



Disciplinary Policy

Policy document

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At Ofcom we trust that our colleagues want to always meet the high standards of conduct we expect in line with Ofcom's values. If your conduct should fall below these expectations, we will address the issue with you in a fair and supportive way. This policy sets out the arrangements for dealing with disciplinary matters. This policy applies to all Ofcom colleagues up to and including Principal grade, whether on a permanent or fixed term contract. For Director grade and above, please refer to guidance in the Service Agreement. While in most cases any disciplinary issues for colleagues in their probationary period will be dealt with under the Probation Policy, there may be instances where the case requires a more detailed investigation, and therefore, it may be dealt with under this policy.

All Ofcom colleagues are required to familiarise themselves with this policy.

At Ofcom, we have zero tolerance towards any form of bullying, harassment and victimisation. We are committed to treating all colleagues with dignity and respect in line with our values and providing an environment that is free from bullying, harassment and victimisation. The standards of conduct and behaviour that are expected of all colleagues are set out in the Dignity & Respect at Work Policy.

Please note that this policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time.

Where to get advice & support

If you would like to discuss anything in relation to this policy, either for yourself or as a Career and Performance Manager (CPM), please don't hesitate to contact the [Employee Relations & Policy Team](#). Any information you provide to us will be in the strictest of confidence, unless either you allow us to share it, or we believe you or someone else is at risk of harm. This is in accordance with our [Data Protection Policy](#).

You can also access a range of other support through our [Thrive@Ofcom](#) programme.

Ofcom's Welsh Language Standards in relation to Disciplinary Procedures

To ensure we meet our duty under the Welsh Language Standards, you should be aware that:

You can respond in Welsh to any allegations of misconduct made against you.

- Where a meeting is organised regarding a disciplinary matter relating to your conduct, you may use the Welsh language at the meeting if you wish and we will provide a translation service for this if it is required.
- If you have responded to allegations made against you in Welsh, or if the meeting regarding the disciplinary matter has been conducted in Welsh, the outcome of the disciplinary matter will be confirmed to you in Welsh.
- Choosing to use Welsh during this process will not lead to any delay.

Workplace Adjustments

We are committed to providing any [workplace adjustments](#) that would allow you to engage fully with the disciplinary process. You should discuss your needs with your CPM, the investigation or decision manager or a member of the Employee Relations & Policy Team so they can be considered. We ask that you give at least 2 working days' notice of this before any informal or formal meetings under this policy.

Our approach to handling disciplinary matters

This policy aims to encourage us all to achieve and maintain the high standards of conduct and behaviour we expect at Ofcom. It also aims to ensure fairness and consistency in the handling of disciplinary matters, ensuring that instances of alleged misconduct are fully investigated and setting out the steps to be taken when they occur.

CPMs should always address concerns with conduct as soon as they happen. For minor misconduct issues, it would usually be appropriate for your CPM to talk to you about their concerns informally, highlighting where your conduct has fallen below expectations and putting steps in place, so you know how to improve. For more serious misconduct issues, or where previous attempts to resolve conduct issues informally haven't resulted in the required improvement, the formal disciplinary process would be followed. However, each situation can be different so all the circumstances need to be considered on a case-by-case basis, which means some misconduct issues may be dealt with informally whilst others may need to be dealt with through the formal disciplinary stages.

If a disciplinary warning is issued, the level of warning will depend on the seriousness of the misconduct. Dismissal will only be considered in exceptional situations.

We do not permit the audio or video recording of meetings at any stage of the informal or formal disciplinary process, unless this is pre-agreed as a workplace adjustment to help you engage with the process.

What is misconduct?

Your conduct is about what you do and how you behave. Issues with conduct can fall in to two categories:

- Misconduct
- Gross misconduct – this is misconduct of such a serious nature that it fundamentally breaches the contractual relationship of trust and confidence between you and Ofcom.

Below are some examples although these lists are not exhaustive and there could be issues not included here that could be considered misconduct or gross misconduct. All instances of potential misconduct or gross misconduct are considered on a case-by-case basis.

Misconduct

- Short periods of unauthorised absence.
- Unreasonably or persistently being uncontactable during contracted hours.
- Failing to follow absence reporting procedures, including providing medical certificates without good cause.
- Conduct that could bring Ofcom or associated organisations into disrepute.
- Failure to follow reasonable management requests.
- Negligence or failure to devote reasonable care and attention to work.
- Behaving in a disorderly manner or using offensive language.
- Failure to comply with Ofcom’s procedures, policies, and/or regulations including Ofcom’s Dignity & Respect at Work Policy.
- Misuse of Ofcom’s property or systems.

Gross misconduct

- Serious acts of dishonesty, fraud or attempted fraud including falsifying overtime sheets, expenses, medical certificates, abuse of the sick pay scheme, or deliberate misuse of taxis or taxi accounts.
- Falsifying or misrepresenting information on an employment or vetting application form.
- Extended periods of unauthorised absence.
- Theft, forgery or damage of Ofcom, client, supplier, member of the public or fellow colleague’s property.
- Removal or disposal of Ofcom’s property without management permission.
- Divulging computer passwords to unauthorised persons.
- Malicious threat or attack, verbal or physical, on a fellow colleague, client, client's employee or other site-based contractors.
- Disorderly, violent, abusive, or indecent conduct, including fighting on Ofcom’s or stakeholder’s premises, or during any Ofcom or stakeholder functions.
- Using discriminatory language or hate speech.
- Serious or persistent failure to follow reasonable management requests.
- Serious negligence.
- Serious failure to comply with Ofcom’s procedures, policies and/or regulations including Ofcom’s Dignity & Respect at Work Policy.
- Serious breach of Ofcom’s rules.
- Criminal convictions which render you unsuitable for the type of work you are employed to carry out; regardless of whether the offence was committed inside or outside work.
- Possessing and consuming opened alcohol (unless in the rare event it is provided as part of a catered event with prior approval) or being under the influence of alcohol at work, after exploring all support options in the Drug & Alcohol Support Policy (if applicable).
- Possessing or being under the influence of drugs at work, after exploring all support options in the Drug & Alcohol Support Policy (if applicable).

- Receiving substantial gifts or favours from clients, suppliers or contractors that are not disclosed.
- Conduct that has brought Ofcom or associated organisations into disrepute.
- Undertaking private work on the work premises or in working time without the express permission of your CPM.

Criminal offences

If you are charged with or convicted of a criminal offence, we would not automatically take disciplinary action. The circumstances would be reviewed to assess the likely impact that the charge/conviction would have on your ability to carry out your role, as well as assessing the impact on your relationship with Ofcom, other colleagues, and stakeholders.

If your charge and / or conviction either brings Ofcom into disrepute, or means you cannot attend work, you may be suspended and / or subject to disciplinary action under this policy, which may include a sanction of dismissal.

In some cases, an act of misconduct at work may also be a criminal offence, for example; assault, theft, fraud or accessing illegal material on the internet. Ofcom will contact police at an early stage where there is reasonable suspicion of criminal conduct.

Normally, internal disciplinary procedures would only be conducted if it is clear that no criminal proceedings will arise, or if any criminal proceedings are complete. However, where the nature of the allegation requires prompt action, we would not wait for the outcome of any prosecution before taking fair and reasonable action.

Where there is police involvement, their investigations will not be on Ofcom's behalf, nor will they be present at any of Ofcom's investigation or disciplinary meetings.

Resolving matters informally

Wherever we can, we will try to resolve problems in the workplace informally and we would always encourage CPMs to address any concerns with a colleague's conduct as soon as they happen.

Sometimes the circumstances surrounding the alleged misconduct might require factual confirmation and your CPM would meet with you informally to establish the facts before deciding what steps should be taken to resolve the situation. They may also need to meet with any colleagues who may be able to help clarify the situation. Although there is no legal right to allow you to have a companion at these meetings as they are informal, Ofcom does allow you to bring a companion along for support should you wish.

Once your CPM has established the facts, if it is determined that an act of misconduct has occurred, they will decide whether it is appropriate to manage this informally or investigate further through the disciplinary stages.

If matters are dealt with informally, your CPM would meet with you to:

- remind you of the required standards of conduct and/or behaviour.
- explain why your conduct and/or behaviour is causing concern.
- outline the improvements required and any timeframe the improvement is expected in.

Your CPM will document the discussions and send you an email or note after the meeting, so everything is clear. Providing your conduct improves to the required standard, then no further action will be taken. But if your conduct falls below the expected standards again for the same reasons, or where a minor act of misconduct is repeated, then it might be appropriate to progress to the formal disciplinary stage and these previous informal discussions would be considered as part of any disciplinary investigation and potential formal disciplinary meeting.

Suspension

There may be situations where it is appropriate to suspend you if it was deemed that there was a risk to you, the investigation or disciplinary process, to other colleagues, to Ofcom or to stakeholders. Suspension can take place at any stage in the disciplinary process and would usually only be considered in cases of alleged serious misconduct.

Suspension is not a punishment or sanction, nor an indication of any possible future sanction, it does not indicate any decisions in terms of a formal disciplinary outcome. You should refer to the Suspension Policy for further information.

Disciplinary Stages

The stages of the disciplinary policy allow a thorough investigation into matters in order to reach an appropriate outcome when:

- informal attempts to improve minor acts of misconduct haven't been successful.
- where an alleged act of misconduct is considered to be serious or potentially gross misconduct.
- where it has been found you may have acted in a way that is potential misconduct linked to an upheld grievance against you, or in breach of the Dignity & Respect policy.

Investigation

Before any formal disciplinary meeting, a thorough investigation will take place to establish the facts around the conduct in question to determine whether there is a case to answer and whether matters need to progress to a formal disciplinary meeting.

It is understandable that your conduct being under investigation can be difficult and there is a range of [support available to you](#). It is important to remember that your conduct being investigated does not mean you are guilty of the alleged misconduct, or that a formal disciplinary meeting will need to take place. The investigation stage of the process ensures matters can be investigated fairly and thoroughly with all the facts established before any further decisions are taken.

Investigation Manager

An Investigation Manager will be appointed, which could be your CPM, or another appropriate manager. If you have any questions or concerns about who has been appointed as the Investigation Manager you should speak to the Employee Relations and Policy team. The Investigation Manager will be responsible for fairly gathering all the facts, collating evidence, meeting with you to discuss matters, meeting with any other colleagues who may be able to provide clarity on the situation and compiling an investigation report of their findings. There may be cases where the investigation requires collation of documentary evidence only depending on the nature of the alleged misconduct and therefore an investigation meeting may not be necessary.

You will be informed if your conduct is under investigation, and the reasons why, at the earliest opportunity. The Investigation Manager will write to you to invite you to a meeting, which can take place in person or virtually, to discuss the situation. You would normally have at least 2 working days' notice of this meeting. The meeting will be your opportunity to put forward your side of things, discuss any mitigation and suggest any witnesses you think the Investigation Manager should speak to. You may prepare a written statement to be submitted before or at the meeting. Although not a legal obligation, Ofcom allows you to have a [companion](#) if you wish.

A member of the Employee Relations & Policy Team would also attend the meeting to take notes and answer any questions on policy or process. You will be provided with a copy of the notes after the meeting to review and asked to agree them. The notes and any statement you have provided, will be included as part of the Investigation Manager's report.

Investigations will always be concluded as quickly as possible and usually within **10 working days**. But this will depend on the nature and seriousness of the misconduct being investigated and you will be kept informed if the investigation is likely to take longer than this.

Once the Investigation Manager has concluded the investigation and compiled their report, they will decide, with support from the Employee Relations & Policy Team, whether there is a disciplinary case to answer and whether matters need to progress to a formal disciplinary meeting.

If the outcome of the investigation is that no further action is necessary, the Investigation Manager will write to you to confirm the decision and that the procedure has ended.

If an investigation has taken place under another Ofcom policy (e.g., the grievance policy) the outcome of which is there is a disciplinary case to answer, that investigation would serve as the disciplinary investigation and we would not complete a separate investigation under this policy, unless there was further information or evidence to be gathered.

Decision Manager

Where the Investigation Manager concludes that there is a disciplinary case to answer, the Employee Relations & Policy Team will appoint an appropriate Decision Manager who will be at least one grade higher than you. The Decision Manager will be responsible for deciding the outcome of the formal disciplinary. The Investigation Manager's report and all associated information and evidence will be shared with the Decision Manager prior to you being invited to a disciplinary meeting.

Attending an investigation meeting as a witness

If as part of an investigation you are identified as a witness, or someone who may be able to provide further insight on a situation being investigated, you may be asked to attend a meeting to discuss matters by the Investigation Manager or you may be asked to provide a witness statement. You would be invited in writing to any meeting and you would have the right to be accompanied. A member of the Employee Relations & Policy Team would also attend the meeting to take notes and answer any questions on policy or process. You will be provided with a copy of the notes after the meeting to review and asked to agree them, by taking part in a witness investigation meeting, and/or providing a witness statement, you give your consent for the content of the meeting and/or statement to be included in the Investigation Manager's report. If you have any concerns about attending a meeting as a witness, or providing a witness statement, or with information you provide being included in an

investigation report, you should discuss this with the Investigation Manager or Employee Relations & Policy Team.

Disciplinary meeting

When matters need to move to a formal disciplinary meeting, the Decision Manager will write to invite you to the disciplinary meeting (which can take place in person, or via Teams videocall) giving you as much notice as possible, but at least 5 working days' notice. The invite letter will outline:

- details of the alleged misconduct or gross misconduct.
- the date, time and place of the meeting.
- who will be attending the meeting.
- your right to be accompanied.
- potential outcomes of the disciplinary meeting.
- what will happen if you do not attend the disciplinary meeting.
- that you should confirm your attendance and confirm whether you will be accompanied at the meeting and by whom.

You will also receive a copy of the Investigation Manager's report and any accompanying evidence that will be discussed at the meeting so you can prepare. If it is not appropriate to fully disclose the investigation report, you would receive a summarised version of the report with enough information for you to understand the reason for the disciplinary meeting and the allegations.

A member of the Employee Relations & Policy Team would attend the meeting to take notes and answer any questions on policy or process.

You can find further information on attending a formal meeting in the toolkit.

The purpose of the disciplinary meeting is to give you the opportunity to state your case to the Decision Manager. You will be able to present and/or comment on any evidence, ask questions, discuss any mitigation, and answer any questions the Decision Manager may have.

The meeting will be adjourned once all of the information has been discussed to allow the Decision Manager time to reflect on all of the evidence gathered and reach a decision. Sometimes an adjournment may be needed to gather further information and if this happens, any new information gathered will be shared with you and you would have the opportunity to discuss it with the Decision Manager before they reach their decision.

After the meeting you will be provided with a copy of the notes to review and asked to agree them. Once the Decision Manager has reached a decision, they will send you a letter to confirm the outcome. They will always aim to do this as quickly as possible, and usually within 10 working days of the disciplinary meeting, but this will depend on the nature and complexity of the allegation(s) they are considering. If there is likely to be any significant delay, they will keep you informed and let you know when you can expect the decision.

If you fail to attend a disciplinary meeting, the Decision Manager may make a decision in your absence based on the information and evidence available to them. The decision will be confirmed to you in a letter.

Disciplinary outcomes

There are a range of outcomes the Decision Manager may decide on. Supported by the Employee Relations & Policy Team, they will take into consideration the nature of the allegation(s), the evidence gathered, the discussions during the disciplinary meeting and whether any live disciplinary warnings are already in place (even if the warning was given for a different misconduct issue) to reach a fair and reasonable outcome.

Dismissal is only a possible outcome in cases of gross misconduct, or where there is a live final disciplinary warning in place and further misconduct is found (whether for the same, or different misconduct issues).

You would not be eligible to receive the One Ofcom bonus if you have a live disciplinary warning on the date it is due to be paid.

The possible outcomes are:

- First disciplinary warning – live for 12 months– for misconduct.
- Final disciplinary warning - live for 12 months for misconduct deemed serious enough, or for gross misconduct.
- Dismissal with notice – for further misconduct where there is a live disciplinary warning, for misconduct deemed serious enough, or for gross misconduct.
- Dismissal without notice – for gross misconduct.

In certain circumstances it could be appropriate to reissue a first or final disciplinary warning.

During the period that any disciplinary warning is live, you will be expected to maintain an acceptable standard of conduct. If further misconduct occurs, following the usual investigation and disciplinary process, an outcome may be to issue the next level of warning. If you have a live final disciplinary warning, you could be dismissed.

There may be occasions where the acceptable standard of conduct is maintained but then further misconduct occurs soon after a live disciplinary warning expires, should a pattern of this nature emerge, this may be taken into consideration when deciding on any future disciplinary warning.

Once the length of a disciplinary warning has expired, it will no longer be considered live on your record. In any future disciplinary process, a Decision Manager may not use an expired disciplinary warning as a reason to issue the next level of warning. However, they may consider any history of similar misconduct which resulted in a disciplinary warning being issued when deciding the appropriate outcome.

The letter you will receive to confirm the Decision Manager's outcome will include:

- the level of disciplinary warning.
- the length of the disciplinary warning.
- the reason for their decision.
- the improvements required, any recommendations and the consequences of failing to maintain the required standards of conduct.
- the right of appeal.

Where the outcome is dismissal, the letter will include:

- the reason for dismissal and the effective date.
- details of the treatment of your notice period (in cases of gross misconduct this is usually summary dismissal with no entitlement to notice or payment in lieu of notice).
- the right of appeal.

Appeals

If you are issued with a sanction, you have the right to appeal the decision.

Your appeal should be made in writing to the Employee Relations & Policy Team within 5 working days of the date you received the outcome letter. Your appeal should clearly outline the grounds on which you are appealing. You can find further guidance on what your appeal should contain in the [appeal toolkit](#).

An independent Appeal Manager will be appointed by the Employee Relations & Policy Team to hear your appeal and a meeting will be arranged as soon as possible, usually within 10 working days of receiving your appeal. You have the [right to be accompanied](#) at this meeting by an Ofcom colleague or a trade union representative. Following the meeting, the Appeal Manager will reach a decision.

You will receive a letter to confirm the outcome, usually within 10 working days, which might be:

- your appeal is upheld, and the original decision is overturned.
- your appeal is partially upheld (e.g., the level of disciplinary warning is reduced).
- your appeal is not upheld, and the original decision remains (e.g., the disciplinary warning remains live, or you are still dismissed).

The outcome of the appeal is final and there is no further right of appeal beyond this within Ofcom.

Version history

This policy is owned by the People & Culture Director.

Version	Date	Revised by	Summary of changes
1.4	15/05/2018	██████████	Updated Policy
1.5	05/12/2019	██████████	Updated Policy
2.0	01/12/2020	██████████	Full Review
2.1	30/03/2022	██████████	Updated with Hive links
2.2	19/10/2022	██████████	Minor updates
3.0	01/04/2024	██████████	Rewrite to bring in line with new people policy format.