

Disciplinary Procedure

1. Introduction

Note: All key points in this document relate to the 'Key Points - Employment Procedures' document available from the [Employee relations procedures page on the Bexley website](#).

Step 1 - Informal resolution – consider

- Can the issue be resolved informally working directly with the Employee?
- Is this a minor issue? Does the Employee have a good employment record with no previous warnings?
- Move to Step 2 if the issue cannot be resolved informally and is beyond the remit of informal resolution.

Step 2 – Consider whether the Employee should be suspended

Where the Employee is a trade union representative the TU Regional Office should be notified subject to the Employee's permission (see key point 2).

- Does there appear to be serious misconduct, or risk to property or other people (see key point 4).
- Identify whether the Employee is a trade union official (see key point 2).
- Where the issue is serious is there an alternative to suspension.
- Head of Service or above or Head Teacher/Governing Body or Chair of the Member Staffing Panel should authorise.
- Suspension will be with full pay.
- The Employee should be advised that suspension is not disciplinary action but will provide time to investigate.
- Consider whether any regulatory body should be notified of the suspension e.g., HCPC, DBS, DFE (see key point 5).

Step 3 - Investigate

Where the Employee is a trade union representative the TU Regional Office should be notified subject to the Employee's permission (see key point 2).

- Identify whether the Employee is a trade union official (see key point 2).
- Does a fuller investigation need to be undertaken (see key point 7)?
- Advise the Employee (if possible) that an investigation is being carried out with timescales for concluding.
- Is an investigation meeting required?
- Invite the Employee and their representative to an investigation meeting if required, giving reasons.

- Gather evidence including witness statements where relevant.
- Identify whether there any overlapping issues e.g., have any other Employment Procedures been triggered (see key point 9).
- Decide as a result of the investigation whether a disciplinary hearing should be arranged.
- Notify the employee if no disciplinary action will be taken following investigation.

Step 4 – Invite the Employee to a disciplinary hearing and include

- The purpose of the hearing and that it will be held under the Disciplinary Procedure.
- The right to be accompanied by a work colleague or trade union representative (see key point 1).
- Written details of the alleged misconduct and any evidence, including witness statements.
- Whether any management witnesses will be called and if so provide their statements.
- The opportunity for the Employee to call any witnesses.
- The possible outcome if the allegations are upheld/proven, including where termination of employment is possible.
- 7 calendar days' notice of the hearing.
- Where the companion is not available, reschedule if an alternative time is suggested (see key point 1).
- Consider what support the Employee (and potentially witnesses) may need.

Step 5 – Hold the disciplinary hearing

Where the Employee is a trade union representative the TU Regional Office should be notified subject to the Employee's permission (see key point 2).

- Provide the Employee with an opportunity to respond in full to each allegation and any witness statements (see key point 11).
- Allow the Employee to ask questions, present evidence and call their own witness(es).
- Adjourn the hearing where appropriate and advise the Employee how long the adjournment will be for.
- Provide the Employee with further time to review any new information before reconvening the hearing.

Step 6 – Consider the following before deciding the outcome

- The nature and seriousness of the issue.
- Is there reasonable belief that the alleged misconduct/gross misconduct has occurred.
- Is that belief based on reasonable grounds?

- Is the investigation reasonable or is additional information/evidence needed (see key point 7)?
- Has the Employee's explanation and any mitigation/special circumstances been considered.
- Were the rules and/or standards of conduct known (or ought reasonably to have been known).
- Do the disciplinary rules indicate the severity of penalty (see Appendix 1 of the 'Key Points - Employment Procedures' document)?
- Does the Employee have any live disciplinary warnings and what is their previous employment record?
- Is the action contemplated consistent with similar cases?
- Could further training, additional support or adjustments assist?
- In cases of potential dismissal is there is an alternative?
- Are there any overlapping issues where other Procedures have been triggered (see key point 9)?

Step 7 – Decide the outcome and Notify the Employee without unreasonable delay

- No case to answer.

First Written Warning (see key points 13 and 14)

- Minor offences have continued to be committed or this sanction is appropriate given the circumstances.
- The Employee should be given the right to appeal.

Final Written Warning (see key points 13 and 14)

- Dismissal may be appropriate, but a lesser sanction is given; or
- Further disciplinary offences have been committed after a live first written warning or sanction is appropriate.
- The Employee should be given the right to appeal.

Termination of Employment (see key points 13 and 14)

- Dismissal is appropriate, and Employee is issued notice in accordance with their contract of employment.
- The Employee should be given the right to appeal.

Summary Dismissal (see key points 13 and 14)

- Where there is a finding of gross misconduct.
- No notice will be given, or any payment in lieu of notice.
- The Employee should be given the right to appeal.

Step 7(a) – Employee appeals

- Employee sets out their reasons for appeal.
- Employee is invited to attend appeal hearing with right to representation (see key points 17-19).
- Record outcome.

Step 7(b) – Hear the Appeal and Notify the Employee of the Outcome

- Hear the appeal without unreasonable delay (see key points 17-19).
- Invite Employee and their representative to the appeal.
- Individual has the statutory right to be accompanied (see key point 1).
- Notify the individual formally of the outcome.
- Record the outcome.
- Advise the Employee that there is no further right of appeal.