

Disciplinary Policy and Procedure

Employee Relations

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Overview

This section provides policy and procedures for dealing with disciplinary issues in the British Council. You **must** read the practical guidance for managers, in conjunction with this section.

Audience

This section applies in full to all UK-appointed staff working in the UK or on expatriate terms overseas, managers on harmonised terms in E&E and OAS and network teaching, exams and OAS staff.

This section does not apply to British Council staff still in their probationary period (in the UK this is the first twelve months of service). For the procedure applicable to UK-appointed staff in their probationary period see Probation. For the procedures for non-UK appointed staff and English and exams staff, refer to the relevant conditions of service document.

For country-appointed staff and locally employed teaching and exams staff these procedures may differ if they are in conflict with the employment legislation of the country or if it is not practicable to operate the procedure locally. Managers must check with their Country Director on the status of these procedures before applying them. Any variations to procedure will be given in the relevant local terms and conditions of service and the British Council reserves the right to make such variations as necessary.

Responsibilities

All UK-appointed British Council line managers are responsible for following the policy and guidance and carrying out these procedures.

Policy

The British Council's global policy is to make clear to members of staff what standards are required of them in carrying out their jobs. This is done by means of the performance management system and also the Code of Conduct.

The standards applied are consistent with the British Council's equal opportunities policy (see the Diversity intranet).

In all cases of poor performance and less serious cases of misconduct, managers will handle the issue by informal means first. If informal action does not bring about the necessary improvement, or the misconduct is sufficiently serious, staff may be formally disciplined and even dismissed.

Where formal action is necessary, managers will act promptly, fairly and unambiguously. The correct disciplinary procedure must be followed and the procedure consistently applied. Staff have the right to appeal against all disciplinary sanctions.

General Principles

- At any stage in the disciplinary process, the employee is entitled to be accompanied by a colleague or a representative of a trade union (or staff association). It is strongly advised that the manager holding the meeting is also accompanied throughout by a management colleague or an HR manager or consultant.
- If the employee's chosen companion is not available at the time proposed for the hearing, the hearing will be postponed if the employee proposes a reasonable alternative time which is no more than five working days later. The member of staff shall be entitled to take time off during working hours for the purposes of accompanying his or her colleague to a disciplinary hearing.
- At all stages in the disciplinary process, the member of staff should be reminded that they may seek counselling from the Employee Assistance Programme (EAP).

- The employee must be given a reasonable amount of time to prepare for the meeting and should be provided in advance of the meeting with copies of all the documents and/or evidence that will be presented at the meeting.
- No disciplinary action will be taken until the case has been fully investigated to the reasonable satisfaction of the British Council.
- Breaches of discipline do not need to be necessarily of the same nature and may be combined when considering disciplinary action.
- At all stages, the employee will be advised of the nature of the complaint against him/her and will be given an opportunity to state his/her case in the disciplinary meeting before any decision is made.
- Each step and action will be taken without unreasonable delay.
- The timing and duration of the meetings will be reasonable. The member of staff must take all reasonable steps to attend the disciplinary hearing. If the member of staff fails to attend any disciplinary hearing and does not provide a reasonable explanation for that failure, the hearing may continue in the member of staff's absence. The failure to attend in those circumstances may itself constitute misconduct, warranting disciplinary action under this procedure.
- **Suspension:** The British Council reserves the right to suspend the employee on full pay at any time during the disciplinary proceedings if reasonably required. Such suspension will be for a period long enough to allow the relevant manager to carry out a proper investigation and/or resolve any disciplinary proceedings, but will not normally last for more than ten days (subject to availability of managers, witnesses and/or investigating officers and the particular circumstances). In the case of suspension, a letter should be sent to the employee setting out the reasons for the suspension and confirming that they continue on full pay. It is important to state in this letter that the suspension is purely for investigative purposes and no decision has been made in relation to the disciplinary proceedings. In cases involving UK-appointed staff, suspension must first have the authority of Head HR PER. For all other staff, the most senior manager in the office can take this decision.
- The British Council retains the right in its absolute discretion to miss any stage of the disciplinary procedure should the matter be serious enough in the relevant manager's opinion to warrant a written warning, a final written warning, demotion or dismissal, having regard amongst other things to the seriousness of the conduct or poor performance, any past disciplinary history which is still active, length of service, the likelihood of effective corrective action by the employee and the extent to which the concerns have been notified to the member of staff other than through this procedure.
- All decisions taken during the procedure such as warnings and dismissal will be communicated to the member of staff at a face to face meeting wherever it is practicable to do so. However, the British Council reserves the right to inform the member of staff by telephone of a decision if the parties involved are in different locations, usually different countries, and it is not practicable to meet face to face.
- The letter of dismissal will be given to the employee within two working days of being informed of their dismissal.
- Once a disciplinary sanction has been placed upon the employee, the letter informing the employee of the sanction must state how long the warning will remain active. This should be generally between six to twelve months; thereafter it should be disregarded for the purposes of disciplinary action. In cases of serious misconduct the warning may remain active for longer than twelve months. All records should be kept in accordance with the Data Protection Act 1998.

- In the case of warnings for performance issues, there should be an improvement plan accompanying the disciplinary warning which identifies where improvements are necessary and the standard required and over what period the employee's performance will be monitored and reviewed (see Performance Management).
- The employee will be given the right to appeal the disciplinary sanction in writing at each stage of the procedure. The decision taken by the person hearing the appeal will be final.

Procedure

This procedure will be used for the following

- **Poor performance** - where the employee is not meeting the core responsibilities, deliverables in the job plan and behaviours expected of the job
- **Misconduct** - where behaviour contravenes accepted standards of conduct. This may involve but is not limited to: rudeness; poor timekeeping; unauthorised absence, misusing equipment, failing to follow instructions
- **Persistent short term sickness** - where a member of staff's level of absence is considered unacceptable go to Managing Health and Attendance for guidance on the trigger points

Informal Discussions

Before taking formal disciplinary action, you should always try to resolve the matter informally first. Only where informal discussions and monitoring have not brought about the desired improvement, or where the matter is sufficiently serious, should you move to the first stage of formal disciplinary action.

STAGE 1: First Written Warning

1. You must give a written statement to the employee setting out why you have decided to take disciplinary action.
2. You must meet the employee, who has the right to be accompanied by his or her colleague or union representative. You should state the case, let the employee respond and then, after the meeting, give the employee your decision. You should explain that the employee may appeal against your decision.
3. If a first written warning is given it should state the reasons for the warning, how long the warning will be active for and in the case of poor performance the timescale on which improvement is required and dates for review. The warning letter should also inform the employee that a final written warning will result if there is no sustained satisfactory improvement. The warning must advise the individual's right of appeal with 10 working days. A performance improvement plan, giving the standards expected, must also be given.

STAGE 2: Final Written Warning

1. Where there has been a failure to improve performance, or conduct, or sickness absence levels during the timescale set out in the first written warning a further disciplinary meeting will be held.
2. You must meet with the employee, who has the right to be accompanied by his or her colleague or union representative. You should state the case, let the employee respond and then, after the meeting, give the employee your decision. You should explain that the employee may appeal against your decision.
3. After the meeting you should give your decision. If it is to give a final warning the letter must include the same points as given in the first warning letter (see above)

In addition you must warn that dismissal will result if there is not a sufficient improvement within the timescale stated.

STAGE 3: Dismissal or action short of dismissal

1. If the conduct or performance has failed to improve during the timescale given then you must now consider dismissal. If you are not a senior manager you should now refer the case to a senior manager, pay band 9 in the UK, or the country director, deputy country director or teaching centre manager if overseas.
2. You (the relevant senior manager) will meet with the employee, who has the right to be accompanied by a colleague or union representative. You should state the case, let the employee respond and then, adjourn the meeting to assess the case, before giving the employee your decision.
3. If the decision is to dismiss you must first seek authority to do so. For employees at band 9 and 10 you must seek authority from Director HR and for colleagues at pay band 8 or below in the UK authority will be given by Head Pay and Employment Relations. For the dismissal of country appointed staff or teachers the country director may give approval.
4. You will reconvene the meeting to give the employee your decision to dismiss. The letter of dismissal should be given at the meeting or not later than two days after the meeting. The letter will state the reasons for the dismissal, the date employment will end, and the employee's right to appeal. Unless summarily dismissed, the employee will receive notice or pay in lieu.
5. In exceptional cases, the British Council reserves the right to demote the member of staff as an alternative to dismissal. However, this will only be done if it is operationally possible to do and has the authority of either Director HR or Head Pay and Employment Relations.

Gross Misconduct

If, after investigation, it is confirmed that an employee has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or payment in lieu of notice:

- stealing or attempting to steal British Council property;
- committing a fraud against the British Council, including incurring expenditure for personal benefit;
- assaulting or threatening a colleague or British Council contact;
- bringing the British Council into disrepute;
- serious incapability at work brought on by alcohol or illegal drugs;
- intentionally misusing a computer system, including the internet, which might include viewing or attempting to view pornographic sites;
- putting the safety or health of colleagues in serious danger; acting deliberately or recklessly in serious breach of the Code of Conduct, for example, by jeopardising the British Council's relationship with an external client;
- wilfully misusing status and position in the British Council for significant personal advantage; deliberately or recklessly damaging British Council property;
- committing a serious breach of British Council policy, for example, the equal opportunities policy;
- harassment or bullying of another employee; showing serious insubordination to a manager,
- showing gross negligence in the performance of the job;
- serious breach of the Data Protection Act 1998.

If you think that an act of gross misconduct has taken place, you must act quickly. Decide whether there are reasonable grounds for treating the case as gross misconduct and consult

an HR Manager before reaching a conclusion. In cases of suspected gross misconduct the appropriate senior manager must handle the case

Note: If you suspect a crime, you must consult your local legal adviser. In cases involving UK-appointed staff, you must always consult the British Council's legal adviser.

A full investigation must take place and while this is happening it is usually necessary to suspend the member of staff on full pay, even though the individual has not yet had the opportunity to present his or her case fully at a disciplinary interview. For details on suspension, see the bullet point on Suspension under general principles above.

The employee will be asked to attend a disciplinary meeting, with the right to be accompanied by his or her colleague or union representative.

Dismissal

Always adjourn the meeting to assess the case and to make further investigations if necessary, before reaching a decision. However, if the final decision is to dismiss then reconvene the meeting to inform the employee. The letter of dismissal which should be given at the meeting, or not later than two days after, must state the reasons for the dismissal, the date employment will end, and the employee's right to appeal.

Modified Procedure

A modified procedure may be considered in circumstances where it is considered reasonable for a dismissal without notice before making any investigations around the conduct. It would be extremely unusual to dismiss without first carrying out any investigations and meeting with the member of staff to hear their case. Therefore this procedure may only be contemplated after the case has been referred to Head Pay and Employment Relations.

The modified procedure is as follows:

1. The manager must send a letter to the dismissed member of staff outlining
 - The alleged misconduct which led to the dismissal
 - Why they believed they were guilty of the misconduct at the time of the dismissal.
 - Their right of appeal
2. An appeal meeting will be held if the member of staff wishes to appeal (see below)

Stage Appeals against a penalty or dismissal

An employee has the right to appeal against the outcome of any stage of the disciplinary process, whether this is to appeal against the issue of a written warning, some other kind of penalty, or dismissal.

If an employee wishes to appeal against a decision they should make their appeal in writing. The appeal will normally be heard by the line manager of the person who has made the decision. Whatever the circumstances it would be usual for the manager hearing the appeal to be more senior and not to have been directly involved in the process at an earlier stage. In the cases of an appeal against dismissal of UK-appointed member of staff the manager hearing the appeal will be the appropriate member of the Executive Board of the Business Management Team. The manager hearing the appeal may nominate another manager to investigate on his or her behalf

The appeal procedure is as follows:

1. The employee must make the appeal in writing within 10 working days of being notified in writing of the decision.
2. The manager hearing the appeal will invite the member of staff to attend a meeting. If a face to face meeting is not possible because the member of staff and the manager, hearing the appeal, are located in different countries, a meeting may be held by telephone. However, in cases of an appeal against the dismissal of a UK appointed

member of staff, or a member of staff covered under English law, the member of staff must be invited to attend a face to face meeting.

3. The employee will be informed of the final decision in writing.
4. The decision will be final.

Grounds for an appeal

An appeal may be made on the following grounds:

- New evidence has come to light which would have materially affected the decision/treatment of the individual
- The employee does not dispute the facts but wishes to challenge the disciplinary penalty. The employee may cite new surrounding or mitigating circumstances.
- The employee cites a procedural fault which materially affected the decision/treatments of the individual