

DISCIPLINARY PROCEDURE

1. Purpose and Scope

This disciplinary procedure is intended to assist managers and staff in the maintenance of good standards of conduct and ensure fairness and equality in the treatment of employees within The London Institute of Banking & Finance. This procedure is non-contractual and may be amended from time to time. The organisation may vary any part of this procedure, including any time limits, as appropriate in any case.

Discipline should be self-imposed, with good management practices in place to avoid the need to invoke this procedure. In the first instance, informal discussions should be used to seek an improvement in the conduct of employees and only when this has failed, or a more serious breach of conduct has occurred, should this procedure be used.

This procedure has been produced to include the advice contained in the ACAS Code of Practice 'Disciplinary and Grievance Procedures' which came into effect from 6 April 2009. The Code sets out the best practice principles that the organisation and employees are expected to follow. It sets out what is reasonable behaviour and conduct, ensures that matters are dealt with in a fair manner and replaces the previous statutory three-step procedure.

This procedure applies to all employees (except those employees in their probationary period) within the Academic, Support, Leading Teams or Specialists and Management job families. A separate procedure applies to the Director job family due to the differences in reporting lines.

This procedure is to be used to deal with issues of misconduct. Capability issues (relating to poor performance or genuine sickness absence) should be dealt with using the organisation's Capability Procedure.

2. Principles and Guidelines

This disciplinary procedure will usually be implemented in a progression through a series of stages. However, in appropriate cases it can be started at any point if a particular complaint warrants such action. A flowchart and summary table of the disciplinary process are shown at the end of this document.

The HR department should be consulted before any investigation takes place.

No disciplinary penalty will be given to an employee until the case has been investigated and the employee given the opportunity to state their side of the case at a disciplinary hearing.

At all stages (with the exception of the informal investigation stage) the employee will have the right to be accompanied by a work colleague or accredited trade union representative during the disciplinary process.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.

The employee will have the right to appeal against any disciplinary penalty imposed.

Although time limits are contained in this procedure, there may be instances when it is necessary to extend them.

As an alternative to dismissal, we may demote or transfer the employee to another position or reduce the amount of any remuneration.

Examples of misconduct and gross misconduct are given on page 8 of this procedure.

3. Criminal Charges

Where the employee's conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal action. The organisation will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable, or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, a decision may be taken based on the available evidence. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to the employee's employment.

4. Informal Action

Where an employee's conduct is not up to the required standard, the line manager should encourage improvements as this can often avoid the need for the formal disciplinary process. It is worth remembering that the 1-2-1 meetings process should be used initially, where appropriate, as a way of trying to improve performance or conduct. Further advice is available from the HR department.

5. Formal Action Procedure

5.1 Investigation

A formal investigation may be undertaken, if appropriate, to establish the facts of the case.

In some cases this will require an investigatory meeting with the employee before proceeding to any disciplinary hearing (if appropriate).

1. If a formal investigation is required the employee's line manager, in discussion with the HR department, will nominate a manager or an external consultant to carry out an investigation into the allegations. This person is the investigator. In cases of alleged research misconduct the investigator will need to be experienced in research.

The employee's line manager will keep their line director informed of the potential disciplinary situation.

2. The investigation should be carried out without unreasonable delay. The investigation should always be carried out by a different person or people from those carrying out the disciplinary hearing.
3. Where required, the person investigating the allegation(s) should:
 - gather all the relevant facts and opinions promptly;
 - take statements from the parties involved (where appropriate);
 - collect documentation relating to the allegation.

5.2 Suspension

If appropriate, the investigator may (or, if the investigator is an external consultant, the line manager on the recommendation of the investigator), by written notice, suspend an employee on full pay while investigations into the alleged offence take place. A suspension will be for no longer than is necessary to fully investigate the allegations unless there are exceptional circumstances and the investigator advises that a longer period of suspension is necessary.

During any period of suspension an employee may not be allowed access to any of the organisation's premises, may not use electronic devices belonging to the organisation or remotely access and use its systems and may not contact colleagues or other employees about the disciplinary matter except at our prior request or with the prior consent of the investigator and subject to such conditions as may be imposed. It is accepted by the organisation that the employee would want to discuss the matter with their partner or close family members such as a sibling or parent even if that relative is an employee of the organisation.

The decision to suspend an employee does not in itself indicate that The London Institute of Banking & Finance has formed a view that disciplinary action is appropriate.

5.3 Following the Investigation

1. A report or documentation based on the evidence collected will be sent to the line manager's line manager who (in consultation with the HR department) may do one of the following:
 - decide that there is no substance to the allegation and the matter can be closed;
 - decide that there is substance to the allegation but that the matter should be dealt with by advice, counselling, development, etc.;
 - decide that there is substance to the allegation and that a disciplinary hearing must be convened.
2. If it is decided that there is a case of alleged misconduct to answer, the HR department will select a disciplinary panel constituted in one of the following ways:
 - **One** senior manager (Management job family or above): this person will act as the Chairperson.

If, on hearing the evidence during the course of a misconduct hearing, the Chairperson believes that the case could amount to gross misconduct, then the Chairperson should adjourn the case until a panel of two senior managers (Management or above) can be convened.

- A panel of **two** senior managers (Management level or above) is required should the case potentially involve gross misconduct. Two managers are also required when a case is the result of a cumulative disciplinary process in which the employee has already been given a final written warning. One person will act as the Chairperson of the panel.

In cases of alleged research misconduct a panel member with skills in this area will be chosen.

Examples of misconduct and gross misconduct are shown on page 8 of this document.

In no circumstances shall the investigator sit on the disciplinary panel.

5.4 Preparation for the Disciplinary Hearing

The employee will be notified of the allegations of misconduct in writing and will be asked to attend a disciplinary hearing, which will be held without unreasonable delay. At the hearing the employee will be given an opportunity to comment on the allegations against them before any decision is made.

1. As part of that notification, the employee will receive from the HR department a letter detailing the following information:
 - details of the alleged misconduct;
 - the possible consequences of the outcome(s);
 - the date, time and location of the disciplinary hearing;
 - advice that they have the right to be accompanied.
2. The investigator, in advance of the scheduled disciplinary hearing, will provide to the Chairperson and the employee copies of all documentation (e.g. written evidence or witness statements) to be used in the hearing as evidence. A copy of this documentation will be given to the employee with the notification letter.
3. The employee has the right to be accompanied by a representative of a trade union of which they are a member, or a suitable workplace colleague. If an employee wishes to be accompanied, the identity of the person accompanying them must be disclosed (to the Chairperson) at least 24 hours before the meeting. That person may confer with the employee and can address the hearing, but cannot answer questions on the employee's behalf. If the choice of companion is unreasonable the employee may be asked to choose someone else, for example:
 - (a) if in our opinion the companion may have a conflict of interest or may prejudice the meeting; or
 - (b) if the companion is unavailable at the time the hearing is scheduled and will not be available for more than five working days afterwards.
4. The employee must take all reasonable steps to attend the hearing. If the employee or their representative is unable to attend due to circumstances outside of their control the hearing may be rescheduled, provided that the employee has given to the HR department reasonable notice of their inability to attend the hearing. The rescheduled hearing will normally occur within five working days of the original hearing. No further postponement of the hearing will be permitted except in exceptional circumstances and at the discretion of the Chairperson.

5.5 Disciplinary Hearing

The employee must take all reasonable steps to attend the hearing or, if applicable, the rescheduled hearing. A disciplinary hearing may go ahead in the employee's absence if they have failed to attend.

1. The following people should be invited to attend:
 - the Chairperson (plus one other senior manager if appropriate) who will hear the case;
 - the employee;
 - the employee's representative (as previously defined), should the employee so wish;
 - the HR manager or HR representative (which may be an external person).

In some cases, at the discretion of the Chairperson the following people may also be invited to attend part of the hearing:

- the investigator (solely to respond to queries on the report if the report alone is not sufficient);
 - the employee's line manager;
 - any witnesses (who gave witness statements in the investigation process);
 - a specialist adviser to the panel;
 - a secretary to the disciplinary panel.
2. The HR representative or a secretary to the panel (if present) will take notes of the hearing.
 3. The Chairperson will run the hearing and may adjourn the hearing at an appropriate time to ask further questions of witnesses (if appropriate), or to consider the facts and the decision.
 4. The employee will be given a reasonable opportunity to comment on the allegations(s), ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

If either the employee or the employer intends to call relevant witnesses to attend the hearing, they must give reasonable notice of their intention.

5.6 Adjournment and Decision

1. The disciplinary panel and the HR representative/specialist adviser (if present) will remain while the other parties withdraw.
2. The disciplinary panel will consider:
 - i. the evidence as presented at the hearing;
 - ii. whether, on the balance of probability, the allegation is proven/not proven;
 - iii. any mitigating circumstances;
 - iv. the employee's previous disciplinary and work record;
 - v. whether the matter should be dealt with by advice, counselling or staff development;
 - vi. whether a penalty should be imposed and at what level;
 - vii. whether the penalty is reasonable in view of all the circumstances.
3. In the rare event that the disciplinary panel cannot agree on the level of penalty, the line manager might be consulted, for example in order to gain further information about the employee's performance in the role, but not on matters relating directly to the truth of the allegation.
4. The Chairperson will notify the outcome of the disciplinary hearing in writing to the employee usually within five working days and will include:
 - the nature of the misconduct;
 - the level of warning given at the disciplinary hearing;
 - any change in behaviour or improvement in performance required (with timescales);
 - the length of time the warning will remain current;
 - the consequences of further misconduct or failure to improve performance;
 - the right of appeal.

6. Appeals Process

Appeals against disciplinary action must be made in writing and given to the HR department stating the grounds for the appeal. The appeal must be submitted within 10 working days from receipt of the written confirmation of the disciplinary action.

In an appeal situation (up to but not including hearing an appeal against dismissal), the senior manager to hear the appeal will be chosen by a director (in consultation with the HR department). In an appeal against dismissal the appeal is heard by the Principal (or their nominated representative).

The employee will be notified of the date and time of the appeal without unreasonable delay. The person hearing the appeal will review the case and conduct the appeal hearing. The employee has the right to be accompanied by an accredited trade union representative or work colleague as set out previously.

The employee must take all reasonable steps to attend the appeal hearing. If the employee or their representative is unable to attend due to circumstances outside of their control the appeal hearing may be rescheduled, provided that the employee has given to the HR department reasonable notice of their inability to attend the appeal hearing. The rescheduled appeal hearing will normally occur within five working days of the original hearing. No further postponement of the hearing will be permitted except in exceptional circumstances and at the discretion of the Chairperson.

Wherever possible the appeal should be dealt with by a manager who has not previously been involved in the case.

The decision of the person hearing the appeal will be notified to the employee in writing, usually within 5 days of the hearing, and will be final and binding.

An appeal may result in the removal of the disciplinary sanction or the imposition of a lesser sanction or the confirmation of the original sanction. In cases of dismissal, the employee shall not be entitled to any remuneration between the date of dismissal and the hearing of the appeal unless, on appeal, the decision is made to revoke the dismissal, in which case the employee will be reinstated with back pay.

Further advice and guidance on the appeals process can be sought from the HR department.

7. Levels of Disciplinary Penalties

The following levels of disciplinary action/penalty may be taken following a disciplinary hearing.

7.1 Written Warning

A first written warning may be issued for a first act of misconduct and/or where there are no other active written warnings on the employee's personnel file save for cases of gross misconduct.

The Chairperson will advise the employee of the reason for the warning. A copy of the warning will be retained on the employee's personnel file for twelve months and will be taken into account in the event of any further complaint being made concerning the employee during that period.

The employee will also be notified of their right of appeal to a senior manager (Management level or above).

7.2 Final Written Warning

If there is still a failure to improve and the employee's conduct, attendance or performance is still unsatisfactory (after a previous written warning), or if there is a complaint which is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, a final written warning will be given by the Chairperson. This warning will be dealt with in the same way as a written warning, except that it will also warn the employee that dismissal will result if there is no satisfactory improvement and it will normally remain in force for 12 months. In very exceptional cases, a final written warning may state that it will remain active indefinitely or for an extended period at the Chairperson's discretion.

The employee will also be notified of their right of appeal to a director (or their nominated representative).

7.3 Dismissal with Notice

If there is no satisfactory improvement (after previous warnings) or a different complaint has been made during the lifetime of a final written warning, the employee may be dismissed with notice.

A decision to dismiss should be undertaken by a panel of two senior managers (MDR level or above), in line with the organisation's policy.

The Chairperson will notify the employee in writing after informing the employee's line manager, director and Principal of the decision.

Where appropriate, and at the sole discretion of the employer, payment in lieu of notice may be made instead of requiring the employee to work their notice period. The employee will be provided as soon as practicable with written reasons for their dismissal, the details of any previous warnings administered and the date on which their employment will terminate.

The employee will also be notified of their right of appeal to the Principal (or his nominated representative). Pending the outcome of any such appeal the dismissal will stand.

7.4 Summary Dismissal (Without Notice)

In the case of gross misconduct, it is possible that an employee may be dismissed without notice for a first offence. A fair disciplinary process, as outlined above, will be followed before dismissal takes place.

Gross misconduct will result in immediate dismissal without notice and without the right to receive payment in lieu of notice. The Chairperson will notify the employee of the summary dismissal in writing, after informing the employee's line manager, director and Principal of the decision. The right of appeal is as stated in the above paragraph Dismissal with Notice. The contract of employment will be terminated and pay will be stopped immediately.

7.5 Other Disciplinary Penalties

As an alternative to dismissal, we may demote or transfer the employee to another position or reduce the amount of their remuneration.

8. Examples of Misconduct

The following is a non-exhaustive list of behaviour that will normally be regarded as misconduct which may involve disciplinary action:

- refusal or deliberate failure without sufficient cause to carry out a proper instruction or to follow our policies or procedures;
- unauthorised absence from work;
- poor time-keeping or attendance;
- use of abusive behaviour/language;
- loading of unauthorised software onto a company computer;
- breach of the Internet/email policy;
- breach of the Processing Personal Data policy or Social Networking policy;
- breach of the Academic Code of Conduct;
- persistent behaviour unsuitable for an office workplace;
- disorderly conduct;
- minor misuse of or damage to company property;
- persistent acts of discourtesy;
- behaviour that risks the reputation of The London Institute of Banking & Finance;
- research misconduct;
- inappropriate acceptance or giving of gifts that may constitute bribery.

9. Examples of Gross Misconduct

The following is a non-exhaustive list of behaviour that will normally be regarded as gross misconduct, which may lead to dismissal:

- theft, fraud, deliberate falsification of records;
- arson;
- submission of false information or failure to disclose relevant information when applying for an appointment with The London Institute of Banking & Finance;
- indecent conduct, fighting or threatening physical violence;
- drunkenness or use of illegal drugs while on duty;
- deliberate damage to company property or that of other agencies or employees;
- breaking statutory provisions which may render the organisation open to prosecution;
- serious or persistent breach of health and safety rules;
- breach of confidence or disclosure of confidential information;
- acts of harassment and/or bullying;
- deliberate pressure to discriminate or intentional acts of discrimination in contravention of our Equal Opportunities policy;
- professional misconduct;
- use of or entry to part of the computer system or software that has not been authorised;
- serious breach(es) of the Email and Internet policy;
- serious breach of the Processing Personal Data policy;
- serious breach of the Social Networking policy;
- serious breach of the Academic Code of Conduct;
- breach of duty of good faith, or dishonesty, even though it may be isolated;
- a criminal offence which, in the opinion of the employer, has an adverse effect on the employee's suitability to carry out their duties or on their relationship with the employer, work colleagues or customers;
- repeated behaviour that risks the reputation of The London Institute of Banking & Finance;
- serious research misconduct;
- bribery.

10. Retention of Disciplinary Records and Lapsed Warning

Where the formal disciplinary process has been invoked and the allegations of misconduct upheld, the HR department will maintain a confidential record of the complete procedure, including all documentation from the investigative stage, the hearing and the outcome. Where the case is unproven, all documentation relating to the case will be destroyed. Any paperwork held by the line manager relating to the situation should be given to the HR department to be held with the records of the case or destroyed as appropriate.

Where a warning has been given, unless the disciplinary procedure has been re-invoked, the disciplinary warning, any appeal documentation and all other documentation will remain on your personnel file but, after the expiry of the relevant warning period, will be disregarded in relation to any future disciplinary matters.

AB/AS

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Flow Chart of the Disciplinary Process

Informal Action

Discussions between line manager and employee on improvements required in conduct

No improvement may lead to:

Formal Action

Action that may lead to a warning

Alleged misconduct investigated

may lead to

Disciplinary hearing heard by 1 or 2 senior managers (Management level or above)

if proven may lead to

First written warning *appeal to* Senior manager (Management or above)

or
Final written warning *appeal to* Director (or nominated representative)

or
Dismissal with notice *appeal to* Chief Executive (or nominated representative)

or
Summary dismissal *appeal to* Chief Executive (or nominated representative)

if unproven

Keep all documentation relating to the case but disregard after relevant time period has elapsed

NB: Depending on the nature of the alleged misconduct, the process can be entered at any stage

Summary Table

Level of Warning	Right to be Represented	Level of Authority to Take Disciplinary Action	Appeal Route	Normal Time Period for Warning
First written	Yes	Chairperson	Senior manager (Management or above)	12 months
Final written	Yes	Chairperson	Director (or nominated representative)	12 months
Dismissal with notice	Yes	Chairperson, after informing line manager, director & Principal	Chief Executive (or nominated representative)	N/A
Dismissal without notice	Yes	Chairperson, after informing line manager, director & Principal	Chief Executive (or nominated representative)	N/A