

Est. 1986  
**Agincare**  
 Caring in your community  
**Disciplinary Policy and Procedure**

Reference number	QP37
Name of responsible (ratifying) committee	Policy Review Group
Document Manager (job title)	Group HR Manager
Date issued	November 2009
Review date	August 2023
Electronic location	Share-point/Policies and Procedures

### Version Tracking

Version	Date Ratified	Brief Summary of Changes	Owner
1	31 Aug 2018	Amended to reflect updated ISO 9001 2015 controlled document register	AC
16/1	1 April 2020	Annual issue update	AC
2	18 Aug 2020	Added example (p4) of Gross Misconduct to include breach of Government and Company Guidance in relation to Pandemics and Public Health Issues	AC
3	28 Aug 2020	Scheduled review; no amendments	AC
17v1	April 2021	Annual issue update	AC
V2	August 2022	added letter to follow up from informal coaching	AC

### Purpose of this document

Agincare aims to ensure that there will be a fair and consistent approach to the enforcement of standards of conduct throughout Agincare. This policy is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. This policy applies to all employees and will be reviewed annually. A summary of this policy can be found in the Employee Handbook.

### Principles

The policy is designed to ensure the process for establishing the facts quickly and to deal with disciplinary issues consistently. The policy will ensure that a fair, reasonable, objective decision process will be followed. The following principles will be adhered to:

- Minor faults may be dealt with informally in supervision, spot check and/or informal coaching. Where the matter is repeated or is more serious, the formal procedure detailed below will be used.
- No disciplinary action will be taken until the matter has been fully investigated. – Agincare will follow the informal process route before proceeding to formal procedures.
- The employee will be advised in writing of the nature of the complaint or allegation against him or her and the arrangements for the investigation and meeting.
- The employee will be given the opportunity to state his or her case before any decision is made.
- The employee will have the right to be accompanied by a colleague, lay or trade union official at the stages of disciplinary meeting or disciplinary appeal. Representation is not required at the investigation stage but if requested it may be allowed.
- Managers will take into account any mitigating circumstances when reaching decisions on appropriate disciplinary penalties.
- No employee will be dismissed for a first breach of discipline, except in the case of gross misconduct. The penalty for this may be summary dismissal, i.e. dismissal without notice or pay in lieu of notice.
- An employee will have the right to appeal to a higher level of management against any disciplinary penalty imposed.
- In poor performance cases, where the reason is not within the control of the employee, i.e. capability meaning the employee *cannot* perform to the required standards; Agincare will invoke and follow the Capability Policy and Procedure instead. Poor performance resulting from negligence, lack of application or attitudinal problems, for example, will be dealt with under the disciplinary procedure.
- For employees serving their probationary periods, Agincare will use the probationary review process.
- For employees who are absent and fail to follow absence management procedures Agincare will use the absent without leave procedure.

### **Disciplinary outcome sanctions**

Minor errors or incidents will be dealt with informally by managers using the **informal coaching form** to support performance improvements. Where the matter is more serious and a formal disciplinary procedure is followed, there may be, after an investigation, **no further action** or the following sanctions given:

#### **Sanction level 1 - Formal verbal warning** – on file for 3 months

If the employee's conduct or performance does not meet acceptable standards, the employee's immediate manager will normally give him or her formal verbal warning. The employee will be advised of the reason for the warning, that it is the first level of the disciplinary outcome sanctions and of his or her right of appeal. A record will be kept of the warning and placed on the employee's file. The warning will be disregarded for disciplinary purposes after three months, subject to the employee's satisfactory conduct and performance.

#### **Sanction level 2 – First written warning** – on file for 6 Months

If the offence is a serious one, or if a further offence or no improvement occurs within three months of the verbal warning, a written warning will be issued to the employee by his or her immediate manager. This will give details of the complaint, the improvement required and the timescale. It will warn the employee that, if there is no satisfactory improvement, further disciplinary action may be taken and it will advise the employee of his or her right of appeal. A copy of this written warning will be placed on the employee's file but will be disregarded for disciplinary purposes after six months, subject to the employee's satisfactory conduct and performance.

### **Sanction level 3 – Final written warning – on file for 12 Months**

If there is still a failure to improve conduct or performance, or if the employee's misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal, a final written warning will normally be given to the employee by his or her manager. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement, and will advise of the right of appeal. A copy of this final written warning will be placed on the employee's file, but will be disregarded for disciplinary purposes after 12 months, subject to the employee's satisfactory conduct and performance. In exceptional cases the period may be longer.

### **Sanction level 4 – Dismissal**

If conduct or performance is still unsatisfactory and the employee fails to reach the required standards, dismissal will normally result. Only an appropriate manager can take a decision to dismiss. The employee will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which his or her employment will terminate (in accordance with the employee's notice entitlement), and will be notified of his or her right of appeal.

Alternatives to dismissal may be considered e.g. transfer to other departments and/or duties or a demotion to a position of reduced responsibility.

In cases where an alternative to dismissal is actioned, a final written warning should be put in place, in line with Sanction level 3.

### **Suspension for allegations of gross misconduct**

If the employee is accused of an allegation of gross misconduct, Agincare may suspend him or her from work on full pay whilst investigating the alleged offence. This is normally for no more than five working days although in instances where a Local Authority Safeguarding Team is leading a Safeguarding enquiry, this period of suspension can be extended. Suspension is only a holding procedure and the individual will be paid the normal contractual pay he or she would normally receive. Agincare will explain the reasons for suspension in writing. If it is not possible to resolve the issues in the timescale, the reasons will be clearly communicated. The employee shall not attend his or her place of work during suspension, other than for the purpose of attending disciplinary proceedings, including investigatory interviews. The employee shall not contact any other employees, suppliers or customers of Agincare, except

the employee's companion, without Agincare's consent. The employee must comply with the reasonable instructions by management during suspension so as not to affect their suspension pay.

In relation to any incidents or allegations of abuse, the registered person must make suitable arrangements to ensure that people using services are safeguarded against harm or potential harm by responding appropriately. The appropriate response will be determined by a number of factors including the seriousness of the allegation, the outcome of a safeguarding adults enquiry and the decision to suspend, dismiss or manage the employee by other means such as reallocation of duties, increased supervision and cessation of lone working.

**Examples of gross misconduct are:**

- Theft, fraud
- Any involvement in bribery, giving, receiving or facilitating bribes
- Unauthorised entry to computer records or deliberate falsification of records
- A serious breach of Agincare's rules on e-mail and internet usage, health and safety policy, harassment policy or data protection policy
- Fighting or assault
- Deliberate or reckless damage to Agincare property
- An inability to perform job duties through being under the influence of alcohol or drugs
- A serious breach of Agincare's safety rules or a single error due to negligence which causes, or could have caused, significant loss, damage or injury to Agincare, its employees, customers or people using our services
- Conviction of a criminal offence that makes the employee unsuitable or unable to carry out his or her duties
- A serious act of insubordination, such as deliberate refusal to carry out proper instructions, which includes government and company guidance in relation to Pandemics and Public Health Matters.
- Acts of bullying, harassment or discrimination
- A serious breach of trust or confidentiality including sleeping on duty, deceitful behaviour, infringement of mobile phone policy in particular use in Care Homes which impact on the dignity and respect for privacy of vulnerable adults
- Serious failure to abide by the sector specific code of conduct and practice issued by Agincare at recruitment. This can also be viewed at:  
<http://www.skillsforcare.org.uk/Documents/Standards-legislation/Code-of-Conduct/Code-of-Conduct.pdf> .
- A proven incident of abuse of an adult at risk (proven following investigation by a Local Authority safeguarding manager or an internal investigation)
- Failure to meet statutory or legal requirements, examples of these are Registered Manager failing to make CQC notifications or Company Accountant failing to file audited accounts. (please note these are not an exhaustive list and are only examples)
- Breaches of protocols in secure environments such as prisons and bail hostels where Agincare is contracted to provide a service

This list is not intended to be an exhaustive and only gives an indication of the types of offence that may be considered gross misconduct.

If, after the full disciplinary process, Agincare is satisfied that gross misconduct has occurred, the result will normally be summary dismissal, i.e. dismissal without notice or pay in lieu of notice.

### **Disciplinary procedure**

Details of the disciplinary procedure are attached to this policy and involve three steps:

#### **Stage one: Informal and investigation**

#### **Stage two: Disciplinary meeting**

#### **Stage three: Appeal**

#### **Notes:**

1. Employees will receive a written invitation to all stages of the disciplinary process.
2. Outcomes of formal meetings will be confirmed to the employee in writing.
3. A second person will act as a witness and note taker.
4. The timescales as documented in the process will be adhered to wherever possible. Each party can request an extension of the permitted timescale, however, where there are good reasons.
5. Agincare reserves the right to seek assistance from external facilitators at any stage of the disciplinary procedure, in the interests of seeking a satisfactory outcome for all those concerned.
6. For senior managers/directors and employees serving their probationary periods, Agincare will use the probationary review process.

### **Contractual impact**

Agincare's policies and procedures are to be followed in conjunction with the requirements of the contracts under which you provide services. There may be occasions where the contract contains requirements which appear to contradict or be in addition to, standard Company policy. In these instances, you are to:

- If the requirement is in addition to standard company policy - adhere to the terms and conditions of your contracts.
- If the requirement is lesser than standard Company policy - follow company policies and procedures.

If you require any further clarification please contact the Commercial Department for guidance.

## **Training**

The management team of Agincare believe that, in order to provide a quality service, Agincare requires high quality staff who are suitably trained, supervised and supported.

Agincare policies and procedures are referenced in the induction programme and are available for staff in their work place (Care Home or Branch office). Staff will be informed of how to access all policies, procedures and related documentation and of how to seek further advice regarding Agincare's agreed ways of working. Staff should be provided with regular updates to encourage continuous improvement and include latest good practice.

Agincare is committed to provide an ongoing programme of support for all staff. This includes supervisions, appraisals and training which will be in line with company policy, contractual obligations and current best practice.

## **REVIEW OF THIS POLICY**

Review of this document is recorded on the controlled index and reviewed annually as part of the management review process.

**Name: Policy Review Group**

**Date: August 2022**

## **Disciplinary procedures**

The attached procedures are designed to ensure Agincare managers are able to deal with individuals concerns regarding their work, working relationships or the working environment.

As an Agincare manager, you will be at the front-line addressing performance with employees proactively and positively providing support, guidance and investigating to ensure any action taken is based on facts and evidenced obtained. You may have to make a judgement on the balance of probabilities based on the evidence you have found. All mitigating circumstances must be considered in making your judgement.

Agincare disciplinary procedure aims to provide a consistent approach when dealing with any disciplinary issue. You should aim to resolve all issues as far as possible at the informal stage.

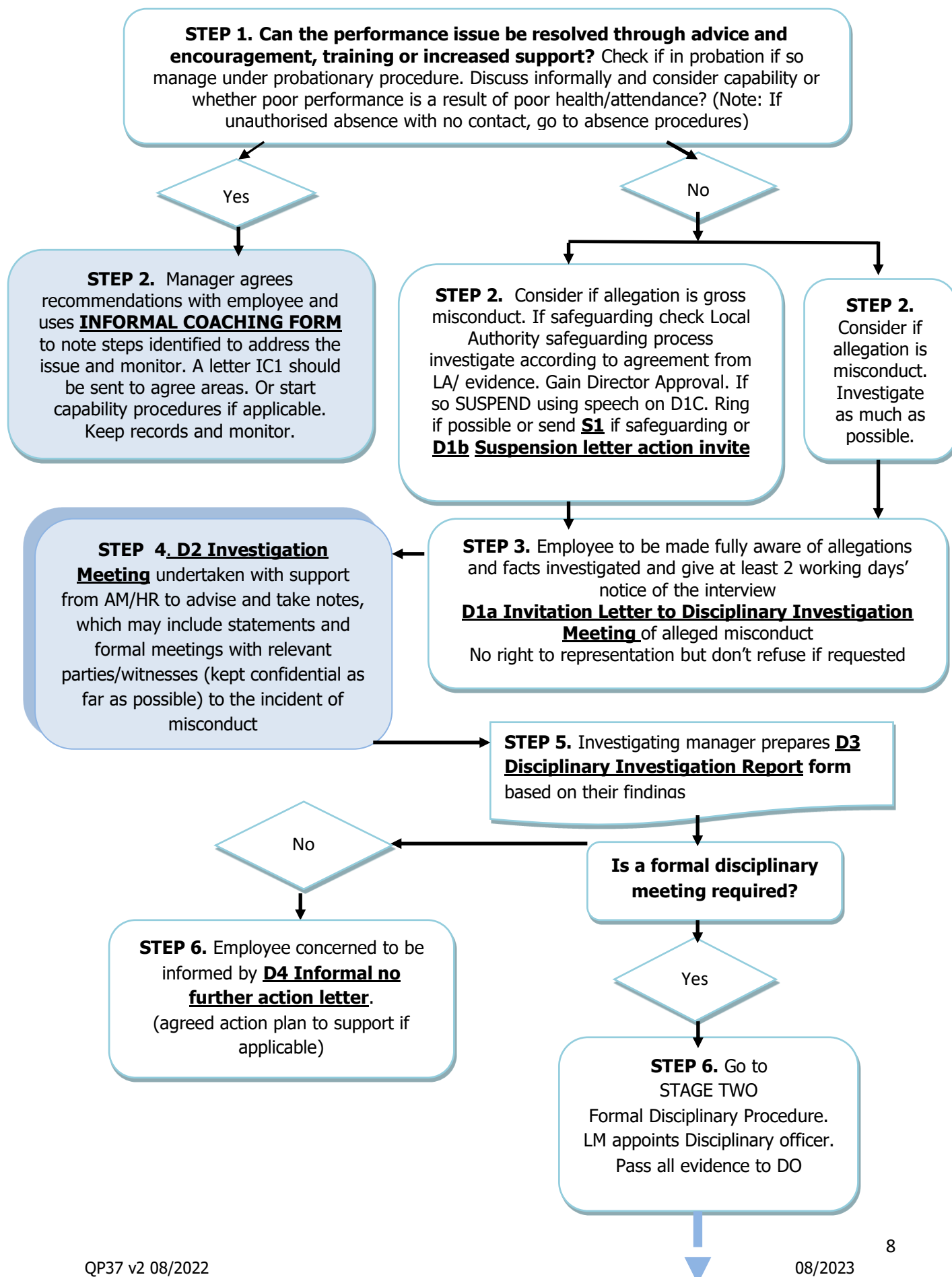
All managers are responsible to ensure they receive training and manage the process in a positive and proactive way with a "constructive feedback" attitude to ensure continuous improvement.

Agincare's guiding principles are to ensure:

- Fairness
- Equality
- Confidentiality
- Representation
- Natural justice

Note **bold underlined** refers to a template letter, meeting or report as guidance to managers. Access these from SharePoint for the most up to date version.

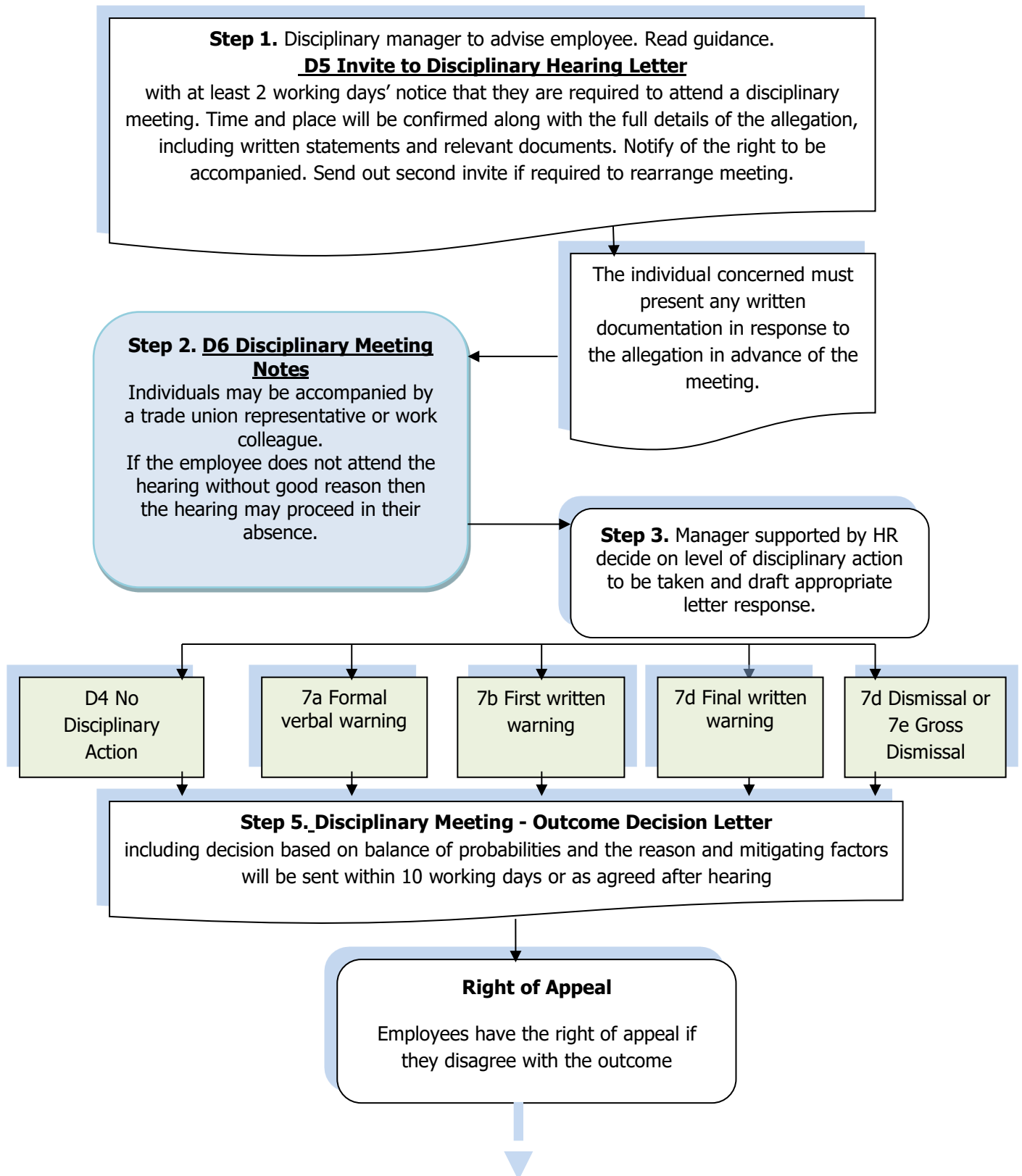
## STAGE ONE – INFORMAL AND INVESTIGATION AGINCARE DISCIPLINARY PROCEDURE





## STAGE TWO – FORMAL DISCIPLINARY MEETING

### AGINCARE DISCIPLINARY PROCEDURE



## STAGE THREE – APPEAL PROCEDURE (see Appeals Hearing Guidance) AGINCARE DISCIPLINARY PROCEDURE

