



The Bar Council



**ADR Resolutions**  
Management Consultancy

## Model disciplinary policy

- Purpose:** To assist barristers' chambers to fulfil their obligations to their employees and, where they are Authorised Education and Training Organisations, to their pupil barristers
- Scope of application:** Those who are responsible for employees in chambers and pupillage in Authorised Education and Training Organisations at the self-employed Bar
- Issued by:** Chambers Management Panel
- First issued:** September 2024
- Last reviewed:** September 2024
- Status and effect:** **Please see the notice at end of this document. This is not "guidance" for the purposes of the BSB Handbook I6.4.**

The Bar Council's Chambers Management Panel has worked with [ADR Resolutions LLP](#) to produce the following template disciplinary policy for barristers' chambers.

The policy is designed to help barristers' chambers fulfil their legal obligations to their employees. It can also be adapted by Authorised Education and Training Organisations who take on self-employed pupils, to ensure they are compliant with their regulatory obligations.

A summary of the relevant obligations can be [found on the policies and procedures for chambers webpage](#). It is recommended that you familiarise yourself with the relevant requirements.

This document has been prepared in good faith and does not constitute legal advice. It is therefore recommended that you instruct a solicitor or [a direct access barrister](#) specialising in employment law to review the final version of it before submitting it for approval and adoption by your management committee or otherwise.

### **Important notice**

This document has been prepared by the Bar Council to assist barristers on matters of professional conduct and ethics. **It is not “guidance” for the purposes of the BSB Handbook I6.4, and neither the BSB nor a disciplinary tribunal nor the Legal Ombudsman is bound by any views or advice expressed in it.** It does not comprise – and cannot be relied on as giving – legal advice. It has been prepared in good faith, but neither the Bar Council nor any of the individuals responsible for or involved in its preparation accept any responsibility or liability for anything done in reliance on it. For fuller information as to the status and effect of this document, please see [important information and disclaimer](#).

# Disciplinary policy

## Our commitment

We are committed to creating an inclusive and positive environment in which everyone considers they are being treated fairly and equitably. We expect everyone to carry out their work and conduct themselves in a professional manner that promotes our values and the interests of [name of chambers].

This policy explains what we consider to be inappropriate behaviour and what we will do if we have concerns about your conduct [employed/undertaking your pupillage] with [name of chambers]. We'll explain to you any concerns we have about your conduct, listen to what you have to say and, where necessary, we'll be clear about the behaviour we expect to see in future.

We hope you never need this policy, but if you do, your [Manager/Supervisor] and to the [title of person responsible for handling HR issues/pupillage in chambers] are here to support you.

We know that being subject to disciplinary proceedings can be difficult. We will always try to establish the facts and resolve the matter as quickly as possible. We are committed to your wellbeing and this policy signposts you to other support if you need it.

This policy is not part of your [employment contract/pupillage agreement], and we can change it at any time. If you have any questions, please talk to the [title of person responsible for handling HR issues/pupillage in chambers].

## What and who is this policy for?

The policy applies describes how we will deal with issues of misconduct at work and applies to all our [employees/pupil barristers].

In this policy:

- 'We'/'us' refers to [name of chambers]
- 'You' means all [employees/pupil barristers] of [name of chambers]
- ['Manager'/'Supervisor'] means all those who have responsibility for you

[For employees: issues relating to performance are not dealt with through this policy and will instead be managed through our **Capability policy**. In some instances, a performance issue can become a conduct issue, and vice versa.]

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**Note for author:** you can implement a capability policy for pupil barristers but there is no regulatory or legal requirement for you to do so. You can find a model capability policy for employees on our [Ethics and Practice Hub](#).

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This policy does not apply to absence from work that is not conduct related. The **[Sickness Absence Policy/Absence from Training Policy]** will apply in cases where absence is due to sickness.

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**Note for author:** the Bar Council will be producing a model sickness absence policy and absence from training policy in 2025/26. The former applies to employees and the latter to pupil barristers. In the meantime, there is some information about what each should contain and where you can find other models on our [Policies and Procedures for Chambers webpage](#).

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## Key principles

### Informal resolution as default

In some cases, formal disciplinary action may not be necessary in the first instance and issues can be handled most effectively through informal action. Depending on the seriousness of the issues and whether the individual concerned is already subject to an active disciplinary warning, we encourage using an informal approach to resolve problems wherever possible.

### Disciplinary process

The formal disciplinary procedure will begin at our discretion. This may be when informal approaches have failed, or where an informal approach is not appropriate. We can implement the procedure at any stage, depending on the nature and gravity of the alleged misconduct.

### Establishing the facts

No formal disciplinary action will be taken against you until it is confirmed there is a case to answer. How we establish the facts to inform that decision will depend on the circumstances, and how serious the allegations are.

## **Support to all parties**

We know that formal disciplinary processes can be stressful, so if there are things we can do to reduce the impact of the process on your wellbeing then, provided they are appropriate, we will. Sources of support are outlined at the end of this policy under 'Further information and support'.

## **Fairness**

We will ensure that you are treated fairly, which means you will be told the nature of the alleged misconduct against you and have an opportunity to explain your side of the matter before any formal disciplinary decision is made.

## **Confidentiality**

It is the responsibility of the people involved in a disciplinary process to ensure that the matters discussed remain confidential. However, there may be situations in which it is necessary to provide information to others to ensure that the process is handled effectively and fairly, and that those who might be impacted by it are duly informed.

Inappropriate access to, or disclosure of, personal or sensitive personal data (whether verbally or in writing) constitutes a data breach and must be reported to the [title of person responsible for handling GDPR issues]. It may also, in and of itself, constitute a disciplinary offence.

[For pupil barristers: inappropriate access to, or disclosure of, personal data may also constitute misconduct under the Bar Standards Board Handbook and you may therefore need to consider whether you have a duty to report your actions to them. You can seek confidential guidance on the relevant provisions for the [Bar Council's Ethical Enquiries Team](#), who are contactable on 020 7611 1307.]

## **Disciplinary offences – types of unacceptable behaviour**

Individuals may be subject to our disciplinary procedure for a wide variety of reasons. If an allegation or allegations of unacceptable or improper behaviour are made against you, we'll make it clear whether we consider them to be misconduct or gross misconduct.

## Misconduct

Misconduct is when someone has behaved in an unacceptable or improper way. Unacceptable behaviour we view as misconduct that may amount to a disciplinary offence could include, but is not limited to, the following:

- Persistent poor attendance and/or timekeeping
- Unauthorised absence
- Unreasonable refusal to follow an instruction issued by your [manager/supervisor]
- Failure to observe our procedures
- Any act that has a negative impact on our reputation
- Causing damage to our property
- Any act that is inconsistent with our values

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**Note for author:** further examples you could add include working outside of the UK without prior permission, persistently being non-contactable and/or not visible online during working hours, and smoking or using an e-cigarette in non-designated areas of your premises or when involved in an online meeting.

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## Gross misconduct

Gross misconduct is unacceptable or improper behaviour of a very serious nature. What distinguishes misconduct from gross misconduct will depend on the circumstances and the nature and seriousness of the allegations. Acts that constitute gross misconduct are so serious or have such serious consequences that they may result in a final written warning, [for employees: demotion or dismissal] [for pupil barristers: or termination of your pupillage] without notice for a first offence.

Examples of gross misconduct could include, but are not limited to, the following:

- Theft, fraud, deliberate falsification of records
- Fighting, assault on another person, or threat of physical violence
- Unauthorised use of or deliberate damage to our property, including buildings, fittings, or equipment
- Serious incapability through alcohol or being under the influence of illegal drugs
- Serious negligence which causes unacceptable loss, damage or injury
- Deliberate acts of abuse, or abusive behaviour

- Discrimination, bullying, harassment or victimisation (see our **Dignity at work policy** for definitions of these terms)

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**Note for author:** a dignity at work policy is also known as a harassment, bullying and inappropriate behaviour policy, or an acceptable behaviour policy. You can find [guidance on discrimination, harassment, bullying, and inappropriate behaviours](#) on our Ethics and Practice Hub, [alongside a template policy](#).

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- Serious acts of insubordination
  - Unauthorised access to, and/or use of computer records and electronic data
  - Breach of our **IT policies**, including accessing offensive or pornographic material and attempting to download material likely to damage our IT systems

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**Note for author:** you can find a variety of [IT related template policies](#) on our Ethics and Practice Hub. We will be producing any that are missing in 2026 and 2027. In the meantime, there is some information about what each should contain and where you can find other models on [our Policies and Procedures for Chambers webpage](#).

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- Being convicted of a criminal offence or any action likely to bring us **[for pupil barristers: or the profession]** into disrepute
  - Acts falling within the provisions of the Bribery Act, including corruption and inappropriate acceptance or giving of gifts of hospitality, depending on the seriousness
  - Making a malicious or vexatious claim of any nature
  - Unauthorised use or disclosure of confidential information, including through social media, or leaving confidential information unsecured

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**Note for author:** you can find a model social media policy for employees on our [Ethics and Practice Hub](#).

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- Gross inefficiency or neglect of duty

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**Note for author:** further examples you could add include breaches of your social media policy that might bring chambers, or the profession, into disrepute, serious breaches of health and safety rules, and acting in an unprofessional manner on any premises that your employees or pupil barristers are required to visit for the purpose of carrying out their work, including outside of the working hours defined by their contracts of employment or written pupillage agreements.

For pupil barristers, you may also wish to include those actions that the Bar Standards Board considers constitute serious misconduct, which are set out under gC96 of the [Handbook](#).

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It can also be gross misconduct to threaten or attempt to do these things – or to lead someone to believe you have done so or plan to do so.

If you're accused, charged or convicted of a criminal offence (including getting a summons), let your [\[Manager/Supervisor\]](#) know right away, in writing. Your manager will speak to the [\[title of person responsible for handling HR issues/pupillage in chambers\]](#) and we will then decide whether to launch our own investigation and disciplinary process, depending on how serious the offence is, and how relevant it is to your [\[employment / pupillage\]](#). We will also consider whether a suspension from normal duties is required.

**[For pupil barristers: under rC65 of the [Bar Standards Board Handbook](#), you have a duty to support certain types of criminal offences and other forms of serious misconduct to your regulator. If you have not been called to the Bar, then you may instead need to report them to your Inn of Court. You can seek confidential guidance on the relevant provisions of the Handbook from the [Bar Council's Ethical Enquiries Team](#), who are contactable on 020 7611 1307.]**

### **If you are a [\[Manager/Pupil supervisor\]](#)**

If you're a [\[Manager/Pupil supervisor\]](#) and you have any concerns about the conduct of someone you [\[manage/supervise\]](#), you should investigate promptly and thoroughly.

Read through this policy and procedure and talk to the [\[title of person responsible for handling HR issues/pupillage in chambers\]](#) before you speak to the person you have concerns about.



If the misconduct is not serious or is a one-off incident, you can decide to raise your concerns informally, but you should still listen to the person's explanation and make it clear what the expectation of behaviour is and what will happen if there is no improvement or any repetition – and make a note of the conversation.

If the misconduct is more serious, or has happened before, it may be appropriate to deal with it formally.

If at any point you begin to think the issue is not a disciplinary one and should be treated as a performance or a sickness concern, talk to the [title of person responsible for handling HR issues/pupillage in chambers]. It may be appropriate for you to suspend the process and to deal with it under our **Performance Management Policy [for employees: or Sickness absence policy]** instead.

## Informal action

Minor misconduct can generally be dealt with through informal action. Informal action will usually take the form of a conversation between you and your [Manager/Pupil supervisor].

During the meeting, your [Manager/Pupil supervisor] will:

- Outline their concerns and expectations of you, and the impact that your actions may have had on others, including chambers
- Listen to your explanation carefully
- If required, ask further questions to help them understand your position and check that they have all the relevant information
- Discuss any support needs that you may have, and any improvements that they feel will be necessary for you to make
- Confirm any review and monitoring periods, if applicable.

Following the meeting, your [Manager/Pupil supervisor] will send you a written summary of your discussion. They may also share the summary with the [title of person responsible for handling HR issues/pupillage in chambers], to hold on file for reference.

If your discussion with your [Manager/Pupil supervisor] fails to result in an improvement, or if your [Manager/Pupil supervisor] considers your actions to be too serious to deal with informally, then we may take formal action instead.

## Formal action

### Establishing the facts

We will always seek to establish the facts before disciplinary decisions are made. Depending on the circumstances:

- The matter may go straight to a disciplinary meeting following a conversation about the concerns, for example, if the issue is straightforward and it is possible to quickly establish the facts, or
- We may commission a formal investigation before the disciplinary meeting, and/or
- It may become evident during the disciplinary meeting that further investigation is necessary, and/or
- We may need to interview other people before or after the disciplinary meeting

### Investigating the disciplinary matter

If a formal investigation is necessary, this may be carried out by your [Manager/Pupil supervisor]. Alternatively, we may appoint another person in chambers who is not connected with your case or an external investigator (the 'Investigator') to conduct the investigation. The decision on who will carry out the investigation and hold any investigatory meeting(s) with you will be made by [title of person responsible for handling HR issues/pupillage in chambers].

The investigation will be conducted as quickly as possible and in as confidential a manner as possible. You will first be invited to attend an investigatory meeting with the Investigator. During the meeting, the Investigator will outline the allegations that have been made against you and give you an opportunity to respond to them. The Investigator may ask further questions to help them understand your position and check that they have all the relevant information.

There are occasions on which it may become evident during the meeting that the Investigator may need to obtain written statements from other relevant people. In these circumstances, the Investigator may adjourn the meeting and notify you when they are ready to reconvene. Any adjournments will be for no longer than is necessary to ensure that your disciplinary investigation is handled fairly and proportionately.

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**Note for author:** you may wish to include some additional information relating to witnesses that would like to remain anonymous. You must agree to protect their privacy but how much weight you attach to their evidence is discretionary.

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[For employees: although it's not a legal requirement at the investigatory stage] [We will make all reasonable efforts to allow you to be accompanied to an investigatory meeting, if you request it].

The Investigator will be impartial and will not therefore determine the outcome of any formal disciplinary process. That decision will be made by another person in chambers who is not connected with your case (the '**Disciplinary Manager**').

Following the investigation meeting, the Disciplinary Manager may choose to:

- Dismiss the matter on the grounds that there is no case to answer
- Take informal action, such as suggesting that an alternative dispute resolution processes be followed to prevent the matter from escalating any further
- Arrange a disciplinary meeting

You should take all reasonable steps to attend the investigatory meeting(s). If you [ or the person who be accompanying you,] can't make the date that the Investigator has proposed, you may suggest an alternative one. You should set out the reasons for your request in writing and the date that you suggest should be within 5 working days of the one proposed by the Investigator. The Investigator will then consider your request and confirm whether they can accommodate it.

Where you fail to attend an investigatory meeting more than once and without compelling reasons, then the Disciplinary Manager may determine the outcome in your absence. They will inform you of their intention to do so in writing and will share the outcome with you in writing thereafter.

### **Reasonable adjustments**

Any individual who requires any reasonable adjustments during the disciplinary process, including during the investigation, should raise this with the person who will be conducting the meeting in sufficient time for them to make any arrangements necessary.

### **Suspension from chambers**

There may be circumstances in which we need to suspend you while we investigate the allegations against you and, where applicable, prepare for and conduct your disciplinary meeting.

Suspension is not a form of disciplinary action and, if you are suspended, it does not mean that we have already decided that you have done something wrong. We will only suspend you where we think it is necessary to ensure a fair investigation can be carried out and we will endeavour to ensure that the period of suspension will be for as short a period as reasonably possible. During your suspension, you will continue to receive your [salary/pupillage aware] in full.

We will consider alternatives to suspension, such as reducing your [duties/work allocation], limiting contact with clients or other people who are external to chambers, or removing your access to one or more of our systems, before taking a decision.

If we decide to suspend you, you will receive written confirmation of our decision from your [Manager/Pupil supervisor] or the [title of person responsible for handling HR issues/pupillage in chambers]. Their letter to you will include a summary of the allegations that have been made against you and will also set out how long your suspension will last for, and the terms associated with it. If we need to extend the period of suspension for any reason, your [Manager/Pupil supervisor] or the [title of person responsible for handling HR issues/pupillage in chambers] will confirm this to you in writing.

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**Note for author:** during any period of suspension, you may want to insist that the person facing disciplinary proceedings:

- Should not come into chambers or attend your events without prior written agreement
- Carry out work for chambers or their supervisor (if they are a pupil barrister in their non-practising period)
- Remotely access your systems without prior written agreement
- Communicate in any way with other people in chambers (except for those who are responsible for managing or conducting the disciplinary process)

Please note that, in relation to the latter, someone involved in the disciplinary process (either the individual's Manager or Pupil supervisor, or the person in

chambers who is responsible for handling HR issues or pupillage) should arrange regular keeping in touch meetings with the person who has been suspended.

You may also wish to make it clear that they must ensure they are available to attend any relevant meetings.

Depending on the nature of the allegations and the needs of their client(s), you may wish to consider whether one or more of your pupil barrister's cases need to be reallocated during their practising period. You can seek confidential guidance on this issue from the [Bar Council's Ethical Enquiries Team](#) on 020 7611 1307, for confidential guidance in advance.

It is also important to remember that, depending on the length of the suspension and the outcome of the disciplinary process, you may need to extend the relevant period of pupillage to ensure that your pupil barrister has had sufficient time to demonstrate that they are able to meet the competencies which they must attain to be authorised to practise.

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### **Invitation to a disciplinary meeting**

If the Disciplinary Manager decides that there is a case to answer, they will invite you to a disciplinary meeting. You will receive at least 5 working days' notice of the meeting and in their invitation, the Disciplinary Manager will set out the:

- Details of the alleged misconduct and any other relevant allegations, including copies of the written evidence that will be used during the meeting
- Arrangements for the meeting, including who will be present
- Highest possible sanction that could be issued to you if the allegations are substantiated

If they are not conducting the meeting themselves, the [title of person responsible for handling HR issues in chambers] will be present during the meeting to advise on the process, policy and procedure. The Disciplinary Manager may record the meeting with the consent of those in attendance, to ensure that accurate notes can be taken. They may also appoint another person in chambers to attend the meeting to take a summary note of the key issues and the outcomes that have been reached.

You and, where applicable, the person accompanying you, may not record the meeting, either obviously or covertly.

## **Being accompanied at disciplinary meetings**

Any individual who is involved in a formal disciplinary process may be accompanied at the disciplinary meeting by a neutral colleague [for employees: or by a full-time trade union representative], but not by anyone acting in a legal capacity.

You do not have to be accompanied but, if you do wish to be, you must also notify the person who will be conducting the meeting at least two working days in advance of the meeting. You must provide them with details of who will be there and in what capacity and allow them sufficient time to make any arrangements necessary.

During the meeting, the person that you have chosen to accompany you can lend you their support, or take a more active role by:

- Summarising or explaining your position
- Asking questions or seeking clarification on your behalf

However, they will not be permitted to answer any questions that are put to you by the person who is conducting the meeting.

## **The disciplinary meeting**

During the meeting, the Disciplinary Manager will:

- Explain what the alleged misconduct is and any impact
- Clarify what evidence will be considered, including any witness statements
- If applicable, confirm any action already taken to support you to improve your conduct
- Give you the opportunity to respond to the allegations and set out any mitigating factors that you think the Disciplinary Manager should consider

The Disciplinary Manager may ask further questions to help them understand your response(s) and check that they have taken everything necessary into consideration. They will also give you the opportunity to ask questions and, where relevant, suggest others that you think they should speak to about the allegations.

There are occasions on which it may become evident during the disciplinary meeting that further investigation is required. In these circumstances, the Disciplinary Manager will adjourn the meeting and notify you when they are ready to reconvene. Any adjournments will be for no longer than is necessary to ensure that your case is handled fairly and proportionately.