



DISCIPLINARY POLICY

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Destroy All Previous Issues

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Author	Issue Date	Version	Document Ref	Approved By	Approval Date	Next Review	Page i
HR Department	Jul 2023	V4.1	HR-13	Exec	Jul 2023	Jul 2026	

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DOCUMENT CONTROL

Document Storage

Location: p:\ops team\central policies & procedures - development - word docs\hr - human resources policies & procedure\hr-13 disciplinary policy v4.1.doc

Version Control Log (Only last 3 versions, earlier versions can be found in the appropriate archive directory for the document)

Version	Date	Author	Description of Changes
V3.4	Jun 2022	HR Department	Under review, no changes currently
V4.0	Jan 2022	HR Department	Additional info added to Section 3
V4.1	July 2023	HR Department	Additional info added to Section 5 and Appendix 1

Approval

Version	Name	Position	Signature	Approved Date
V2.1	Exec	Executive Team		June 2012
V3.0	Exec	Executive Team		May 2015
V3.1	Exec	Executive Team		
V4.0	Waqar Azmi - CEO	Executive Team		Jan 2026

Glossary

Term	Description

1 INTRODUCTION

It is accepted that a disciplinary procedure is in the interests of all concerned to ensure that acceptable standards of conduct operate within the organisation.

The disciplinary policy and procedure describe the steps that will be taken by management where performance or conduct is considered unsatisfactory.

2 THE AIM

The aim of this policy is to ensure that a fair, consistent and reasonable approach is applied to all employees when allegations of misconduct are investigated and during any consequent disciplinary action.

To maintain the required standard of staff performance and behaviour.

The Disciplinary Policy will be applied consistently across all employees and incorporates the principles of fair practice.

Badger's procedures are separate from any enquiries and actions taken by professional bodies, such as the General Medical Council, Nursing and Midwifery Council, or other similar organisations.

3 RESPONSIBILITY FOR DISCIPLINE

Staff discipline is the continuing responsibility of all managers, who may delegate this authority to a supervisor to undertake day to day counselling. This should be conducted in a manner that encourages the employee to make the most of the opportunity for improvement given to them.

We will aim to conclude any investigations or actions in a timely manner. However, this may not always be possible due to the operational needs and the nature of the business. Should these circumstances arise, we will promptly inform the member of staff concerned and keep them updated.

4 COUNSELLING

The purpose of counselling is to help an employee rectify faults by discussing problems between the manager and employee thereby avoiding the use of the formal disciplinary procedure wherever possible.

Counselling will be appropriate when an employee exhibits shortcomings in performance or minor misconduct for the first time. General misconduct such as lateness or poor performance should be dealt with by structure review/counselling in the first instance. The appropriate person to review the performance or conduct of a member of staff is normally the immediate supervisor or line manager, who should meet with the member of staff to address the problem by providing guidance and additional training if required.

A manager should always write to the employee confirming the outcome of any meeting stating the agreed action and required improvement and a copy of the letter will be placed on the employee's personal file. The letter will be removed after an agreed time limit (usually between three and twelve months).

Counselling is not a sanction under the disciplinary policy, but is to improve performance and is intended to avoid recourse to formal disciplinary measures. It is an informal process and does not constitute part of the formal disciplinary procedure.

5 SUSPENSIONS

There may be instances where suspension is necessary while investigations are carried out. The organisation has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before the disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing the employee to remain at work., Suspension will be on full pay without prejudice for a maximum period of five days. Alternatively where full suspension is not warranted a line-manager may suspend an individual from undertaking part or all of their duties and redeploy to another area of work within Badger. In the interest of fairness, if a staff member is suspended because of disciplinary action, Badger will allow staff on suspension to contact their colleagues to prepare for any disciplinary hearing e.g. bundles, witnesses etc. You will be required to seek permission from HR first.

6 INVESTIGATIONS

Where appropriate, the manager will informally investigate incidents including the collection of statements. When a situation arises where formal action is proceeding, and where others may be involved, the manager will formally question those involved, take written statements where appropriate, and a disciplinary interview will be arranged.

7 RIGHT TO BE ACCOMPANIED

A staff member has the right at any stage of the disciplinary procedure to be accompanied by a work colleague who must be an employee of Badger, or a full time trade union representative. Should the chosen companion be unavailable to attend a meeting, then the scheduled hearing may be postponed as long as an alternative time and date is agreed within the following five working days.

8 STAGES OF DISCIPLINARY ACTION

The stages of disciplinary action are outlined in Appendix 2.

9 DISCIPLINARY PROCEDURE

9.1 Authority to take Disciplinary Action

Minor misconduct (examples shown in appendix 1) should initially be dealt with informally through counselling. The manager should consult the employee and agree an acceptable solution to the issue. Counselling is not part of the formal disciplinary procedure but should be used to assist the employee to meet the required standard and so avoid disciplinary action.

Formal Disciplinary action consists of a number of progressive warnings as detailed below:

- a. Verbal Warning
Repetition of related misconduct or unsatisfactory performance that has not been resolved through the informal counselling process may be addressed by the issuing of a verbal warning by the manager. Although Verbal Warnings form part of the formal disciplinary process, a disciplinary hearing is not required.
- b. First Written Warning
- c. Final Written Warning
- d. Dismissal

First Written Warnings, Final Written Warnings and Dismissal may not be issued unless a formal disciplinary hearing has been convened in accordance with this policy.

Disciplinary action may be invoked at any stage, the level depending on the gravity of the situation.

Warnings will remain on an employee's personal file for a period of time as determined by the disciplining panel. This will usually be a period of between three and twelve months.

9.2 Representation

At all stages of the formal procedure, the employee will have the right to be accompanied by a full time trade union officer or a workplace colleague who must be an employee of Badger. Employees are not permitted at any stage of this procedure to have legal representation.

9.3 Role of Human Resources

The Human Resources team is to advise managers at all stages of the disciplinary process. The team may also answer any staff queries about the procedure in this document. Human Resources staff must be present at all disciplinary hearings.

9.4 Suspension from Duty

If for serious reasons it is undesirable for the employee to remain on the premises, then she/he should be suspended on full pay, pending investigations for a period of no longer than five days.

Suspension is not a disciplinary penalty and does not imply there has been any misconduct, or that there is any suggestion of guilt. It is a neutral act enabling the individual to be released from their place of work pending an investigation of allegations made. Suspension is appropriate where management needs time to obtain facts, or to collate evidence and where it would be inappropriate or unsafe to allow the employee to continue to work during the investigation.

Normally, the decision to suspend will be taken by the line manager (in consultation with HR) but where the line manager is not available; the decision to suspend will be taken by the most senior manager at the time of any incident. A suspended employee is normally prohibited from entering Badger's premises (except for treatment) unless specific permission is sought and granted from a member of the senior management team or suspending manager.

The suspended employee must be contactable during normal working hours during suspension and make themselves available for any investigation meetings at any time. There is no right for employees to be accompanied at a formal investigatory interview. The organisation reserves the right to dispense with an investigatory interview and to proceed directly to a formal disciplinary hearing.

9.5 Investigation of Allegations of Misconduct

Where accepted standards of conduct, performance or behaviour are alleged to have been seriously breached, an investigating officer will normally be appointed. Investigating officers will normally be line or senior managers at an appropriate level within Badger depending on the seriousness or complexity of the allegations.

Managers, or their appointed investigating officer, are required to fully investigate and establish the facts of the case promptly before recollection fades. This may include interviewing witnesses and gathering written materials, including statements, relevant employment history and details of relevant current warnings under the policy. The person carrying out the investigation should be the supervisor or manager at the appropriate level of management responsible for conducting the disciplinary meeting. Management should seek advice from the Human Resources Department.

Where an investigation may not be appropriate, ie cases of unauthorised absence, sensitive matters related to patients or their families or where an employee has breached Badger's policies or procedures, the line manager or a more senior manager will request that an employee attends a disciplinary meeting to explain the reasons for their actions.

If it is decided that formal disciplinary action is appropriate then the procedure detailed from section 6.0 should be followed.

Where it is decided that there is no case to answer, this should be relayed to the employee as soon as possible and confirmed in writing within 5 working days of the decision being made. Suspension should be lifted immediately and arrangements made for the employee to return to work.

9.6 Formal Disciplinary Proceedings

Where it is considered a disciplinary hearing is required, arrangements should be made to convene a hearing as soon as possible.

The employee must be advised in writing of:

- a. Their right to be accompanied and that they must make the necessary arrangements with the person who is to accompany them. Legal representation is not allowed at any stages of the procedure, including the appeal stage.
- b. The nature of the allegations against them.
- c. The status of the disciplinary hearing i.e. that this may result in formal disciplinary action and where appropriate, dismissal.
- d. The designation of management who will be attending the hearing.
- e. The site and venue for the meeting.
- f. Where appropriate, the requirement for the employee to arrange for any witnesses to attend the hearing. The employee must inform the panel of any witnesses they intend to call.
- g. The requirement to supply management with any documentation, including witness statements which the employee intends to present, at least 2 working days prior to the hearing.
- h. The name of the person who will accompany them at the disciplinary hearing.

9.7 Witnesses

Where there are witnesses to an alleged incident, it is important that written statements are obtained at an early stage. In most circumstances it is preferable that witnesses should attend the disciplinary hearing. Except in exceptional circumstances it is not Badger's policy to request patients or their families to attend as witnesses. Where it is not possible for a witness to produce a written statement, a verbal statement may be taken by management with the witness' agreement and included in the statement of case.

Employees may wish to call their own witnesses. The employee should approach the witnesses directly and ask them if they are willing to appear on their behalf at the hearing and managers must be informed in advance of the names of witnesses being called. Where witnesses have agreed to attend management will release witnesses subject to the needs of the service.

Any witness statements should be provided to Human Resources at least two days prior to the hearing.

9.8 The Disciplinary Hearing

The following guidance applies to all stages of formal disciplinary proceedings, excluding the verbal warning stage:

The hearing will be opened by the Chair of the panel who will make introductions of those present. The Chair may be a manager at the appropriate level from another department.

An advisor may be co-opted onto the panel for disciplinary hearings if dealing with a professional issue.

A member of the Human Resources Department will be in attendance to ensure the hearing is conducted in accordance with Badger's procedure and that there has been a fair and reasonable hearing of both sides' cases. The Human Resources Manager will advise the Chair and will be able to ask any questions in order to clarify facts relating to the case. The Human Resources support in attendance will be responsible for record keeping.

If the employee attends alone, she/he will confirm that is by choice. In the event of non-availability of accompaniment, consideration **may** be given to rearranging the hearing, but only if this is practical and will not cause unreasonable delay.

Where an employee fails to attend a disciplinary hearing, the matter may be considered in their absence. If it is decided to give the employee another opportunity to attend, a letter will be sent reconvening the hearing, as soon as is practical, and stating this may proceed in their absence on the next occasion.

The manager will present the case to the Chair/Panel and the employee will be given an opportunity to ask any questions.

The employee will then be given an opportunity to state their case and the manager will be able to ask any questions.

Both sides will have the opportunity to question any witnesses in attendance.

Where at any point the Chair/Panel presiding over the hearing believes further investigation of the facts is required/or needs to take advice, the hearing will be adjourned.

Once the Chair/Panel is satisfied that both parties have had the opportunity to fully state their case and make summary statements, the hearing is adjourned.

The Chair/Panel will then consider the facts and make a decision which will be confirmed in writing. In the case of first or final written warnings, the employee will be informed of the duration of the warning. In the case of dismissal, the employee will be told whether it is with notice or summary. (Summary dismissal is dismissal with no notice period being paid or pay in lieu of notice)

The right of appeal will be explained.

9.9 Confirmation of Disciplinary Action

A letter will be sent to the employee confirming the outcome of the hearing. This should be issued within 5 working days of the hearing. If the allegations have been upheld, the letter will specify:

- i. The disciplinary penalty imposed and the reasons for it.

- ii. For formal warnings, the duration of the written warning, the requirement for improvement and the steps to be taken to achieve and sustain improvement.
- iii. The consequence of further unsatisfactory performance or misconduct.
- iv. In the case of dismissal, the notice due, details of outstanding payments and the last day of service. For summary dismissal the effective date of termination and any statutory holiday pay due. Dismissed employees are required to surrender workplace or vehicle keys, badges, and any other property belonging to Badger.
- v. The right of appeal and associated procedure
- vi. A copy of the letter will be placed on the employee's personal file.

9.10 Right of Appeal

Verbal Warning	to next in line manager
First Written Warning	to next most senior manager
Final Written Warning	to Director/ Chief Executive
Dismissal	to Chief Executive/ Clinical Director/Badger Board

The employee has the right to appeal as detailed above and will be informed of this right when disciplinary action is taken. An appeal by the employee must be lodged in writing with the Human Resources Manager within 10 working days of the dated letter confirming the disciplinary action giving grounds for appeal.

The hearing should take place within 21 working days of the notice of appeal being received by the Human Resources Department unless there are any extenuating circumstances.

The appeal decision regarding dismissal is final and no further internal right of appeal exists.

10 RECORD OF DISCIPLINARY ACTION

Records of disciplinary action will be retained on personal files for the period of time determined by the Chair/Panel.

11 DOWNGRADING/REDEPLOYMENT

In exceptional circumstances (usually relating to competence) and to avoid dismissal it may be appropriate to downgrade a member of staff or re-deploy them to other employment within Badger as part of the disciplinary action. Such a downgrading will not attract pay protection.

In all cases where downgrading or redeployment is contemplated the Head of Human Resources must be consulted. If downgrading or redeployment is not accepted by the individual dismissal will be actioned.

12 CRIMINAL OFFENCES

An employee will not be automatically dismissed or otherwise disciplined because she/he has been charged with or convicted of a criminal offence, providing such offences have been previously disclosed by the employee. Failure to declare a criminal offence, refusal to undertake, or withdrawal of consent to a CRB check, will invariably constitute dismissal.

Disciplinary action may be taken where it is considered that the circumstances relating to a criminal offence have a direct bearing on the employee's role or performance, with due regard to matters relating to work place or their contract of employment.

APPENDIX 1**EXAMPLES OF MISCONDUCT
WHICH MAY WARRANT DISCIPLINARY ACTION**

Dependent on the degree of and the number of occurrences, the following are examples of misconduct. These offences could also escalate to Gross Misconduct.

- Persistent lateness/bad timekeeping.
- Absence from work without permission.
- Failure to comply with Badger's Policies.
- Failure to follow working practices and procedures - refusal to carry out reasonable instructions.
- Failure to maintain an adequate and acceptable standard of work as a result of poor performance.
- Failure to take reasonable care of, or unauthorised use of Badger's property, goods or vehicles.
- Harassment or any form of victimisation.
- Misappropriate use of IT systems/services.
- Fraudulently swiping in or out for another person or any other misappropriate use of your swipecard.

EXAMPLES OF GROSS MISCONDUCT WHICH MAY WARRANT DISMISSAL WITHOUT NOTICE

The following are examples of breaches of discipline considered serious enough to constitute grounds for dismissal. **The list is for guidance and is not exhaustive.** Each case will be individually considered.

- Continued unauthorised absence.
- Assault or abusive behaviour on a fellow employee, patient or member of the public. (This includes physical, psychological, sexual assault and verbal abuse.)
- Bribery and corrupt practices, including receipt of goods, money or pecuniary advantage in respect of services rendered.
- Fraudulent practices, including falsification of records, such as timesheets, subsistence and expenses claims. Falsification of information on appointment, including qualifications which may or may not be a statutory requirement of employment, criminal offences or convictions.
- Behaviour indicating racial, sexual or any form of discrimination, victimisation or harassment.
- Incapacity due to alcohol or drugs (in accordance with the policy on Alcohol & Substance Abuse).
- Negligent behaviour, instances of wilful negligence or unauthorised absence where this is considered liable to result in harmful or serious consequences.
- Intentional damage to Badger's property or that of employees, patients, or members of the public.
- Serious breaches of Health and Safety Rules.
- Smoking (or use of an e-cigarette) in non-designated areas of the organisation's premises
- Serious breaches of confidentiality that may include the Data Protection Act.
- Gross insubordination, refusal to carry out a reasonable management request or neglect of duty in a matter that may be detrimental to patients, colleagues, or Badger.
- Unauthorised or unlawful removal of property from Badger, a patient, a member of the public, or fellow employee.
- Charge of criminal offence, where management considers the circumstances are relevant to the employee's performance or contract of employment.
- Further inappropriate use of IT systems/services
- Actions resulting in a compromise of patient safety or security of information.
- Sleeping on duty.

APPENDIX 2

STAGES OF DISCIPLINARY ACTION

Verbal Warning

Repetition of related misconduct or unsatisfactory performance may result in the issuing of a verbal warning by the employee's manager. The member of staff will be warned that continued misconduct or poor performance may lead to further disciplinary action. A letter should be sent after the warning has been given which sets out the issues discussed and the improvements expected.

The letter should be signed by the manager and employee and put on the employee's personal file for a minimum period of three months but no longer than 12 months.

First Written Warning

Continued repetition of related minor misconduct or unsatisfactory performance may lead to a first written warning.

Final Written Warning

Normally a Chair/Panel i.e. the disciplining officer will issue a final written warning after a first written warning. However, depending on the seriousness of the case, some circumstances may warrant a final written warning being issued as the first stage in formal disciplinary proceedings. The employee will be informed that any further occurrences of the offence or failure to improve may lead to dismissal.

Time Limits of Warnings

- i) Verbal
If a verbal warning is being issued, it should be made clear to the employee that this is not just a reprimand. A verbal warning may be given for a minimum period of 6 months but no longer than 12 months. The period of time that the warning will remain in force should be stated and also explained. The employee should be told clearly what improvement is required, over what period and how it will be assessed. Managers should keep a diary note for reference purposes.
- ii) Written and Final
Written and final warnings will be for a minimum period of 12 months, and final written warnings normally for 24 months. The warning will be retained, with full supporting documentation, on the employee's personal file for the specified period.

At the end of the specified period of the written warning, all records of the offence will be removed from the personal file. A letter confirming this will be sent to the employee concerned.

- iii) Dismissal
An indication of the offences normally considered sufficiently serious to constitute gross misconduct is given in Appendix 1.

An employee may be dismissed, having been issued with a final written warning for previous related misconduct or unsatisfactory performance.

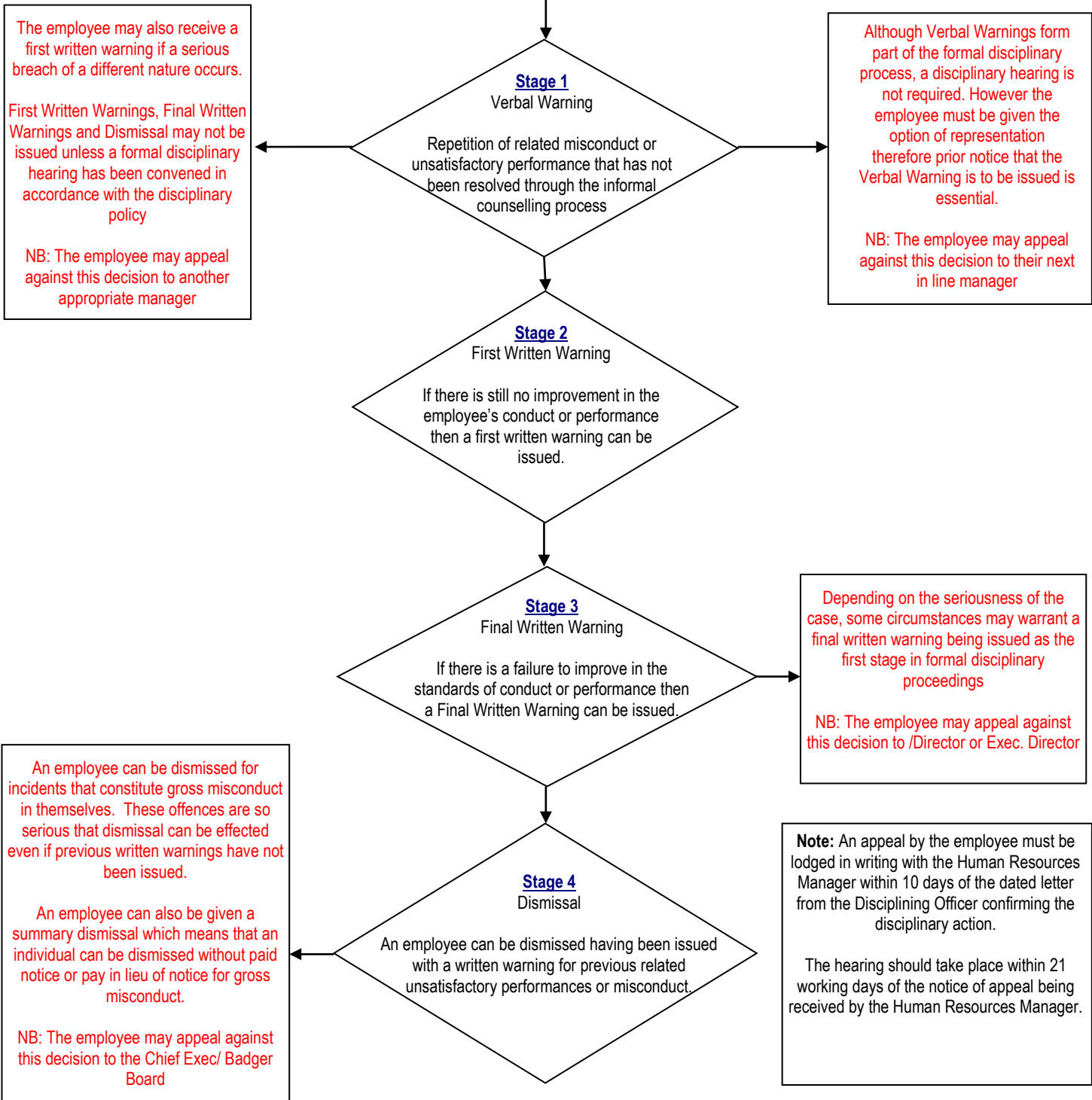
An employee may be dismissed for incidents that constitute gross misconduct. These offences are so serious that dismissal can be effected even if previous written warnings have not been issued.

iv) Summary Dismissal

Summary Dismissal means that an individual is dismissed without paid notice or pay in lieu of notice. An individual will however, receive any outstanding statutory holiday pay not taken or paid. Except in exceptional circumstances of mitigation acts of gross misconduct will normally result in summary dismissal.

Disciplinary Flow Chart

Minor misconduct should initially be dealt with informally through counselling. The manager should consult the employee and agree an acceptable solution to the issue. Counselling is not part of the formal disciplinary procedure but should be used to assist the employee to meet the required standard and so avoid disciplinary action.



NB: One or more of these stages may be omitted if the unsatisfactory behaviour or performance is sufficiently serious. Please refer to the disciplinary policy for further information.