Disciplinary Policy and Procedure

Date of Review:	**February 2026**
Approved by:	**Governing Body**
Next Review Date:	**February 2027**
Author:	**Joanne Wilby**

CONTENTS

1. Introduction

2. Scope of the procedure

3. Core principles

4. Management of staff

5. Allegations of a serious nature

6. Misconduct and gross misconduct

7. Suspension

8. Stages of the disciplinary procedure

9. Disciplinary hearing

10. Appeals against disciplinary action

11. Record of warnings

DISCIPLINARY PROCEDURE

1. INTRODUCTION

1.1 This disciplinary procedure applies to all Engineering UTC Northern Lincolnshire (ENLUTC) employees.

2. SCOPE OF PROCEDURE

2.1 The Disciplinary Policy and Procedure has been written to comply with ACAS Code of Practice on Disciplinary and Grievance Procedures April 2009 (revised 2015). It is intended to provide a system by which disciplinary matters can be dealt with speedily whilst ensuring that the principles of natural justice are preserved.

2.2 The procedure also complies with our statutory requirements in relation to Keeping Children Safe in Education (DfE), Working Together to Safeguard Children (DfE) and is in line with the local Safeguarding Children Boards (SCB).

2.3 Trade union officials

The same disciplinary standards apply to union officials as they do to all employees. However, where it is proposed to take disciplinary action against a trade union official, HR will notify a senior trade union representative or full time official.

3. CORE PRINCIPLES

- It is a fundamental principle that disciplinary matters are dealt with at the lowest possible level
- The procedure should be used primarily to help and encourage employees to improve rather than as a way of imposing a punishment
- Issues should be dealt with as thoroughly and promptly as possible;
- The employee should be informed of any complaint/allegation against them; and be provided with as much information as deemed appropriate without compromising the investigation
- The employee should be provided with an opportunity to state their case before decisions are reached
- Any action taken should be reasonable in the circumstances of the case
- An employee should not be dismissed for a first disciplinary offence, unless it is a case of gross misconduct, in which case dismissal may be the outcome
- An employee should be told what the required standards of behaviour and conduct are
- Where an employee has been warned before about their conduct or behaviour, it should be made clear at the time that, if there is a further instance of misconduct, formal disciplinary action could be taken
- The employee should be given the right to appeal against any form of disciplinary action
- The employee has the right to be accompanied by a trade union representative or a work colleague unconnected with the case or other person of their choice not acting in a legal capacity at any stage during the procedure (including the investigatory interview)
- The panel/chair at a hearing should not have had any prior involvement with the investigation. Those conducting an appeal should not have had any prior involvement with the investigation or the disciplinary hearing.

4. MANAGEMENT OF STAFF

4.1 All staff (except the Principal)

The day to day supervision of staff is part of the normal managerial process. In most cases the supervisor is the Principal. It is important therefore that the immediate supervisor clarifies with employees the duties to be performed and the standards expected.

If a complaint/allegation is made against an employee HR advice should be sought prior to any informal or formal action being taken.

On receipt of a complaint, the Principal with the advice of HR, should assess if the potential disciplinary matter can be dealt with informally. If this is done there is likely to be less recourse to the formal procedures.

4.2 If an immediate superior has a concern about an employee's standards of conduct, it should be brought to the attention of the employee at the earliest possible opportunity in the form of an informal allegations meeting. Where such a meeting takes place, the Principal/nominated person/HR should explain at the meeting to the employee the area(s) of concern, any allegations made and give the employee the opportunity to respond. An allegations letter may be presented to the employee at this stage if deemed appropriate by HR.

4.3 It is important that the Principal/nominated person/HR tries to establish if there are any mitigating circumstances that may have contributed to the employee's conduct. They should deal sympathetically with the employee but at the same time ensure that the employee is in no doubt as to the conduct required.

4.4 This form of approach is considered as being outside the formal disciplinary procedures.

4.5 The Principal will initiate the disciplinary procedure having taken advice from HR in the following circumstances:

a) Where the Principal/nominated person has assessed that the matter cannot be dealt with informally

b) Where the member of staff has been given a previous management warning for behaviour of a similar nature

c) Where the allegation is of a safeguarding or child protection nature. In these circumstances HR will consult with the Designated Officer (DO) for the relevant local authority in relation to the appropriate course of action.

4.6 Concerns about the conduct of the Principal

Where a matter of concern involves the Principal it is for the Chair of the Governing Body to determine who would be the most appropriate person to appoint as an investigating officer, for example:

- A member of the Governing Body
- A member of the HR Team (in exceptional circumstances)

5. ALLEGATIONS OF A SERIOUS NATURE

In some cases, it may be appropriate to involve the police, particularly in cases where the allegations are of a safeguarding or child protection nature. It may also be appropriate where an alleged criminal act has taken place. Advice on these matters should be sought from HR. **Where the allegations are of a safeguarding or child protection nature these MUST be reported immediately to the Principal AND to a member of the HR Team.**

Where an allegation of this nature has been received against a member of staff or another adult, the college will refer to the **Procedure for dealing with allegations against staff and other adults** as outlined in the college's Safeguarding and Child Protection Policy.

6. MISCONDUCT AND GROSS MISCONDUCT

6.1 Misconduct

This is a breach of discipline which on its own is not sufficiently serious to warrant dismissal, but which will warrant action being taken under this procedure. In cases where misconduct takes place and live warnings for this or another type of misconduct are still in force, then unless mitigating circumstances are proven, the employee may be dismissed without notice.

Examples of misconduct are listed below. This list is not intended to be exclusive or exhaustive and there may be other incidents of misconduct of a similar gravity.

- Poor timekeeping including unauthorised absence
- Failure to follow reasonable management instructions
- Failure in duty of care towards pupils and staff at the college
- Failure to safeguard and protect the health, safety and wellbeing of pupils and staff at the college
- Minor instances of neglect of duties and responsibilities
- Wilful failure to work in harmony with employees of the college
- Deliberate breaches of the college's policies and procedures
- Misuse of college facilities (e.g. telephone and the internet including social networking sites)

6.2 **Gross Misconduct**

This is a grave breach of discipline which may be serious enough to destroy the employment contract between the college and the employee causing a breach of trust and making any further working relationship impossible.

Gross misconduct would normally lead to dismissal or a final written warning; even first incidents of gross misconduct. This list is not intended to be exclusive or exhaustive and there may be other incidents of gross misconduct of a similar gravity which could result in dismissal.

- Theft or fraud
- Falsification
- Serious breaches of the college's code of conduct and/or other professional codes of conduct
- Refusal to register with mandatory professional bodies (including persistent failure)
- Serious breaches of the college's policies and procedures
- Failure in duty of care to safeguard and protect pupils or young adults at the college by placing them at significant risk
- Physical violence or bullying
- Unlawful discrimination or harassment
- Serious and deliberate damage to property
- Serious insubordination (e.g. deliberate; inexcusable; rebellious; refusal; wilfully disobeying)
- Serious incapability at work brought on by alcohol or illegal drugs
- Serious abuse of the college's ICT and E-Safety Policy (e.g. in relation to accessing pornographic internet sites or sending and receiving offensive or obscene material)
- Serious misuse of college facilities (e.g. telephone and the internet including social networking sites)
- Causing loss damage or injury through serious negligence
- Behaviour in or outside of work that may bring the reputation of the college into disrepute

7. SUSPENSION

Before considering the suspension of an employee, the Principal should seek advice from HR.

Where the matter of concern is regarding the conduct of the Principal the Chair of the Governing Body should seek advice from HR prior to considering a suspension.

In certain cases, a period of suspension from work on full pay may be considered whilst the case is being investigated or before a disciplinary hearing is held.

Suspension should not be undertaken without good reason and alternatives to suspension should be considered before it is imposed. Circumstances in which suspension properly occurs include:

- where there are sound reasons to believe that pupils and/or staff and/or property are at risk;

- where it is believed that the continued presence of the employee might prejudice enquiries or influence witnesses;
- Where the allegations are so serious that dismissal for gross misconduct is possible.

Suspension is not a disciplinary sanction. The Principal may consider a temporary redeployment as an alternative to suspension.

Suspension will be on full pay without prejudice to the outcome of the investigation

The employee should be notified in person of the decision to suspend and should have the right to be accompanied by a trade union representative or a work colleague unconnected with the case or other person of their choice not acting in a legal capacity. The employee should normally be sent confirmation of the suspension in writing within 1 working day or as soon as reasonably practicable. Any restrictions relating to an employee's suspension should be included in the letter.

8. STAGES OF THE DISCIPLINARY PROCEDURE

8.1 The Chair of the Governing Body/ Principal should frame the allegations, with advice from HR

The Chair of the Governing Body/ Principal/nominated person should verbally advise the employee of the allegation(s) made against them and advise them that an investigating officer has been appointed. This should be confirmed to the employee in writing.

8.2 The investigating officer should be a person with no involvement whatsoever in the matter under investigation. This person should, wherever possible, be a senior member of college staff. In exceptional circumstances a member of the HR Team may be appointed. The Principal should not be appointed as the Investigating officer, unless there are exceptional circumstances.

If the matter under investigation involves an allegation(s) of a safeguarding or child protection nature and the police or child protection agencies are involved, then the college investigation may have to be held in abeyance until the external investigation has been completed. See the Procedure for managing allegations against staff and other adults.

8.3 The investigating officer's brief will be to establish the facts of the case. All investigations will be undertaken in the strictest confidence.

8.4 As part of the investigation a meeting should be arranged with the employee as soon as possible, giving a minimum of 5 working days' notice (or less if all parties are in agreement) in writing to the employee, who will have been advised beforehand that they may be accompanied a trade union representative or a work colleague unconnected with the case or other person of their choice (not acting in a legal capacity).

8.5 At the meeting, the investigating officer should present the allegation(s) to the employee who should be invited to respond in full to these and to any other information submitted by the investigating officer.

8.6 At any point during the meeting the employee may request a short adjournment to consult their representative.

8.7 The investigation should be conducted as soon as possible. Where reasonable the investigation should be completed within 20 working days. However, if the investigation is not completed within 20 working days then the employee will be informed of this and given regular information as to how the investigation is progressing.

8.8 As part of the investigation the investigating officer will determine the appropriate action and a written report should be prepared on the facts of the case which will include a list of every individual who has been interviewed, together with records of interviews, and any other evidence. These will be made available to all parties should a disciplinary hearing ensue.

8.9 The investigating officer in consultation with HR, should decide and advise the employee accordingly that they intend to:

a) Take no further action under the disciplinary procedure

b) Where a recommendation has been made by the investigating officer that the matter should proceed to a disciplinary hearing, consideration may be given, by the Chair or the Principal and HR to the proposal of an agreed outcome between the college and the employee and their representative (if applicable), whereby the employee may accept a verbal, written or final written warning as an alternative to proceeding to a formal hearing. Where an agreed outcome has been reached the employee will waive their right of appeal.

It should be noted that the employee is entitled to proceed to a full hearing should they wish to do so.

c) Convene a disciplinary hearing before the Chair of the Governing Body/ Principal in cases of alleged misconduct/cumulative misconduct or in cases of alleged gross misconduct (where delegated powers to dismiss have been given).

d) Convene a disciplinary hearing before a panel of the Governing Body in the following cases:

- Cases of alleged misconduct where the Principal cannot hear the case because they have prior knowledge of the case, or have acted as investigating officer, or are required as a witness
- Cases of alleged gross misconduct
- Cases of cumulative misconduct
- Where the subject of the investigation is the Principal whether the case is misconduct, cumulative misconduct or gross misconduct.

Examples of misconduct and gross misconduct can be found in Section 6

8.10 After the investigative process has been completed and the investigating officer has consulted with HR, the member of staff must be informed in writing of the decision taken by the investigating officer.

8.11 Where the outcome is not to refer the matter to a disciplinary hearing, there should be a meeting with the employee to advise them of this decision. The employee may be accompanied or represented by a trade union representative or a work colleague unconnected with the case or other person of their choice (not acting in a legal capacity).

8.12 If the employee has been suspended and it is not intended to proceed with any form of disciplinary action, the suspension should be lifted immediately. There should be a meeting with the member of staff to discuss their return to work.

8.13 Where a decision has been made not to proceed with a hearing a record of the investigation will be kept on the employee's personal file, however, this will be in a sealed envelope marked 'HR Confidential' and the outcome of the investigation will be clearly noted on the documentation. In addition, HR will keep a confidential copy on file, in accordance with the periods specified under the General Data Protection Regulation (GDPR).

Where a formal sanction has been issued, a record should be kept on the employee's personal file in an envelope marked 'HR Confidential'. It will be clearly noted on the documentation when the warning has expired.

Allegations that are found to be malicious should be removed from personnel records; however, for all other allegations, it is important that a clear and comprehensive summary of the allegation(s), details of how the allegation(s) was followed up and resolved, and a note of any action taken and decisions reached, is kept in a confidential file held securely by HR.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary reinvestigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The college has an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry (further information can be found on the IICSA website).

See the Procedure for dealing with allegations against staff and other adults for further guidance. Also refer to the DfE document Keeping Children Safe in Education.

8.15 Other than in the event of dismissal, the opportunity should be given for informal counselling. This could be used to give appropriate guidance, support and reassurance to the employee.

8.16 If disciplinary action is to be taken, the investigating officer's report will be made available to all parties in the bundle of papers, prior to the disciplinary hearing.

The investigating officer should ensure the potential outcome of gross misconduct and possible dismissal is communicated throughout the process, in all formal letters to the member of staff.

9. DISCIPLINARY HEARING

9.1 Notification of a disciplinary hearing

9.1.1 The investigating officer will be responsible for the administrative arrangements for the hearing. They will advise the employee verbally of the decision to conduct a disciplinary hearing, and confirm this in writing within 3 working days. The employee will be given at least 7 clear working days' notice, in writing, of the arrangements for the hearing, but not more than 20 working days under normal circumstances

9.1.2 The investigating officer will arrange a date for the hearing. The case will normally be presented by the investigating officer or in exceptional circumstances another senior member of college staff or a member of the HR Team. Where the hearing date is postponed at the request of the employee or their representative, one further hearing date will be arranged. In the event that the employee is unable to attend on the second date arranged, the hearing may proceed in the employee's absence, based on the evidence available.

9.1.3 The letter inviting the employee to the hearing must state the nature of the allegations and if they involve documents that will be used in evidence, these should be dispatched to the employee with the letter. A copy of the investigating officer's report must also be made available to all parties. The employee must be advised that if they wish to produce any document in evidence or any references/testimonials, then these should be forwarded to the Investigating officer at least 3 working days in advance of the hearing. If witnesses are to be called by either party, their names and job titles must be made available at the same time as any documentary evidence.

9.1.4 The employee must be advised that they have the right to be represented by a trade union representative or a work colleague unconnected with the case or other person of their choice not acting in a legal capacity

9.2 **Disciplinary hearing before the Chair of the Governing Body/Principal/Panel of the Governing Body**

9.2.1 The disciplinary hearing should be conducted in the manner described in Appendix 1.

9.2.2 **Disciplinary action available to the chair/panel undertaking the hearing**

(See Appendix 2, which indicates the factors that should be taken into account when deciding what action is appropriate)

Following a disciplinary hearing they may:

- Take no action
- Issue a verbal warning
- Issue a formal written warning to the employee
- Issue a final written warning to the employee
- Dismiss the employee with or without notice. Only a panel of the Governing Body has the powers to dismiss unless delegated powers have been given to the Principal .

9.2.3 **Implementing the action**

Wherever possible the employee should be advised verbally of the decision which should be confirmed in writing no later than 3 working days after the hearing. The written notification should:

- state the precise nature of the misconduct
- specify the disciplinary action being taken
- state, if appropriate, the period of time given for improvement which is expected.
- indicate the likely consequences of further misconduct
- inform the employee of their right to appeal within 10 working days of receiving the written decision.
- state to whom the appeal should be made

Where a decision has been taken to recommend dismissal of an employee, consideration may be given, in consultation with the employee, as to whether a transfer to an alternative post or job, at the same or lower grade within the college, could properly be offered as an alternative to dismissal.

In the event of no sanction being applied a record of the disciplinary hearing shall be retained on the member of staff's file in a sealed envelope marked 'HR Confidential' and the outcome of the case will be clearly noted on the documentation therein. In addition, HR will keep a confidential copy on file, in accordance with the periods specified under the General Data Protection Regulation (GDPR). Also see paragraph 8.14 above.

10. APPEALS AGAINST DISCIPLINARY ACTION

10.1 Employees have the right of appeal against disciplinary action. The employee must set out the specific grounds for the appeal by completing a disciplinary appeals form. The employee and their representative can, in conjunction with the person presenting the college's case, seek to agree the information needed for the appeal. This will enable the appeals panel to conduct the appeal on the particular grounds upon which the appeal has been made or by way of a complete rehearing. In cases where there were multiple allegations at the disciplinary hearing, and some were dismissed and some found proven, the appeals panel will rehear only those allegations that were found proven.

10.2 A panel composed of 3 members of the Governing Body will hear an appeal against disciplinary action.

10.3 The appeal should be made in writing to the chair of the hearing within 10 working days of receipt of the written decision

10.4 A different panel of the Governing Body will hear an appeal against action taken by the disciplinary panel.

10.5 The Chair of the Governing Body/Principal or Chair of the original panel, as appropriate may be invited by either side to attend the appeal hearing as a witness.

10.6 The notes of the previous disciplinary hearing should be transcribed and made available to all the parties together with any other new evidence and/or new

witnesses, within 5 working days of the appeal hearing. If new witnesses are called by either side a written statement must be provided. (A short delay may be agreed between each side to allow time for additional evidence or witness statements to be provided and considered).

10.7 In addition to the above the appeals panel will receive copies of all the documents submitted at the disciplinary hearing.

10.8 **Action available to an appeals panel**

The appeals panel may decide to:

- confirm the original decision, or
- uphold the appeal, or
- substitute a lesser penalty.

10.9 **Notification of decisions made by appeals panel**

Wherever possible the appeals panel will convey their decision verbally. These decisions will be conveyed in writing within 3 working days.

11.0 RECORD OF WARNINGS

11.1 A copy of the warning will be held on the personal file of the employee concerned for:

- Verbal warning - 3 months
- Written warning - 6 months
- Final written warning - 12 months

11.2 Warnings will cease to be `live' following the specified period of satisfactory conduct and will not be referred to for future disciplinary purposes unless they are of a safeguarding or child protection nature in line with statutory guidance.

11.3 In cases of gross misconduct where a final warning has been issued, and in the opinion of the chair/panel, the misconduct is so serious that it cannot be disregarded for future disciplinary or managerial purposes, then the final warning shall remain live for a longer period, and the employee shall be so advised. This facility shall only apply where the welfare, safety of a pupil, member of the public or fellow member of staff might be placed at risk. In such cases the employee may appeal to the appeals panel against the warning and/or against the decision for the warning to remain live.

11.4 If an employee is dismissed or resigns before the disciplinary process is completed in circumstances where they would have been considered for dismissal, the member of staff must be informed about the employers' statutory duty to report the case to the Disclosure and Barring Service, the Department for Education, the Teaching Regulation Agency (TRA) and any other statutory or professional bodies as applicable.

APPENDIX 1

Preparing for the meeting

You should:

- ensure that all the relevant facts are available, such as disciplinary records and any other relevant documents (for instance absence or sickness records) and, where appropriate, written statements from witnesses
- where possible arrange for someone who is not involved in the case to take a note of the meeting and to act as a witness to what was said
- check if there are any special circumstances to be taken into account. For example, are there personal or other outside issues affecting performance or conduct?
- allow the employee time to prepare his or her case. Copies of any relevant papers and all witness statements should be made available to the employee in advance
- be careful when dealing with evidence from a person who wishes to remain anonymous. In particular, take written statements that give details of time/place/dates as appropriate, seek corroborative evidence, check that the person's motives are genuine and assess the credibility and weight to be attached to their evidence
- consider what explanations may be offered by the employee, and if possible check them out beforehand
- if the employee concerned is a trade union representative discuss the case with a trade union full-time official after obtaining the employee's agreement. This is because the action may be seen as an attack on the union
- arrange a time for the meeting, which should be held as privately as possible, in a suitable room, and where there will be no interruptions. The employee may offer a reasonable alternative time, normally within five working days of the original date, if their chosen companion cannot attend. You may also arrange another meeting if an employee fails to attend through circumstances outside their control, such as illness
- try and get a written statement from any witness from outside the organisation who is not prepared to or is unable to attend the meeting
- allow the employee to call witnesses or submit witness statements
- consider the provision of an interpreter or facilitator if there are understanding or language difficulties (perhaps a friend of the employee, or a co-employee). This person may need to attend in addition to the companion though ideally one person should carry out both roles
- make provision for any reasonable adjustments to accommodate the needs of a person with a disability
- think about the structure of the meeting and make a list of points you will wish to cover.

What if an employee repeatedly fails to attend a meeting?

There may be occasions when an employee is repeatedly unable or unwilling to attend a meeting. This may be for various reasons, including genuine illness or a refusal to face up to the issue. Employers will need to consider all the facts and come to a reasonable decision on how to proceed. Considerations may include:

- any rules the organisation has for dealing with failure to attend disciplinary meetings
- the seriousness of the disciplinary issue under consideration

- the employee's disciplinary record (including current warnings), general work record, work experience, position and length of service • medical opinion on whether the employee is fit to attend the meeting
- how similar cases in the past have been dealt with.

  Where an employee continues to be unavailable to attend a meeting the employer may conclude that a decision will need to be made on the evidence available. The employee should be informed where this is to be the case.

How should the disciplinary meeting be conducted?

Remember that the point of the meeting is to establish the facts, not catch people out. The meetings may not proceed in neat, orderly stages but it is good practice to:

- introduce those present to the employee and explain why they are there
- introduce and explain the role of the accompanying person if present
- explain that the purpose of the meeting is to consider whether disciplinary action should be taken in accordance with the organisation's disciplinary procedure
- explain how the meeting will be conducted.

Statement of the complaint

State precisely what the complaint is and outline the case briefly by going through the evidence that has been gathered. Ensure that the employee and their representative or accompanying person are allowed to see any statements made by witnesses and to question them.

Employee's reply

Give the employee the opportunity to state their case and answer any allegations that have been made. They should be able to ask questions, present evidence and call witnesses. The accompanying person may also ask questions and should be able to confer privately with the employee. Listen carefully and be prepared to wait in silence for an answer as this can be a constructive way of encouraging the employee to be more forthcoming.

Establish whether the employee is prepared to accept that they may have done something wrong or are not performing to the required standard. Then agree the steps which should be taken to remedy the situation.

If it is not practical for witnesses to attend, consider proceeding if it is clear that their verbal evidence will not affect the substance of the complaint. Alternatively, consider an adjournment to allow questions to be put to a witness who cannot attend in person but who has submitted a witness statement.

General questioning and discussion

You should:

- use this stage to establish all the facts
- ask the employee if they have any explanation for the alleged misconduct or unsatisfactory performance, or if there are any special circumstances to be taken into account

- if it becomes clear during this stage that the employee has provided an adequate explanation or there is no real evidence to support the allegation, bring the proceedings to a close
- keep the approach formal and polite and encourage the employee to speak freely with a view to establishing the facts. A properly conducted disciplinary meeting should be a two-way process. Use questions to clarify the issues and to check that what has been said is understood. Ask openended questions, for example, 'what happened then?' to get the broad picture. Ask precise, closed questions requiring a yes/no answer only when specific information is needed
- do not get involved in arguments and do not make personal or humiliating remarks. Avoid physical contact or gestures which could be misinterpreted or misconstrued as judgemental.

  If new facts emerge, it may be necessary to adjourn the meeting to investigate them and reconvene the meeting when this has been done.

Summing up

Summarise the main points of the discussion after questioning is completed. This allows all parties to be reminded of the nature of the offence, the arguments and evidence put forward and to ensure nothing is missed. Ask the employee if they have anything further to say. This should help to demonstrate to the employee that they have been treated reasonably.

Adjournment before decision

Adjourn before a decision is taken about whether a disciplinary penalty is appropriate. This allows time for reflection and proper consideration. It also allows for any further checking of any matters raised, particularly if there is any dispute over facts.

What problems may arise and how should they be handled?

When an employee raises a grievance during the meeting it may sometimes be appropriate to consider stopping the meeting and suspending the disciplinary procedure – for example when:

- the grievance relates to a conflict of interest that the manager holding the disciplinary meeting is alleged to have
- bias is alleged in the conduct of the disciplinary meeting
- management have been selective in the evidence they have supplied to the manager holding the meeting
- there is possible discrimination.

  It would not be appropriate to suspend the meeting where the employee makes an invalid point. For example if they mistakenly claim that they have the right to be legally represented or that a collectively agreed and applicable procedure does not apply to them because they are not a union member.

  It is possible that the disciplinary meeting may not proceed smoothly – people may be upset or angry. If the employee becomes upset or distressed allow time for them to regain composure before continuing. If the distress is too great to continue then adjourn and reconvene at a later date – however, the issues should not be avoided. Clearly during the meeting there may be some 'letting off steam', and this can be helpful in finding out what has actually happened. However, abusive language or conduct should not be tolerated.

APPENDIX 2

What should be considered before deciding any disciplinary penalty?

When deciding whether a disciplinary penalty is appropriate and what form it should take, consideration should be given to:

- whether the rules of the organisation indicate what the likely penalty will be as a result of the particular misconduct
- the penalty imposed in similar cases in the past
- whether standards of other employees are acceptable, and that this employee is not being unfairly singled out
- the employee's disciplinary record (including current warnings), general work record, work experience, position and length of service
- any special circumstances which might make it appropriate to adjust the severity of the penalty
- whether the proposed penalty is reasonable in view of all the circumstances
- whether any training, additional support or adjustments to the employee's work are necessary.

  It should be clear what the normal organisational practice is for dealing with the kind of misconduct or unsatisfactory performance under consideration. This does not mean that similar offences will always call for the same disciplinary action: each case must be looked at on its own merits and any relevant circumstances taken into account. Such relevant circumstances may include health or domestic problems, provocation, justifiable ignorance of the rule or standard involved, or inconsistent treatment in the past.

If guidance is needed on formal disciplinary action, seek advice, where possible, from someone who will not be involved in hearing any potential appeal.

APPENDIX 3

Sample letters

1. Notice of disciplinary meeting
2. Notice of written warning or final written warning
3. Notice of appeal meeting against warning
4. Notice of result of appeal against warning
5. Letter to be sent by the employer to arrange a meeting where dismissal or action short of dismissal is being considered
6. Letter to be sent by the employer after the disciplinary meeting arranged in Letter 5
7. Notice of appeal meeting against dismissal
8. Notice of result of appeal against dismissal
9. Letter of enquiry regarding likely cause of absence addressed to a worker's general practitioner

(1) Notice of disciplinary meeting

Date .....

Dear .....

I am writing to tell you that you are required to attend a disciplinary meeting on ..... at ..... am/pm which is to be held in .....

At this meeting the question of disciplinary action against you, in accordance with the Company Disciplinary Procedure, will be considered with regard to:
.....

I enclose the following documents*:

The possible consequences arising from this meeting might be: .....

You are entitled, if you wish, to be accompanied by another work colleague or a trade union representative.

Yours sincerely

Signed Manager .....

Note:

* Delete if not applicable

(2) Notice of written warning or final written warning

Date .....

Dear .....

You attended a disciplinary hearing on ..... I am writing to inform you of your written warning/final written warning*.

This warning will be placed in your personal file but will be disregarded for disciplinary purposes after a period of ..... months, provided your conduct improves/performance reaches a satisfactory level**.

d) The nature of the unsatisfactory conduct or performance was:
d) The conduct or performance improvement expected is:
d) The timescale within which the improvement is required is:
d) The likely consequence of further misconduct or insufficient improvement is: Final written warning/dismissal

You have the right to appeal against this decision (in writing**) to .....

within ..... days of receiving this disciplinary decision.

Yours sincerely

Signed Manager .....

Note:

* The wording should be amended as appropriate

** Delete as appropriate

(3) Notice of appeal meeting against warning

Date .....

Dear .....

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

Your appeal will be heard by ..... in ..... on ..... at ..... am/pm.

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

The decision of this appeal hearing is final and there is no further right of review.

Yours sincerely

Signed Manager .....

Note:

* The wording should be amended as appropriate

(4) Notice of result of appeal against warning

Date .....

Dear .....

You appealed against the decision of the disciplinary hearing that you be given a ..... warning in accordance with the Company Disciplinary Procedure. The appeal hearing was held on .....

I am now writing to inform you of the decision taken by the Manager who conducted the appeal hearing, namely that the decision to ..... stands*/the decision to ..... 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 Company Disciplinary Procedure and this decision is final.

Yours sincerely

Signed Manager .....

Note:

* The wording should be amended as appropriate

(5) Letter to be sent by the employer to arrange a meeting where dismissal or action short of dismissal* is being considered

Date .....

Dear .....

I am writing to tell you that ..... [insert organisation name] is considering dismissing OR taking disciplinary action [insert proposed action] against you.

This action is being considered with regard to the following circumstances:
.....

You are invited to attend a disciplinary meeting on ..... at ..... am/pm which is to be held in ..... where this will be discussed.

You are entitled, if you wish, to be accompanied by another work colleague or your trade union representative.

Yours sincerely

Signed Manager .....

Note:

* Action other than a warning such as transfer or demotion

(6) Letter to be sent by the employer after the disciplinary meeting arranged in Letter 5

Date .....

Dear .....

On ..... you were informed that ..... [insert organisation name] was considering dismissing OR taking disciplinary action [insert proposed action] against you.

This was discussed in a meeting on ..... At this meeting, it was decided that: [delete as applicable]

- Your conduct/performance/etc was still unsatisfactory and that you be dismissed.
- Your conduct/performance/etc was still unsatisfactory and that the following disciplinary action would be taken against you .....
- No further action would be taken against you.

I am therefore writing to you to confirm the decision that you be dismissed and that your last day of service with the Company will be .....

The reasons for your dismissal are: ..... Or:

I am therefore writing to you to confirm the decision that disciplinary action will be taken against you. The action will be .....

The reasons for this disciplinary action are:.....

You have the right of appeal against this decision. Please [write] to ..... within ..... days of receiving this disciplinary decision Yours

sincerely

Signed Manager .....

(7) Notice of appeal meeting against dismissal/disciplinary action*

Date .....

Dear .....

You have appealed against your dismissal/disciplinary action [delete as appropriate] on ..... confirmed to you in writing on .....

Your appeal will be heard by ..... in ..... on ..... at ..... am/pm.

You are entitled, if you wish, to be accompanied by another work colleague or a trade union representative.

The decision of this appeal meeting is final and there is no further right of review.

Yours sincerely

Signed Manager .....

Note:

* Action other than a warning such as transfer or demotion

(8) Notice of result of appeal against dismissal/disciplinary action*

Date .....

Dear .....

You appealed against the decision of the disciplinary hearing that you be dismissed/subject to disciplinary action [delete as appropriate].

The appeal meeting was held on .....

I am now writing to inform you of the decision taken by ..... [insert name of the manager] who conducted the appeal meeting, namely that the decision to ..... stands/the decision to ..... 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 Company Disciplinary Procedure and this decision is final.

Yours sincerely

Signed Manager .....

Note:

* Action other than a warning such as transfer or demotion

(9) Letter of enquiry regarding likely cause of absence addressed to a worker's general practitioner

Date .....

Doctor's name .....

Address.....
.....

PLEASE ACKNOWLEDGE RECEIPT OF THIS LETTER IF THERE IS LIKELY TO BE ANY DELAY IN REPLYING

Re .....

Name .....

Address.....
.....

To administer Statutory Sick Pay, and the Company's sick pay scheme, and to plan the work in the department, it would be helpful to have a report on your patient, who works for our organisation.

His/her work as a ..... has the following major features:

Management responsibility for .....

Seated/standing/mobile

Light/medium/heavy effort required

Day/shift/night work

Clerical/secretarial duties

Group I (private)/Group II (professional) driver Other

The absence record for the past year is summarised as:

Total days lost

This month

Previous months

Attached is your patient's permission to enquire. He/she wishes/does not wish to have access to the report under the Access to Medical Reports Act 1988:

What is the likely date of return to work?

Will there be any disability at that time?

How long is it likely to last?

Are there any reasonable adjustments we could make to accommodate the disability?

Is there any underlying medical reason for this attendance record?

Is he/she likely to be able to render regular and efficient service in the future?

Is there any specific recommendation you wish to make about him/her which would help in finding him/her an alternative job, if that is necessary, and if there is an opportunity for redeployment (for instance no climbing ladders, no driving).

I would be grateful for an early reply and enclose a stamped addressed envelope. Please attach your account to the report (following the BMA guidance on fees).

Yours sincerely

Signed Name (BLOCK LETTERS) .....

Role in the company .....

Note:

Please amend/delete where necessary