



CPS

Crown Prosecution Service Disciplinary Policy



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Policy objective

The purpose of the disciplinary policy is to ensure that the appropriate level of action is taken when there are concerns about an employee's conduct and that this is dealt with equitably and in line with the CPS' commitment to equality and diversity.

This policy is supported by an operating procedure set out below which will be revised from time to time to keep pace with changes in employment legislation or in response to organisational need.

Scope

This policy applies to all CPS employees who have completed their probationary period. Disciplinary issues relating to probationary employees will be dealt with in accordance with the probation policy.

Review date

This policy will be reviewed by the Human Resources Directorate (HRD) after the first year of publication and thereafter every two years, or sooner where new developments in employment legislation necessitate such a review. Reviews will be carried out in consultation with our trade unions, managers, staff networks, the Equality and Diversity Unit and other key stakeholders. The next review will be undertaken in July 2008.

1. Introduction

This disciplinary procedure provides a framework for dealing with employees whose conduct appears to fall short of the expected standards. Any decisions to impose disciplinary sanctions against an employee are based on 'the balance of probabilities'; that is to say, that it is more likely than not that the employee committed the alleged misconduct.

All employees involved in any capacity within the disciplinary procedure must ensure that confidentiality is maintained at all times.

Records will be kept of any disciplinary warnings on an employee's personal file until the time limit has elapsed. The line manager will inform the employee in writing when their formal warning has expired and instruct the Human Resources Adviser (HRA) to remove this from the employee's personal employment file (both paper and electronic). The employee will be informed in writing by the HRA when warnings have been removed.

Records kept will include: details of allegations; the employee's response; any action taken; whether an appeal was lodged and its outcome; and any subsequent developments. All records will be kept confidential and in accordance with the requirements of the Data Protection Act 1998.

2. Roles and responsibilities

2.1 The roles and responsibilities of Directors/Chief Crown Prosecutors (CCPs) line managers and the HRD include but are not limited to the following:

Directors/CCPs:

- Fully supporting the implementation of the policy and procedure consistently throughout the organisation including release of personnel to assist with/participate in any part of the procedure; and
- Ensuring that managers and employees are released to undertake investigations and participate in investigations and hearings.

Line managers:

- Implementing the policy and procedure consistently and in line with current legislation and best practice;
- Making reasonable decisions on the basis of the facts in front of them; and
- Ensuring that action taken is under the appropriate procedure.

Human Resources Directorate:

- Communicating the policy and the procedure;
- Ensuring that appropriate training and refresher programmes are implemented across the organisation;
- Advising managers on all aspects of the policy and procedure to ensure they operate it in a fair and effective manner;
- Advising employees on all aspects of the disciplinary process;
- Providing support and strategies to help improve workplace relations;
- Providing a central resource for monitoring and reviewing the effectiveness of the policy and procedure;

- Monitoring disciplinary cases to identify any trends, ensure consistency of approach and that any disproportionate impact on any particular group is highlighted and addressed; and
- Sharing monitoring information with DTUS, EDU and Staff networks.

Other sources of advice and support:

- Carefirst Support Services – confidential counselling service for employees;
- HR Advice Centre, Cardiff;
- Internal advisers;
- Enable – the support forum for disabled employees;
- LGBT – support network for Lesbian, Gay, Bisexual and Transgender employees;
- National Black Crown Prosecution Association (NBCPA) – a support network for Black and minority ethnic staff; and
- Trade unions – FDA and PCS.

3. Informal discussions

- 3.1** All employees are responsible for ensuring that they undertake their duties in accordance with required standards. Within a normal working relationship a line manager may from time to time have to remind an employee of workplace rules or appropriate standards particularly where minor breaches of conduct have taken place. In many cases, the issues will be straightforward and may include misunderstandings about expectations or a lack of awareness.
- 3.2** Line managers must always discuss conduct issues with their employees at the earliest opportunity. Informal actions can range from a brief discussion(s) through to reminders confirmed to the employee in writing which should clarify or restate expectations, the reasons for these and possible consequences of the employee failing to apply them. This will include informing the employee of the possibility of formal action.

4. Temporary removal from normal working duties

- 4.1** Where an allegation of misconduct is being considered and regardless of the level of seriousness, it may be necessary for the manager to manage the immediate situation by:
- a) sending the employee home for the rest of the day (cooling off period);
 - b) transferring the individual(s) concerned to either a different location and/or different duties for part, or all of, the duration of an investigation; or
 - c) suspending the employee from the workplace for part or all of an investigation.
- 4.2** Temporary removal from his/her normal working duties is not a disciplinary sanction nor does it imply that the employee has committed any misconduct.
- 4.3** A decision to remove an employee from their normal working duties in circumstances (b) and (c) above, must be authorised by an Area/HQ Business Manager or appropriate level of manager after consultation with the relevant HRA. A case must be made to justify such a

course of action. The line manager will carry out the transfer to other duties or the suspension. For further information on the removal from normal working duties see Appendix 1.

5. Investigating an allegation of misconduct

5.1 Any investigation must be proportionate to the matter under investigation. In some cases a simple fact gathering exercise will establish the facts and in others the matter may be more complex and will require a greater level of inquiry in order to discover what actually occurred.

5.2 Initial Inquiry – gathering the facts

If a line manager has concerns that an employee's conduct has been unacceptable, he or she must make an initial inquiry into the matter. If sufficient facts are available and the matter is straightforward, the line manager will decide whether or not to take formal action. All that may be required is a discussion of the type described in section 3.1 above. However, if the manager decides to take formal action then the Area/HQ Business Manager and their HRA must be notified.

If the line manager believes that a fuller/more detailed investigation is required they must inform the Area/HQ Business Manager or equivalent and their HRA of this decision. The employee concerned must also be informed in writing.

5.3 Full investigation of allegations

- a) A line manager who considers that a full investigation is required will inform the Area/HQ Business manager and the HRA. The manager, in consultation with the HRA will appoint another manager (Investigating Officer) who has not been involved in the case, who is appropriately experienced to carry out the type of investigation required, and who is considered to have no conflict of interest.
- b) A senior trade union official or the National Trade Union Headquarters must be informed of any allegations to be investigated against a trade union representative.
- c) An employee who is the subject of an investigation will be informed in writing by the line manager and given the name of the investigating officer. If an employee is unhappy with the choice of investigator they may make written representation to the HRA within one working day of being notified of the investigator, setting out the reasons why the chosen investigating officer is not suitable.

5.4 Key points

- Although an interview with an employee is not a disciplinary meeting, an employee who is the subject of the investigation may be accompanied by a trade union representative or a workplace colleague (hereafter referred to as a Representative).
- An employee who is the subject of an investigation will be invited to attend an interview with the investigating officer. The letter will inform the employee of the substance of the allegations setting out the areas to be discussed. The letter will also direct the employee to particular events and any dates and may ask them to bring any information they have on

the issues to be discussed.

- An employee who wishes to be supported at an interview by their Representative must ensure the availability of their Representative to attend the interview on the scheduled date.
- At the investigation meeting, the investigating officer will make available any further relevant information to the employee if considered necessary.
- The investigation should normally be concluded as quickly as possible and in any event within 15 working days.
- The investigating officer must keep a record of each interview held. A note of the interview will be sent to the person interviewed within two working days. Any significant disagreements on the content of the notes should be attached as a separate note.
- The employee will have an opportunity to adjourn briefly to discuss an issue with their Representative.
- A report must be produced at the end of the investigation which will set out the reason(s) for the investigation, details of evidence obtained, witnesses interviewed and a conclusion as to whether or not there is a case to answer. The report will be submitted to the manager that commissioned the investigation, who will normally be the line manager.

For further information on conducting an investigation see Appendix 3.

5.5 On receipt of the report, the line manager will decide on the appropriate course of action and inform the employee in writing either:

- a) That no further action will be taken;
- b) That other informal actions will be taken and what they will be; or
- c) That the matter will be dealt with under the formal disciplinary procedure.

5.6 The line manager will inform the HRA and the Area / HQ Business Manager of the decision taken.

5.7 Where an investigation establishes that a criminal act may have taken place, the line manager must inform the Area/HQ Business Manager/CCP or equivalent who will, after consultation with the HRA, report the matter to the police. The Departmental Security Officer will also be informed.

6. Criminal charges

6.1 An employee who has been formally charged by the police in respect of actions inside or outside of work may face formal disciplinary action following an internal investigation either before the conclusion of any court case or at the conclusion regardless of the outcome of the court case. The circumstances of any case must be kept under close review and any action taken will be after full consultation with the HRA.

7. Formal disciplinary hearing

- 7.1** Line managers will normally conduct disciplinary hearings unless they do not have the required level of authority where the outcome of the case could result in dismissal.
- 7.2** The manager will invite the employee, in writing, to attend a formal meeting to discuss the allegations.
- 7.3** A disciplinary sanction cannot be normally be decided until the manager hearing the case has given the employee an opportunity to respond to the allegation(s) and to state their own case at the disciplinary hearing.

7.4 Key points

- The employee must be given at least five working days' notice in writing, of the hearing date. The letter will inform them of the allegations, whether they are being treated as potential gross misconduct and their right to be accompanied by a Representative. All relevant information gathered during the course of any investigation will be attached.
- The employee's Representative may address the hearing to put the employee's case, sum up the employee's case and respond on the employee's behalf to any view expressed at the hearing. The Representative may not, however respond to specific questions as to facts that have been put to the employee. Reasonable steps must be taken to ensure that the employee and/or their Representative are able to participate fully in the hearing.
- If an employee or their Representative is unable, for good reason, to attend the formal hearing on the date proposed, the manager will reschedule the meeting, to take place as soon as possible but not later than five working days after the original date. No further rescheduling will be considered unless the reason for non attendance is considered exceptional. Written correspondence may be submitted.
- A disciplinary hearing can proceed in the absence of the employee. Exceptionally, an employee's Representative can speak for the employee where there is medical evidence supplied which specifically establishes that the employee is incapable of answering questions or dealing with issues either by correspondence or by attendance at a hearing.
- A note taker must be present to take a note of the key points. A copy of the notes will be sent to the employee within two working days after the date of the hearing. Any significant disagreements on the content of the notes should be attached as a separate note.

For further information on conducting disciplinary hearings see Appendix 4.

- 7.5** The manager conducting the disciplinary hearing will be advised during the disciplinary process by an HRA.
- 7.6** If, exceptionally, after considering the evidence, the manager is considering a sanction beyond their level of authority, for example dismissal, they will prepare a brief report and assessment of findings with a recommendation for dismissal. This must be passed to an appropriate level of manager who will take the decision based on a review of the evidence. In such cases, advice must be sought from the HRA in the first instance. For further information on levels of authority see Appendix 6.

7.7 If a formal grievance is lodged during the course of the disciplinary process, the disciplinary hearing may still proceed although before doing so, an assessment will be made as to the nature of the grievance and its relevance to the disciplinary process.

8. Decision

8.1 The employee must be notified of the outcome either at the end of the formal disciplinary hearing with written confirmation within five working days or in writing within five working days of the hearing.

8.2 The decision to impose a particular disciplinary sanction or none at all will depend upon the manager's assessment of the seriousness of the allegation and the extent to which it is proven on the balance of probabilities after all the evidence and representations have been considered.

9. Range of possible outcomes

- No warning
- Written warning
- Final written warning
- Action short of dismissal or
- Dismissal

An employee who receives a disciplinary sanction must always be notified of the right of appeal and the name of the person to whom an appeal should be made.

10. Warnings

10.1 A final written warning can be given for a first offence after a formal hearing where the act of misconduct is considered serious enough. An employee must not however be dismissed for a first offence except where their conduct is deemed to be gross misconduct.

10.2 A disciplinary sanction of written warning or final written warning will remain "live" for a period of 12 months. Where a written or final warning is decided on, the employee will receive a letter setting out the conduct that is unacceptable, what improvement is required, the consequences of any further misconduct that is considered to be broadly similar in nature while the warning is "live" and the right of appeal.

10.3 A copy of the warning will be sent to the HRA to be placed on the employee's personal file.

11. Action short of dismissal

- 11.1** As an alternative to dismissal (except in cases of gross misconduct), where it is considered appropriate, the following actions may be considered with the agreement of the individual concerned:
- Permanent downgrading. Downgrading includes removal from a post which attracts additional pay or allowances;
 - Ban on promotion for a period of up to three years.
- 11.2** The letter will set out the reasons for the decision, that it is a final warning and that further misconduct while the warning is 'live' will result in dismissal.

12. Dismissal

When dismissed, an employee will be advised in writing of the reason for the dismissal, the date on which the employment will terminate, any notice payments (no notice will be paid or given in cases of gross misconduct) and details of their right of appeal.

13. Appeal

- 13.1** An employee who decides to appeal against a disciplinary decision must do so in writing within five working days of receiving the decision of the manager who conducted the disciplinary hearing. The employee must set out clearly their grounds for appeal.
- 13.2** The appeal hearing generally and, in particular, will cover the following issues:
- Whether there were any procedural flaws and whether they affect the merits of the case;
 - Whether the decision reached appears to be perverse and not supported by the information gathered; and
 - Any new information that was not available at the time of the original hearing but which has since come to light.

14. Appeal hearing

- 14.1** An appeal will be heard by a manager more senior to the manager who carried out the disciplinary hearing except where this is not possible due to the seniority of the post holder involved. The manager will not previously have been involved in the case.
- 14.2** In appeals against dismissal, a member of the HRD will be present. However, the decision will be that of the manager.
- 14.3** The HRA will ensure that all documentation from the disciplinary hearing is passed to the manager hearing the appeal.

14.4 Key points

The employee must be invited in writing to attend an appeal hearing and given at least five working days' notice:

- The employee must be informed of their right to be accompanied by a Representative. The employee's Representative may address the hearing to put the employee's case, sum up the employee's case and respond on the employee's behalf to any view expressed at the hearing. The Representative may not, however respond to specific questions as to facts that have been put to the employee. Reasonable steps will be taken to ensure that the employee and/or their Representative are able to participate fully in the appeal hearing.
- If an employee or their Representative is unable, for good reason, to attend the appeal hearing on the date proposed, the manager must reschedule the hearing to take place as soon as possible and no later than five days after the original date. No further rescheduling will be considered unless the reason for nonattendance is considered exceptional.
- Any documentation that the employee wishes the manager to take into account must be submitted at least two days prior to the appeal hearing.
- A note taker must be present at the appeal hearing to take a note of the key points. A copy of the notes will be sent to the employee within two working days after the date of the hearing. Any significant disagreements on the content of the note should be attached as a separate note.

15. Appeal decision

- 15.1** The employee will be notified of the outcome at the end of the appeal hearing and confirmed in writing within five working days or in writing within five working days of the hearing when the manager has had an opportunity to assess the information presented.
- 15.2** The decision is final and there is no further internal right of appeal other than in cases of dismissal as set out below.

16. Appeals to Civil Service Appeal Board (CSAB)

16.1 An employee with 12 months or more continuous service who has been dismissed has the right of appeal to the CSAB. The letter of dismissal will inform the employee of their right of appeal and the procedure to be followed.

CSAB contact address: **Room G32, 22 Whitehall, London, SW1A 2WH.**

Disciplinary procedure — at a glance

Informal discussions

Line manager aware of alleged misconduct

Makes initial inquiry

No action or other informal solutions agreed

Investigating an allegation

Full investigation required. Investigating officer appointed and investigation carried out

Case to answer, formal action

No case to answer, no formal action

There is a case to answer, formal

Disciplinary hearing

Disciplinary hearing – employee has right to be accompanied by Representative

Disciplinary decision
Employee has right of appeal

No appeal, decision actioned

Employee dissatisfied and appeals

Appeal

Appeal hearing

Appeal not upheld. disciplinary decision stands

End of internal process

Appeal upheld in full or part

Appendix 1

Removal from normal working duties

General

A manager who has concerns that misconduct has taken place will need to raise this with the employee concerned at the earliest possible opportunity. In some cases, where further information is required, the line manager or an investigating officer may also need to speak with others who may have witnessed an incident, or have some knowledge about the circumstances surrounding the alleged misconduct. Regardless of the level of seriousness of any allegation, there is the possibility of strained workplace relations which could hamper a manager or investigating officer's ability to carry out an investigation.

In these circumstances, it may be necessary for the manager to manage the immediate situation by removing the individual(s) concerned from the workplace or from their normal working duties. This does not amount to a disciplinary sanction nor does this imply that the employee has committed any misconduct.

The ways in which an employee can be removed from the workplace are set out below:

Cooling off period

A cooling off period might be appropriate where an altercation or heated exchange has taken place in the workplace between two or more parties, or an employee is distressed by an incident and the line manager considers that the employee is not in a position to discuss the events calmly or rationally on that day. The employee is expected to return to work the following day.

Transfer to other duties

Depending on the circumstances of the case, the manager may decide that it is not appropriate for the employee being investigated to continue with their current duties whilst the investigation is ongoing.

The manager, advised by the HRA and the Area/HQ Business Manager will make temporary alternative working arrangements. The employee will be informed of the reason for the decision in person, and the decision will be confirmed in writing within two days.

Suspension

Decisions to suspend an employee should be taken as a last resort and only after all other options have been considered. Such a decision will be taken by the Area/HQ Business Manager or CCP who will be advised by the HRD.

It will be appropriate only when, after consideration of the available facts, it does not appear to be practical, desirable or in the best interests of the CPS, for the employee to remain at work during the investigation.

Examples of when suspension might be appropriate are:

- The employee's presence at work may hinder an investigation;
- An allegation has been made that could amount to gross misconduct
- In cases where there are health and safety risks, or a concern as to other risks, if the employee remains on the premises e.g. risks to CPS property, or to other individuals or to the employee.

Any suspension will be on full pay. Once a decision has been taken to suspend an employee it must take effect immediately and the employee informed personally by the line manager.

Preparation

The manager making the decision should review the information available and ensure the basis for deciding on suspension is justified.

Carrying out a suspension

Managers should avoid entering into discussions with the employee when carrying out a suspension and should simply state the following:

- They are suspended from work and the reason why;
- An investigation will be carried out and the form this will take;
- Whether any special permissions, eg. IT access will be temporarily suspended;
- The suspension will be reviewed on a weekly basis;
- The name of the person who will contact them to keep them informed of any developments/offer support;
- They must not make contact with colleagues or discuss the investigation with colleagues with the exception of any workplace representative;
- They must not enter CPS premises without prior arrangement;
- They will be provided with details of the counselling support services offered through the CPS; and

if a suspension letter is not immediately available:

- The details of the suspension will be confirmed to the employee in writing within two working days of the suspension taking place.

Care should be taken to treat an employee who is to be suspended with respect and allow them to leave the building in as dignified and professional a way as possible.

Reviewing a suspension

It is not always necessary for an employee to be suspended for the duration of the investigation.

The manager who authorised the suspension will:

- Review the circumstances of a suspension on a weekly basis to consider whether it continues to be the most appropriate course of action; and
- Inform the employee of the decision.

Ending a suspension

Care must be taken to ensure that the employee returning from a period of suspension is reintegrated sensitively into the workplace and into work teams.

The manager who authorised the suspension will ensure that:

- Any permissions in respect of IT access or other previously suspended permissions is reinstated as appropriate;
- Arrangements are in place for a return to existing role or some other role if this is appropriate in the circumstances;
- The employee is informed in writing of the details of their return to work; and
- A return to work meeting takes place.

Appendix 2

Misconduct and gross misconduct

A. Misconduct

This is a breach of the organisation's rules or accepted standards of conduct. Acts of less serious misconduct are often dealt with informally in the first instance. However if they are repeated they will eventually be dealt with through the formal procedure.

In cases where the alleged misconduct appears to be more serious, informal action may not be considered appropriate.

In all cases, a reasonable investigation depending on the facts available into allegations of misconduct will take place before a disciplinary hearing is convened.

An employee will not be dismissed for a first act of misconduct but may receive either a first or a final written warning.

Repeated acts of misconduct as evidenced through formal disciplinary warnings could result in dismissal. In these cases, dismissal will be with notice or pay in lieu of notice.

Examples of minor and serious misconduct

The examples set out below are neither exclusive nor exhaustive and represent a guide only. Any decision to institute a particular sanction will be based on the judgement of the person hearing a disciplinary **after** considering all the available evidence and representations made at the hearing. Something which may initially present as an act of minor misconduct could, following a disciplinary hearing, amount to serious misconduct or vice versa.

Minor misconduct

The following are examples of actions that might lead to a first written warning:

- Unauthorised absence from duty for which no reasonable or acceptable reason is given.
- Some instances of bullying, harassment, discrimination on the grounds of age, disability, ethnicity, gender, religion or belief, sexuality, or other offensive behaviour.
- Poor timekeeping.
- Failure to follow the reasonable instructions of a line manager or more senior manager;
- Misuse of infonet, internet and email policy.
- Making a vexatious or malicious complaint; or
- Breaches of confidentiality.

Serious misconduct

The following are examples of actions that might lead to a final written warning:

- Further misconduct whilst a first written warning is still 'live';

- Conduct liable to bring the Department into disrepute.
- Conviction for a criminal offence, whether committed in the course of official duty or not. This will include but not be limited to serious motoring offences, acts of violence.
- Significant loss of public money or property for which the employee is responsible.
- Being under the influence of alcohol or drugs while on official duty.
- Abuse of the flexible working hours scheme; or
- Professional negligence.

Dismissal

Examples of actions that might lead to dismissal for misconduct are

- Further misconduct whilst a final written warning is still 'live.'

B. Gross misconduct

This is conduct so serious that it destroys the employer/employee relationship and merits dismissal without notice or pay.

If an allegation is proven that amounts to gross misconduct, the employee will be dismissed even for a first offence and without notice.

Whilst something on the surface may appear to be gross misconduct, it could, following a disciplinary hearing be considered an act of misconduct.

Examples of gross misconduct

This list is neither exclusive nor exhaustive

- Conviction for a criminal offence, whether committed in the course of official duty or not. This will include but not be limited to convictions that result in a prison sentence whether custodial, suspended or deferred.
- Corruption, bribery, theft or fraud.
- Serious act(s) of dishonesty.
- Serious acts of bullying, harassment, discrimination on the grounds of age, disability, race, religious belief, sex or sexual orientation, or other offensive behaviour.
- Deliberate damage to CPS' equipment, computer systems or buildings.
- Serious negligence or breaches of health and safety rules causing significant loss, damage or injury
- Unauthorised use or disclosure of official information; or
- Accessing internet sites containing pornographic or other offensive and/or discriminatory material and using CPS' IT or other systems to transmit pornographic, offensive or discriminatory material.
- Bringing CPS into serious disrepute.

Appendix 3

Full investigation

A full investigation is **not** part of a formal disciplinary process nor is it a disciplinary action. Evidence gathered will be used only for a formal disciplinary hearing when the investigation has been carried out and a conclusion has been reached that formal action should be taken.

General principles

The authority for the investigation lies with the investigating officer. Investigating officers must act reasonably at all times during an investigation and ensure that they adopt, and are seen to adopt, an unbiased approach to the task. Investigating officers should ensure that an investigation is carried out within a reasonable (normally within 15 working days) timescale.

Managing an investigation

Preparation

- Consider the information at hand which indicates that an act of misconduct has taken place. If this is the result of a complaint then it may be necessary to speak to the complainant to confirm the nature of the allegation.
- Structure and map out the process to be followed.
- Invite the employee who is the subject of the investigation to attend an interview giving them reasonable notice and informing them of the substance of the allegation(s). The letter should direct the employee to particular events and any dates and may ask them to bring any information they have on the issues to be discussed. The employee must also be given the opportunity to be accompanied by a Representative.
- Decide whether other employees or persons with relevant information need to be interviewed and write to them.

Conducting investigation interviews

- At the outset of each interview, the investigating officer will describe the process to be followed, clarify any ground rules including issues of confidentiality and check the person being interviewed understands what is about to take place.
- During the interview, make available any further relevant information to the employee if considered necessary.
- Issues raised during the course of the interview will be summarised and fed back to the interviewee during the course of, and at the end of, the meeting.
- If it is required, the employee should have an opportunity to adjourn briefly to discuss an issue with their Representative.

- A record of the interview will be sent to the employee who has been interviewed, normally by email and within two working days after the interview. Any significant disagreements on the content of the notes should be attached as a separate note.
- Particular care should be taken to ensure that any investigatory interview does not start to become a disciplinary hearing.
- Any other relevant employees or individuals who may be involved or who are aware of what was happening may be interviewed.
- Only in exceptional cases will information gathered, including statements of witnesses, remain confidential. All information will normally be disclosed at any formal disciplinary hearing.

Documents, emails

- Wherever possible, documentary evidence should be collected as part of an investigation. This will include emails, transcripts of telephone conversations, extracts' from any codes of conducts or policies, notes of any informal meetings, supervision or training sessions with the employee.

Investigation report

- At the end of an investigation, a report will be prepared which will include a summary of the findings, whether there is a case to answer, and what allegations might be put to the subject of the investigation. Original interview notes and any other documentation collected and relied upon will also be attached. The report will be passed to the line manager or the manager who commissioned the investigation.

Disciplinary hearings

General principles

The burden of proof in a disciplinary matter is less than in criminal proceedings. The decision is based on the 'balance of probabilities; that is to say, that it is more likely than not that the employee committed the alleged misconduct.

Managing the hearing

Preparation

- The line manager will be familiar with all the relevant facts and documents (including details of any past disciplinary action taken against the employee that is still live);
- Appoint an appropriate note taker.

The hearing

The manager will:

- Explain that the hearing is to consider whether disciplinary action should be taken against the employee;
- Go through the case against the employee and explain any documents that support the allegation(s);
- Allow the employee and their representative to ask any questions about the case including seeking clarification on any documentation;
- Allow the employee to state their case and respond to the allegations. This may include raising any mitigating circumstances;
- Ask questions of the employee as appropriate in order to clarify matters then summarise the main points and check that there is nothing further to add;
- Adjourn to consider a decision or to seek further information; and
- Reconvene to inform the employee of the decision, if one has been taken, and/or ensure that they understand the next stage. A decision can be made at the hearing, or within five working days, and in any event will be confirmed in writing within five working days of the hearing. The letter should give the basis for the decision, the consequences of further misconduct (if misconduct is the outcome) and what improvement is required.

Appendix 5

Disciplinary appeal hearings

General

An appeal hearing is an opportunity for a different manager to review the original investigation report and all documentation relating to the case.

For appeals against dismissal, a member of the HRD will be in attendance.

Managing an appeal

Preparation

- The manager should be familiar with all of the relevant facts and documents from the disciplinary hearing;
- Appoint an appropriate note taker.

Managing the appeal hearing

The manager will:

- Explain that the hearing is to consider the appeal;
- Ask the employee to explain in full the reasons for the appeal and why the employee considers the disciplinary decision to be unfair. The employee can expand on the reasons given in their written appeal and introduce any new evidence that has come to light since the original hearing;
- Ask appropriate questions in order to clarify matters, summarise the main points made and check for anything further;
- Adjourn to consider a decision or to seek further information;
- Reconvene to inform the employee of the decision (if a decision has been reached); and
- Within five working days of the appeal hearing, inform the employee in writing of the decision, the basis for it and that there is no further internal right of appeal except in the case of dismissal when the employee has the right to appeal to the Civil Service Appeal Board.

Appendix 6

Levels of authority

Wherever possible, actions or decisions affecting an employee will be taken by a higher level employee than the person being affected by the action/decision. In certain circumstances, set out below, decisions may only be taken by an employee at Level D or above.

| <i>Nature of action</i> | <i>Level applied to</i> | <i>Minimum authority level</i> |
|--|---|--|
| Temporary transfer to other duties | A1-B3 C D-E SCS/CCP Directors Chief Executive | ABM /level D ABM/ level D CCP/Sector Director/SCS Chief Executive/Directors Chief Executive DPP |
| Suspension | A1-B3 C D-E SCS/CCP Chief Executive | ABM/level D ABM/level D CCP/Sector Director/SCS Chief Executive/DPP DPP |
| First, and final written warning | A1-A2 B1 B2 B3,C D E SCS/CCP Chief Executive/Directors | B1 B2 B3 ABM/Level D Level E CCP/ Director/SCS Chief Executive/Directors DPP |
| Dismissal | A1-B3 C-E SCS/CCP Chief Executive/Directors | ABM/Level D CCP/Sector Director/SCS Chief Executive/Directors DPP |
| Appeal hearings (other than against dismissal) | A1-B1 B2 B3 C-E SCS/CCP Chief Executive/Directors | B3 ABM/Level D E CCP/SCS band 2 Chief Executive/Directors DPP |
| Appeals against dismissal | Level A1-Level B3 Level C-E SCS/CCP | Level E CCP/SCS DPP |