

# **BASK Disciplinary and Grievance Procedures**

At **BASK** we follow our legal obligations as an employer at all times including dealing with any disciplinary matter in a fair and consistent manner. We have a policy and procedures that set out our process.

## **Legal obligations**

Our legal obligations as an employer are detailed in the ACAS Code of Practice on disciplinary and grievance procedures. This code of practice was introduced on 6 April 2009 and reviewed and updated in 2015. A full copy of the ACAS Code of Practice and the accompanying guidance can be obtained from the ACAS website HYPERLINK "http://www.acas.org.uk" [www.acas.org.uk](http://www.acas.org.uk)

We note that a failure to follow the code does not, in itself, make an organisation liable to formal proceedings at an employment tribunal, but failure to follow the code may result in any compensation award payable to be increased by up to 25% or reduced by 25% if the employee does not comply.

## **Objectives and guiding principles**

The objective of this procedure is to set out the standards of conduct expected of all staff and to provide a framework within which our managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

It is our policy to ensure that any disciplinary matter is dealt with fairly and consistently. We will take the necessary steps to establish the facts and to give employees the opportunity to respond before taking any formal action.

This procedure does not form part of any employee's 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.

The procedure applies to all employees regardless of length of service.

Minor conduct issues can often be resolved informally between staff member and line manager. These discussions should be held in private and without undue delay whenever there is a cause for concern. Where appropriate a note of any such discussions may be held on personnel file, but will be ignored for the purpose of future disciplinary issues.

Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (eg due to the serious nature of an allegation).

Staff members will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or if the staff member has not yet completed a probationary period.

### **The procedure**

Our aim is to deal with disciplinary matters sensitively and fairly. All employees must treat all information in connection with the disciplinary procedure and its investigation as confidential.

Where there has been a serious allegation of misconduct or gross misconduct and/or there are serious concerns regarding the employee's capability, we aim to establish the facts quickly and no disciplinary action will be taken until the matter has been fully investigated. Staff members will be informed if a formal complaint is made against them, and if necessary, they may be suspended on full pay pending the outcome of the investigation and disciplinary procedure.

### **Stage 1**

We will investigate any allegations/concerns quickly and thoroughly to establish whether a disciplinary hearing should be held

The purpose of the investigation is to establish a balanced view of the facts relating to the allegations against the employee. The amount of investigation will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents

Investigation interviews are solely for the purpose of fact finding and no decision on the disciplinary procedure will be taken until after the disciplinary hearing

The employee is not normally allowed to bring a companion to an investigatory interview. However, we may allow them to bring a work colleague or trade union representative in exceptional circumstances. If the employee wishes to be accompanied they should contact **the manager** to discuss the reasons for their request

If the investigations lead us to reasonably believe there are grounds for disciplinary action, we will write to the employee outlining the allegations against them, the basis of the allegations and the potential consequences. The employee will be invited to a disciplinary hearing to discuss the matter. They will be sent any copies of evidence which may be referred to in the hearing (e.g. witness statements, or a summary of the statements if the witness's identity is to remain confidential, and minutes of meetings).

### **Stage 2**

We will hold the disciplinary meeting to discuss the allegations. The employee will have the right to bring a companion to the meeting and a companion may be a work colleague or trade union representative. The employee must inform us

prior to the meeting who their chosen companion is. If their companion is unreasonable, for example, there may be a conflict of interest, we may require the employee to choose someone else

If the employee or their companion is unable to attend the meeting they should inform us immediately and we will arrange an alternative time and date. The employee must make every effort to attend the meeting and failure to do so without good cause may be treated as misconduct in itself

If the employee persistently fails to reply to invitations, or persistently fails to attend the arranged hearing without good cause, it may be carried out in their absence and they will be notified of the decision in writing. The employee will retain the right to appeal

During the meeting we will go through the allegations against the employee and the evidence that has been collated. The employee will be able to state their case and call relevant witnesses (provided they provide advance notice and we agree to their attendance) to support their case

We may adjourn the disciplinary meeting if we need to carry out further investigations and the employee will be given reasonable opportunity to consider new information

The employee will be notified of the decision in writing, usually within **7** working days of the hearing

The employee will be given the opportunity to appeal the decision. If they wish to appeal, the employee should state their full grounds in writing and the letter should be sent to **the owner** within **7** working days from the date the decision was communicated to them.

### **Stage 3**

The appeal meeting will be conducted impartially by a more senior manager/the owner, where possible, who has not previously been involved in the case

The employee will be able to bring a companion to the meeting and the companion may be a work colleague or trade union representative (as stated above)

We may adjourn the appeal hearing if further investigations need to be carried out and the employee will be given reasonable opportunity to consider any new information before the hearing is reconvened

We will inform the employee in writing of our final decision as soon as possible, usually within **7** working days of the appeal hearing.

There is no legal right to appeal beyond this stage.

### **Disciplinary penalties**

In the first instance, where less serious offences are concerned, we are most likely to give the employee a verbal warning. This warning will be recorded and a copy maintained in the employee's personnel file with a time scale for improvement or to not re-offend.

***Note: the right to a verbal warning is not part of the ACAS code. Many employers use verbal warnings as a first stage but BASK may prefer to use a written warning as the first stage depending on the circumstances.***

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee 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.

The employee will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or the employee has not yet completed their probationary period.

### **First written warning**

A first written warning may be authorised by the Manager. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee disciplinary record.

### **Final written warning**

A final written warning may be authorised by the **Manager**. It will usually be appropriate for:

Misconduct where there is already an active written warning on the employee record

Misconduct that we consider is sufficiently serious to warrant a final written warning even though there are no active warnings on the employee record.

### **Dismissal**

Dismissal may be authorised jointly by the **Manager and Owner**. It will usually only be appropriate for:

Any misconduct during the employee probationary period;

Further misconduct where there is an active final written warning on the employee record; or

Any gross misconduct regardless of whether there are active warnings on the employee record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out below.

**Levels of authority**

BASK Managers have the authority to suspend an employee pending investigation. Only the Owner has the authority to dismiss an employee.

**Gross misconduct**

In the case of gross misconduct, BASK reserves the right to dismiss an employee without notice (or payment in lieu of notice) if, after investigation and a hearing, the management are satisfied that there is sufficient justification for so doing.

**Duration of warnings**

Under normal circumstances warnings will be valid for the following time periods, although these may vary according to the nature of the occurrence and may therefore be determined by mutual agreement at the time of issue:

Verbal warning - six months

First written warning - six months

Final written warning - 12 months.

On expiry, warnings will be disregarded for future disciplinary purposes.

**Examples of gross misconduct**

Examples of what would constitute a gross misconduct offence include:

Failure to inform the employer of a disqualification, either personally or a person living in the same household as the registered provider, or a person employed in that household

Non-compliance with SSSC registration

Theft or the unauthorised possession of property belonging to BASK, its employees or customers

Assault on any employee or persons associated with BASK

Breach of confidence i.e. the divulging of confidential information relating to BASK, its employees or clients

Dishonesty, including the use of any funds, expenses or allowances for any other purpose than that for which they have been delegated by BASK

Being under the influence of drugs or alcohol whilst on duty

Serious or persistent breaches of safety rules

Fraud including falsification of work records and expense claims

Signing/clocking in or out for another employee

Physical assault or abuse towards a child e.g. hitting a child in chastisement or harsh disciplinary actions

Discrimination/harassment in any way against a person

Persistent failure to follow BASK documentation systems and procedures.

Further behaviour that could constitute gross misconduct is not limited by the above list.

### **Examples of misconduct**

Examples of what would constitute a misconduct offence include:

Minor breaches of our policies [including the Sickness Absence Policy, Mobile Phone and Social Networking Policy, and Health and Safety Policy]

Minor breaches of contract

Damage to, or unauthorised use of, our property

Poor timekeeping

Time wasting

Unauthorised absence from work/unacceptable attendance levels

Refusal to follow instructions

Excessive use of our telephones for personal calls

Excessive personal email or internet usage

Obscene language or other offensive behaviour

Negligence in the performance of your duties

Smoking in no-smoking areas.

N.B. Some of the misconduct offences above may, dependent on the circumstances and having followed a detailed investigation, also be classed as gross misconduct offences.

## **BASK Grievance Procedure**

At **BASK** we follow our legal obligations as an employer at all times including hearing and investigating grievances. We have a policy and procedures that set out our process.

### **Objectives and guiding principles**

We recognise that an employee needs to feel that his or her grievance has been fully investigated and has received a fair hearing. The employee also needs to understand the reasons for the decision made by the manager who heard their grievance. The employee should then be given the opportunity to appeal against

the decision. Their appeal should be submitted in writing and should be investigated and heard by someone more senior to the person who heard the initial grievance. The person allocated to hear the employee's appeal should be able to take a fresh and independent look at the issue. In our organisation the individual's immediate line manager deals with the grievance initially separately before being passed on to the **proprietor** of BASK.

ACAS advocates the use of mediation to resolve grievances, in an attempt to maintain a good working relationship and resolve issues within the workplace. We may decide to use such mediation where appropriate using ACAS support and guidance.

**Our grievance procedure does not form part of any employees' contract of employment. It may be amended at any time and we may depart from it depending on the circumstances of any case.**

**This procedure applies to all employees regardless of length of service.**

BASK believes that all employees should be treated fairly and with respect. We encourage all employees to try to resolve any grievance with the individual concerned on an informal basis, as most grievances can be resolved quickly through discussion. However, the formal process should be followed where grievances cannot be resolved informally.

## **Grievance process for employees**

### **Stage 1**

#### **Making your grievance**

You should put your grievance in writing and forward it to your line manager

This written statement will form the basis of any investigations and the subsequent hearing, so it is important that you set out clearly the nature of your grievance and any dates and names of individuals involved. You should also indicate the outcome that you are seeking. If your grievance is unclear, you may be asked to clarify your complaint before any meeting takes place

If your complaint relates to an issue with your line manager, the grievance may be sent to the owner.

Before proceeding to a full grievance hearing, it may be necessary to carry out investigations of any allegations made by you. If any evidence is gathered in the course of these investigations, you will be given a copy long enough in advance of the hearing for you to consider your response. In exceptional circumstances, the evidence given by individuals may have to remain confidential. Where confidentiality is necessary, this will be explained to you and an appropriate summary of the evidence gathered will be given to you.

### **Stage 2**

### **The grievance hearing**

The hearing will be held as soon as is reasonably possible following any investigations, and within **5** working days of the receipt of your written complaint. It will be conducted by your line manager. You are entitled to bring a companion to the grievance meeting if you make a reasonable request to do so. This request must be in advance of the meeting and you should tell us the name of your chosen companion. The companion may either be a trade union representative or a work colleague.

You should ensure that you attend the meeting where possible. If you are unable to attend because of circumstances beyond your control, you should inform your line manager as soon as possible and a further meeting will be re-arranged as soon as possible. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.

During the hearing you will be given the opportunity to explain your complaint. Your explanations should focus on the complaint and not on irrelevant issues. The manager conducting the hearing will inform you if they believe the key issues are not being focused on. They may also set a reasonable timeframe for the meeting; this will be determined by the nature and complexity of your complaint.

The hearing may be adjourned to allow further investigations to take place. Following the meeting, you will be informed in writing of the outcome within **7** working days and told of any action that BASK proposes to take as a result of your complaint, if applicable. If it is anticipated that further investigation is required and therefore the outcome cannot be provided within this timeframe, we will inform you as to when you can expect to receive the outcome.

***However, if another employee has been disciplined as a result of the grievance, BASK will not inform the employee who raised the grievance as this information is confidential between BASK as the employer and the other employee.***

If you are dissatisfied with the outcome, you may make a formal appeal in writing to ***the proprietor*** stating your full grounds of appeal, within **7** working days of the date on which the decision was sent or given to you.

### **Stage 3**

We will hold an appeal meeting, normally within **1** week of receiving the appeal. This will be dealt with impartially by a manager/owner who has not previously been involved in the case. You will have the right to bring a companion, as explained above.

We will confirm our final decision in writing, usually within **7** working days of the



appeal hearing. There is no further right of appeal.

### **Grievances linked to disciplinary matters**

Complaints that you may have about any disciplinary action taken against you should be dealt with as an appeal under the disciplinary procedure.

Grievances raised while you are subject to disciplinary proceedings will usually be heard when the disciplinary process has been completed. If a grievance has any bearing on the disciplinary proceedings, it can be raised as a relevant issue in the course of the disciplinary hearing.

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<b>This policy was adopted on</b>	<b>Signed on behalf of BASK</b>	<b>Date for next review</b>
<i>13 July 2021</i>	<i>Andy McEwing</i>	<i>July 2026</i>