



Home Office

HR Policy and Guidance

Discipline Advice: Frequently Asked Questions

December 2013

Frequently asked questions

Introduction

This advice has been produced to answer questions for managers requiring additional information about the discipline process and support for employees who are subject to discipline procedures. This document must be read alongside the following documents:

- 'Discipline Policy';
- 'Discipline Procedure';
- 'Discipline: How to Guidance'.

Q1. Where can an employee facing a discipline procedure get help and advice?

Employees can obtain help and advice from either one work colleague or one trade union representative or one trade union official. Employees can also obtain advice from the various employee networks.

Q2. Can an employee facing a discipline procedure seek support from the Employee Assistance Programme?

Yes, The Employee Assistance Programme is an independent and confidential service which provides advice and support to all employees. The employee may contact the Employee Assistance Programme for support, for instance if stress or anxiety is affecting them during the process, [Employee Assistance Programme \(EAP\)](#). An OHS referral may be arranged without delay if this would be of benefit.

Q3. Are there minimum grade level requirements for the managers involved in the formal discipline procedure?

Yes. The manager dealing with a discipline issue will be the Decision Manager (DM) and should normally be at least one grade higher than the subject of the allegations. The manager commissioned to investigate formal cases will be the Investigation Manager (IM).

The minimum grade requirements for managers involved in the formal stages of the procedure are as follows:

- Investigation Manager (IM) and Decision Manager (DM) (HEO as minimum) - business areas will determine the minimum grade requirements based on operational structure;
- Dismissal decisions – minimum SEO;
- Appeal Manager (AM) – G7 or above if possible. If this is not possible, for example due to operational reasons, an AM at SEO level may hear the appeal against outcome and penalties short of dismissal. Appeals against dismissal or downgrading as an alternative to dismissal, must be heard by an AM at least one grade higher than the DM (minimum G7).

The minimum grade requirement includes employees who are on TCA to that grade.

Investigators in the specialist investigation teams have appropriate training and may be EO upwards.

Q.4 How can employees be sure that alleged misconduct is being dealt with fairly?

Alleged misconduct will be considered at the appropriate level, i.e. informally, formal fast-track or standard formal procedures. Where an investigation is required to establish facts and gather evidence, an IM will be appointed. Employees will not be treated as guilty of misconduct before the fact-gathering/investigation is completed and they have been given the opportunity to present their case and any mitigation. Only then will a decision be made as to whether the discipline case has been proven. In proven cases any mitigating factors will be taken into account when deciding the appropriate penalty.

The Discipline Policy and related documents have been produced in line with the principles set out in the '*Advisory, Conciliation, and Arbitration Service (ACAS) Code of Practice*' on disciplinary and grievance procedures, which outlines best practice in handling employment issues.

Q.5 How is misconduct assessed?

Levels of misconduct are as follows:

- Minor misconduct is a minor breach of rules, for example, an isolated incident which falls short of the standards expected;
- Serious misconduct is either a repeated minor offence or significant breach of the standards expected. It will require formal management action, but is not of itself serious enough to amount to gross misconduct in the case of a first offence;
- Gross misconduct is serious enough to destroy the working relationship between the employee and employer and the likely sanction is dismissal even for a first offence.

Levels of misconduct and how they are dealt with are explained in the Discipline Procedure. Examples of the levels of misconduct can be found in the '*Discipline: How to Guidance*'.

Q.6 What is the zero tolerance policy?

Accessing departmental IT systems and data bases, without a legitimate business need, is considered gross misconduct which will lead to dismissal and in serious cases could result in criminal prosecution.

Q.7 Why is there a zero tolerance policy being introduced now?

It has always been unacceptable to misuse Home Office IT systems. However, the Information Commissioner and senior managers are increasingly concerned about the volume of inappropriate look-ups within the Home Office.

Q.8 In what circumstances is it appropriate to use the formal fast-track process?

A formal fast-track process may be appropriate where the employee,

- freely admits the misconduct after being advised of the allegations in writing;
- acknowledges that the misconduct is unacceptable;
- agrees to the formal fast-track process after having been advised to consult a union representative; and
- it is a straightforward matter;
- the evidence is readily available and not in dispute, for example, unacceptable behaviour that is recorded in writing such as abusive emails or flexi-time abuse;
- the employee does not wish to contest any aspect of the allegations.

The benefits include:

- no need for a formal investigation;
- cases resolved in a shorter period of time;
- minimal disruption to work.

The formal fast-track process may be suitable for most cases of alleged minor misconduct and some cases of alleged serious misconduct. It should not be used in cases of alleged gross misconduct or other cases where there is the possibility of dismissal.

Q.9 In what circumstances is it **not** appropriate to use the formal fast-track process?

It is not appropriate to use the formal fast-track process in cases where:

- the outcome could be dismissal or downgrading as an alternative to dismissal, such as in cases of alleged gross misconduct or serious misconduct during the currency of a final written warning;
- the allegations are not straightforward;
- the extent of the misconduct is uncertain;
- the employee allegedly didn't act alone;
- the employee wishes to contest aspects of the allegations;
- a formal investigation is needed;
- other parties, such as customers, are involved in the discipline case;
- specialist investigation teams are involved, such as security or fraud teams;
- the allegation involves media interest and could negatively impact on the department's reputation;
- the allegation involves data in the public domain, or could become so, e.g. via social media.

In such cases the DM should seek the appointment of an independent Investigation Manager (IM) and follow the standard formal discipline process.

Q10. What does 'independent manager' mean?

An 'independent manager' means someone who is impartial and independent of the formal discipline case. It can be a manager from within the same business area or from a different part of the department or from a specialist investigation team but they should have no prior knowledge of the details of the case.

Q11. When is it appropriate to have a formal investigation?

An investigation will be needed where, for example:

- the allegation would constitute gross misconduct if proven;
- the facts of the allegations are not clear;
- corroboration is needed;
- witnesses need to be interviewed;
- evidence is required from other sources.

Q12. How will cases be monitored to ensure that they are resolved as soon as possible?

Every case is different and the length of time it takes to resolve a discipline case will depend on individual circumstances. However, the aim is to conclude it as soon as possible.

The Decision Manager (DM) will normally resolve issues within the set times contained in the [Discipline: How to Guidance](#) but, where this is not possible, actions will be completed as soon as reasonably possible. On receipt of a Discipline Investigation Notification form (HIN01), the Home Office Shared Service Centre (HOSSC) will log the case and send automated reminders to the DM. If the formal discipline case has not been concluded within 40 working days of the date the HCD01 was received at HOSSC, the DM's manager will receive a reminder from HOSSC to review the case. This is to ensure that the correct process is being followed and that there are no avoidable delays.

Due to their nature, cases undertaken by the appropriate specialist investigation team (SACU/DSU/IIT/PSU) may take longer.

Q13. What are the responsibilities and rights of an employee where a discipline allegation has been made against them?

The employee's responsibilities are to:

- maintain professional relationships with colleagues;
- co-operate fully during the discipline process;
- attend fact-finding or investigation interviews;
- maintain confidentiality and ensure that sensitive information is protected appropriately;
- not comment about the investigation on social media or other online systems.

Employees have the right to:

- be informed about discipline allegations made against them;
- provide a statement to the IM in formal investigations;
- if there is a case to answer, to see all relevant evidence before the discipline hearing;
- attend a discipline hearing with the DM under the formal fast-track process or the standard formal procedure;
- appeal against the outcome and/or penalty.

Q14. What happens when an employee is suspended?

Decisions about whether or not to suspend the employee will normally be taken by the DM. Suspended employees will need to be escorted from the premises and asked to surrender security passes or any other means of entry to official property. It is important to remember however that suspension is not a penalty. Suspension will normally be on full pay.

Suspended employees must ensure they are contactable during normal working hours and will be required to attend interviews and hearings which are part of the discipline process. They must respond to any reasonable management instruction and follow normal attendance/sick procedures if unfit to attend work. They must also seek DM's permission before taking any annual leave.

Employees are reminded of the availability of the [Employee Assistance Programme \(EAP\)](#)

Q15. Will the employee always be suspended during the discipline procedure and will it impact on their rights?

Whether or not the employee is suspended will depend on the seriousness of the alleged misconduct and will be decided on a case by case basis, normally by the DM. Formal suspension should not be confused with management action. Management action may be used following an incident to defuse a conflict situation where an employee may be sent home for the rest of the day or instructed to work in a separate area of the office.

DMs may consider formal suspension where:

- there has been a serious breakdown in the relationship with management/colleagues;
- there is a perceived risk to other employees, property or customers;

- there is a perceived risk that the employee may tamper with evidence required for the investigation or influence colleagues who are potential witnesses;
- suspension is considered to be in the best interest of the employee to protect them from any accusations of tampering with the evidence or influencing witnesses about the case.

The employee needs to know that suspension is a precaution and a temporary measure and not an assumption of guilt. The suspension period will be as brief as possible and will be regularly reviewed by the DM.

The employee's employment rights will remain unchanged during suspension and so will their duty to be available during normal working hours. The employee will need to be contactable and available to attend the investigation interview and hearing that are a part of the discipline process.

Q16. Who can accompany the employee, who is subject to the discipline procedure, to a formal hearing?

The employee who is alleged to have committed misconduct has a right to be accompanied by either, one work colleague, one trade union representative or one trade union official. The companion cannot be a legal representative.

If the employee has a disability and requires reasonable adjustments in relation to their disability, this will be discussed and agreed with the employee as this will enable the employee to attend and take part in investigation interviews and the discipline hearing. If the reasonable adjustments include having a companion to help the employee to attend or take part in the interview or hearing, the companion will also be allowed to attend. However, the employee must inform the IM and/or the DM about this at least 3 working days prior to the interview or hearing.

To exercise the right to be accompanied the request must be reasonable. It would not normally be reasonable for an employee to insist on being accompanied by a companion whose presence would prejudice the discipline hearing.

Q17. Can the employee be accompanied by anyone from outside the workplace when asked to attend an investigation interview and/or discipline hearing?

The employee who is alleged to have committed misconduct, has a right to be accompanied to the investigation interviews and formal discipline hearings, by either one work colleague or one trade union representative or one trade union official. The employee cannot be accompanied by a legal representative or anybody external to the organisation. The exception to this is an interview conducted under caution in which case the employee is entitled to legal representation.

Q18. What is the companion's role?

The companion is permitted to:

- put forward and sum up the employee's case;

- respond on behalf of the employee to views expressed;
- confer with the employee.

The companion does not have a right to:

- answer on the employee's behalf questions posed by management;
- address the investigation interview/hearing if the employee does not wish it;
- prevent the employee from explaining their case;
- disrupt the proceedings.

Q.19 What should the employee do if they do not agree that notes of the investigation interview or discipline hearing are accurate?

If the employee is concerned that the notes do not represent what was said at the hearing, they can add their comments and return them to the IM or DM who will keep them with the official record of the hearing.

Q.20 What should managers do if they have a reasonable suspicion that an employee is misusing the internet (such as spending too much time on personal activity or accessing inappropriate sites)?

Managers should deal with this like any other discipline issue. Home Office IT has the facility to monitor, log and report on internet usage, which may provide managers with relevant evidence in cases where discipline action is being actively considered or taken.

Q.21 Can employees be investigated about social media or other online activities, including when these are carried out in private time or on personal devices such as smartphones?

Expectations of conduct are the same online as they are offline. If individuals use social media or other online channels they are personally responsible for the comments they make and the content they publish.

Inappropriate behaviour by an employee that is carried out using, or exposed through, online channels (such as posting offensive and/or defamatory statements or disclosing unauthorised information about the department, their colleagues, customers or ministers) can represent a breach of the Civil Service Code and/or bring the department into disrepute. Therefore, this could be classed as misconduct and may lead to discipline action.

Everything shared on social media could potentially end up in the worldwide domain and be seen or used by someone the individual did not intend, even if it appears to be 'private' or is on a closed profile or group. Employees should think before they post - would they be happy for something they have shared to be seen by their manager, customers and colleagues? It is very difficult to completely remove items shared on the internet.

Q.22 Do police cautions have to be reported and will the discipline procedure apply?

Employees must inform their manager if they are:

- cautioned;
- issued with a penalty notice;
- offered and accept a sanction in cases where there is sufficient admissible evidence to support a criminal investigation and they admit the offence e.g. benefit fraud;
- arrested;
- charged;
- convicted of a criminal offence.

The discipline procedure may not necessarily apply. The decision will depend on a number of factors including the seriousness of the offence, how it is related to the employee's work and whether there has been a breach of the Civil Service Code or other relevant rules or procedures.

Q.23 What happens if the discipline procedure is started as a result of a grievance raised against the employee? Who gets to see the discipline investigation report including witness statements?

If the grievance procedure investigation has established that there is a discipline case to answer, there will be no need to start the discipline investigation from the beginning. If there is a further investigation under the discipline procedure, the employee who raised the original grievance will **not** be informed about any of the details of the discipline process, will **not** see the discipline investigation report and will **not** know the decision - this is personal and confidential to the person undergoing the discipline process.

The employees involved in the discipline case, **excluding witnesses**, will see the discipline investigation report, including the witness statements. This may include:

- the employee who is the subject of the discipline investigation;
- the companion, i.e. either one work colleague or one trade union representative or one trade union official, if the employee wishes to provide it to them;
- the IM (this includes specialist investigators/investigation teams as appropriate) and the DM;
- legal advisers;
- HR caseworkers

Employees and managers need to be aware that:

- sharing the report with any person other than those with a legitimate reason, such as for example the companion, would be viewed as serious misconduct;

- confidential information in the report (such as addresses) will be redacted as appropriate, i.e. blanked out. For advice on redaction, DMs should consult the Information Access Team (IAT).

Q.24 How should managers treat personal issues?

Managers should consider any outside factors, such as personal issues that may have affected the employee and which the employee is prepared to share. Managers should remind the employee about available support such as Employee Assistance Programme (EAP), or counselling services.

Q.25 What are the possible penalties for misconduct?

The penalties will depend on the level of misconduct and whether there are any mitigating factors. A combination of penalties may be appropriate. The penalties are:

- First written warning - this penalty may be used when informal action has not resulted in improvement or, for some cases of misconduct where informal action is considered inappropriate for the offence and there are no live warnings in place. The employee will be issued with a first warning which remains 'live' for 12 months from the date of the letter.
- Final written warning - this penalty may be appropriate when an act of misconduct has taken place during the live period of a first written warning or, the misconduct is serious. The employee will be issued with a final warning which remains 'live' for 18 months and exceptionally a maximum of 24 months from the date of the warning;
- Dismissal - for gross misconduct or when another incident of misconduct occurs during the currency a final written discipline warning.

For repeated misconduct, penalties will normally follow in the above order. However, depending on the seriousness of the misconduct, a final written warning or dismissal may be an appropriate first penalty. Other available penalties are:

- Downgrading as an alternative to dismissal, if accepted by the employee;
- Downgrading as an alternative to dismissal combined with discipline transfer to another suitable location, if accepted by the employee and at employee's own expense.

In cases of proven gross misconduct, summary dismissal, i.e. dismissal without notice, may be imposed. The employee retains the right to appeal and will be reinstated if successful with no break in service.

Whilst an employee has a 'live' discipline warning, they will not be eligible to apply for promotion or for jobs at their current substantive grade.

If the employee commits any further misconduct whilst subject to a live discipline warning, they may be issued with a final written warning or dismissed. Once the discipline warning has expired, it will be disregarded.

In cases where there is a quantifiable financial loss, financial restitution must be sought from the employee in addition to any penalty that is imposed.

Q.26 The employee has been found guilty of misconduct but has a previously good conduct record. Will this be taken into account?

The employee may put forward mitigating factors, together with supporting evidence if available, to the DM. It is important that information on mitigating circumstances is provided in cases that are proven, or proven in part, to ensure the DM has all the relevant information before a decision is reached on the appropriate penalty to be imposed. Mitigation may include the fact, for example, that the employee's misconduct was out of character

Q.27 Is downgrading an alternative to dismissal?

Yes but only in exceptional cases. In exceptional circumstances, downgrading or downgrading combined with a discipline transfer should only be considered:

- if there is a role available, and
- the employee has the skills to be effective in the role, and
- the employee agrees to be downgraded.

Additionally, the employee must be told of the effect of downgrading on their pay, pension and other terms and conditions and, in cases of discipline transfer, that the change of location is at the employee's own expense.

If downgrading is not an option, the employee should be dismissed.

Q.28 What does downgrading mean in practice?

In some cases, the DM may decide to offer the employee the option of downgrading, or downgrading combined with discipline transfer, as an alternative to dismissal. Before deciding whether to accept this option, the employee needs to be aware that downgrading will represent a permanent change to their terms and conditions and, in cases of discipline transfer, the change of location is at the employee's own expense.

The employee will be required to sign a letter to confirm that they agree to being downgraded. The letter will explain how downgrading will affect the employee's salary and other terms and conditions of employment.

If downgrading is offered as an alternative to dismissal and is not accepted, the employee will be dismissed.

Q.29 In the case of financial restitution must the employee repay the amount specified?

Yes. Depending on the amount involved, the employee will be required to pay in a lump sum or receive a repayment schedule.

Q.30 How do managers deal with repeated or persistent misconduct?

Repeated or persistent misconduct may result in a higher penalty than that given before, for example, what merited a first written warning is likely to merit a final written warning if repeated. However, where the repeated or persistent misconduct is of a minor nature DMs should be careful when considering dismissal and seek advice from HOSSC.

Q.31 Can the employee appeal against the Decision Manager's decision?

There is one right of internal appeal. The employee will need to set out the grounds for appeal and whether they are appealing against:

- procedural errors; and/or
- the decision, (i.e. the decision was one that no reasonable manager could justify), including cases where new evidence has been raised that may change the outcome of the original decision.

The employee has 10 working days from the date of the decision to send their appeal, normally in writing, to the Appeal Manager (AM). In cases where the reason for the appeal is new information/evidence, the employee should provide this evidence.

Q.32 How do managers ensure employees receive important written communications?

To ensure that the employee receives any written communication, DMs should:

- check and record in writing whether the employee has planned holiday or other absence in the foreseeable future;
- confirm the employee's availability to receive the communication by post;
- discuss with the employee any alternative arrangements that need to be made so that communications can be received as soon as possible.

Managers are advised to retain proof that written communications have been sent to, and where appropriate, received by, the employee. Email communications often provide this facility as standard. In the case of communications by post, the use of mail tracking services is recommended.

Q.33 How can managers be sure about the effective date of dismissal when dismissing an employee?

A dismissal is effective only when communicated to the employee. To be certain that the employee is aware of the dismissal the DM should, wherever possible, inform them face to face that they have been dismissed. If this is not possible, the dismissal should be communicated in writing. The effective date of termination will be the date the employee can be reasonably expected to have read the letter. If dismissing by letter, with or without notice, the effective date of dismissal should be 5 working days from the date the letter was written. The DM should:

- arrange for the dismissal letter to be hand delivered where practicable, preferably requiring the employee's signed acceptance of receipt, or;
- send the letter by post, preferably requiring signed acceptance of receipt;
- telephone or email the employee to check that the letter has been received.

Managers are advised to retain proof that written communications have been sent to, and where appropriate, received by, the employee. Email communications often provide this facility as standard. In the case of communications by post, the use of mail tracking services is recommended.

If these options have not been successful within 5 working days after posting a 1st class letter sent in the usual course of posting, the DM should contact the HOSSC for advice.

Q.34 What is the difference between the role of an employee who makes an allegation of misconduct and an employee who raises a grievance?

Employees who make allegations about alleged misconduct, or raise a grievance against a colleague, are involved in the relevant procedures as follows:

- an allegation of misconduct against a colleague (for example fraud, theft), is distinct from a grievance. An employee who makes such an allegation is treated as a witness under the discipline procedure;
- an employee who raises a grievance, is treated as the grievance raiser under the grievance procedure;
- in the case of a grievance that progresses to a discipline investigation/procedure, the grievance raiser is treated as a witness.

Q.35 What are the responsibilities of a witness?

A witness is responsible for:

- maintaining confidentiality;
- providing truthful and comprehensive statements and answers;
- attending meetings to provide a statement to the IM when requested to do so;
- volunteering information which may be relevant to the investigation;
- reporting any attempts to influence their statement to the IM.

Q.36 Can witnesses discuss providing a witness statement with colleagues?

No, witnesses must not discuss the case with colleagues, the person who is accused of committing the alleged offence or anybody outside work.

Once the discipline procedure has begun, all aspects of the case must remain confidential. The case must not be discussed with anyone except the IM, a trade union representative or trade union official and possibly the witness's manager on a need-to-know basis – the witness may, for example, need to tell their manager that they are attending the investigation interview but must not divulge any details of the case to them.

Q.37 Who will be able to see witness statements?

Witness statements will be attached to the discipline investigation report and will be seen only by the employees involved in the case, **excluding witnesses**. This may include:

- the employee who is the subject of the discipline allegations;
- the companion, i.e. either one work colleague or one trade union representative or one trade union official, if the employee wishes to provide it to them;
- the IM (this includes specialist investigators/investigation teams as appropriate) and the DM;
- legal advisers;
- HR caseworkers

This is to ensure openness and transparency in the investigation process.

Q.38 Can witnesses refuse to give a statement?

It is a reasonable management instruction to ask for statements and witnesses are expected to comply. The employee under investigation should not seek statements from possible witnesses and witnesses do not have to supply a statement in these circumstances.

Q.39 Do witnesses have the right to be accompanied to investigation interviews?

No, there is no right for witnesses to be accompanied. However, the IM may agree in exceptional circumstances, to the witness being accompanied.

Q.40 Do witnesses attend the discipline hearing?

Employees may call witnesses to give relevant evidence to the hearing, based on the witness's written statement which will already be available. It will normally not be relevant for witnesses to be called, particularly in cases of alleged minor or serious misconduct. In cases that may result in dismissal if proven, it may be appropriate for witnesses to be called but attendance must be agreed in advance with the DM and will only be accepted where it is relevant for fair consideration of all the evidence. The DM may also call witnesses where necessary. Witnesses have no right to be accompanied to hearings. In exceptional circumstances only, agreement to be accompanied may be sought from the DM.

Q.41 If a witness feels intimidated what can they do?

The witness should speak to the IM or DM as appropriate. Any attempt to intimidate or interfere with witnesses to a discipline investigation will normally be regarded as serious misconduct, whoever the alleged perpetrator is. If any report of this is made to the IM during the course of an investigation they will inform the DM of the allegations immediately.

Q.42 Can the identity of a witness be withheld?

In the interests of fairness it is important that witnesses identify themselves. However, in exceptional circumstances the identities of individuals can be withheld; for instance, where there is a real and objectively justified fear of serious risk to personal safety. The fact that a witness simply does not wish to be identified will not be sufficient cause to withhold identity.

Even where it is agreed that identity can be withheld it is not possible to guarantee anonymity should the case progress to Employment Tribunal.

Q.43 Are anonymous allegations investigated?

Only in exceptional circumstances and in the most serious of cases (e.g. fraud, matters of national security, terrorism or where there is a serious fear for personal safety) will anonymous allegations be investigated.

Q.44 What happens if the manager handling the discipline case unexpectedly becomes absent from/leaves work?

Short absences are part of the everyday working environment. If the absence becomes long-term or is permanent, the countersigning manager may arrange for another manager to take over handling the discipline case.

Q.45 What happens if the IM or DM dealing with the discipline case moves to another job during the discipline process?

Wherever possible, the process will continue with the IM or DM who started it, as they know the facts of the case best.

If this is not possible, the IM or DM must ensure a thorough handover of the case to the new IM or DM, including all notes and other relevant documentation. Once the handover is complete, the new IM or DM should recommence the process quickly to reduce unavoidable disruption.

Q.46 What happens if the employee who is the subject of the discipline case becomes absent from work?

Being unfit to attend work does not necessarily mean that the discipline case cannot progress. This will depend on the nature of the employee's illness. An Occupational Health Service (OHS) referral may be of benefit; if so, this should be arranged without delay to establish fitness to participate in the procedure and action recommendations as appropriate. It would normally be necessary to wait for the OHS report, however, wherever possible and appropriate, cases should be progressed and resolved quickly as, in many cases, medical advice is likely to be that concluding the discipline case without delay may be of benefit. Where either a disability or long term health condition is a factor, managers should allow for reasonable adjustments to be put in place, and to take effect. Guidance is available on [Occupational Health Services in the Home Office](#).

Q.47 What happens if an employee is on loan between Government Departments/agencies?

Employees on loan will normally be dealt with under the policy applicable in the host department/agency. However, it is important to check the loan agreement in each case as other arrangements may apply.

If the employee becomes subject to discipline procedures, the host department's procedures should be followed to their conclusion. However, in the case of serious or gross misconduct, the

host manager should keep the parent manager informed of the progress and outcome of any investigation. For outward loans from the Home Office the parent manager will be the employee's line manager.

Q.48 What penalty can be imposed on an employee who is on loan between Government departments/agencies?

This will depend on the seriousness of the proven discipline case and the terms of the individual's loan agreement. The parent department may use the investigation completed by the host department to inform its decision-making. It is important that all parties are aware of this process. The parent department remains the employer during a loan and retains the sole authority to dismiss. In the event of a potential dismissal, the manager at the parent department is responsible for making the final decision. For outward loans from the Home Office this must be a manager with appropriate authority to dismiss, minimum grade SEO. Both departments should ensure fair treatment and a thorough investigation of the facts before considering how to decide and apply any penalties.

In cases of alleged serious or gross misconduct it may be necessary to return the individual to their parent organisation and provide the relevant evidence so that a penalty can be decided and imposed by their parent employer. The DM should contact HOSSC for advice.

Q.49 What happens if the employee is on secondment?

Outward secondees will continue to be subject to the Home Office discipline procedure in respect of matters occurring during the secondment. It is the responsibility of the seconded to familiarise him/herself with the procedure before the secondment begins. The host organisation will co-operate with the Home Office in such matters, including by providing any necessary information.

Inward secondees will continue to be subject to the discipline procedures of the parent organisation during the secondment. The Home Office will co-operate with the parent organisation in such matters, including by providing any necessary information.

The Home Office and the parent organisation will notify each other promptly if they become aware of any discipline allegations against the outward/inward seconded.

Q.50 How are investigations carried out by external consultants to be managed?

In some cases an external consultant may be asked to conduct an investigation. Any such investigation will be overseen by representatives of line management and follow departmental procedure.

Q.51 When will investigations be carried out by a specialist investigation team?

The majority of discipline cases should be dealt with by the line manager who will take the role of Decision Manager (DM). However, in order to establish the full circumstances of certain cases of alleged misconduct, an internal specialist investigation may need to be completed before the discipline process can be implemented by the DM.

For all cases involving breaches of security, fraud, corruption, unauthorised disclosure of official and/or personal information, computer misuse and criminal matters, must be reported to the Corporate Security Directorate (CSD) Central Referral Team (CRT). The CRT will refer the cases to either, the Security and Anti Corruption Unit (SACU), Departmental Security Directorate Unit (DSU) or Professional Standards Unit (PSU) where appropriate.

For Her Majesty's Passport Office, all allegations of criminality, allegations of fraud, corruption and irregularity, suspected data protection or computer misuse should be reported immediately to the Internal Investigations Team (IIT).

All other cases of a complex nature, Home Office wide (including Her Majesty's Passport Office), may be referred to the Central Referral Team. HOSSC should be consulted before referral to the CRT of complex cases that may require investigation by the PSU.

Q.52 How can a shift worker's attendance at interviews and hearings be managed?

Where the working patterns of the parties involved in a discipline case make it difficult to hold the hearing during standard working hours, arrangements should be made with line management to facilitate the individual's attendance.

Q.53 What if an employee is serving overseas?

All employees based overseas will ultimately be under the authority of the Head of Post at the Mission in which they serve. The department reserves the right to withdraw any employee if it has reasonable grounds for considering that the employee and/or any member of their family assigned with them is putting the security, efficiency or reputation of the Post at risk. An employee who is facing a discipline case that could result in dismissal if proven will be returned to the UK prior to the discipline hearing.

Q.54 How should cases involving discipline allegations against an employee who is a trade union representative be treated?

The [Employee Relations team](#) must be consulted immediately if discipline action is being considered in relation to a trade union representative and a senior official in the relevant union notified. Discipline action against a trade union representative can lead to a serious dispute if it is perceived as being linked to legitimate union activities.

Q.55 The employee had already booked leave before the discipline case began, can the leave be taken whilst the case is ongoing?

The employee should advise their manager of any pre-booked leave at the start of the procedure. It is important to note that the employee's absence does not necessarily stop the process and that, outside of the leave period, they will be expected to be available for the investigation interview and hearing related to the discipline case.

Q.56 What happens if an employee resigns before the discipline process is concluded?

Where an employee resigns during the course of a discipline process, the process should be continued to conclusion while the employee is serving their notice. The DM should hold the discipline hearing, make the decision, inform the employee and send copies of the documents to HOSSC. The record will state, in proven cases, that the employee resigned and the discipline decision will be recorded for future reference.

If the process cannot be concluded before the employee's departure, the employee will be informed that the process will continue in their absence and they will be invited to attend the discipline hearing, if they wish.

If there is enough evidence to conclude the process in the employee's absence, it should be concluded in a normal way, as described above. If a discipline penalty is imposed, it will be recorded by HOSSC and they will be notified in writing, including their right to appeal.

If there isn't enough evidence to conclude the process and make a decision, the process will be stopped due to lack of evidence. This should be recorded by the DM and by HOSSC explaining that they were subject to a discipline process which could not be concluded due to the lack of evidence, owing to the employee's departure.

Q.57 What happens if an employee is the subject of an external complaint – can they be disciplined?

The Home Office has a comprehensive procedure for handling external complaints about the conduct of staff. This ensures that customer complaints about the conduct of staff performing, for example, immigration or Border Force functions are dealt with effectively and efficiently. Where the Home Office receives a serious complaint about the conduct of a member of staff an investigation will be conducted by the PSU and, if substantiated, consideration will be given to instigating the discipline procedures. In cases that progress to the discipline procedure it will not be necessary to start the investigation procedure from the beginning as the investigation of the external complaint will form the basis of the discipline procedure. More information about the external complaint process can be found [here](#).