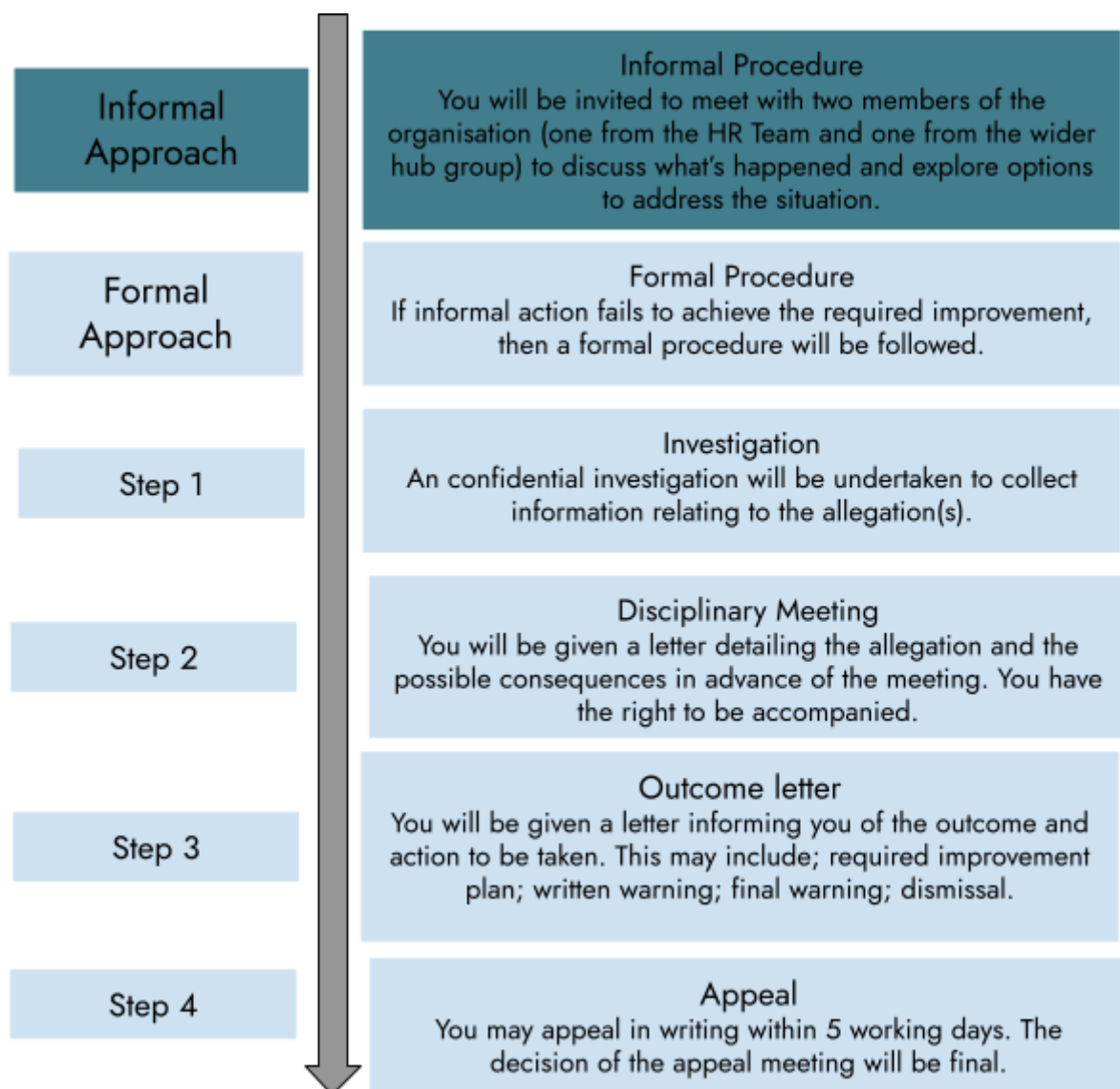




Disciplinary Procedure

Summary of our process



Our aim and our approach

At Wharf Chambers we believe that how we work is as important as what we do, and this applies to all aspects of our internal policies and procedures.

To navigate our decision making when difficult situations arise, we aim to use our guiding values that:

- Everyone is equal & their time is equally valued.
- Informal hierarchies are to be acknowledged and minimised as far as possible
- There will be no tolerance of any form of abuse or discrimination

We act on the basis of the best information and evidence available, and we work with compassion, treating people fairly whilst recognising everyone as individuals.

Our disciplinary process will be undertaken with:

- Consistency
- Fairness
- Proportionality
- And without bias

We do not intend this process to be used as a means to punish an individual, but to support them to achieve any identified improvements in individual conduct or performance in line with the expectations that apply to being a member of our collective.

However, we accept the need to balance our desire to meet the needs of all of us as employees with our legal responsibility as employers. This procedure sets out the action required to be taken in line with the Acas Code of Practice for any disciplinary issues that we are unable to resolve informally.

In the first instance, where appropriate, we will seek to resolve tensions around accountability and conduct through open discussions in our non-hierarchical meetings. We will always aim to keep an open mind about how any one individual member's difficulties may relate to collective responsibilities and accountabilities that we may need to address together.

We recognise that the prospect of disciplinary action may well be upsetting and cause stress and anxiety. We encourage regular wellbeing check-ins with one another, and will seek to identify appropriate support (within Wharf Chambers and externally) to the best of our ability and financial means. We will not tolerate abusive or insulting behaviour from anyone taking part in a disciplinary process and any such behaviour may be treated as misconduct and may give rise to further disciplinary action under this policy.

This policy has been written to help everyone understand how our disciplinary procedure works. It covers the informal, supportive action we will take to address problems in their early stages as well as the formal procedure we will follow if resolution cannot be reached.

It applies to employees who have successfully completed their probationary period. The performance and conduct of newer employees will be assessed through our review process. Steps will normally be taken to offer support before any final action is taken should there be concerns during this time.

If you encounter difficulties with any part of this process including around your wellbeing or if you need support around a disability or English is not your first language, please contact Lotte Shaw so that we can help.

Defining disciplinary action

Disciplinary action may be taken when concerns arise around an individual's conduct (upholding expected behaviour and values) or performance (not doing the job to the required standard).

All employers are required to follow a fair process if they have concerns about the conduct or performance of their employees. This process is known as a disciplinary procedure.

We follow the Acas Code of Practice on Disciplinary and Grievance Procedures to help us make sure everyone involved is treated fairly, and to make sure all issues are dealt with promptly.

A note about who will be involved in the various stages of our disciplinary process

Our approach is informed by the Acas Code of Practice which recognises that small organisations may have limited resources to conduct a disciplinary process.

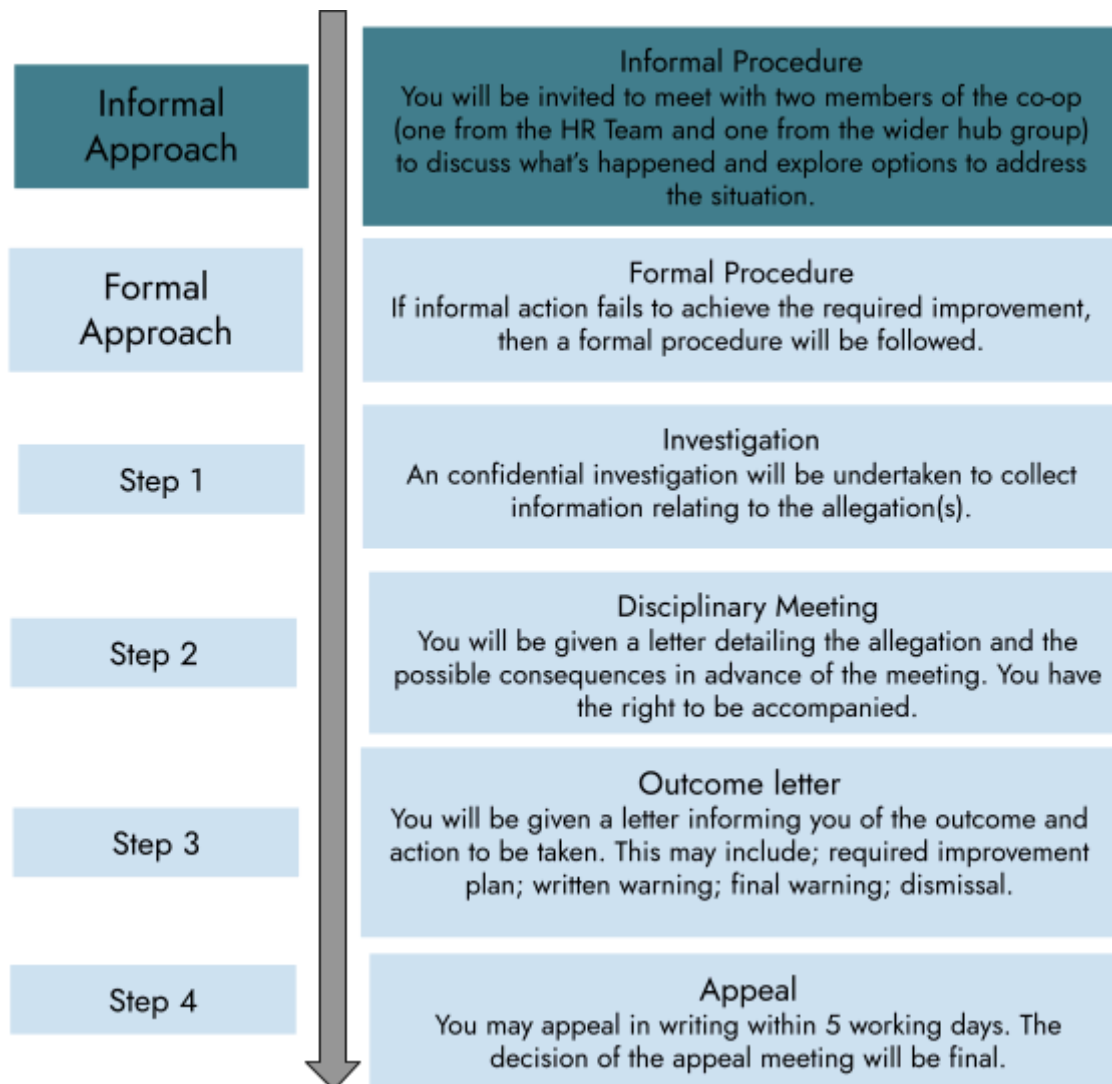
We have identified that those with HR responsibilities (currently Lotte and Eleanor) are well placed to be involved in this process because of their knowledge and experience. In order to help maintain impartiality, only one of them will take the initial lead in any disciplinary matter, leaving the other free to act in any appeal situation with as little prior knowledge of the issue as possible.

While it makes sense to draw on the knowledge and experience of individuals or teams, we also recognise that as a collective, we don't want responsibility for particularly difficult situations to sit solely with an individual. In order to help address this and in order to ensure those identified to lead the process are well supported, we will draw on nominated Hub Group members to work with them at the various stages as set out in our formal procedure below. Those involved will, of course, treat the process and related information confidentially.

We are committed to ensuring that Hub Group members are well briefed to provide support and endeavour to include training to deal with disciplinaries as part of the shared responsibilities of these members.

Our process

We would usually expect our disciplinary process to progress through the following stages. However, in cases where misconduct or unsatisfactory performance is considered to be serious then we may begin the procedure at a later stage that we consider appropriate to the circumstances.



Our informal approach

Prior to any formal disciplinary procedures we aim to resolve issues using an informal approach. This doesn't mean the process is unstructured and ours is set out here. Our aim for our informal process is to allow everyone to be heard in ways that work for them with an awareness of how unseen aspects of power and privilege can potentially play out.

We will invite you to discuss any concerns we may wish to raise with you with two members of the organisation , one who holds HR responsibilities and one hub-group member (usually one who is involved in the work you do).

Informal action that we may agree at this meeting to try and resolve matters before a formal disciplinary process is started includes;

- Additional one-to-one support from other staff/organisation members
- External training or coaching in particular work areas
- Signposting to external services for personal issues that may be impacting on your work
- Practical adjustments to working arrangements that are proving difficult
- Other ideas that are raised together with the organisation members involved

All informal actions will be recorded and reviewed, and we may take a number of informal actions as part of the informal process. If our informal approach does not resolve the matter, we may move on to the formal process.

Our Formal Procedure

Where informal steps haven't successfully resolved the issue, or where the issue is too serious to be resolved informally, we may instigate our formal process.

Our formal process is designed to establish the facts quickly and to deal consistently with disciplinary issues.

Step 1: Investigation

No disciplinary action will be taken until the matter has been fully investigated.

Investigations will be carried out by a member of our Hub group. Wherever possible, this will be someone who has little or no prior knowledge of the situation being investigated, although we are a small organisation and a degree of overlap may be difficult to avoid in certain circumstances.

We may choose to seek external advice when disciplinary action is considered in order to minimise the knowledge of the matter among other organisation members, preserving their ability to act impartially in the process as needed.

An investigation may involve looking at emails, documents, CCTV, or talking to your colleagues. Anyone who is asked for information as part of an investigation will be told they must keep it confidential. In cases of harassment or personal abuse/ assault, we will make appropriate arrangements to protect the personal safety of any witnesses. Acas also provides a [step-by-step guide](#) to investigations.

The investigation will consider the available evidence, consult the relevant policies, and speak to anyone with relevant information. All investigations will start with a written plan stating:

- What is being investigated
- Who is carrying out the investigation
- Who will be spoken to to find out more about what happened
- What evidence will be used e.g. emails, online meeting recordings etc
- What policies or workplace guidelines need to be taken into account
- The expected timeframe
- Any other relevant information

The investigation report will set out:

- The terms of reference of the investigation (what was being investigated)

- Name(s) of investigator(s) and dates
- Evidence collected
- Any evidence that couldn't be collected (and why)
- List of everyone interviewed
- Summary of evidence
- Summary of interviews
- Facts established
- Inconclusive points (anything that couldn't be established)
- Mitigating factors
- Any other relevant information
- Recommendation

Where the disciplinary process has been started as a result of a grievance that has been upheld, the investigation may already have taken place.

After the investigation, an organisation member with HR responsibilities and a different Hub group member will be asked to look at the investigation report and decide whether to take formal action.

Step 2: Disciplinary Meeting (sometimes called a hearing)

Following the investigation, if disciplinary action is warranted, you will be given a letter detailing the allegation, the possible consequences and an invitation to a disciplinary meeting. The letter will be accompanied by copies of all documentation and supporting evidence to be presented at the meeting to provide you with a reasonable opportunity to consider your response. If possible, the meeting shall be held within 10 working days.

You have the right to be accompanied by a colleague, trade union official, friend or family member.

In the event of any of the participants being unable to attend at the mutually agreed time, the meeting may be rearranged once to another time to suit all parties or we may allow you to provide your response in writing or via your chosen representative. If the reason that the

meeting could not take place is due to sickness, we may postpone it for up to a maximum of 4 weeks.

The meeting will be convened by the HR organisation member and hub-group member who received the details of the investigation.

No one may be involved in this meeting where there is a conflict of interest or if they have been or are likely to be called as a witness.

We may choose a third party person who will deal with the process if this is necessary.

We may agree to suspend formal action in cases where the investigation highlights that alcohol and/or drug misuse is a factor, and where you agree to a suitable course of action. If you do not adhere to the agreed course of action, we may continue with formal proceedings.

Meeting procedure:

- Where possible a note taker will take down a record of the meeting. Alternatively a recording will be made with the consent of all those present. Notes will be shared with all in attendance except for witnesses.
- We will open the meeting with an explanation of its purpose and will read aloud the allegations.
- If there are any witnesses, they will not be present throughout the meeting. They will be called in, one by one, to give evidence and asked to leave once they have done so.
- You will have an opportunity to ask questions, including to any witnesses called, and to respond to the allegations or concerns, sharing any mitigating circumstances to be taken into account.
- Following the meeting, we will consider the details and decide whether the case against you has been established on the balance of probabilities. We will consider appropriate disciplinary action (see below), taking into account any special mitigating circumstances, how we have dealt with similar cases in the past, and whether the proposed action is reasonable in view of all the circumstances.

Step 3: Outcome letter

You will be provided with written confirmation of the decision made, normally within 10 working days of the disciplinary meeting. The letter will inform you of the outcome and any appropriate disciplinary action that will be taken.

You have the right to appeal against any disciplinary decision.

Appropriate disciplinary actions that may be taken include:

- Improvement plan, where you will be supported to achieve the actions listed in your improvement plan with regular check-in meetings.
- First written warning,
- Final written warning, including how long this will remain on your file (usually 6-12 months)
- Gross misconduct (see details below)
- Dismissal

Required improvement plan

If an improvement plan is to be agreed, we will support you with regular check-in meetings and an agreed time frame in which you are expected to make the required improvements. In this process we offer our support and guidance, and we expect you to co-operate, collaborate, for you to engage in the process and be accountable for your actions. We anticipate a positive outcome, and will continue to ask for your communication and feedback in this process. We will make every effort to improve the situation. If the situation is not resolved in the agreed timescale (which is not usually more than 3 months), you may be at risk of dismissal.

Details of the required improvement plan will be kept on record, but for the purposes of any future disciplinary action, it will be disregarded after 6 months subject to satisfactory conduct and performance.

The Required Improvement Warning will be sent by a member of the HR Team.

First written warning

If a first written warning has been given, we will be clear how long this will remain active on your records (usually 6 months), and what will happen if the situation does not improve. We may issue a first written warning alongside the improvement plan, to offer our support with regular meetings. If the situation is not resolved in the agreed timescale, you may be at risk of dismissal.

The written warning will be sent by a member of the HR Team.

Final written warning

Where the case has already involved a first written warning and insufficient improvement has been made, or where the case is of sufficient seriousness, a final written warning will be given.

We will be clear about what will happen if the situation is not resolved within the specified timescale (usually no longer than 3 months) and how long the warning will remain active on your records. This will usually be for 12 months from the date of the outcome letter, but may be longer if the nature of the misconduct justifies it. If the situation is not resolved in the agreed timescale, you may be at risk of dismissal.

The Final written warning will be sent by a member of the HR Team.

Dismissal

Where we find that the misconduct is sufficiently serious to justify dismissal or if your conduct or performance has failed to improve despite following improvement and action plans, you may be dismissed. We will consider whether dismissal is a fair and proportionate response and you will be provided with the reason for your dismissal in writing, including the date on which your employment will terminate. You will be provided with the appropriate notice set out in your contract, although we may choose to pay you in lieu of notice. If hours worked are irregular, an average will be taken from the previous 6 months' work. You will also be notified of your right to appeal.

A dismissal will be issued in writing by a member of the HR Team.

Gross misconduct

If you are accused of an act of gross misconduct, you may be suspended from work on full pay, normally for no more than 5 working days, while the alleged offence is investigated. If we are satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

We consider offences of the following nature to constitute gross misconduct (the list is not exhaustive):

- Serious negligence, including health & safety breaches
- Theft or fraud
- Physical or sexual violence
- Bullying or harassment
- Serious breaches of mutual trust and confidence between you and Wharf Chambers
- Serious breaches of trust and confidence between you and any of our members/customers.

Formal Procedure - Step 4: Appeal

When you are informed of the outcome of any disciplinary action, we will also tell you that you have the right to appeal.

If you wish to appeal against a disciplinary decision, you must do so in writing within 10 working days of receiving written notification of the disciplinary action, stating the reason for the appeal. Any documents submitted in support of the appeal must be attached. You should send notice of your appeal to Lotte or Eleanor who will ensure that they are circulated to the panel members.

An appeal panel made up of the second organisation member with HR responsibilities and a different hub group member who, if possible, have not been involved in an earlier stage of the

procedure, will meet within 10 working days to consider the matter. However, if it is not possible to convene a panel within 10 days, you will be informed of the reason for any delay.

You are entitled to be accompanied by a fellow employee, a trade union official, a friend or family member and you must inform the person responsible for holding the appeal who you have chosen in advance of the meeting.

If you are unable to attend the appeal meeting because of circumstances beyond your control, you should inform us as soon as possible. The meeting may be postponed once to another time to suit all parties. In the event of sickness of the person making the appeal, the meeting may be postponed for up to a maximum of 4 weeks. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the meeting may take place in your absence based on your appeal letter and any other supporting documentation available.

Meeting procedure

- Where possible a note taker will take down a record of the meeting. Alternatively a recording will be made with the consent of all those present. Notes will be shared with all in attendance.
- We will open the meeting with an explanation of its purpose and will set out what powers the appeal panel has
- You will present your case including the reason for your appeal and any new evidence
- There should not normally be any need for either side to recall witnesses unless they have anything materially new to add. If witnesses are to be recalled or new witnesses called, their names must be supplied prior to the hearing.
- Following the meeting, we will consider the details and decide whether:
 - the original outcome was fair and will be upheld
 - the original outcome needs changing (the sanction may not be increased at appeal, but if there is new evidence or a further incident warranting a more severe sanction, there should be another disciplinary hearing to address the matter)
 - whether further investigation is needed before a final decision can be reached.

If we decide that further investigation is required, the panel will follow the same investigation process as outlined above. This might happen if, for example, they need to:

- find or look at new evidence you've raised
- re-check the evidence
- talk to the same people again
- find and talk to new witnesses

Following the appeal meeting or at the conclusion of any further investigation, we will inform you in writing, usually within 5 working days, of the outcome. If there is any delay to this, we will let you know and explain why.

The outcome of the appeal is final.

Retaining records

We have set out above how long different disciplinary actions will remain active on your record and will disregard them in relation to any future disciplinary action once they have expired. However, we may extend the period of a warning following a later similar act of misconduct and we reserve the right to keep warnings active indefinitely if your misconduct is very serious and cannot realistically be disregarded for future disciplinary purposes.

All disciplinary records, including expired warnings, will be kept on record for 6 years after employment ceases. We keep records of termination of employment until the person concerned would reach 100 years of age.

References

We are not legally obliged to provide references. Where we do provide a reference, it has to be fair, accurate and consistent with other references we would give. This would include providing information about the outcome of any disciplinary action.