



British Transport Police Authority

Disciplinary Procedure

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1. AIM

- 1.1 This Disciplinary Procedure (“Procedure”) aims to set out the standards of conduct expected of all employees and workers to provide a framework within which managers can work with them to achieve and maintain the standards of conduct required by British Transport Police Authority (BTPA).
- 1.2 This Procedure aims to ensure consistent and fair treatment of all employees and workers in order to foster and maintain constructive employee and team relations. This Procedure provides a clear and readily accessible process for all staff discipline procedures.
- 1.3 This Procedure does not form part of any contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

2. OVERVIEW

- 2.1 The Procedure clarifies management action which must follow in circumstances of unsatisfactory conduct.
- 2.2 It outlines the disciplinary procedural stages, confirms the rights to representation, sets standards of fairness in the way matters are handled and indicates the appropriate warning or action to terminate employment which may be applied.
- 2.3 Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

- 2.4 You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.
- 2.5 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your line manager.

3. CONFIDENTIALITY

- 3.1 Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees and workers must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 3.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this Procedure.
- 3.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

4. INVESTIGATION

- 4.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.
- 4.2 The purpose of the investigation is to:
 - Gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct.
 - To assist the Investigating Officer to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

- 4.3 Investigative interviews are solely for the purpose of fact finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 4.4 You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.
- 4.5 You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.
- 4.6 Prior to an investigation commencing against an elected representative of a trade union recognised by BTPA, the appropriate Full Time Official will be notified. Prior to disciplinary action being taken against a representative of a support group recognised by BTPA, an official of the group or association will be notified.

5. CRIMINAL CHARGES

- 5.1 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.
- 5.2 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.
- 5.3 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 your employment.

6. SUSPENSION

- 6.1 In certain circumstances it may be necessary to consider suspending you from work.

- 6.2 The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by a member of the senior management team.
- 6.3 Suspension does not constitute disciplinary action and does not imply that any decision has already been made about the allegations. As such your pay will be unaffected by the suspension.
- 6.4 We will inform you of the decision to suspend you in writing or verbally. It should include the reasons for suspension. If orally, your suspension be confirmed in writing within three working days setting out the reasons. This function should normally be undertaken by the Investigating Officer.
- 6.5 All suspensions will be reviewed every four weeks to ensure the reasons for suspension continue.

7. INVESTIGATION

- 7.1 An investigatory interview will take place between you and the Investigating Officer, at which the alleged misconduct will be explained and you will be encouraged to, and given every opportunity to, respond to the alleged misconduct. Efforts will be made to attempt to clarify issues and resolve differences.
- 7.2 The Investigating Officer will agree a date and time for the interview, where this cannot be agreed, the Investigating Officer will specify a date and time for interview. Where the date and time is specified and you or their representative is unavailable, you should propose an alternative time that is reasonable (usually within five days of the original date).
- 7.3 You shall be given in advance all information considered by the investigator appropriate in the circumstances of the case to enable preparation for the interview.
- 7.4 You may be accompanied by a colleague or a representative of a trade union or association that is recognised by BTPA for negotiating or support purposes. The colleague/representative may seek to clarify points of detail and/or procedure, but will not respond on your behalf..
- 7.5 In certain circumstances it may be necessary to adjourn and reconvene interviews.

8. THE RIGHT TO BE ACCOMPANIED

- 8.1 You have the right to be accompanied at any stage of a disciplinary procedure by a work colleague of your choice or a representative or official of a trade union or association that is recognised by BTPA for negotiating or support purposes. The colleague/representative may seek to clarify points of detail and/or procedure, but will not respond on your behalf. You are not entitled to be represented by a Solicitor or other formal legal representative under this procedure. You must tell the Business Manager who your chosen companion is, in good time before the hearing.
- 8.2 A companion is allowed reasonable time off from duties without loss of pay but no one is obliged to act as a companion if they do not wish to do so.
- 8.3 If your choice of companion is unreasonable we may ask you to choose someone else, for example:
- if in our opinion your companion may have a conflict of interest or may prejudice the meeting; or
 - if your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.
- 8.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

9. REFERRAL TO DISCIPLINARY MEETING

- 9.1 If following the investigation it is considered appropriate to take disciplinary action against you a Decision Maker will be appointed and you will be invited to a disciplinary meeting to discuss your conduct.
- 9.2 The allegations against you will be set out in writing along with an instruction to attend a disciplinary meeting.
- 9.3 All documentary evidence will be reviewed by the Decision Maker and should be circulated to you in advance of the meeting.

- 9.4 BTPA will notify you of your right to be accompanied by a work colleague or a trade union or staff association representative.
- 9.5 You have 14 working days from receipt to supply the Decision Maker with:-
- Written notice that you accept the conduct.
 - Any statement in mitigation; or
 - Written notice that you do not accept the case or part of it;
 - the allegations disputed and your version of events; and
 - points of law or arguments you wish the Decision Maker to consider.
- 9.6 It may be necessary to hold the disciplinary meeting in a private location away from your normal place of work where an additional level of confidentiality is appropriate.
- 9.7 You must take all reasonable steps to attend the disciplinary meeting.
- 9.8 If you fail to attend owing to circumstances outside of your control and unforeseeable at the time, e.g. illness, we will arrange another meeting.
- 9.9 If you are unable to attend due to illness, we may write to you or your relevant medical practitioner, to ascertain what arrangements could be made to enable you to attend a hearing whilst ill. In such instances, where necessary to facilitate a meeting, the disciplinary meeting may take place at a local hotel, hired room, or (with your consent), your home.
- 9.10 If the disciplinary meeting is postponed on two occasions by you, then a third date will be scheduled and this disciplinary meeting may be held in the your absence You must be offered:
- The right to attend in person (providing that in the case of illness, a doctor's approval is obtained); and
 - The right to have a representative attend in your absence and for that representative to present the case on your behalf.

9.11 Witnesses may be called to give evidence at the disciplinary meeting. Evidence they submit may be by way of written statement and/or notes from the Investigating Officer.

9.12 The structure of the disciplinary meeting should be as follows:

- The Decision Maker will convene the meeting, ensuring all participants are aware of the procedure to be followed. The allegations and supporting evidence will be presented; where appropriate, witnesses questioned and asked to contribute.
- You will be given full opportunity to respond, ask questions of the Investigating Officer or nominated person and witnesses, seek clarification and (at the appropriate time) make a closing statement.
- The Decision Maker may adjourn the meeting at any point should there be a need to seek clarification.
- A (further) adjournment will take place at the end of the meeting for the Decision Maker to consider all the facts before coming to a decision.
- In most cases the meeting will be reconvened later that day. However in more complex cases or where it has not proved possible to confirm certain aspects; a decision may be deferred (to a maximum of one week).
- The decision will be communicated, where practical, in person. It will then be confirmed in writing.
- The right to appeal against the decision will be confirmed.

10. DISCIPLINARY OUTCOME

10.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees and workers fairly and consistently, and a penalty imposed on another individual for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

Management Advice

- 10.2 Where management advice is given it will include details of the complaint and the actions or improvements required. You will also be informed of the consequences of failing to improve conduct to acceptable standards, which may lead to the next level of disciplinary action. You will be notified of your right to appeal.
- 10.3 Management advice lasts for 12 months from the date it takes effect.

Written Warning

- 10.4 Where a written warning is issued it will include details of the complaint and the actions or improvements required within a specified timescale. The written warning will also inform the individual of the consequences of failing to improve conduct to acceptable standards, which may lead to the next level of disciplinary action. You will be notified of your right to appeal.
- 10.5 A written warning lasts for 12 months from the date it takes effect.

Final Written Warning

- 10.6 In the event of more serious misconduct a final written warning will be given to the individual.
- 10.7 Where a final written warning is issued, this will include details of the complaint and the actions or improvements required within the specified timescale. The final written warning will also inform the individual of the consequences of failing to adhere to the standards of professional behaviour which may lead to the next level of disciplinary action. You will be notified of your right to appeal.
- 10.8 A Final Written Warning lasts for 18 months from the date it takes effect.
- 10.9 In cases in which disciplinary action is initiated as a result of a Gross Misconduct, such as theft or fraud; physical violence or bullying; deliberately accessing internet sites containing pornographic, offensive or obscene material; serious insubordination; serious incapability at work brought on by alcohol or illegal drugs; a serious breach of health and safety rules; or a serious breach of confidence, the normal penalty will be dismissal.

Dismissal With Notice

- 10.10 Dismissal with notice is only an option if dismissal follows a culmination of disciplinary sanctions and the individual is already on a final written warning. In cases of gross misconduct dismissal is also without notice.
- 10.11 Where a dismissal decision is made, the individual will be informed in writing within five days, including reasons for the dismissal and the right of appeal.
- 10.12 Where an individual leaves for disciplinary reasons, they will be treated in accordance to their terms and conditions of service.

Dismissal Without Notice (Summary Dismissal)

- 10.13 BTPA will be entitled to dismiss an individual without notice in the event of gross misconduct or a fundamental and wilful breach of contract.
- 10.14 If, after investigation, BTPA is satisfied that gross misconduct has occurred, the individual may be summarily dismissed without notice or payment in lieu of notice.
- 10.15 Where a summary dismissal decision is taken the individual will be informed immediately and written to within five days, the letter giving reasons for the dismissal and referring to their right of appeal.

11. ALTERNATIVES TO DISMISSAL

In some cases we may at our discretion consider alternatives to dismissal. These may be authorised by a member of the senior management team and will usually be accompanied by a final written warning. Examples include:

- A period of suspension without pay.
- Reduction in pay.
- Loss of future pay increment or bonus.
- Loss of overtime.

12. THE RIGHT TO APPEAL

- 12.1 If you wish to appeal against the finding and/or sanction of the disciplinary meeting/hearing you must do so, in writing, within ten working days of receipt of the finding and any disciplinary sanction.
- 12.2 The appeal should be made to the Appeal Chair.
- 12.3 The Appeal Chair will have available to them all the options available to the original Decision Maker. This includes the option to increase the sanction if an appeal is not successful.
- 12.4 The decision will be communicated, where practical, in person. It will be confirmed in writing. The decision of the Appeal Chairperson is final.

13. RECORD KEEPING AND MONITORING

- 13.1 All information relating to the service of an individual will be treated with integrity and personal data will be kept confidential. BTPA adhere to the principles of the Data Protection Act and these will be practiced by all employees with access to an individual's personal information.
- 13.2 All employment and personal records will be kept in confidential storage for the required length of time as set out in the BTPA Record Retention Procedure.
- 13.3 In order to meet certain statutory obligations BTPA is required to monitor certain information that is kept regarding employment, for example statistics relating to diversity, e.g. racial groups, disability etc.

14. AUDIT AND COMPLIANCE

- 14.1 This Procedure will be monitored during implementation and revised to take into account the regulations and guidance from the Home Office, together with good practice. The Procedure will be formally reviewed three years from the date of issue.
- 14.2 This Procedure represents formal guidance on disciplinary procedures within BTPA. It is recognised that there may be in exceptional circumstances deviations which require variations. Any amendments to this Procedure will be published in the normal way.

- 14.3 This policy will be monitored during implementation and revised to take account of changes to the Regulations and guidance.

15. REFERENCES AND LEGISLATION

The Discipline Procedure will be subject to regular review and BTPA reserves the right to amend the procedure from time to time in accordance with any requirements of law or good employment practice. You will be given reasonable notice of any such changes. Where a change concerns contractual matters the correct negotiation procedures will be followed.