



DISCIPLINARY PROCEDURE

Equality

In accordance with the Equality Act 2010, we will make any reasonable adjustment necessary to assist those with a protected characteristic or disability to engage fully with the Commission. If you require any assistance with this document please let us know.

We are also a member of Happy to Translate (HTT) and can provide language assistance with this document or make it available in alternative formats if required upon request.



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1.0 General Policy

1.1 The Scottish Criminal Cases Review Commission (“the Commission”) has established a disciplinary policy to ensure that employees who fail to meet the standards of work or conduct required of them are treated fairly. The Commission wishes to ensure that all employees are aware of the rules and procedures that may be applied to them in certain circumstances.

2.0 Policy

2.1 It is in the interests of both the Commission and its employees to encourage standards of work and behaviour conducive to the efficient operation of the Commission’s business and the safety and security of its property and employees. It is felt that where rules are fair, reasonable and acceptable to all employees, breaches of discipline will be infrequent. Nevertheless, there may be circumstances where an employee contravenes the Commission’s Rules and Regulations or commits an offence of such a serious nature that formal disciplinary action must be taken. It is the Commission’s intention, therefore, to maintain discipline in accordance with a clearly defined procedure, and to deal with any breaches of discipline as they arise, without undue delay and with impartiality and fairness.

2.2 Disciplinary action will be justified where an employee:

- Deliberately disobeys or ignores any of the terms and conditions of employment, or any other applicable rules, standing orders or statutory obligations.

- Is careless in their duty to an extent likely to cause loss to the Commission, including improper disclosure of confidential information, or danger to other employees or members of the public.
- Deliberately neglects or disobeys any proper order or reasonable instructions given to them.
- Carries out any work on his own account, which is connected with the Commission's business without the permission in writing from his manager.
- Is guilty of any act of dishonesty against the Commission, another employee or a client/customer.

2.3 It is recognised that it would be both difficult and inappropriate to draw up a detailed and exhaustive list of offences warranting disciplinary action. Each breach of discipline will, therefore, be considered on its merits, taking into account the particular circumstances of the individual case. In any event, the following will not constitute valid reasons for disciplinary action or termination of employment.

- Race, creed, colour, sex, marital status, religious convictions, political affiliation or social origin.
- Membership of a trade union or participation in trade union activities outside working hours, or at any time within working hours in accordance with agreed arrangements and with the Commission's consent.
- Seeking office or acting in the capacity of a trade union representative.

3.0 Procedure

3.1 The disciplinary action taken will depend on the nature of the action that warrants discipline and may take one of the following forms and will be taken by the levels of management designated.

3.2 Although some guidance is given on the circumstances in which each stage might occur, it is emphasised that it's given as illustration only and does not represent a comprehensive statement of what must apply regardless of other factors and circumstances. The disciplinary measure applied will take into account the seriousness of the case and any mitigating circumstances.

4.0 Stage 1 – Oral Reprimand and Caution

4.1 In the case of an oral reprimand and caution, the employee concerned will be interviewed in private by the Chief Executive or the Director of Corporate Services and the fact that such an interview has taken place will be recorded. A copy of the information recorded will be given to the employee.

4.2 Examples of behaviour for which reprimand and caution may be given are:

- Lateness or absenteeism.
- Disorderly conduct.

- Absence from work locations without authority for reasons not connected with the requirements of the job.
- Insubordination.
- Poor quality of workmanship.

5.0 Stage 2 – Officially Recorded Written Warning

- 5.1 A written warning may be issued for any serious offence (including – negligence resulting in loss, damage or injury; failure to comply with a specific instruction; irresponsibility or impropriety in relation to the employee’s duties; failure to disclose any personal interest of the employee which conflicts with any of the employee’s duties; or any accidental breach of confidence relating to the Commission’s or any applicant’s affairs), or persistent and frequent infringement of the Commission rules for which an oral reprimand has already been given. Where the Chief Executive is of the view that it is necessary to give an employee a written warning, he/she will prepare a written statement of grounds for the proposed disciplinary action which will be sent to the employee with an invitation to attend a meeting with the Chief Executive. No employee will receive an official written warning unless prior to the warning the employee has had the opportunity of a private interview with the Chief Executive.
- 5.2 An employee receiving a written warning will be provided with a copy of the warning, which will clearly specify the offence for which the warning has been issued.

6.0 Stage 3 – Final Recorded Written Warning

- 6.1 A final written warning may be issued by the Chief Executive to any employee if the employee commits any further serious offence having already received one or more official written warnings. Where the Chief Executive is of the view that it is necessary to give an employee a final written warning, he/she will prepare a written statement of grounds for the proposed disciplinary action which will be sent to the employee with an invitation to attend a meeting with the Chief Executive.

7.0 Suspension with Pay

- 7.1 Suspension with pay may be made by the Commission when a suspected serious offence has occurred which requires, in the view of the Commission, investigation by the Commission and/or any outside authority. The Chief Executive will issue a notice of suspension to the employee. This investigation will take place as soon as it is convenient to the Commission and the outcome and the disciplinary action will be notified to the employee upon conclusion of the investigation.

8.0 Suspension without Pay

- 8.1 Suspension may be made without pay for any serious, persistent or frequent misconduct or for an offence which, but for a good employment record, would warrant dismissal. The Chief Executive will issue a notice of suspension to the employee, copied to the employee’s personal file, specifying the offence for which the suspension has been instituted and the period of suspension.

9.0 Dismissal – Gross Misconduct

9.1 Examples of gross misconduct include:

- Negligence resulting in serious loss, damage or injury.
- Assault or attempted assault.
- Theft.
- Malicious damage to property.
- Wilful disregard of duties or instructions relating to the employment.
- Deliberate and serious breach of confidence or any unauthorised disclosure of information relating to the Commission's affairs.
- The use for personal ends of information obtained by an employee through his/her employment.
- Falsification of records.
- Bullying.
- Sexual harassment.
- Racial abuse.
- Conviction on a criminal charge which in the view of the Commission has a bearing on the employee's integrity and/or is relevant to the employment with the Commission.

10.0 Reporting of Arrests and Convictions

10.1 If an employee is charged with or convicted of any criminal offence he/she must report the facts to the Commission's Director of Corporate Services as quickly as possible. Failure to do so may result in disciplinary action, over and above any disciplinary action which may be taken as a result of being charged with or convicted of a criminal offence. Traffic offences for which the penalty does not include imprisonment or disqualification from driving need not be reported.

11.0 Dismissal with Required Notice

11.1 Dismissal with required notice may take place for the repetition of offences for which the employee has previously been warned, or for any action that would warrant a written warning following the employee having already received two written warnings for any other breaches of behaviour. The Chief Executive will issue the employee with a written statement of grounds for dismissal.

11.2 Dismissal with required notice may be made for any action which, but for an otherwise good employment record, would warrant summary dismissal.

12.0 Summary Dismissal

12.1 Dismissal without notice may take place for an act of gross misconduct or for the repetition of offences for which the employee has previously been warned, or for any action that would warrant a written warning following the employee having already received two written warnings for any other breaches of behaviour. Dismissal without notice may be made for any

action that would warrant summary dismissal. The Chief Executive will issue the employee with a written statement of grounds for dismissal.

13.0 Notification

- 13.1 The employee will be notified immediately of any disciplinary action affecting him/her and the Commission undertakes to reach a decision with a minimum delay.
- 13.2 Any employee with any decision to take formal action against him/her may appeal against the decision as set out below.

14.0 Appeal Procedure

- 14.1 If an employee wishes to appeal against any decision to take formal disciplinary action against him/her, he/she should inform the Chief Executive within 48 hours of the disciplinary decision being communicated to him/her. Notification of the appeal should be made in writing and state the grounds on which the decision is challenged.
- 14.2 The Chief Executive will then arrange an appeal meeting with the Chairman of the Commission and the employee. The Chairman will decide, on all the circumstances of the case, whether or not the Chief Executive should be present at the appeal meeting.
- 14.3 The Chairman will inform the employee and the Chief Executive of his decision in writing within seven days of the appeal meeting. This letter will contain the reasons for his decision. The Chairman's decision will be final so far as the Commission is concerned. However, in the case of dismissal it would of course remain open to an employee to pursue the issue through an employment tribunal.
- 14.4 An employee can be accompanied by a trade union representative or by any other person of the employee's choice to any meeting involving disciplinary matters.
- 14.5 If notification of an appeal is not received by the appropriate person within the time limits set out above, it will be presumed that the decision has been accepted.

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