



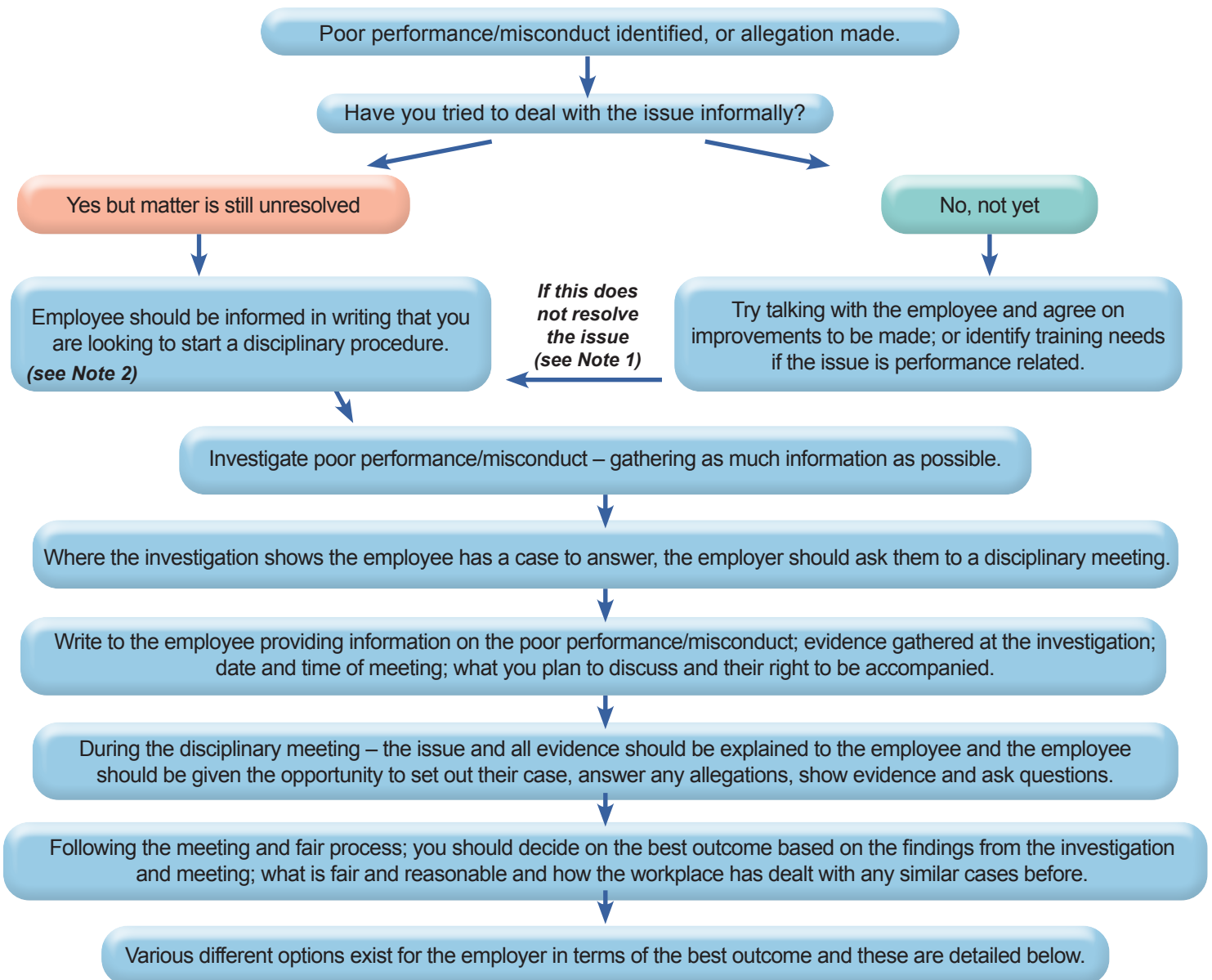
# How to handle poor employee performance or misconduct



**Farm  
Advisory  
Service**

National Advice Hub  
T: 0300 323 0161  
E: advice@fas.scot  
W: www.fas.scot

A key part of being an employer is managing employee performance. When it isn't satisfactory it's important to know what to do next. Dealing with a case where performance has not met the minimum required can be daunting, however the best outcome for all parties will follow when the following formal process is adhered to.



The European Agricultural Fund  
for Rural Development  
**Europe investing in rural areas**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

### No Action is required

- Where it is decided that there was no poor performance or misconduct, the disciplinary procedure should end.
- The employee should be spoken to privately to assure them there is no longer anything to worry about and they should return to their job as normal.

### Informal warning

- If the performance or misconduct issue was found to be small, a verbal warning may be issued.
- Ensure a confidential written record of informal or verbal warnings is kept for future reference.

### First written warning

- If a more formal warning is deemed appropriate, an employer can issue a written warning detailing what the issue is, the changes needed and the timescales for change as well as information on what will happen if the changes are not made or there is a further performance or misconduct issue.

### Final written warning

- A final warning letter can be given if the employee repeats or commits another misconduct or does not improve performance within the timescales in the first warning letter.
- In cases of serious poor performance or misconduct, the employer does not have to give a first written warning and can progress straight to a final warning. This would be appropriate where the employee's actions have, or could, cause serious harm to the business.

### Demotion

- Depending on the nature of the performance/misconduct issue, the employer might look at other action to dismissal. One of those would be demotion - moving the employee to a less responsible role.

### Dismissal

- An employee can be dismissed if either: there was no improvement since the final written warning, they repeated a misconduct since the final warning or they committed an act of gross misconduct.
- The employee should be written to informing them of the reasons for dismissal, the date the employment contract will end, notice period and their right of appeal.

**Note 1 - To avoid accusations of unfair treatment, employers/managers should check if the business has dealt with any similar situations before and follow the same procedure and policy for each disciplinary case.**

**Note 2 – The employee might feel they want to resign or 'jump before they're pushed' when they are facing a disciplinary. This could risk the employee later claiming constructive dismissal at an employment tribunal. They can only do this if they have worked for the organisation for 2 years or more.**

