**Disciplinary Action**

**The key things that you need to know**

- **Disciplinary Policy:** Where an employee acts in an inappropriate way, disciplinary action will be taken.
- **Penalties for Misconduct:** There is a range of penalties that the Department can apply according to the severity of misconduct.
- **Minor Misconduct**
- **Serious Misconduct**
- **Gross Misconduct**
- **Disciplinary Process:** The timescales at all stages in the process should be followed as closely as possible. There may be extreme circumstances where these are extended although this will be the exception rather than the rule.
- **Taking Informal Action:** Minor behavioural problems are often best dealt with informally. Managers should make you aware of any behavioural problems informally before taking any formal action.
- **Investigation and Preparation:** Your manager may need to investigate allegations of misconduct and gather evidence in advance of a disciplinary meeting.
- **Disciplinary Stages:** The stages in the disciplinary process are dependent upon the severity of the misconduct.
- **Notification of a disciplinary meeting:** You should be informed in writing that a disciplinary meeting is to be held. This letter should explain the nature of the allegation(s) against you and their possible consequences. You should be given at least 3 working days notice before being required to attend the meeting.
- **The Disciplinary Meeting:** The disciplinary meeting will inform you of the precise nature of the allegations and provide you with an opportunity to answer them.
- **Outcome of the Meeting:** You will be sent a letter informing you of the decision taken by your manager within 10 working days of the meeting.
- **Raising a Grievance:** If you have been given an oral or written warning you can raise a grievance about the outcome of the disciplinary meeting.
- **Raising an Appeal:** If you have been given a final written warning or been dismissed you are entitled to appeal.
- **Appeal Meeting:** An appeal meeting will be arranged within 10 working days of receiving your written appeal.
- **Written Decision of the Appeal:** You will be sent a written decision of the appeal within 10 working days of the meeting.

**Disciplinary Policy**

1. The Department expects all employees to work together and ensure that their actions create a positive working environment. However, where an employee acts in an inappropriate way, disciplinary action will be taken. This can result in a range of outcomes dependent upon the seriousness of the case. The Department encourages employees to participate fully in any disciplinary process, as this will ensure the process is fair, clear, prompt and transparent. The primary purpose of the disciplinary procedures is to help and encourage employees to improve rather than just a way of imposing a punishment.

2. The fair treatment of employees is at the core of all UK and European employment law. The principle of fair treatment also applies to the way in which employees are disciplined,
and ultimately to the way in which they are dismissed.

3. There are a number of pieces of legislation that specify the statutory disciplinary process that applies to all employees and the right to be accompanied at discipline meetings.

4. The Department expects everyone to conform to the Standards of Behaviour. You are responsible for making yourself aware of the standards and ensuring your behaviour complies with them. Ignorance of the standards does not amount to a reasonable defence. If you breach the standards, disciplinary action will be taken against you.

**Informal Disciplinary Action**

5. Minor behavioural problems are often best dealt with informally. Managers should make you aware of any behavioural problems informally before taking any formal action. A quick word, off the record, is often all that is needed to improve an employee’s conduct. Your manager will talk to you to find out the reasons for the minor behavioural problems and establish if there are any underlying issues. If there are any sensitive issues your manager will discuss the effect this may be having on your behaviour and offer support where appropriate.

6. Managers should make sure that any informal action does not inadvertently turn into formal disciplinary action. If an informal approach does not bring about an improvement, or the misconduct is considered to be too serious to be dealt with informally, formal action will be taken.

7. However, there is nothing to prevent a manager who starts a formal disciplinary process from reverting to informal action if, when more facts or evidence becomes available, it appears that the issue is not serious enough to warrant formal action.

**Formal Disciplinary Action**

**Investigation and Preparation**

8. In more serious cases, the allegations of misconduct made against you will need to be investigated. Where an investigatory meeting is to be held with you, you will be given a minimum of 3 working days notice to attend it. It should be made clear to you that this is not a disciplinary meeting and it is solely to establish the facts of the case. You will be reminded of your statutory right to have a Trade Union representative or a work colleague to attend the meeting with you.

9. Once the investigatory process has been completed, unless the facts show that there is no case to answer, preparation will begin for the disciplinary meeting. Managers should be aware that some circumstances, such as disciplining a Trade Union representative, require additional action to be taken as part of the disciplinary process.

10. If you have a live warning in place, this will be taken into account when determining the stage of the disciplinary process. Employee Shared Services will be consulted if it is unclear what the appropriate stage of the process should be. If the concerns relate to issues that are sufficiently serious, you may be asked to transfer location or be suspended with pay until the process is completed.
Penalties for Misconduct

11. Once an investigation has been completed a decision maker will conduct the disciplinary process and decide:

- Whether misconduct has happened
- Whether disciplinary action is required.
- How serious the offence is, i.e. whether the misconduct is Minor, Serious or Gross, and
- What penalty to impose, according to the seriousness of the offence, from the tables below.

12. It is not possible to give an exhaustive list of the reasons why an employee might be disciplined. The examples shown below illustrate the range of penalties that may be applied for different levels of misconduct.

13.1 Minor Misconduct

<table>
<thead>
<tr>
<th>Description</th>
<th>Examples of Misconduct</th>
<th>Possible Outcome</th>
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<tbody>
<tr>
<td>An isolated example of misconduct which falls short of the standards expected</td>
<td>Poor timekeeping</td>
<td>The minimum penalty is an oral warning. In more serious cases the normal penalty will be a <strong>Written warning</strong>.</td>
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<td>Failure to carry out a reasonable management instruction</td>
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<td>Failure to notify sick absence promptly</td>
<td>If managers accept mitigation put forward by the employee a written warning may be reduced to an <strong>Oral warning</strong>.</td>
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<td>Abuse of the flexible working scheme</td>
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<td>Being rude to colleagues/members of the public</td>
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<td>Short duration of unauthorised absence</td>
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<td>smoking in a no smoking area</td>
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13.2 Serious Misconduct

<table>
<thead>
<tr>
<th>Description</th>
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| Repeated minor offences or significant transgression of the standards expected | • Abuse of sick leave provisions  
• Being under the influence of drugs/alcohol while at work  
• Deliberate unauthorised access to; and/or disclosure of; and/or use of; and/or mishandling of DWP official, sensitive, private or personal information and/or data.  
• Failure to lock customer employee or other sensitive information or data away securely after use in line with local Business guidelines.  
• Putting customer employee or other sensitive official information or data at risk by failing on more than one occasion to protect passwords and/or smartcards  
• Serious neglect of official duties  
• Reckless disregard for the handling, use or disclosure of information  
• Failure to notify the loss of equipment, documents or information/data as a matter of urgency to the Line Manager or failure to immediately notify the police – where the loss may have been in public or external to DWP.  
• Inappropriate conduct towards colleagues/members of the public  
• Vexatious or malicious complaints and grievances  
• Victimisation  
• Lending or borrowing a computer device (PID, smartcard) or otherwise allowing unauthorised access  
• Unlawful industrial action | The minimum penalty will be a written warning. In more serious cases the penalty will be a final written warning.  
If managers accept mitigation put forward by the employee a final written warning may be reduced to a written warning.  
Exceptionally, a written warning for serious misconduct may be reduced to an oral warning without reducing the level of the misconduct. |
### 13.3 Gross Misconduct

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<tr>
<th>Description</th>
<th>Examples of Misconduct</th>
<th>Possible Outcome</th>
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Acts which result in a serious breach of contractual terms, and which destroy the employment contract between the business and the individual, and makes any further working relationship and trust impossible, including repeated serious misconduct.

- Failure to return from a period of unpaid special leave
- Deliberate and serious damage to property
- Physical violence or bullying
- Conviction for a serious criminal offence
- Deliberate and/or repeated unauthorised disclosure of DWP official, sensitive, or private or personal information and/or data to anyone (including to a person not employed by the DWP) who is not authorised to receive such information and/or data.
- Deliberate and/or repeated unauthorised access, mishandling and/or use of DWP official, sensitive, private and/or personal information and/or data
- Failure to use encrypted laptops, memory sticks or other forms of removable media for storing any official data, electronic versions of documents or information relating to the Department
- Deliberate sharing of smartcards, passwords or other access control devices that provides access to customer, employee or other sensitive information.
- Unauthorised disclosure of Departmental information or data or unauthorised representation of the Department on non-DWP on-line communities or social networking sites, eg. blogs or chat rooms
- Claiming benefits to which the employee is not entitled and any other abuse of public funds
- Bribery, theft or fraud

The normal penalty will be **Dismissal** (with or without notice). If managers accept mitigation put forward by the employee this may mean it can be reduced to a **Final Written Warning**.

In addition to, but only when a final written warning has been given, managers may also impose one or more additional sanctions.
**Disciplinary Timescales**

14. The timescales at all stages in the process should be followed as closely as possible. There may be extreme circumstances where these are extended although this will be the exception rather than the rule.

**Linking Formal Disciplinary Stages**

15. Your manager does not need to go through every one of the stages below in sequential order, but can use the appropriate stage, depending on the nature of the misconduct.

<table>
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<th>Description of Stage</th>
<th>Definition</th>
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| Oral Warning         | - This is the first stage in the formal disciplinary process  
                      - A record of the warning will be kept but will be disregarded and destroyed after six months |
| Written Warning      | - If any further act of minor misconduct is committed while the oral warning is still live a written warning will be issued  
                      - Exceptionally if the misconduct is just short of being serious the oral warning stage might be omitted  
                      - A record of the warning will be disregarded and destroyed after one year |
| Final Written Warning| - If a further act of misconduct is committed while the written warning is still live a final written warning will be issued  
                      - If the misconduct is serious the previous stages might be omitted  
                      - A record of the warning will be disregarded and destroyed at the end of the warning period i.e. 2 years. |
| Dismissal            | - Dismissal is the final stage of the disciplinary process  
                      - If a further act of misconduct is committed while the final written warning is still live then dismissal will be considered  
                      - Additionally if the misconduct is gross misconduct then the previous stages will be omitted  
                      - The dismissal decision must be taken by SEO/Pay Band E or above and cannot be the manager who conducted the investigation  
                      - Your DWP employment records, which include details and the reason for terminating your employment, will be retained for civil service pension and for employment purposes until age 72. |

**Notification in Writing**
16. You will be notified in writing of a disciplinary meeting. The notification will provide details of the case against you and the supporting evidence. It will indicate the stage of the disciplinary process under which the meeting will take place and indicate the category of misconduct to which the concerns relate e.g. minor, serious or gross misconduct. Your manager must give you at least 3 working days notice of the meeting. You will be reminded of your statutory right to have a Trade Union representative or a work colleague to attend the meeting with you. You will be allowed reasonable time to prepare your case.

17. You are expected to attend the meeting as scheduled, unless there are exceptional circumstances why you cannot. You must inform the Department of any such circumstances as soon as you become aware of them.

18. The Department must postpone the scheduled meeting if the Trade Union representative you have chosen is not available. In these circumstances you have the right to choose an alternative date, but this date must be at a reasonable time and must be within 5 working days of the original scheduled meeting date. If the meeting cannot be held within five working days of the date originally planned for this meeting, your manager will come to a decision based on the information available.

**Disciplinary Meeting**

19. At the meeting the case and evidence will be outlined, and you will be allowed to respond to the information presented. You will also be able to discuss any mitigating circumstances that need to be taken into account. You may remain silent when interviewed, but if you do not answer any or all of the questions put to you, a decision on disciplinary action will be made on the basis of the evidence against you.

20. The manager may adjourn the meeting for a short amount of time to consider all the information provided, in order to arrive at a considered view. You will also be able to adjourn the meeting if you need to consult with your Trade Union representative or become seriously upset. However, it is envisaged that disciplinary meetings should be conducted as quickly as possible and any adjournments should not unreasonably prolong the meeting.

21. Employees should be treated consistently, though managers must consider all the individual circumstances when deciding on an appropriate penalty. They must also keep a written record of how they reached their decision, as this will be required if the employee submits a grievance or appeal.

22. The actions that have been decided will be outlined to you e.g. warning given. Any additional sanction will be confirmed to you, along with the timescale within which you are expected to improve your behaviour if this is appropriate to the case. In some cases it may be necessary to recoup the cost of property or amount of public funds lost by requesting that you make repayments, or have deductions made from your final salary. They will also remind you that you can raise a grievance or an appeal (depending on the severity of the warning imposed).

**Outcome of the Meeting**

23. Your manager will notify you in writing of the decision within 10 working days of the meeting. You will also be provided with notes of the disciplinary meeting. Your manager will also remind you that you should read and agree the notes. The outcome will be...
recorded on the RM system against the individual’s record.

**Raising a Grievance**

24. You may use the grievance procedures if you are given an oral or written warning and you do not believe that the process has been correctly followed or your statutory rights have been affected. You should do this in writing. This will follow the stages laid out in the Grievance policy.

25. If a grievance is received during the disciplinary process that does not directly relate to the disciplinary decision, the manager should consult Employee Shared Services.

**Raising an Appeal**

26. If you have been given a final written warning, an additional sanction or been demoted or dismissed, you are entitled to appeal. The manager conducting the appeal procedure will be of a more senior grade than the original decision maker and can be within the line management chain, however, they must also be independent and not previously involved in the disputed decision. You should submit your appeal within 10 working days in line with the information laid out in the written decision. You have the statutory right to be represented by a trade union representative to help you prepare and present your appeal.

**Appeal Meeting**

27. An appeal meeting will be held within 10 working days of receiving your written appeal. You will be given a minimum 3 working days notice of the meeting. You are expected to attend the meeting as scheduled, unless there are exceptional circumstances why you cannot. You must inform the Department of any such circumstances as soon as you become aware of them.

28. The Department must postpone the scheduled meeting if the Trade Union representative you have chosen is not available. In these circumstances you have the right to choose an alternative date, but this date must be at a reasonable time and must be within 5 working days of the original scheduled meeting date. If the meeting cannot be held within five working days of the date originally planned for this meeting, your manager will come to a decision based on the information available.

**Written Decision of the Appeal**

29. The appeal manager will notify you in writing of the outcome of the appeal within 10 working days of the meeting. The notes will also be passed to Employee Services Centre and be retained for three years.

30. Where the outcome is to uphold a decision to dismiss you from the Civil Service, and you have at least one year’s continuous civil service employment, you have up to three months from the effective date of dismissal to lodge a further appeal if you wish to the Civil Service Appeal Board at:

   The Secretary
   Civil Service Appeal Board
   22 Whitehall
   London
   SW1 2WH
Employment Records

31. Your DWP employment records, which include details and the reason for terminating your employment, will be retained for civil service pension and for employment purposes until age 72.