

NAFD Approved Tutor Capability & Discipline Procedures



Introduction.

With the Professionalisation of the NAFD Tutoring process come responsibilities;

Responsibility for the NAFD to ensure that Tutors are properly trained and supported to carry out the role of “Approved Tutor”, and responsibility for the Tutors to ensure that they are providing a service that both the Tutor themselves and the NAFD can be proud of.

It is essential within any organisation to have an understanding of what professional standards are expected, the “**Standards of Professional behaviour**” have been written and will apply to all qualified and trainee NAFD Tutors.

It is inevitable that, upon rare occasions, things may go wrong and complaints are made either by a student about a Tutor or even by another Tutor against a Tutor, possibly claiming that the Tutor has not provided the required service or that there has been “misconduct” of some sort.

It is not envisaged that either of these two events will occur very often, but, these procedures have been designed to create a framework and provide clear guidance for dealing with such events should they occur.

There are two distinct strands to these procedures:

1. **Capability Procedures** where a Tutor is allegedly not performing as well as he/she would be expected,
2. **Discipline Procedures** where there is an allegation of “misconduct” or “gross misconduct” by a Tutor.

This document will deal with both strands and also define the key terms such as “**Misconduct**” and “**Gross Misconduct**”.

From the outset it is important that there is an understanding that the Capability and Discipline procedures are not there as a punishment, they are a developmental procedure in an attempt



to identify the problem and ensure that it is not repeated, with support available where appropriate for those involved.

Three key areas that have been identified;

1. Standards of Professional Behaviour

- Apply to **ALL** Qualified Tutors and Trainee Tutors.

2. Misconduct Procedures

- Apply to **ALL** Qualified Tutors and Trainee Tutors.

3. Unsatisfactory Performance Procedures (UPP)

- Apply to **ALL** Qualified Tutors.

The Standards of Professional Behaviour.

The standards of Professional Behaviour fall under six headings:

- Honesty and Integrity
- Authority, Respect and Courtesy
- Equality and Diversity
- Duties and Responsibilities
- Confidentiality
- Challenging and Reporting Improper Conduct

Although it could be said that the standards are “common sense”, each of the headings will be explained in full to ensure that there are no ambiguities or misunderstandings;

Honesty and Integrity

- Acts with integrity and are open and truthful in their dealings.
- Do not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document.
- Do not accept any gift or gratuity that could compromise their position.
- Do not use their position to gain an unauthorised advantage.

Authority, Respect and Courtesy

- Act with self-control and tolerance.
- Do not abuse their authority and respect the rights of all individuals.
- Use appropriate language and behaviour in their dealings.
- Do not take unfair advantage.

Equality and Diversity

- Carry out their duties with fairness and impartiality.
- Do not discriminate unlawfully or unfairly.
- Pay due regard to the need to eliminate unlawful discrimination and promote equality of opportunity.

Duties and Responsibilities

- Do not neglect their duties or responsibilities.
- Ensure that accurate records are kept of their Tutoring activities.
- Carrying out their work, Tutors have a responsibility to exercise reasonable care to prevent loss or damage to the property of others and to carry out appropriate risk assessments.

Confidentiality

- Do not provide information to third parties who are not entitled to it.
- Never access or disclose any information that is not in the proper course of a Tutoring activity or capacity.

Challenging and Reporting Improper Conduct

- Tutors who in the circumstances feel they cannot challenge a student or colleague directly for any reason should report their concerns, preferably to the NAFD National Training Officer or NAFD Education Manager
- Tutors will be supported by the NAFD if they report conduct by a colleague which has fallen below the standards expected

Misconduct Procedures

Background:

The “Misconduct” procedures apply to **ALL** qualified and Trainee Tutors. They underpin the Standards of Professional Behaviour and aim to provide a Fair, Open and Proportionate method of dealing with an allegation of misconduct. They have been designed to reflect “*Best Practice*” in other fields of employment and are **NOT to be used** as a way of dealing with Unsatisfactory Performance issues.

It is first necessary to understand what is meant by “Misconduct or Gross Misconduct”.



Misconduct and Gross Misconduct defined:

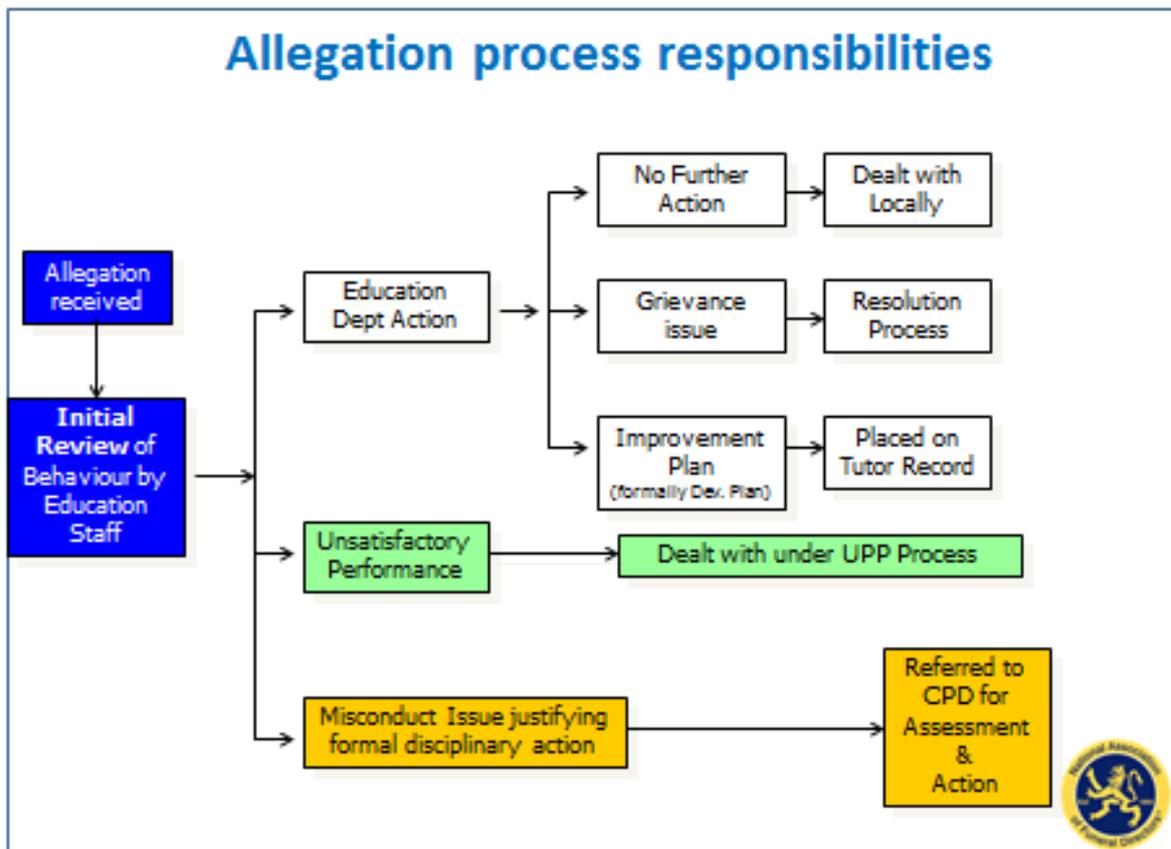
Misconduct is defined as;

“A breach of the Standards of Professional Behaviour”.

Gross Misconduct is defined as;

“A breach of the Standards of Professional Behaviour so serious that removal of authority to Tutor would be justified”.

The flow chart outlines procedures should an allegation be made, and where the responsibility lies within the NAFD for investigating and dealing with such allegations;



What is the Purpose of Misconduct Procedures?

Common aims of the procedures:

1. To create a culture of Learning and Improvement rather than Blame and Punishment
2. To ensure the Confidence of students and colleagues
3. To ensure the confidence of employers in the event of any allegations.

Procedure if a Misconduct allegation or complaint is made;

In the event of an allegation being made, issues will initially be dealt with by the NAFD Training Officer or Education Manager who will consider the allegation and if deemed appropriate, they will refer it to the CPD committee for their action. Any sanction deemed necessary will be in proportion to the conduct or behaviour in question, having considered what was done, why it was done that way and how it might be done differently.

By approaching Misconduct in this way it can be seen as a developmental process whereby the experiences of those involved and organisation can benefit everyone. Its purpose is not to punish those who might have just made a misjudgement.

The Misconduct Process;

1. Where a Misconduct issue is identified and it is not thought appropriate that the issue be dealt with by the NAFD Education team, the matter will be referred to the CPD committee for an Initial Assessment of the behaviour alleged.

2. Members of the CPD will then determine the most appropriate and proportionate course of action for the alleged behaviour and may return the matter to the Education team to deal with.
3. Where it is decided that there is a matter of Misconduct a Severity Assessment will be carried out by CPD as to whether it is Misconduct or Gross Misconduct.
4. Where there is need for a formal investigation, the National Training officer will be appointed to investigate the case and the Tutor, subject of the allegation, will be notified in writing.
5. The Tutor may respond to the notice within 10 working days of receipt of the notice with an oral or written statement relating to matter under investigation.

There are a number of possible outcomes available if the Misconduct matter under investigation is found to be proved.

A **“Misconduct meeting”** will be held with NAFD Education staff, or, if the matter has been dealt with by CPD staff then a **“Misconduct hearing”** may be held.

The outcome of either a “Misconduct Meeting” or a “Misconduct Hearing” will be notified to the Tutor in writing within 5 working days.

Potential outcomes if misconduct proven;

Misconduct Meeting (Held with Education Staff)

- No Further Action
- Advice
- Written warning
- Final written warning

Misconduct Hearing (Held with CPD Staff)

- Advice
- Written warning
- Final written warning
- Extension of a final written warning
- Withdrawal of Tutoring approval
- No Further Action

Outcome to be notified in writing normally within 5 working days from date of meeting/hearing



Appeals Process

In line with normal employment law, there is a right of appeal against any finding or outcome.

The appeal is commenced by the Tutor concerned giving written notice of appeal to the Education Development Manager. The written notice of appeal setting out the grounds for the appeal must be received within 7 working days of receipt of findings notice.

At any appeal hearing, the Tutor has the right to be accompanied by a “friend”. The appeal will normally be heard within 5 working days of receipt of notice and grounds of appeal.

Tutor Performance Procedures

These procedures are designed to provide a fair, open and proportionate response to managing concerns regarding performance including attendance, with a concept of reasonableness. They are in place to be a positive supportive process, not blame culture and should create a culture of improvement, learning and development. The Procedures apply to all qualified Tutors **NOT** trainee Tutors.

Unsatisfactory Performance and Gross Incompetence.

Unsatisfactory Performance is defined as;

“an inability or failure of a Tutor to perform the duties of the role they are currently undertaking to a satisfactory standard or level”.

Gross Incompetence is defined as;

“a serious inability or failure of a Tutor to perform the duties of the role they are currently undertaking to a satisfactory standard or level, to the extent that “Tutoring approval” removal would be justified”.

The “Unsatisfactory performance procedures” (UPP) are a developmental process with support at each stage. Initially informal action will be taken before recourse to the 3 stages of “Formal Action that are available;

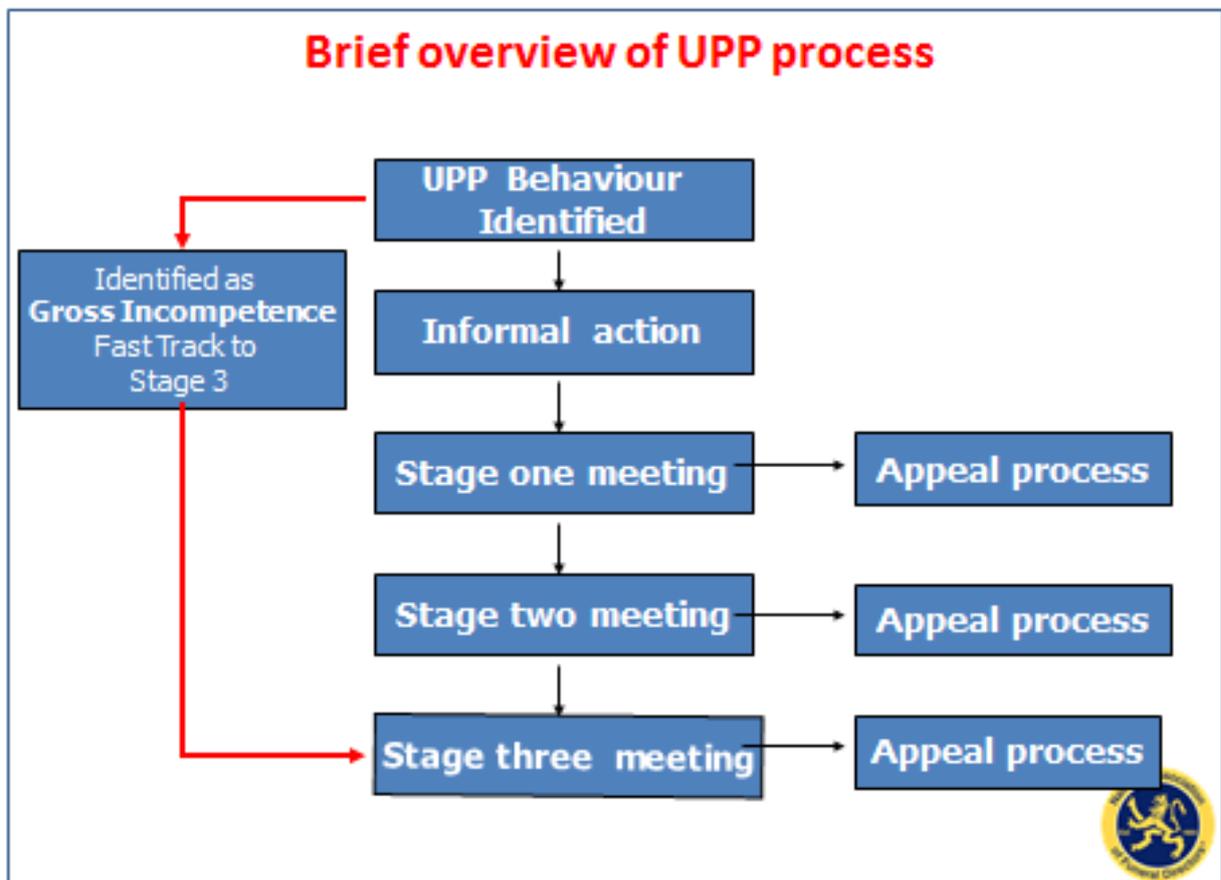
Informal Action will usually be taken prior to the 3 formal stages of UPP. The Tutor should be made aware of concerns with their performance with the reasons why their performance is considered to be unsatisfactory clearly explained. They will be afforded the opportunity to discuss the concerns and remedial action will be taken to address the issue; this could be by way of additional training and/or an improvement plan. The Tutor will be made aware of the likely action should there be insufficient improvement.

Formal Action will be taken where informal action has led to insufficient or un-sustained improvement or where a Tutor has failed to cooperate with supportive informal action.

Should the allegation be of or amount to **gross incompetence** the process will move directly to a stage three meeting. UPP are initially instigated by Education Staff. In all cases of alleged gross incompetence a move to a stage three meeting must be authorised by members of CPD.

Potentially there are three stages each involving a different meeting structure and possible outcome where Initial Management Action is not appropriate;

The flow chart outlines the stages of the UPP process which are then explained below:



Stage One

A “Stage one” meeting will be held with the National Training Officer chairing with a second staff member present. The issues will be discussed and developmental support offered. The maximum outcome of a Stage One meeting will be an Improvement Notice which is valid for a period of 12 months.

Stage Two

A “Stage two” meeting will be held with Education Manager chairing a second staff member present will also be present. The issues will be discussed and developmental support offered. The maximum outcome of a Stage Two meeting will be a Final Improvement Notice which is valid for a period of 12 months.

Stage Three

A “Stage three” meeting will be held with 3 panel members (CPD Member chairing plus Education Manager or National Training Officer and one other member of staff). It will take place within 30 working days of notification to the Tutor concerned. The maximum outcome will be the Removal of Authorisation to Tutor (with 28 days’ notice) or an Extension to a Final Improvement Notice (in exceptional circumstances only).

Any allegation of Gross Incompetence goes directly to a Stage 3 meeting. Any fast track to a Stage three hearing must be authorised by a CPD Committee member. The Tutor will be informed in writing that they are required to attend a third stage meeting to discuss their performance.

The purpose of the meeting is for the panel to hear the evidence of the perceived gross incompetence and to give the Tutor and their representative (if present) the opportunity to make representations on the matter.

The sanctions that are available at a Fast Track Stage Three meeting are:

- Removal of Tutor approved status (with immediate effect)
- Removal or Tutor approved status (with 28 days’ notice)



- Improvement Notice (if the panel considers that there has been UPP and not Gross Incompetence)
- Written warning
- Final written warning
- Development plan
- No further Action

Appeals under UPP

All UPP and Misconduct procedures are open and transparent, and have a right of appeal:

Stage One Appeal.

The appeal should be made in writing to Education Manager at NAFD national office within 7 working days of the initial finding and should clearly set out grounds and evidence for appeal. The appeal will be heard by the Education manager and National Training Officer.

Stage Two Appeal

The appeal should be made in writing to CPD Committee Chair at NAFD national office within 7 working days of the initial finding and should clearly set out grounds and evidence for appeal. The appeal will be heard by the Education Manager and a member of the CPD committee.

Stage Three Appeal

The right of appeal against the finding of the third stage meeting or the outcome imposed, or both the finding and the outcome must be made in writing to the CPD Committee Chair at NAFD national office. The appeal will be heard by 2 members of the CPD Committee and an external independent representative but will specifically exclude the National Training Officer and the Education Manager.