. EXAMPLE OF A NOTICE OF A DISCIPLINARY HEARING**

Dear \_\_\_\_\_ Date \_\_\_\_\_

I am writing to tell you that you are required to attend a disciplinary hearing on \_\_\_\_\_ at \_\_\_\_\_ am/pm, which is to be held \_\_\_\_\_.

At the meeting the question of disciplinary action against you in accordance with the School's Disciplinary Policy and Procedures will be considered with regard to:

xxxxxxxxxx

You are entitled if you wish to be accompanied by a School colleague or your trade union representative.

Yours sincerely,

Headmistress

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**B. EXAMPLE OF A NOTIFICATION OF A WRITTEN/FINAL WRITTEN WARNING**

Dear \_\_\_\_\_ Date \_\_\_\_\_

You attended a disciplinary meeting on \_\_\_\_\_. \_\_\_\_\_.

I am writing to confirm the decision taken that you be given a written/final written warning under the School's Disciplinary Procedures.

The warning will be placed on your personnel file but will be disregarded for disciplinary purposes after a period of \_\_\_\_\_ months, provided your conduct improves.

a. The nature of the unsatisfactory conduct was:

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b. The improvement expected is:

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c. The timescale for the improvement is: \_\_\_\_\_

d. The likely consequences of further misconduct or insufficient improvement are:

(Final written warning/dismissal)

You have the right of appeal against this decision, given in writing to \_\_\_\_\_  
within \_\_\_\_\_ days of receiving the disciplinary decision.

Yours sincerely,

Headmistress

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### C. NOTICE OF AN APPEAL HEARING

Dear \_\_\_\_\_

Date \_\_\_\_\_

You have appealed against the written warning/final written warning, confirmed to you in writing on \_\_\_\_\_.

Your appeal will be heard by an appeal panel consisting of \_\_\_\_\_

on \_\_\_\_\_ at \_\_\_\_\_ in \_\_\_\_\_.

You are entitled to be accompanied by a School colleague or your trade union representative.

The decision of this panel is final. There is no further right of appeal.

Yours sincerely,

(Clerk to the Governing Body)

**AMEND THE WORDING AS APPROPRIATE**

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**D. NOTICE OF THE RESULT OF AN APPEAL AGAINST A  
WARNING/DISMISSAL**

Dear \_\_\_\_\_

Date \_\_\_\_\_

You appealed against the decision of the disciplinary hearing that you be [dismissed] [given a (written/final written warning)] in accordance with the School's Disciplinary Policy and Procedures. The appeal hearing was held on \_\_\_\_\_.

I am writing to confirm the decision of the appeal panel, namely that the decision to \_\_\_\_\_ stands/be revoked.

**(specify if no disciplinary action is being taken or what the new disciplinary action is)**

You have now exercised your right of appeal under the School's Disciplinary Procedures and this decision is final.

Yours sincerely,

(Clerk to the Governing Body)

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### INVESTIGATION GUIDANCE

**The following guidance is based on the ACAS guidance on Investigations in Support of Disciplinary and Grievance Issues.**

An investigation is to:

- see if there is a case to answer
- make sure everyone is treated fairly
- gather evidence from all sides
- help the employer to see what should happen next

To protect everyone involved in the disciplinary case, the employer must make sure they follow a fair procedure. The investigation is an important part of this. If the employer does not carry out a reasonable investigation, any decisions they make are likely to be unfair. This could risk legal action.

#### Preparing for an investigation

If the employer has decided an investigation is required, it should start as soon as possible.

This is to make sure they are treating the employee fairly. For example, people might remember a situation more clearly the sooner they are asked about it.

To keep things as fair as possible and where possible, the employer should get somebody who is not involved in the case to carry out the investigation. Where possible, a different person should handle each step of the disciplinary procedure that is needed:

- The investigation
- The disciplinary hearing and outcome
- The appeal hearing (if an appeal is raised)

Where possible, the employer should assign a more senior person to handle the disciplinary hearing and outcome than the person assigned to the investigation.

The person investigating should start by making an **investigation plan**. This can include:

- what needs to be investigated
- anyone who needs to be spoken with ('witnesses')
- any sources of evidence, for example work records, emails or CCTV recordings
- any time limits, for example CCTV footage being deleted or staff going on leave
- timeframes
- relevant policies to follow
- whether the person investigating is expected to give recommendations at the end of the investigation
- setting out the importance of confidentiality
- any other relevant points or information

A clear plan will help to:

- make the investigation as quick and easy as possible.
- make clear exactly what needs to be done.
- make sure the process is full and fair.
- avoid negative effects on staff or the business.

Further advice and guidance can be found on the ACAS website

<https://www.acas.org.uk/investigations-for-discipline-and-grievance-step-by-step>

### Telling the employee

The employer should tell the employee with the grievance issue as soon as they decide to open an investigation. This is unless the employer thinks there is a risk that the employee might tamper with evidence or influence witnesses. In this case, the employer should wait until there is less risk of this. When the employer tells the employee they are opening an investigation, it is a good idea for them to explain:

- why they are carrying out an investigation
- who will be carrying it out
- what they are going to do
- that they will need to talk to any witnesses
- how long it could take
- what will happen next, for example a meeting
- that everything will be kept confidential

An investigation can be stressful for the employee. It is important for employers to consider the wellbeing and mental health of their employees and offer support where needed.

### Deciding whether to suspend an employee in a disciplinary case

Ideally it is best for an employer to avoid suspending an employee under a disciplinary investigation. If necessary, the employer should make any other arrangements rather than suspension. For example, could the employee work somewhere else in the organisation temporarily. The employer should only consider suspension during an investigation if they believe it is needed to protect any of the following:

- the investigation
- the business
- other employees
- the employee under investigation

If suspension is necessary, the employer should:

- explain to the employee the reason for their suspension.
- make clear it does not mean they believe the employee is guilty.
- still pay the employee in full throughout their suspension.
- keep the suspension confidential wherever possible.
- keep the suspension under close review.

- make sure it only lasts for as long as necessary.
- explain the employee's responsibilities during their suspension, for example to not contact colleagues.
- name a person, such as their manager, the employee can contact if they have any concerns.
- keep regular contact with the employee throughout.

### Carrying out an investigation

The person investigating should do their best to:

- be fair and objective.
- follow any policies or guidelines your workplace might have.
- get as much information on the case as is reasonable.
- not try to prove guilt, but get balanced evidence from both sides.
- keep the case confidential.

While an investigation should be completed as quickly as possible, it always needs to be thorough and fair. Some investigations might take longer depending on the case and how many people need to give information. For example, a simple case might only take a day to gather enough information, whereas a more complicated case could take several weeks. The employer should set a reasonable timescale and tell the employee. If it is found that more time is needed during the investigation, this should be allowed for. Any delays should be explained to anyone involved and written in the investigation report.

The person investigating should get all the information they reasonably can and need for the case. They should work out what physical evidence is needed based on:

- What is laid out in the investigation plan.
- What sources of information they can use.
- Any time limits, for example records getting deleted.

More evidence might come to light as the investigation goes on, so the person investigating should allow for this. Types of physical evidence could include:

- emails
- paperwork
- receipts
- computer records
- phone records
- CCTV recordings
- attendance records

The person investigating must consider the ways they can get information and:

- follow the law (for example, on data protection)
- respect the employee's right to privacy

The person investigating should keep a written record of how and why they got any evidence.

## Holding investigation meetings

The person investigating might also need to get information from:

- the employee.
- other employees involved ('witnesses').
- other witnesses, for example clients or customers.

## The right to be accompanied

'The right to be accompanied' means that by law, an employee or worker can bring a relevant person ('companion') to a meeting or hearing that will give or confirm a formal warning or other disciplinary action. In a disciplinary investigation meeting, there is no legal right to be accompanied but it's good practice for employers to allow it. If the employee or worker has the right to be accompanied, they must choose their companion from one of the following:

- A work colleague.
- A workplace trade union representative who is certified or trained in acting as a companion.
- An official employed by a trade union.

Under discrimination law, employers must make '[reasonable adjustments](#)' for disabled employees. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects. Employers can, but do not have to, allow companions who do not fall within the above categories.

## Absence from an investigation meeting

If the employee with the grievance issue needs to go to an investigation meeting but does not attend, the person investigating should rearrange the meeting. The employer or person investigating should see if it would help to make other arrangements. For example, if the employee is off with stress and is worried about coming to the workplace, they could hold the meeting somewhere else. If the employee is too sick or keeps refusing to attend, the person investigating will need to look at all other evidence and make a reasonable decision.

They could also look at:

- the seriousness of the disciplinary or grievance issue.
- any rules your workplace has about not attending investigation meetings.
- how your workplace dealt with similar cases in the past.
- getting a medical opinion on whether the employee is fit to attend the meeting (with the employee's permission).

The employer might decide they need to carry on with the investigation without the employee. If so, the employer must:

- carry out the investigation in as full and fair a way as possible.
- tell the employee.

## Witnesses

Witnesses can give important evidence that might help decide the outcome of a grievance case. If there is anyone with information about the grievance issue (a 'witness'), the person investigating can ask them to write it down (a 'witness statement'). The person investigating can also have a meeting with a witness to ask them what they know or saw. Someone should take notes during the meeting. At the end of the meeting, the witness should sign the notes and these can also form a witness statement.

The person investigating might decide a witness can give a statement without having a meeting, if the witness:

- is not an employee, for example a parent.
- only needs to give very simple information.
- is ill and cannot come to an investigation meeting.

The person investigating should ask the witness to write:

- answers to specific questions, where necessary.
- their name and, where applicable, job title.
- the date, place and time of any relevant issues.
- what they saw, heard or know.
- the reason why they were able to see, hear or know about the issues.
- the date and time of writing their statement.
- their signature.

The witness should have reasonable time to give the statement.

If a large number of people witnessed the same incident, the person investigating should:

- talk to some of the witnesses.
- check whether they are broadly saying the same thing.

The person investigating does not have to talk to all witnesses, unless either of the following apply:

- they feel they are not getting enough information.
- there are significant differences in what the witnesses say.

## Taking records

The person investigating can make audio recordings of interviews or assign a person to take notes, depending on:

- what is most appropriate or possible.
- if the person being interviewed agrees.

## Sharing information and confidentiality

When getting information from a witness, it is a good idea to get their consent to be able to share it if necessary. For example, in case other people working on the investigation need to look at the information. The employee who has raised a grievance case should be given a copy of any written evidence, including witness statements. If someone believes they have been named in a report, they have the right to see any parts that:

- have information about them.
- depended on information they gave.

They should not be allowed to see private information about other people. The employer should keep investigation reports for a while, in case there are any questions in the future. If the report includes people's details, the employer should store it securely and only allow access when necessary. Anyone who has access needs to follow data protection law.

## What happens after an investigation

If the employer or person investigating feels they need more information, they can go back and investigate again. They should try to do this in reasonable time and tell the employee about any delays completing the investigation.

## Making an investigation report

When there's enough information and the investigation is finished, the employer should have a written report. The employer should share this report with the employee. The investigator can give recommendations for next steps, if this was agreed in the [investigation plan](#). The following provides a template for a suggested investigation report:

- An introduction, setting out:
  - the name and job title of the person who authorised the investigation;
  - the name and job title of the person who conducted the investigation;
  - a brief overview of the circumstances that led to the investigation; and
  - the terms of reference of the investigation and if they were amended.
- The investigation process followed, including:
  - how the investigation was conducted;
  - what evidence was collected;
  - whether any pieces of evidence could not be collected and why;
  - the names and job titles of all witnesses and why each witness was relevant to the matter;
  - whether any witnesses could not be interviewed and why; and
  - an explanation of why any witness's statement has been anonymised and providing any details of enquiry into their character and background.
- The investigation findings, including a summary of the:
  - findings from all relevant documents;
  - key evidence from each witness statement;
  - facts that have been established and what facts have not been established; and

- mitigating factors to consider, if any.
- The report's conclusions, including the investigator's recommendations based on all evidence collected and any other recommendations related to the matter.
- Copies of all documents and witness statements collected and referred to in the report.

### Giving recommendations

If the person investigating is to give recommendations at the end of the investigation, they should recommend one of the following:

- formal action
- informal action
- no further action

Formal action could be:

- to initiate a disciplinary hearing
- changes to an organisation's policy or procedure
- further investigation into other matters that were found

Informal action could be:

- training or coaching for parties involved
- counselling for parties involved
- mediation for parties involved
- notification that further similar action might end in disciplinary action

No further action, the person investigating might still suggest anything that could help the workplace and the people involved, for example:

- counselling
- mediation
- another form of support

Now they have more information, the employer should check again if the issue can be resolved informally. After an investigation, the employer might find there is no evidence to carry on with the disciplinary procedure. In this case, they should end the procedure and tell the employee in question there will be no further action. If the employer finds there is an issue that cannot be resolved informally, they should carry on with the formal procedure for the disciplinary hearing.