



Dros ddysgwyr, dros Gymru
For learners, for Wales

Disciplinary Policy & Procedure

Information sheet

For further advice contact: People Team

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Version control

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1.0	Jenny Wagner	April 2014	Original
1.1	Phil Sweeney	July 2014	Clarification of use of formal investigations and sharing of evidence
1.2	Phil Sweeney	31 July 2014	Amendments following feedback from FDA
1.3	Jenny Wagner	September 2014	Agreed version following TUS review
2.0	Jenny Wagner	March 2017	Review - agreed with TUS
2.1	Beth Rees	May 2018	Reference to GDPR
2.2	Claire Watkins	April 2026	Full review

Equality impact assessment

- A business rationale assessment has been carried out and this policy contributes to Estyn's strategic objectives and delivery principles.
- An equality impact assessment has been carried out and this policy is not deemed to adversely impact on any people on the grounds of Welsh language, age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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Policy purpose

At Estyn, we are committed to maintaining a positive and professional working environment where everyone is treated fairly and supported to perform at their best.

This policy sets out a clear and consistent approach to addressing concerns about conduct or behaviour in a way that is fair, respectful, and transparent.

This policy is intended to ensure that any issues are handled consistently and in line with our expectations. It provides individuals with the opportunity to reflect, respond, and improve where needed.

It also helps us uphold the high professional standards that are central to our work, while protecting the integrity and reputation of our organisation.

This policy and procedure follows the principles set out in the [ACAS Code of Practice on Discipline and Grievance](#) and will be used alongside other relevant documents such as the [Code of Conduct](#), [Dignity at Work policy](#) and [Employment Guide](#).

Scope

This policy applies to all Estyn employees, including those on probation or fixed-term contracts. If you're on probation, please also refer to the [Probation Policy and Procedure](#).

Although this policy doesn't formally apply to agency staff or those on loan or secondment, we expect all individuals working at Estyn to meet our standards of conduct. If these standards aren't followed, the placement may end, or the individual's employer may take appropriate action. The individual may also be involved in our disciplinary process, such as being asked to act as a witness.

This policy does not apply to external contractors or peer inspectors, however they may be asked to act as a witness if necessary.

Principles

We are committed to handling disciplinary matters fairly, consistently, and in line with our values. Our approach is guided by the following principles:

- Employees will be treated with dignity, respect, and fairness throughout the process.

- Wherever appropriate, we aim to resolve issues informally first.
- Formal action will be clear, transparent, and give employees the opportunity to respond.
- Investigations will be proportionate and objective and carried out impartially.
- Investigation findings will be shared with the employee appropriately and in a timely manner, particularly where formal proceedings follow.
- Employees may be accompanied during disciplinary proceedings and companions are expected to respect confidentiality.
- We recognise the importance of confidentiality throughout the process, and any information will only be shared with those directly responsible for managing or supporting the case. This approach ensures that everyone feels respected and that the process remains transparent and professional.
- Employees have the right to appeal disciplinary decisions.

Welsh language

This policy is available in both Welsh and English. Employees may participate in the disciplinary process in their language of choice. This includes responding to concerns, attending meetings, and receiving documentation in either Welsh or English. Estyn is committed to supporting staff to use their preferred language throughout the process.

Support and Wellbeing

We are committed to supporting employees throughout the disciplinary process and we understand that it can be a difficult and stressful experience.

We are committed to supporting employees involved by ensuring they are treated with dignity, respect, and fairness throughout the process.

Employees are encouraged to seek advice and representation from their trade union or a workplace colleague. The People team can provide guidance on the process and answer any questions throughout.

To support wellbeing of all parties during the investigation process, we will liaise with relevant parties to mutually agree a regular and suitable pattern of communication where appropriate. These arrangements can be adjusted by mutual consent as needed, with confidentiality and respect maintained throughout.

We encourage employees to access the support available. Support is available throughout the process from the People Team, trade union representatives, line managers, and the [Employee Assistance Programme - Vivup](#), which provides confidential wellbeing support.

Reasonable adjustments will be considered where needed, particularly in cases involving health or disability-related matters, to ensure the process is fair and accessible.

Roles and Responsibilities	
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Employee	Understand and comply with the expected standard of behaviour and conduct, and to co-operate fully in any investigation/disciplinary hearing as required.
Line Manager/Supporting Manager	Responsible for identifying issues early, seeking advice and guidance to enable appropriate support for employee/s involved, encourage informal resolution, and refer cases for formal action if needed.
People Team	Provide impartial advice, ensure fair and consistent procedure, support documentation, attend meetings if required, and offer wellbeing guidance while remaining neutral.
Commissioning Officer	Initiate an investigation, set the terms of reference, and appoint the investigating officer. Receives the investigation report and decides whether there is a case to answer at a disciplinary hearing
Investigating Officer	Conduct a fair investigation, gather evidence, and report findings to the commissioning officer. Must be impartial and of appropriate seniority.
Witness (Parties giving statements)	Provide factual information and cooperate fully while maintaining confidentiality.
Representative /Companion	Support the employee by helping them prepare, presenting or summarising their case when needed, and conferring discreetly during meetings. Keep the employee's voice central, while also sharing relevant thoughts or information where it adds value, without disrupting proceedings.
Disciplinary Officer	Conduct the hearing, review evidence objectively, and make a fair, evidence-based decision. This individual would not have had any dealings with the case until this point.

Appeal Officer	Review the appeal and conduct the hearing independently, making the final decision. Ideally more senior than the disciplinary officer.
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Everyone involved in the disciplinary process is expected to maintain strict confidentiality, sharing information only with those directly responsible for managing or supporting the case. The People Team are available throughout to provide support, advice, and guidance to all parties involved.

Timeframes and contact

We are committed to responding to and managing any concerns raised in a timely and reasonable manner. However, we recognise that delays can sometimes happen due to the complexity of a case or circumstances such as working patterns, annual leave, public holidays, absence, or disability and any reasons for delay should be clearly recorded by the people team.

In such cases, actions should be completed as soon as reasonably possible, and any reasons for delay should be clearly documented.

Appropriate levels of contact will be maintained throughout any formal disciplinary process. Employees involved will be informed in writing of any concerns and assigned a named contact.

Representation

Employees have the right to be accompanied by a trade union representative or a workplace colleague at any investigation meeting or disciplinary hearing.

Employees are expected to inform the People team in advance of the hearing who will be accompanying them.

Every effort will be made to accommodate representation requests, including rescheduling hearings if the chosen companion is unavailable.

Companions are expected to respect the confidentiality of the process and any information shared during the proceedings.

Disciplinary Procedure

Informal Action

In most circumstances we would hope that any concerns about conduct should be addressed early, before they develop into disciplinary issues. Minor matters can often be resolved through a timely, informal conversation between the employee and their line manager.

These discussions should take place in private and be noted at the next one-to-one meeting. This should also be documented on the continuous performance management form (CPM) and in line with the performance management procedure. The line manager should also make the employee aware that further misconduct may lead to formal action being taken in the future.

If the issue remains unresolved, or if the concern is too serious for an informal approach, the matter will move to the formal procedure, whereby the people team will be consulted for next course of action under the formal disciplinary procedure.

Formal Action

This procedure will usually be invoked in circumstances where:

- Informal discussions have not resulted in the required improvement in conduct.
- Misconduct is alleged to have taken place that warrants formal proceedings being instigated.
- Conduct remains unacceptable within the period specified in a previous warning
- Serious or gross misconduct is alleged to have taken place.

Examples of misconduct and gross misconduct can be found in [Appendix A](#).

Investigation

When an investigation is required, its purpose is to gather a fair and balanced understanding of the facts surrounding any disciplinary allegations, before determining whether a disciplinary hearing is necessary.

A Terms of Reference (TOR) for an investigation sets out what is to be investigated and how this should be conducted. It includes key information about the roles of the different people involved and the timescales to work towards. The TOR is completed by a Commissioning Officer, who is usually the individual that identifies potential wrongdoing and invokes the investigation. This may be the line manager or another manager, depending on the circumstances. This will be done in conjunction with the People Team.

Once the TOR has been agreed an Investigating Officer will be appointed, and it will be shared with the individual concerned.

The Investigating Officer should normally be at least one grade higher than the employee subject to the allegation (HEO or above), except in the case of Assistant Directors or Temporary Assistant Directors, who may act as Investigating Officers in view of the nature of their role and responsibilities.

Where a suitably independent person is not available within Estyn, an external Investigating Officer may be appointed. This could be one of Estyn's Non-executive Directors.

The Investigating Officer is responsible for establishing the essential facts of the case and determining what did or did not occur. They are expected to act impartially and should not have been directly involved in the alleged disciplinary matter.

An investigation may involve collecting written or physical evidence and, where necessary, obtaining witness statements through meetings or written accounts. The nature and the extent of the investigation will depend on the seriousness of the issue but in all cases, will be carried out without unreasonable delay.

The employee may be invited to attend an investigatory interview which may be recorded (with consent) or typed, and notes will be shared with all parties. If the employee is invited to attend an investigation meeting, they will be provided with 5 days' notice.

Upon completion of the investigation, the Investigating Officer will provide a report detailing their findings. This report will be shared with the commissioning officer who will decide whether to conclude the matter as there may be no case to answer or to move the matter forward for a formal disciplinary hearing.

To support the process, the Investigating Officer will be given appropriate time away from their usual duties to carry out the investigation.

Suspension from work

Suspension may be necessary in serious or gross misconduct cases while an investigation takes place, but it is not a disciplinary action and doesn't mean the employee is at fault.

It will only be used where there's a serious breakdown in working relationships, a risk to others or Estyn, or a concern that evidence could be compromised. It will always be kept as short as possible, reviewed regularly, and discussed with the People Team before being actioned. Suspension will be confirmed in writing, stating the reasons, conditions and review arrangements. Colleagues who are suspended from work will be paid in full.

In some situations, a manager may ask an employee to leave the workplace temporarily to ease tensions, this is not a suspension, and the employee should be clearly told they're expected to return as normal.

Grievances

If an employee raises a grievance during a disciplinary process, it may be appropriate to pause the disciplinary proceedings to deal with the grievance, especially if it relates to the case. In some cases, both matters may be looked at together to keep things fair and efficient. See Grievance Policy for further details.

Disciplinary Hearing

Disciplinary Hearing Arrangements

If the investigation shows that there is a case to answer, a Disciplinary Officer will be appointed. Their role is to chair and decide the outcome of the disciplinary hearing. This person must be more senior than the employee who is alleged to have committed the misconduct.

The employee will be given at least five days' notice of any meeting, depending on the complexity of the case.

The employee will be provided with an electronic copy of any evidence collated during the investigation in advance of the disciplinary meeting, and the employee will be invited to submit any further relevant evidence before the hearing takes place.

Disciplinary Hearing

The purpose of the disciplinary hearing is to:

- Resolve any outstanding questions or disputes about the facts of the case, by discussing the evidence and supporting information and giving the employee the opportunity to comment
- Give the employee the opportunity to respond to the allegations made against them, and to ask for an explanation for the alleged misconduct
- Give the employee the opportunity to explain any mitigating factors or special circumstances which should be taken into account
- Provide the Disciplinary Officer with sufficient information and evidence on which to base a decision.

The disciplinary hearing will be conducted by the Disciplinary Officer, and a member of the People Team will be present to take notes and advise on procedural matters.

The evidence gathered during the investigation will be presented and employee and their companion will be given an opportunity to confer and to respond. The employee may also call on witnesses to give evidence on their behalf, if they are willing, and their evidence is relevant to the issues being considered in the meeting.

The Disciplinary Officer may choose to adjourn the meeting so that further evidence can be obtained. If this happens, the meeting will be reconvened once this is done, and the employee will be given an opportunity to respond to any new evidence. Before the meeting closes, the employee (or their companion) will be given an opportunity to make any comments or representations that are relevant.

Disciplinary Outcomes and Sanctions

The Disciplinary Officer must decide whether the alleged misconduct is proven or not proven. They will decide on an appropriate outcome based on the nature of the misconduct and the explanation provided by the employee, including any mitigating circumstances. This will determine which, if any, disciplinary action is necessary.

First Written Warning

A first written warning may be issued for misconduct that is serious enough to warrant formal action but where no previous warning is in place. It will outline the nature of the misconduct and make clear that any further issues, whether similar or not, may lead to further disciplinary action. This warning will remain active for 12 months.

Final Written Warning

A final written warning may be given in cases of serious misconduct or where a first written warning is already in place and the circumstances justify escalation. It will explain the misconduct and state that any further issues are likely to lead to dismissal. Final written warnings also remain active for 12 months.

Dismissal

Dismissal may be considered if an employee has already received a final written warning and fails to improve, or if the misconduct is serious enough to be classed as gross misconduct (see Appendix A). Normally, dismissal would not occur for a first offence unless the circumstances are exceptional, or the employee is still in their probationary period. In cases where dismissal is justified, alternative actions such as unpaid suspension, reassignment, or loss of seniority may be considered.

Escalation of Serious Misconduct

If the case involves proven breaches such as security violations, fraud, or criminal matters, His Majesty's Chief Inspector must be informed. Where a criminal offence is suspected, His Majesty's Chief Inspector should advise on whether to involve the local authorities.

Regardless of the outcome, Estyn has a duty to refer individuals to the Disclosure and Barring Service (DBS) if they are considered a risk to children or vulnerable adults. This applies even if no criminal offence has been established or the misconduct is not proven, as strong concerns may still justify a referral.

Employees dismissed for internal fraud, or who leave before dismissal is confirmed will have their details shared with the Cabinet Office. This results in a 5-year ban from Civil Service employment. They must also be given a Fair Processing Notice.

Right of Appeal

An employee has a right of appeal against a disciplinary decision made against them. If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal.

Appeals must be made in writing within 10 working days of the notification of the outcome of the disciplinary hearing. Following receipt of an appeal, we will arrange an appeal meeting.

The appeal will be dealt with impartially and will be heard by an appropriate person who will act as the Appeal Officer who will normally have the same seniority as the Disciplinary Officer, or higher.

The Appeal Officer will meet with the employee to discuss their appeal and during the meeting the employee will explain the grounds for appeal and have an opportunity to comment on any new evidence. The Appeal Officer will ask questions to gain a fuller understanding of the appeal.

Depending on the circumstances, the meeting may either solely consider the points that raised, or it may reconsider the whole case and reach its own conclusion on the correct outcome.

After the meeting the Appeal Officer will inform the employee in writing the result of the appeal and the reason for the decision as soon as possible. There will be no further right of appeal.

Record Keeping

All disciplinary documentation will be retained securely for six years after the last action in accordance with data protection legislation. Records are retained to provide an accurate account of how the disciplinary process and investigation was followed/handled and may be referred to if related issues arise in future. This supports consistent, fair, and informed decision-making and helps the organisation meet its legal, safeguarding, and duty-of-care responsibilities.

Records will include:

- Notes of meetings and correspondence
- The investigation findings and disciplinary hearing findings
- Any appeal documentation and final outcome

Access will be strictly limited to those who have a legitimate need to manage or support the case.

Appendix A – Examples of misconduct

The below list provides examples of misconduct in each category. Please note that the lists are not exhaustive but serve as a guide to support consistent decision-making.

Minor Misconduct

- Poor timekeeping or lateness
- Minor health and safety violations
- Failure to follow instructions with limited impact
- Inappropriate use of IT, phone or email (low level)
- Occasional behaviour that unintentionally causes discomfort

Serious Misconduct

- Repeated failure to follow procedures or instructions
- Serious misuse of work systems (e.g., email, internet)
- Behaviour outside work that risks Estyn's reputation
- Inappropriate or offensive conduct toward others
- Breaches of confidentiality (low impact)
- Being unfit for work due to alcohol or drug use
- Unintentional bullying or harassment
- Insubordination or exceeding authority with consequences
- Vexatious or malicious complaints causing disruption

Gross Misconduct

- Theft, fraud, or corruption
- Violence or threatening behaviour
- Deliberate bullying, harassment, or discrimination
- Leaking confidential or sensitive information – Outside the terms of raising a concern - [whistleblowing policy](#).
- Serious breach of health and safety policies
- Being unfit for work through substance use with serious impact
- Repeated disobedience or insubordination with harm to Estyn
- Posting damaging content about Estyn on social media

- Gross negligence or falsification of records
- Serious criminal offences that affect work or reputation

Disciplinary Process – Summary Flow

