

PUPILLAGE DISCIPLINARY POLICY

Policy statement

1. The aim of the Disciplinary Policy is to set out the standards of conduct expected of all pupils and to outline the procedure to be adopted in the event an allegation of misconduct is made against a pupil barrister.
2. It is our policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the procedures set out below.
3. Where necessary and proportionate, this Disciplinary Policy may be amended at any time following consultation between the Pupillage Committee, the Head of the Pupillage Committee, the Management Committee and the Head of Chambers.
4. This policy is used to deal with misconduct. It does not apply to cases involving genuine sickness absence or poor performance. In those cases reference should be made to the appropriate policy or procedure in the pupillage handbook.

Rules of conduct

5. During pupillage you should at all times maintain professional and responsible standards of conduct. In particular you should:
 - (i) Observe the terms and conditions of your pupillage agreement.

- (ii) Act in accordance with your obligations as set out in the most current edition of the BSB Handbook.
 - (iii) Observe all our policies, procedures and regulations which are included in the Pupillage Handbook or which are notified to you from time to time by means of email, through your pupil supervisor, through the clerks or otherwise.
 - (iv) Comply with all reasonable instructions given by your pupil supervisor; and
 - (v) Act at all times in good faith and in the best interests of Chambers.
6. Failure to maintain satisfactory standards of conduct may result in action being taken under our Disciplinary Procedure.
7. If you are in any doubt as to your responsibilities or the standards of conduct expected of you then you should speak to your pupil supervisor immediately.

Misconduct

8. Misconduct is unacceptable or improper behaviour.
9. The following are examples of matters that will normally be regarded as misconduct and will be dealt with under our Disciplinary Procedure:
- (i) Minor breaches of our chamber's policies.
 - (ii) Minor breaches of your pupillage agreement.
 - (iii) Minor breaches of the BSB Handbook.
 - (iv) Damage to, or unauthorised use of, our property.
 - (v) Poor timekeeping.
 - (vi) Unauthorised absence from work.
 - (vii) Refusal to follow instructions.

- (viii) Obscene language or other offensive behaviour.

This list is intended to act as a guide and is by no means exhaustive.

Gross Misconduct

10. Gross misconduct is unacceptable or improper behaviour of a very serious kind.

11. Gross misconduct will be dealt with under our Disciplinary Procedure. The following are examples of matters that are normally regarded as gross misconduct:

- (i) Repeated and multiple instances of misconduct outlined above.
- (ii) Serious breaches of the Pupillage Agreement.
- (iii) Serious breaches of the BSB Handbook.
- (iv) A disciplinary finding from the BSB.
- (v) Conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our staff, solicitors or the public, or otherwise affects your suitability to continue to work for Chambers.
- (vi) Findings of dishonesty.
- (vii) Actual or threatened violence, or behaviour which provokes violence.
- (viii) Deliberate damage to our buildings, fittings, property or equipment, or the property of a member of Chambers, contractor, fellow pupil or member of the public.
- (ix) Serious misuse of our property or name.
- (x) Repeated or serious failure to obey instructions, or any other serious act of insubordination.
- (xi) Unlawful discrimination or harassment.
- (xii) Bringing Chambers into serious disrepute.

- (xiii) Serious incapability at work brought on by use of alcohol or illegal drugs.
- (xiv) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure.
- (xv) Giving false information as to qualifications or entitlement to work in order to gain pupillage or other benefits.

This list is intended to act as a guide and is by no means exhaustive.

Disciplinary Procedure

Informal stage

12. We hope that if concerns are raised about a pupil's behaviour and misconduct, they can be resolved informally unless the matter is sufficiently serious and or the allegation amounts to gross misconduct. Where minor allegations of misconduct are capable of informal resolution then this will be done by liaising directly with the pupil at an early stage. This will normally be managed through an informal conversation between the pupil and the pupil supervisor.

Formal stage

13. Any matters which are more serious, or which have not been properly addressed by the pupil following an attempt at an informal resolution, should be referred to the pupillage committee.

14. The pupillage committee will investigate the allegation by interviewing the concerned parties (the pupil, members of staff, practitioners, solicitors, witnesses to any incident, the pupil supervisor, Head of Chambers, any other aggrieved person and any other relevant person).

15. Once the investigation has taken place, the pupillage committee will hold a hearing with the pupil. The pupil against whom any allegation is made will be given the opportunity to understand the precise allegation made against them and the opportunity to make representations to the pupillage committee. The pupil may be accompanied by a pupil supervisor, colleague, or professional representative at the hearing.
16. When the investigation has concluded and the hearing has taken place, the pupillage committee must make a decision as to whether the allegation of misconduct has been proved. A written record of the investigation and the hearing will be kept on file.
17. The decision of the pupillage committee, as to whether the allegation of misconduct has been proved, will be communicated to the pupil in writing.
18. If an allegation of misconduct is found to be proved then the pupillage committee will have to determine the disciplinary penalty to be imposed.

Disciplinary Penalties

19. Where an allegation has been proved the pupillage committee will decide on an appropriate penalty to be imposed. The potential penalties include:
 - (i) Asking the pupil to provide a formal apology.
 - (ii) A first written warning (it must be made clear what action will follow if the warning is not heeded).
 - (iii) A final written warning (it must be made clear what action will follow if the warning is not heeded).

- (iv) Requiring the pupil to take reasonable, necessary and proportionate steps to resolve or remedy the matter giving rise to the complaint.
- (v) Making a recommendation to the Management Committee and Head of Chambers to terminate pupillage.

20. Notification of the disciplinary penalty will be communicated to the pupil in writing.

21. Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period. A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months.

22. Pupillage will not normally be terminated for a first act of misconduct unless Chambers decide it is sufficiently serious and amounts to gross misconduct.

Appeal process

23. If a pupil feels that a disciplinary finding made against them, or a disciplinary penalty imposed against them following a finding of misconduct, is wrong or unjust they should appeal in writing. The pupil should set out the grounds of appeal in full. The written appeal should be lodged with the head of the pupillage committee within five days of the original finding being made, or the disciplinary penalty being imposed, by the pupillage committee. The head of the pupillage committee will then refer the appeal to the management committee.

24. If a pupil is appealing against the termination of pupillage, the date on which the termination of pupillage takes effect will be delayed for a period of no longer than 14 days pending the outcome of the appeal.
25. The appeal process will proceed by way of a complete re-hearing. None of the pupillage committee who were involved in making the original decision or imposing the original penalty will be involved in the appeal hearing.
26. The appeal hearing will be dealt with fairly and impartially.
27. Three members of the Management Committee will hear the appeal. None of these members of the Management Committee will have been involved in the original decision making process and none of them will sit on the pupillage committee.
28. The pupil will be provided with written notice of the date, time and place of the appeal hearing.
29. The members of the Management Committee hearing the appeal may adjourn the appeal hearing if they conclude that further enquiries should be made. If any new information is received as a result of any further enquiries, the pupil will be given a reasonably opportunity to consider that new information prior to the recommencement of the appeal hearing.
30. Following the appeal hearing the three members of the Management Committee hearing the appeal may:
 - (i) Confirm the original decision;
 - (ii) Revoke the original decision;
 - (iii) Confirm the original penalty;

- (iv) Revoke the original penalty;
- (v) Substitute a different penalty.

31. The Management Committee will inform the pupil in writing of the outcome of the appeal hearing. This will take place within one week of the appeal hearing being heard.

32. The decision of the appellate panel will be final. There will be no further right of appeal.

Recoupment of Pupillage Grant/Guaranteed Earnings

33. In circumstances where Pupillage is terminated, Chambers reserve the right to request repayment of any monies paid under the pupillage grant in 1st six or in guaranteed earnings in 2nd six. (rC115 of the BSB Handbook).