



The Scottish Parliament
Pàrlamaid na h-Alba

Disciplinary Procedure - Guidance for Staff

Pròiseasan Smachdachaidh – Stiùireadh do Luchd-obrach

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Why do we have Disciplinary Procedures?

Disciplinary Procedures:

- assist you and management to maintain the standards of conduct required by the SPCB
- ensure that you are provided with appropriate support if your conduct falls below the requisite levels
- ensure that a clear framework is in place for managing matters of conduct as an aid to fairness and consistency for members of staff
- are in place because there is a legal requirement

The SPCB's [Disciplinary Procedures](#) reflect the requirements of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

You are responsible for familiarising yourself with the standards of conduct set by the SPCB and for abiding by these. If you have any questions about or require any clarification in relation to our standards of conduct and / or what is expected of you, you should refer to your manager in the first instance.

The standards of conduct which you are required to meet are set out in the [Resolving Issues](#) section of the Staff Handbook. Examples of behaviour which are normally regarded as misconduct and gross misconduct are set out in Annex A and Annex B of the Disciplinary Procedures. You should be aware, however, that these lists are not exhaustive and other types of behaviour may reasonably be considered misconduct or gross misconduct.

If you experience any professional or personal difficulties which have the potential to impact adversely on your behaviour at work, it will be beneficial to you to seek personal support as early as possible. It is also in your own best interests for you to alert your manager to your difficulties, particularly if these relate to or impact on your work. Your manager will work with you to agree a reasonable and appropriate level of support. You should also consider making use of the services available to you through the Confidential Counselling and Information service.

You can obtain professional advice and guidance on the SPCB's Disciplinary Procedures from the [Human Resources Enquiry Service](#) (ext: 86500). You should note, however, this does not include guidance on the particular circumstances applying to you in respect of a disciplinary investigation. If you require personal support, you should seek assistance through your trade union representative, a work colleague or through the Confidential Counselling and Information Service.

What happens if my manager considers that my conduct does not meet the standards set by the SPCB?

If your manager considers that your conduct does not meet the required standards, he or she will normally manage the situation initially through the informal process unless your misconduct is such as to render an informal approach inappropriate.



What does the informal process involve?

The informal process is a means of managing conduct issues at an early stage and avoiding any escalation of difficulties. Its main purpose is to support you to make appropriate changes to your behaviour. Your direct manager will invite you to a meeting to draw to your attention any areas where he or she considers you are not meeting the required standards of conduct, provide you with the opportunity to improve and support you to address the matter satisfactorily. You will be encouraged to recognise that a problem exists, to take ownership of the problem and to contribute suggestions as to how improvements may be achieved. It is important for you to recognise that this informal process does not constitute disciplinary action; however, you should be aware that formal disciplinary action may follow if you do not bring your conduct up to a satisfactory level.

What will happen?

Your manager will provide you with reasonable advance notice of an informal meeting and will brief you on the areas he or she wishes to discuss so that you have the opportunity to prepare. The process will be kept as confidential as possible. Before you go to the meeting you should consider the areas pointed out by your manager and make notes as an aide-memoire of any points you wish to raise at the meeting. You have no statutory right to be accompanied to an informal meeting.

At the meeting, your manager will outline his or her concerns to you, refer to any evidence of inappropriate behaviour and explain where your conduct appears to have fallen short of the standards required by the SPCB. You should seek clarification at any point and ask for further examples if this will help you to understand your manager's position. Your manager will give you the opportunity to explain your behaviour and you should inform him or her of any underlying problems which may be affecting you. Your manager will work with you to agree what action you should take to improve your conduct and to determine the level and type of support he or she will provide. After the meeting, your manager will provide you with a note of the discussions. If you have any comments on the accuracy of the note, you should bring these to the attention of your manager as soon as possible in order that these can be taken into account, if appropriate.

If the meeting is informal, why is there a written note of it?

The note of the meeting is to ensure that both you and your manager are clear about what action you have agreed and what will happen next. You should be aware that the note may be referred to subsequently if the matter later progresses to a formal disciplinary investigation.

What happens after the informal meeting?

Your manager will make arrangements with you to review your conduct after a suitable period. This will normally be 3 months but the actual length of the period will depend on the nature of the issue causing concern and whether there are any mitigating circumstances. The timescale will be confirmed with you at the meeting. You will be provided with regular feedback and encouragement in relation to your conduct throughout this period. You should alert your manager immediately if you are experiencing any difficulties in meeting the targets / standards set and require additional support.

What happens if I make the necessary improvement?

If the informal process results in a satisfactory improvement in your conduct, your manager will acknowledge this and inform you that the matter is now closed.



What happens if I do not meet the required standards of conduct?

If, you have not met the required standard at the end of the agreed review period, the formal stages of the Disciplinary Procedures will be initiated by your manager. In exceptional circumstances, the review period may be extended by your manager for a further time-limited period to take account of any mitigating circumstances.

Will any misconduct always be dealt with through an informal stage first?

No. Your manager is required to consider first whether or not it is appropriate to take an informal approach. If your manager considers that the misconduct is too serious to take an informal approach, he or she will instigate the formal stages of the SPCB's Disciplinary Procedures. In addition, if the matter is initially addressed on an informal basis but you do not accept that your conduct does not meet the required standards, the matter will be immediately escalated and dealt with under the formal stages of the Disciplinary Procedures. Your manager will inform your Head of Office/Group prior to instigating the formal stages of the Disciplinary Procedures.

What is the first stage in the formal Disciplinary Procedures?

The first stage in the formal procedures is a disciplinary investigation. This will be initiated by your manager and the role of Investigating Officer will normally be conducted by a representative from the Human Resources Office. The role of the Investigating Officer is to gather facts; assess whether there is a need for the matter to progress to a formal Disciplinary Hearing; and to advise the manager / Head of Office/Group accordingly who will decide whether such a Hearing will be held.

You will be interviewed as part of the disciplinary investigation by the Investigating Officer and will have the right to be assisted by your trade union representative or your work colleague. You will be given the full details of the alleged misconduct, including the reasons why the alleged behaviour is considered to be misconduct. If there are any witnesses to particular events, or if there are any extenuating circumstances, you should make the Investigating Officer aware of these as early as possible. You should be truthful and co-operate with the investigation. You should avoid discussing the circumstances of the case with witnesses as your intentions could easily be misinterpreted, for example, you may be perceived to be trying to influencing the witnesses to say specific things.

The Hearing will be conducted by the post holder in the relevant business area to whom the Clerk/Chief Executive has delegated authority to impose sanctions up to and including dismissal (the "Hearing Manager"). A list of posts to which such authority has been delegated is listed at Annex D. If any of these post holders is unavailable or has had prior formal involvement in the case, the Assistant Clerk/Chief Executive with line responsibility for the relevant area will normally hear the case. If that Assistant Clerk/Chief Executive is unavailable or has been previously involved, the case will be heard by another Assistant Clerk/Chief Executive nominated by the Human Resources Office. A representative from the Human Resources Office will also be present.

Being the subject of a disciplinary investigation can be upsetting. It is important that you do not allow your emotions to impact adversely on your conduct during disciplinary proceedings as this will not be in anyone's best interests. Support is available through the Confidential Counselling and Information Service the Occupational Health Service and/or your trade union representative.

Can I be suspended from duty pending the outcome of disciplinary proceedings?

Yes, it is possible that you may be suspended from work, normally on full pay. Such a measure will only be applied where the situation genuinely demands it. It will normally be applicable automatically in cases of alleged gross misconduct. Suspension is normally used as a means of protecting your own best interests, those of your work colleagues and the organisation.

If you are suspended with pay pending disciplinary proceedings, it is important that you understand this is not in itself a disciplinary sanction and does not infer that you are considered to be guilty of committing the alleged offence. Your suspension from duty will only last for the period of time which is considered strictly necessary in the circumstances. During the period of your suspension, your manager will provide you with regular feedback on progress. During the period of suspension you will be required to be available to co-operate with the investigation.

If the Head of Office/Group decides to suspend you on full pay pending disciplinary proceedings, he or she will carry out the suspension with a representative from the Human Resources Office in attendance. The Head of Office/Group will explain the reason(s) for the decision and confirm to you that this decision will not impact on your pay and other contractual provisions. Your security pass will be withdrawn and the representative from the Human Resources Office will escort you from the building and make suitable arrangements with you to collect any personal belongings you may wish to take with you. You will be permitted controlled and limited access to the Parliament building to meet with your representative to prepare your case. You will receive written confirmation of your suspension.

In very exceptional circumstances, pay may be withdrawn during a period of suspension. This may occur, for example, where circumstances outwith the control of the SPCB such as criminal proceedings or police investigation impact on the progress of our internal Disciplinary Procedures, thereby leading to a necessarily protracted period of suspension.

How will I be informed of the outcome of a disciplinary investigation?

The Investigating Officer will produce a full report of his or her findings to the Head of Office/Group. If the Head of Office/Group concludes that formal disciplinary proceedings are not warranted, he or she will discuss with you and your manager whether any steps short of disciplinary action are required of you to conclude the matter satisfactorily. Any paperwork relating to the investigation will be destroyed and no record of the allegation will be kept.

If, however, the Head of Office/Group considers that a Disciplinary Hearing should be arranged, you will be invited to attend a Disciplinary Hearing which will normally be conducted by the Head of Office/Group of the relevant business area (the "Hearing Manager"). The Clerk/Chief Executive has delegated authority to all Heads of Group and to a number of Heads of Office who do not report to a Head of Group to impose sanctions up to and including dismissal. A list of posts to which such authority has been delegated is listed at Annex D. Heads of Office who report to a Head of Group have not been delegated such authority by the Clerk/Chief Executive. Such Heads of Office may, however, still undertake the role of Hearing Manager and have the authority to impose sanctions up to but not including dismissal. If the Hearing Manager does not have the authority to dismiss and considers that the correct sanction is dismissal, he or she must make a recommendation to dismiss to their Head of Group who will ultimately make the decision and, if appropriate, sign any letter of dismissal. If the Head of Office/Group has been previously involved, the Assistant Clerk/Chief Executive with line responsibility will take the decision. If that Assistant Clerk/Chief Executive is unavailable or has been previously involved, the case will be referred to another Assistant Clerk/Chief Executive nominated by the Human Resources Office. A representative from the Human Resources Office will also be present.



What information will I receive to help me to prepare for the Disciplinary Hearing?

You will receive a letter from the Hearing Manager inviting you to attend a Disciplinary Hearing which will inform you of the purpose of the Hearing and highlight your right to be assisted by a trade union representative or a work colleague. You are not permitted to be accompanied by anyone outwith this organisation unless it is your trade union representative. You will also receive a copy of the investigatory report, any witness statements (anonymised only where strictly necessary) and/or other relevant evidence with the letter. In advance of the Hearing, you should notify the Hearing Manager if you intend to be accompanied at the Hearing and if so, by whom. The Investigating Officer will provide your representative with a set of papers in advance of the Hearing.

Can I submit information to be considered at the Disciplinary Hearing?

Yes. You will have the opportunity to forward any further papers for consideration by the Hearing Manager and you should normally do so at least two days in advance of the Hearing. Also, if you dispute any of the evidence, you must notify the Hearing Manager prior to the Hearing.

What role can my companion play at the Disciplinary Hearing?

You have an entitlement to be accompanied by a trade union representative or a colleague who works within the organisation at any stage of the formal disciplinary process. The SPCB affords staff a higher level of representation than that set out in statute by allowing you to be assisted. Assisted means that the person who attends with you may:

- put forward your case;
- sum up your case;
- respond on your behalf to any view expressed at any Disciplinary or Appeal Hearing.

Management does, however, retain the right to ask you questions directly and to expect a direct answer from you. A refusal to answer questions can, in itself, constitute a disciplinary offence.

How can I prepare for a Disciplinary Hearing?

Thorough preparation is vital to ensuring that you present your case fully at the Hearing and cover all the key points you wish to make.

On receipt of the Investigating Officer's report, if you dispute the reported evidence on any point, particularly that of witnesses, you should make this known to the Hearing Manager prior to the Hearing date in order that the Hearing Manager may instruct further investigation to clarify matters and report thereon, ideally, before the Hearing date.

In advance of the Disciplinary Hearing, you should ensure that you:

- seek advice and guidance, for example, from your trade union representative or work colleague
- do not make any decisions in haste in relation to your continued employment with the SPCB
- are familiar with the SPCB's Disciplinary Procedures
- fully understand the nature of the allegation against you
- note the key points you wish to make at the Hearing in presenting your case, including any mitigating factors which you wish taken into account and decide whether or not you wish to make a written submission in advance
- note any questions you wish to ask relating to the management case against you
- submit any additional papers/evidence to the Hearing Manager
- advise the Hearing Manager of any particular arrangements you need put in place to support you to attend the Hearing, for example, in relation to a disability or particular communication needs

What will happen at the Disciplinary Hearing?

Proceedings will typically follow this structure:

- Introduction
- Consideration of Management Case as contained in the Investigating Officer's report
- Presentation of Your Case
- Questions can be asked at any time by either party
- Summary
- Conclusion

In concluding the Hearing the Hearing Manager will advise you when you can expect to be advised of his or her decision.

You should ensure that you take the opportunity provided to put forward your case and provide relevant information. If, in the course of the Hearing, you feel you need advice on how to proceed from your representative or your emotions are running high and you need time to regain your composure, you may request a short adjournment. The Hearing Manager may also request an adjournment for these and other reasons.



How will I be informed of the decision?

The Hearing Manager will normally arrange to communicate his or her decision verbally to you in the first instance and will do so at the earliest opportunity. He or she will be accompanied by the Human Resources representative who attended the Disciplinary Hearing and you may be accompanied, if you wish, by your trade union representative or a work colleague.

The Hearing Manager will tell you of any disciplinary sanction he or she has decided it is appropriate to apply and the reasons for this decision. Sanctions are determined by reference to the framework of sanctions provided in Annex C of the SPCB's Disciplinary Procedures and your disciplinary record. Your attitude will also be an important consideration, for example, remorse and willingness to improve may be taken into account as well as any other potential mitigating factors.

If the Hearing Manager determines that improvements in your conduct are required, he or she will explain this to you. The Hearing Manager may also make recommendations as to measures which ought to be put in place to support you to achieve and maintain the required standards of conduct. These recommendations will also be communicated to appropriate individuals who have a genuine need to be made aware of them. This might include your direct manager and/or the Assistant Clerk/Chief Executive with line management responsibility for your office. A Head of Office/Group outwith your business area will be informed if the matter directly impacts on his or her area of work, for example the Head of Procurement in the case of misuse of a procurement card.

You will receive confirmation of the decision in writing normally within seven working days of being advised of the decision. You will also be provided with a note of the Disciplinary Hearing and you will be asked to check and confirm that the note is a true and accurate account of the Hearing. You may offer comments but it is for the Hearing Manager to decide what is included and what is not included in the note. Your manager will also be informed of the decision.

Can I appeal against the decision?

Yes. You have a right to appeal against any disciplinary sanction which is applied to you. Your appeal must be submitted in writing within seven working days of the date of written confirmation of the decision. You should include the reason for your appeal and any other relevant information. If you require any assistance in producing your written appeal, for example, because of a disability, you may wish to seek support from your trade union representative or a work colleague.

Your appeal should normally be sent to the Assistant Clerk/Chief Executive with line responsibility for your business area (the Appeal Manager). The Human Resources Office will invite another Assistant Clerk/Chief Executive to hear your appeal if the Assistant Clerk/Chief Executive with line responsibility for your business area has been involved in your disciplinary case at an earlier stage.

The purpose of the Appeal is not to re-hear the original case, but to hear any disputed facts, or procedural errors occurring at the Disciplinary Hearing and / or a disputed level of sanction. However, the Appeal Manager has the right to make such enquiry as he or she considers appropriate, including, exceptionally, interviewing witnesses.



What happens if I appeal?

You will be asked to attend a Hearing with the Appeal Manager, who will consider the grounds of your appeal. The Appeal Hearing will normally take place within seven working days of receipt of your written appeal. You may be assisted at the Appeal Hearing by a trade union representative or work colleague. You should inform the Appeal Manager if you intend to be accompanied and if so, by whom. A representative appointed by the Human Resources Office, will attend the Appeal Hearing to provide procedural advice. The individual attending the Appeal Hearing on behalf of the Human Resources Office will also take a note of the Hearing if the Appeal Manager does not wish to do so personally.

The Appeal Manager will notify you verbally of his or her decision and will confirm this in writing, normally within seven working days of the date you have been told of the decision. You have no further right of appeal. This decision is final and the Disciplinary Procedures are complete at this stage.

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For further information contact:

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