

M I L B A N K G R O U P

# Disciplinary

## *A Guide for Managers*

Handling conduct and performance issues fairly - when to have an informal word, when to escalate, and how to get through it without making things worse.

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## Why this guide exists

Nobody enjoys disciplinary conversations. They are stressful for the person being spoken to, and they are stressful for you. But they are sometimes necessary, and handling them well protects everyone - the individual, the team, and the business.

This guide is not a replacement for the Disciplinary Policy. It is a practical companion that helps you understand the process, avoid common mistakes, and treat people fairly even when the conversation is difficult.

*The golden rule: discipline is about correcting behaviour or addressing a problem. It is never about punishing someone. If your approach starts from support rather than sanction, you are more likely to get a good outcome.*

## When to act - and when not to

### Start informally whenever you can

Most issues should start with an informal conversation. This is not a disciplinary step - it is good management. Talk to the colleague privately, explain the concern clearly, listen to their side, and agree what needs to change.

Examples of things that normally start informally:

- Timekeeping slipping
- Quality of work dropping
- Minor disagreements with colleagues
- Not following a process they have been trained on
- Attitude or behaviour that is out of character

*Keep a note of the conversation. Most of the time, this is enough.*

### When informal is not enough

Move to a formal process when:

- An informal conversation has not led to improvement
- The issue is too serious for an informal approach (e.g. theft, violence, serious safety breach)
- The behaviour is repeated despite previous conversations
- You need a formal record to protect the colleague and the business

*If you are unsure whether something needs formal action, speak to your Managing Director first. They will help you decide.*

## The formal process - step by step

The Disciplinary Policy follows the ACAS Code of Practice. But understanding the shape of the process will help you stay confident.

### The five stages

1. **Investigation.** Gather the facts before making any decision. This may involve speaking to witnesses, reviewing CCTV, checking records. The investigation must be fair and proportionate.
2. **Invite to a hearing.** Write to the colleague explaining the allegation, the evidence, and the date of the hearing. Give them enough time to prepare. They have the right to be accompanied by a colleague or trade union representative.
3. **Hold the hearing.** Listen to their explanation. Ask open questions. Consider any mitigating circumstances. Do not go in with the outcome already decided.
4. **Decide the outcome.** Options include: no action, informal advice, first written warning, final written warning, or dismissal (for gross misconduct or repeated issues). The sanction must be proportionate.
5. **Right of appeal.** The colleague has the right to appeal in writing. The appeal will be heard by a more senior manager. The appeal outcome is final.

## Misconduct vs. gross misconduct

### Know the difference

**Misconduct** is behaviour that falls below the expected standard but does not fundamentally break trust. Examples: repeated lateness, minor policy breaches, careless mistakes, inappropriate language.

**Gross misconduct** is behaviour so serious that it fundamentally breaks the employment relationship and may justify summary dismissal (without notice). Examples: theft, fraud, violence, serious safety breaches, being under the influence of drugs or alcohol at work, serious harassment.

*Even with gross misconduct, you still need to follow the process - investigation, hearing, right to be accompanied, right to appeal. Summary dismissal means without notice, not without process.*

## How to get it right

| Do this                                                                                 | Not this                                                         |
|-----------------------------------------------------------------------------------------|------------------------------------------------------------------|
| <i>Investigate first. Never jump to conclusions.</i>                                    | <i>Dismiss someone on the spot in anger.</i>                     |
| <i>Explain the concern clearly and calmly.</i>                                          | <i>Raise a disciplinary issue in front of other colleagues.</i>  |
| <i>Listen to their side of the story before deciding anything.</i>                      | <i>Use disciplinary action as a threat or bargaining chip.</i>   |
| <i>Give them time to prepare for a hearing.</i>                                         | <i>Go into a hearing with the outcome already decided.</i>       |
| <i>Remind them of their right to be accompanied.</i>                                    | <i>Forget to tell them they can bring someone with them.</i>     |
| <i>Consider whether something else is going on (health, personal issues, bullying).</i> | <i>Treat the same offence differently for different people.</i>  |
| <i>Keep notes of every conversation and meeting.</i>                                    | <i>Wait months to address something - deal with it promptly.</i> |
| <i>Ask the People Team for help before you start.</i>                                   | <i>Handle it alone if you are unsure.</i>                        |

## Common scenarios

### What if they cry?

It happens. Offer them a break. Have tissues available. Give them time. Restate that the purpose of the meeting is to understand what happened and find a way forward. Do not rush, and do not let their distress cause you to skip the process.

### What if they get angry?

Stay calm. Do not raise your voice. If they become abusive or threatening, pause the meeting and explain you will reconvene when things have calmed down. Note the behaviour, but do not treat it as a separate disciplinary matter unless it is genuinely serious.

### What if they raise a grievance during the process?

This is common. If the grievance is related to the disciplinary (e.g. 'my manager is bullying me by putting me through this'), pause the meeting

and speak with your Managing Director. They will advise on whether to pause the disciplinary, deal with the grievance first, or run them in parallel. Do not try to decide this yourself.

### **What if you are friends with the person?**

This is hard but it happens. Be honest with yourself: if you cannot be objective, ask for a different manager to be assigned to handle the process. There is no shame in stepping aside - in fact, it shows good judgement.

## Suspension

Suspension is not a punishment. It is a temporary measure to allow a fair investigation, usually in cases of alleged gross misconduct or where there is a risk to safety, evidence, or other colleagues.

Suspension should be on full pay and as short as possible. It must be authorised by a senior manager and confirmed in writing.

*While someone is suspended, they should not be treated as guilty. Do not discuss the suspension with other colleagues beyond what is necessary to manage workload.*

## Looking after yourself

Disciplinary processes are emotionally draining. You may feel guilty, anxious, or second-guess yourself. That is normal.

If it is your first time managing a disciplinary, you can be supported, just ask. You do not have to do this alone, and there is no expectation that you should.

## Quick reference

*Keep this page somewhere you can find it quickly.*

### Your checklist

1. Start informally whenever possible. Most issues resolve here.
2. If formal action is needed - speak to the People Team first.
3. Investigate before deciding. Gather the facts.
4. Put the allegation in writing. Give the colleague time to prepare.
5. Tell them they can bring a companion to the hearing.
6. At the hearing: listen, ask open questions, consider their explanation.
7. Choose a proportionate outcome. Confirm it in writing.
8. Tell them they can appeal. Explain how.
9. Keep notes of everything. Store securely.
10. If you are unsure at any point - [peopleteam@milbank.co.uk](mailto:peopleteam@milbank.co.uk).

*Policies referenced: Disciplinary Process & Procedure / Grievance & Dispute Policy / Code of Business Conduct / ACAS Code of Practice on Disciplinary and Grievance Procedures*

*All policies available online.*