



# DISCIPLINARY PROCEDURES MANAGER'S HANDBOOK

<b>Title</b>	Disciplinary Procedures Manager's Handbook
<b>Who should use this</b>	All Staff
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## **1. INTRODUCTION**

This advisory handbook provides practical advice and guidance for managers on disciplinary matters and is based on the ACAS Code of Practice on Disciplinary and Grievance Procedures. It is intended to assist managers/supervisors at all stages of the disciplinary process from initial fact finding to dealing with particular problems such as performance, and deciding whether disciplinary action is appropriate.

When using this handbook, reference should also be made to the Board's Disciplinary Policy

Before undertaking the Ayrshire Valuation Joint Board's (Board) Disciplinary Procedures, supervisors/managers must have attended the SAC training course on Discipline and Grievance. Further information on this is available from SAC Human Resources.

The Board has separate procedures to enable an employee to raise a formal complaint, e.g., the Board's Grievance and Respect at Work policies, however, in certain circumstances for instance, following an investigation into a complaint of bullying or harassment, the matter may be progressed through the appropriate disciplinary procedures.

Advice and assistance may be sought from SAC Human Resources on any aspect of managing discipline.

## **2. OVERVIEW**

- 2.1 Employees must be made clearly aware of the standards of conduct and performance expected of them and the Board has set out the standards of conduct expected in its Code of Conduct for Employees. A copy of the Code will be issued to every new employee as part of the induction process and is also available in the AVJB directory. In addition there are rules and procedures covering areas such as health and safety at work, attendance and leave, bullying and harassment, use of Board equipment and performance.
- 2.2 Disciplinary procedures can be used when conduct or performance falls short of expected standards, however it may be possible to avoid formal disciplinary action if a problem is dealt with early and resolved promptly. In situations where there has been serious misconduct or where a pattern of behaviour has developed over a specific period of time, there may be no alternative but to begin disciplinary action, and hopefully, if used positively this may prevent any recurrence.
- 2.3 While it is important to deal with discipline issues fairly and effectively, the Board recognises that it is better to prevent problems arising in the first instance and will make every effort to do this through effective recruitment, induction, employee development and communication as well as working in partnership with the trade unions to address issues which give rise to disciplinary action.

## **3. ACAS CODE OF PRACTICE**

- 3.1 This code provides basic practical guidance and sets out the principles for handling disciplinary and grievance situations in the workplace.

## Summary of key points

- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of these decisions.
- Employers and employees should act consistently.
- Employers should carry out any necessary investigations, to establish the facts of the case.
- Employers should inform employees of the basis of the problem and give them the opportunity to put their case in response before any decision is made.
- Employers should allow employees to be accompanied at any formal disciplinary or grievance meetings.
- Employers should allow an employee to appeal against any formal decisions made.

- 3.2 Employment tribunals are legally required to take the ACAS Code of Practice into account when considering relevant cases. Tribunals will also be able to adjust any compensatory awards made in these cases by up to 25% (either by increasing or reducing) for unreasonable failure to comply with any provision of the Code.

## 4. EFFECTIVE HANDLING OF DISCIPLINARY ISSUES

### 4.1 Resolve Disciplinary Issues Informally

A manager has the right to speak to an employee on a one-to-one basis at any time where there is concern about the employee's work performance or conduct. This is expected, as part of the management function, to enable the employee to receive feedback on performance, to be given the support or training needed to improve and to tackle any problems as they arise and before they escalate. If discipline issues are settled at an early stage they are normally less time consuming and less likely to damage working relationships. This type of discussion would not form part of an investigatory process. Please refer to the flow chart in Appendix H - Managing Performance.

Any employee found to be failing to perform to the required standard must be given an opportunity to provide an explanation. Where the reason identified is related to lack of skills, the employee should be assisted through coaching/training or other appropriate measures and given reasonable time to improve and reach the required standard. Only after other options have been explored and the employee given a reasonable opportunity to improve with reasonable targets and timescales, should disciplinary action be considered and an employee will not normally be dismissed for poor performance unless warnings have been issued and a chance to improve provided.

One to one discussions should be conducted in private; the aim of the discussion is to encourage improvement with the emphasis being on finding ways for the employee to improve and for the improvement to be sustained. Make sure the employee understands what needs to be done, how their performance will be reviewed and over what period. This should be confirmed in writing (Appendix I Standard Letters Performance Improvement).

During the discussion, informal action should not turn into formal action as this may deny the employee certain rights. If during the discussion, it becomes obvious that the matter may be more serious, the meeting should be adjourned. The employee should be advised that the matter may be subject to further investigation and that they will be informed of this as soon as possible. In these circumstances, further advice should be sought from SAC Human Resources.

If a performance problem is related to an employee's disability, the manager must consult SAC Human Resources and SAC Occupational Health for guidance and to discuss appropriate support.

#### **4.2 Be Firm and Fair**

Whilst maintaining satisfactory standards and dealing with disciplinary issues promptly, managers must also be objective, keep an open mind, and not prejudge the issues. It is important not just to be fair but also to be seen to be fair. Listen to what the employee has to say. Any new rules or systems of work must be properly communicated and training provided to ensure they are complied with.

#### **4.3 Provide Support**

No matter how effectively or sensitively handled, it is recognised that this process can be stressful both for the employee who is the subject of an investigation or for other employees who have been asked to provide evidence. Support can be made available from the Board's Personnel Representatives e.g., arranging a referral to SAC Occupational Health or to act as an individual contact person, e.g., to clarify or provide access to Board's policies and procedures.

#### **4.4 Stay Calm**

Managers should avoid hasty decisions, or actions in the heat of the moment. Taking disciplinary action is a serious matter and should never be regarded lightly or dealt with casually.

#### **4.5 Consider all Facts**

While fairness and equity are important, it is essential to take account of the individual circumstances of each case. In addition, personal details such as any existing or "live" disciplinary action, length of service, type of post held, and any mitigating circumstances which may have had a bearing on the employee's behaviour or conduct will be relevant. Any action taken should lie within a range of "reasonable" responses for the type of misconduct and it would not be reasonable for instance to dismiss an employee for a first and relatively minor breach of conduct.

Where a single error is committed due to negligence, the actual or potential consequences of which are, or could be, extremely serious for the Board, warnings may not be appropriate and punitive disciplinary action may be taken.

Advice may be sought from SAC Human Resources.

### **5. FACT FINDING**

#### **5.1 Reporting an Incident**

- 5.1.1 Where an incident occurs which may be due to an employee's misconduct that may lead to some form of disciplinary action being taken, the responsible officer should complete and submit an Incident Report Form (DCP REP1 Appendix A) to his/her senior manager whilst at the same time ensuring that the employee is advised of his/her intention to do this.

- 5.1.2 Following assessment of the information provided, and having due regard to the seriousness and circumstances surrounding the incident plus the previous record of the employee concerned, the nominated senior manager will decide whether further investigation is required, a disciplinary hearing convened or the matter dismissed.

## 5.2 **Anonymous Complaints**

Where an anonymous complaint has been made, the Assessor or nominated senior manager must assess the allegation and consider whether there is sufficient information to enable an investigation to progress. The Assessor/manager may consult with SAC Human Resources to make an initial assessment and decide whether an investigation is required and which officer will undertake it.

## 5.3 **Investigatory Stage**

- 5.3.1 Prior to any employee being required to attend a disciplinary hearing, all relevant facts must be collected to enable a decision to be taken as to whether the matter should be dealt with under the Disciplinary Procedures. Disciplinary action should not normally be taken without some form of investigation being carried out beforehand.

However, not all instances will require a formal investigation. Where the matter is straightforward, e.g. timekeeping and spells of absence, at the investigatory stage, the manager or nominated officer will gather and collate the necessary information and compile a report to enable a view to be reached as to the whether or not a disciplinary hearing is required.

- 5.3.2 Where a formal investigation is required, the Assessor or nominated senior officer will appoint an investigating officer(s). Depending on the complexity of the matter under investigation, a note taker may be present.

- 5.3.3 Any investigation will be conducted as speedily as possible. A timescale will be set in advance based on the complexity of the investigation and the number of witnesses. The investigating officer will notify the Assessor or nominated senior officer if, for any reason the set timescale requires to be revised and the employee and his/her representative will be advised accordingly.

## 5.4 **Briefing the Investigating Officer(s)**

The line manager should brief the investigating officer before the investigation begins. Issues that should be covered include:

- Advising of the terms of reference and the scope of the investigation
- Advising whether the investigation is being arranged under any of the special procedures (Appendices C,D and E)
- Ensuring officers are clear about the remit i.e. to investigate and come up with conclusions
- Stressing the need for objectivity; the investigation should be balanced and seek out the facts, not focus on establishing the allegation
- Discussing sources of information including witnesses, records etc.
- Where there is the possibility of interviewing witnesses from outside the Board, this should be agreed with the Assessor. see section 5.6.

## 5.5 Advising the Employee who is Subject of the Investigation

5.5.1 The employee involved, will be advised at an early stage by the manager, of the reasons for and the scope of the investigation, who will undertake the investigation, as well as the employee's right to be accompanied at any interview. The manager should also advise the employee of the following:

- Whether the investigation is being carried out under any of the special procedures
- Whether the employee is to be transferred to other duties, another location or removed from the workplace on full pay and the requirements associated with this procedure. (see section 5.8 below)
- About the process that would include being invited to a fact-finding meeting, at which the employee may be accompanied.
- Of the anticipated time-scale for the investigation
- Not to contact or influence any potential witnesses to the investigation, or obtain any other form of evidence e.g. computer records.
- That on conclusion of the investigation the employee will be advised of the findings and recommendations.

### 5.5.2 Interviewing the employee

There is likely to be more than one interview with the employee who is the subject of the investigation. An interview should take place at the start of the investigation. However, as information is collected, the investigating officer may decide that a further interview with the employee is required for example, to enable them to respond to information obtained from other sources, which contradicts his/her original evidence.

During the investigation should further information come to light which alters the grounds of the original allegation, the investigating officer should advise the manager who initiated the investigation. The employee will then be advised, and asked to attend a further interview with the investigating officer to have these matters put to him/her and given the opportunity to respond.

### 5.5.3 The Right to be Accompanied

If the employee wishes to be represented or accompanied this will be by a trade union representative or work colleague only, and the latter must not be someone whose presence would prejudice the hearing or who might have a conflict of interest. It is the responsibility of the employee to ensure that his/her representative or companion is present at any stage of the procedure. Reasonable notice should be given to allow for preparation by the employee and representative where appropriate. Where the employee is unable to make the arranged date through circumstances such as illness or if their representative is unavailable, the employee may offer a suitable alternative date within **5 working days** of the original date.

In matters of serious allegations, contact can be made with the relevant trade union if appropriate, to advise them that an investigation will be starting. In any event in scheduling the interviews, the time-scale must allow sufficient time for representation to be arranged, and a trade union representative to be made available.

If the employee is not accompanied by choice, the fact that this facility was offered and refused should be recorded.



#### **5.5.4 Advising the Employee of the Arrangements for Interview**

The investigating officer should ensure receipt of the letter inviting the employee to attend an investigatory meeting either by sending the letter by recorded delivery or hand delivering where practicable, and the employee asked to confirm attendance or to advise of another convenient date/location, if, for example a trade union representative is not available, (Appendix I Standard Letters Fact Finding 1, Fact Finding 2 or Fact Finding 3).

#### **5.5.5 Conducting an Investigation while the Employee is on Sickness Absence**

Advice maybe sought from SAC Human Resources; however as a general rule it is important that the investigation proceeds. Not only does this resolve issues one way or the other for the employee, but evidence may become more difficult to obtain if matters are delayed. Where an employee is absent from the workplace during an investigation, the line manager must continue to deal with the absence in accordance with the Board's Framework for Maximising Attendance.

Employees will be offered every support throughout the process particularly if the absence is stress related. The investigating officer should emphasise that it is important for the employee to respond to the allegations and cite any evidence or witnesses who should be contacted on his/her behalf.

In considering how to progress matters, the investigating officer should consider what 'reasonable adjustments' could be made without compromising the outcome of the investigation, for example by offering:

- Help and support from SAC Human Resources.
- Flexibility around the date and location of the interview, for example by offering 'neutral ground' for example outwith the normal work location.
- The opportunity to respond in writing to the allegations.

Should the employee not co-operate in the process either by not attending an interview or by not replying to a request for further information, this will be recorded in the investigating officer's report.

### **5.6 Fact Finding Interviews**

#### **5.6.1 Deciding who should be Interviewed**

The investigating officer(s) must consider who to interview and the logical order for interviewing witnesses. It is important that the investigation is "balanced" and sets out to establish the facts as opposed to confirming any allegations. As the investigation progresses, other witnesses will need to be added to the list of employees asked to attend further interviews, particularly where further information comes to light. However the investigating officer(s) must also consider the time-scale agreed with the manager and consult them if it appears that this might no longer be practical.

#### **5.6.2 Employees as Witnesses**

Witnesses who are Board employees should be contacted and advised that they are required to co-operate as part of a fact-finding investigation. They should be advised of the right to be accompanied by a work colleague or trade union representative. At this stage to keep matters as discreet as possible, any witness should be given only information relating to their involvement. (Appendix I - Standard letter Fact Finding 2).

Should an employee be reluctant to give evidence, the investigating officer should meet with them to find out the reasons for the employee's concern. It may be that the employee is worried about possible intimidation or implicating themselves. The investigating officer can provide the following advice:

- Where there is a genuine concern about reprisals, this will be assessed and the possibility of an anonymous statement considered. (See section 6.2 below).
- Support will be provided for an employee required to attend as a witness at any possible hearing
- However, the Board's disciplinary procedures have been jointly agreed with employee representatives and require the participation and co-operation of both sides to operate effectively and fairly.

### 5.6.3 Preparation for Interview

Investigating officer(s) should consider the content and order of questions as well as remembering the appropriate format for asking a question, i.e. open, closed etc., and decide who will take the lead in questioning the witness.

Similar to any interview, the type of question used can influence the answer. Some questioning techniques are designed to obtain the maximum information and others to establish a point of fact.

For example:

- Use open ended questions such as "What happened then....." to get a broad picture
- Use precise, closed questions to get specific information, "At what time did you leave the building that morning?"
- Use direct questions to put issues or highlighting conflicting information for example "I have heard ..... from another witness yet you say ..... How do you account for the difference?"

While information has to be obtained and corroboration sought, care should be taken that this does not result in an interrogation of witnesses.

The usual points about suitable and discreet accommodation for interviews apply.

### 5.6.4 Note Taking

It should be made clear that a note of the interview will be drawn up and sent to the interviewee for signing. Where agreement cannot be reached about the content of any interview note, this should be recorded. Where a formal statement is required, this should be attached to the final report, a copy of which will be provided to the employee under investigation.

### 5.6.5 Structure of Interview

The investigating officer(s) should work through the prepared questions, making sure everything is covered and checking if any matter needs to be clarified. If it is a long or complex interview, the investigating officer can arrange for a break to check over the notes, consider the information provided and any further questions that need to be asked. While points should be put to an employee, information should be sought from the employee in a productive manner.

Before finishing, the investigating officer(s) should ask the employee if they have anything else to add and if there is any other employee who can corroborate or add to the information provided. The need for confidentiality should again be stressed. The employee should be advised not to discuss the content of the interview with anyone.

### 5.6.6 Assessing the Evidence

The purpose of the fact-finding process is to gather all available evidence to enable the manager to make a reasonable decision about what action to take.

The investigating officer should always remember that the objective is not to search for evidence to support the allegations but to carry out as much investigation 'as is reasonable in all the circumstances of the case.' The report will be the subject of extensive scrutiny, in the first instance, from the manager who instigated the investigation and possibly thereafter from the members of a disciplinary hearing and appeals panel as well as the employee and his/her representative. When it appears that the investigation is concluded, the investigating officer should assess the evidence collected and consider:

- The extent to which any findings can be substantiated, what information has been established and what witness evidence is corroborated for example by cross checking with other witnesses or records.
- How much of the evidence of events has been directly observed by witnesses and how much is hearsay or contained in records or other data e.g. flexi records, training records, databases?
- Are witnesses credible and can their evidence be corroborated?
- Whether there are still areas to explore, information or procedures to be verified or additional documentary evidence to be checked. It can be useful to produce a matrix of information to cross check witness evidence against other records or a time chart to plot the time of events against locations of witnesses.
- What conclusions can reasonably be reached? Can they stand up to scrutiny? It is important to remember that the case does not have to be "proved beyond all reasonable doubt" it is about reasonable conclusions based on all the evidence available.

### 5.6.7 The Framework of the Report

On conclusion of the investigation the investigating officer will prepare a report for consideration by the Assessor or nominated senior officer who will decide whether there are grounds to convene a disciplinary hearing. There is no set format for a fact-finding report however, as with any management report it should be complete, balanced, accurate and succinct. Pages and sections should be numbered for ease and reference. A suggested framework can be found in Appendix B.

### **5.6.8 Advising the Employee**

A meeting will be arranged to inform the employee of the outcome. The Incident Report Form should be completed indicating whether the decision taken has been to continue to a disciplinary hearing or not.

## **5.7 Special Investigations**

5.7.1 Where an incident/situation occurs which gives rise to doubt as to an employee's professional conduct or competence to perform his/her duties, the matter will be dealt with in accordance with the Board's Procedure for Investigating Professional Misconduct, Competence etc (reference Appendix C).

5.7.2 Where an incident/situation occurs involving the suspected or actual misappropriation or embezzlement of cash, monies etc, placed in an employee's charge, the matter will be investigated in accordance with the Board's Procedures on Fraud, Financial Regulations, Council Tax Benefit/Housing Benefit Fraud (reference Appendices D and E).

5.7.3 Following a special investigation and consideration of action, a decision will be taken as to whether or not the employee should be disciplined.

5.7.4 Following a special investigation, where the decision is to take no further action in terms of the disciplinary procedures, all references to the investigation should be removed from the employee's personal file.

## **5.8 Removal from the Workplace**

### **5.8.1 Precautionary Measure**

An immediate supervisor/manager, will have the necessary delegated powers to remove an employee from the workplace, who is considered to be creating a situation where the employee is in personal danger or a danger to others (e.g. under the influence of alcohol etc). This should be done in person and not by telephone. If an employee is removed from the workplace as a precautionary measure, this will be with pay and will not normally be for more than one day.

This will entail the employee leaving or being sent from the workplace therefore arrangements may need to be made to provide transport e.g., if the employee is under the influence of alcohol then it would not be safe for them to drive. Arrangements should also be made to report to the supervisor/manager at the start of the employee's next working day. The employee can be accompanied to the meeting by a work colleague or Trade Union representative if she/he wishes.

The supervisor/manager should then complete the Incident Report Form (DCP REP 1) and submit it to her/his senior manager whilst at the same time ensuring that the employee is advised of his/her intention.

As removal from the workplace does not constitute disciplinary action, there is no right of appeal.

## 5.8.2 During an Investigation

Where considered absolutely necessary, the Assessor or nominated senior officer may remove an employee from the workplace (suspension) whilst an investigation is underway. Suspension is one of the options available to management and will only be applied where the nature of the incident/allegation requires the total removal of that employee from duty. This action is not to be associated with any presumption of guilt and is not considered a disciplinary action.

Suspension should only be considered when other options such as redeployment to other duties or relocation on the same or alternative duties are inappropriate. Any such decision will be confirmed in writing to the employee (Appendix I Standard Letters DISCP 1).

The decision will be reviewed at agreed intervals during the investigation and the employee, and trade union representative where appropriate, advised (Appendix I Standard Letters DISCP2).

The Assessor or nominated senior officer will ensure that the employee is offered support during the period of the investigation through SAC Occupational Health and Human Resources.

## 6. PREPARATION FOR THE DISCIPLINARY HEARING

### 6.1 Advising the employee

- 6.1.1 Once a decision has been taken to proceed with a disciplinary hearing, the employee should be advised in writing of the arrangements and grounds for the hearing, providing sufficient information about the alleged misconduct or poor performance and including the right to representation (Appendix I Standard Letters DISCP3).

Any letter relating to a disciplinary hearing should, where possible, be hand delivered to the employee or sent recorded delivery. Any hand delivery should be dealt with discreetly, i.e. within a closed office and not in view of colleagues.

- 6.1.2 The employee will be provided with a copy of any evidence to be presented for consideration at the hearing. This will include the Incident Report Form (DCP REP 1), any investigatory report and/or signed witness statements and details of any witnesses who will be called. The employee should also provide similar evidence that will be led in his/her case in reasonable time before the hearing.

- 6.1.3 Where the employee is a trade union representative, no action should be taken until contact has been made with the full time official of the trade union advising of the reason for the hearing.

### 6.2 Confidentiality of Witness Evidence

- 6.2.1 Management and employees will have the opportunity to call witnesses at a disciplinary and appeal hearing. It is the responsibility of each side to make arrangements for the attendance of their witnesses and where witnesses are being called, advance notice must be given to the other side. They should be advised of the right to be accompanied by a work colleague or TU representative and be advised of the availability of support from SAC Human Resources.

- 6.2.2 In certain extreme circumstances management might consider it appropriate for witness evidence to be provided anonymously. In these circumstances, any questions

which the employee's representative wishes to ask the witness as part of the preparation for the case, would be put to the witness by the Investigating Officer who would then report back to the employee's representative and provide a written statement. The decision regarding the anonymity of witness(es) will be taken by the Assessor following discussion with Trade Union Representatives as appropriate and will only occur where there is a genuine concern for the wellbeing or safety of the witness(es) in question.

- 6.2.3 When speaking to members of the public or witnesses from outside organisations who may not wish to attend a disciplinary hearing in person to give evidence, the investigating officer should arrange to take a signed statement. In these circumstances the witness must be advised that the statement might be used at a future hearing. In the exceptional circumstances outlined above, these witnesses may receive the same protection as employees and have any part of the statement which would identify them omitted and treated as confidential.

### 6.3 Preparation for the Hearing

- 6.3.1 The hearing is chaired by a manager (the "Disciplining Officer") who will not have been previously involved in the matter. He/she will normally be accompanied by another manager or a member of SAC Human Resources who will act in an advisory capacity also a note taker may be present. Where possible arrange for a note taker to provide a note of the meeting. Where there has been a formal investigation, the investigating officer should present the case for the Assessor.

The disciplining officer is responsible for ensuring that there is a fair hearing and that the relevant procedures are followed. This involves preparation before the hearing as well as conducting the hearing and reaching a decision.

#### 6.3.2 Meeting Arrangements

Ensure that the employee is treated in a professional manner. Hold the hearing in a private room where there will be no interruptions or telephone calls. A breakout room should be made available to give the employee and their representative privacy for conferring and provide a waiting area for any witnesses.

Set aside a reasonable amount of dedicated time to carry out the hearing.

The disciplining officer should also check if anyone participating has any special communication or access requirements

Employees who are requested to attend a disciplinary hearing are doing so as a management requirement and therefore are entitled to any expenses incurred i.e. travelling.

#### 6.3.3 Liaise with Either Side

The disciplining officer should liaise with each side to ensure they have exchanged all relevant information (copies of all submissions/reports/details of witnesses). In the interests of fairness, it is important that both the employee and the disciplining officer are issued with copies of any submissions to allow reasonable time to prepare a response. S/he should also get details of any witnesses being called to prevent duplication of witnesses and ensure necessary arrangements are made for time off to enable the witnesses to attend the hearing.

#### **6.3.4 Ensure Adequate Time to Prepare**

The disciplining officer should also ensure each side has reasonable time to prepare following receipt of documents for the case. The time allowed should reflect the complexity and serious nature of the case.

#### **6.3.5 Ensure all Relevant Facts/Records are Available**

The disciplining officer must ensure the following relevant information is available and be familiar with the contents:

- Relevant information from the employee's personal file
- Information on any previous disciplinary record (check if there are any current warnings)
- Any fact finding report and written statements from witnesses
- The Incident Report Form (DCP REP1) which has to be completed prior to and after the hearing

#### **6.3.6 Consider the Structure of the Interview**

The disciplining officer should ensure that everyone is clear about their roles and how to proceed. Consider the issues such as:

- Who should be present at the meeting, what witnesses are being called and in what order.
- Precedent - what action has been taken by the Assessor in similar circumstances, but remember, whilst fairness and equity are important, each case should be judged on its own merits.
- The employee's likely response - what explanation is likely to be provided by the employee and are there any special circumstances to be taken into account.
- Any questions to be put or points to be clarified. Having read the submissions from either side what questions arise? What contradictions are there in the evidence from either side. At the end of the hearing the disciplining officer must reach a view of the most likely version of events.
- Mark up/note any particular areas that require clarification or further questioning both in the management and employee submissions. Make a note of any questions that might usefully be asked of witnesses.
- Are there any special circumstances surrounding this case? Check any relevant policies for example if the case involves issues under the Framework for Maximising Attendance or the Scheme of Special Leave or the Addiction Policy if there is a chance that the employee might seek help under this policy.

### **7. CONDUCTING THE DISCIPLINARY HEARING**

#### **7.1 How the Hearing should be Conducted**

- 7.1.1 The employee or representative will be given the opportunity at the hearing to present his/her case, call witnesses, subject to the terms of Paragraph 6.2 and explain his/her views on the circumstances. The representative does not however have the right to

answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employee from explaining their case. The hearing will be conducted in line with the procedures applying to an Appeals Panel as set out in Appendix F. In summary this is as follows:

- The management representative will present the case for the Assessor calling witnesses as necessary.
- The disciplining officer will then invite the employee's representative to question any management witness.
- Thereafter the disciplining officer can question the witness.
- Finally the management representative can ask questions of the witness to clarify any point; not to introduce any new information.
- This process is then repeated when the employee's representative presents the employee's case.
- Each side should conclude with a brief summary of their case not introducing any new information.
- The disciplining officer will then adjourn the meeting to reach a decision based on the information presented.

7.1.2 If new evidence comes to light during the hearing, it is the responsibility of the disciplining officer to adjourn the hearing to enable the points raised to be investigated. On completion of any further investigation, the hearing will be reconvened and all parties advised of the findings of that particular investigation.

7.1.3 In the event of an employee or his/her representative refraining from offering an explanation or contesting any allegation, the disciplining officer will draw his/her own conclusions from the information available and reach a decision on the appropriate action to be taken.

7.1.4 Following completion of the submissions by management and the employee, or representative, the hearing will be adjourned to allow the Disciplining Officer the opportunity to consider the evidence. Thereafter the hearing will be re-convened and the employee advised of the outcome. Written confirmation of the decision must be issued within 7 days of conclusion of the hearing and must contain advice as to the employee's right of Appeal and Appeal's process.

7.1.5 Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, the disciplining officer should make a decision based on the evidence available.

7.1.6 If it is decided that no disciplinary action is to be taken, all references to the case will normally be removed from the employee's personal file. However in exceptional circumstances it may be appropriate to retain details of the decision for a specified period on the employee's file. Where this is the case the employee will be notified.

## 7.2 **Problems Which May Arise in Disciplinary Hearings**

### 7.2.1 **If the Hearing Becomes Heated**

It is possible that a disciplinary hearing may not proceed smoothly; people may be



upset or even angry. The disciplining officer must keep control of proceedings while encouraging the employee and witnesses to speak freely with a view to establishing the facts. The approach should be formal and polite, this will include:

- Ensuring that parties are not badgered or harassed when giving evidence
- Intervening to prevent any display of temper from either side
- Responding appropriately if the employee becomes too emotionally upset during the proceedings. Clearly during a hearing there will be some “letting off of steam”, and this can be helpful to establish what happened. However the disciplining officer has to reach a view as to whether it would be in the best interest of the employee/the hearing to continue. If the discussion becomes so heated that the situation may become unmanageable, the disciplining officer should adjourn the hearing, having made it clear to both sides that such behaviour is unacceptable and will not help the outcome.
- Stating objectives/intentions firmly e.g. if either party continues to be interrupted while giving evidence, the disciplining officer may decide to adjourn the hearing until the situation calms down or reconvene at a later date.

### **7.2.2 Adjourning the Hearing**

An adjournment can take place at any time with the consent of the disciplining officer, for example to allow the trade union representative to confer with the employee.

The disciplining officer may also decide to adjourn the hearing to give everyone a break in the proceedings, however it is sensible to look for a natural point to do this, for example after the management case has concluded.

An adjournment should also be offered to both sides prior to summations at the end of the hearing.

### **7.2.3 Questioning Employee and Witnesses**

Throughout the hearing the disciplining officer should remember that he/she has to reach a view on the most likely version of events, and decide whether to take any disciplinary action or not.

The employee should be questioned to find out whether he/she accepts any responsibility for what has happened, to check out explanations and generally to assess whether they understand that they may have done something wrong.

Witnesses should be questioned to assess whether they actually saw any events or are giving hearsay evidence. If witnesses give differing accounts of events, the disciplining officer must question the witnesses and consider all the evidence carefully to reach a view. The disciplining officer should intervene if witnesses are badgered at any point during cross examination.

## **8. DECIDING ON AND IMPLEMENTING DISCIPLINARY ACTION**

### **8.1 Deciding on Disciplinary Action**

### 8.1.1 What has been established about the Incident/Allegation?

In cases of misconduct, the disciplining officer must reach a view of the most likely version of events based on the “balance of probabilities”. The “test” used by Employment Tribunals is to assess whether there is:

- a genuine belief
- on reasonable grounds
- after reasonable investigation...

that the employee committed the misconduct. This is different to the level of proof required for a criminal case where guilt has to be proven “beyond all reasonable doubt”.

Therefore the disciplining officer should consider:

- What facts have been clearly established
- What facts are still in dispute
- Is it possible to make a 'reasonable' judgement about what happened? Consideration must be given to the balance of probabilities and the credibility of witnesses and other evidence.
- How serious does the allegation appear since hearing the evidence? Is the misconduct “gross”. An employee may have received a series of warnings about their behaviour and ignored them. On the other hand it may be a one-off offence, which is so serious that the result is dismissal.

### 8.1.2 Has Board Policy Been Followed?

For example if the grounds for the hearing relate to attendance has the Assessor followed the Board’s policy on Maximising Attendance. The disciplining officer should check the circumstances of the case for example:

- Has there been attendance review and meetings with the employee before initiating the disciplinary procedure to check if there was any underlying medical condition?
- Did discussions take place about how the employee could achieve the level of improved attendance sought by the Resource and was support considered?
- Where there is no underlying medical condition and no improvement in the employee’s attendance the policy advises managers to deal with the matter under the disciplinary procedures as a conduct issue.

### 8.1.3 The Employee’s Record

Before deciding whether disciplinary action is appropriate and at what level, the Disciplining Officer should consider the employee’s disciplinary and general record. Are there any “live” warnings on the employee’s record?

Disciplinary action is cumulative so if an employee has an outstanding warning on their record any future action taken must be at least at the next level on the disciplinary scale.

Disciplinary action need not start with an oral warning. The level of action taken should be appropriate in all the circumstances for example, in a case involving absence or performance management, the process will have involved acknowledgement, and performance improvement discussion before any disciplinary

action is considered. If an employee has been through this route then disciplinary action need not commence at an oral warning.

Where an employee has a final warning or punitive action which is subject to the outcome of an appeal hearing and is involved in a further incident which may result in dismissal, advice may be sought from the SAC Head of Employee and Customer Services.

## **8.2 Types of Disciplinary Action**

### **8.2.1 Oral Warning**

For minor breaches of discipline, misconduct or poor performance, an oral warning may be given and confirmed in writing for record purposes. The employee will be advised of the reason and grounds for the oral warning, its duration (6 months), and that any further breach may leave him/her open to further disciplinary action. (Appendix I Standard letters DISCP 4)

### **8.2.2 Written Warning**

For more serious breaches of discipline, misconduct or continued poor performance, or a failure to improve conduct or performance following receipt of a formal oral warning, a written warning may be given. The employee will be advised of the reason and grounds for the written warning, its duration (6 months), and that a further breach may result in further disciplinary action being taken. (Appendix I Standard Letters DISCP 5)

### **8.2.3 Final Written Warning**

For significant breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a written or oral warning, a final written warning may be given. The employee will be advised of the reason and grounds for the final written warning, its duration (12 months), and that a further breach during the time limit of the warning may result in further disciplinary action being taken which may be punitive. (Appendix I Standard Letters DISCP 6)

Where a final written warning is issued as a result of misconduct which was so serious that it verged on gross misconduct, the employee will be advised that should there be any repetition of the misconduct the previous action may be taken into account at any future hearing. This does not mean that an employee has been issued with a final written warning without limit of time. It means that the previous action can be taken into consideration in these circumstances. Accordingly, a prescribed period during which the final written warning would be admissible will be confirmed.

### **8.2.4 Punitive Disciplinary Action**

As an alternative to dismissal, punitive disciplinary action may be imposed against an employee who has previously received a final warning or where the gravity of the misconduct warrants this level of sanction, even in the absence of any previous disciplinary history. Punitive disciplinary action comprises the imposition of a final written warning in conjunction with one of the following:

- Suspension without pay (Appendix I DISCP 7)
- The withholding of an annual increment – in matters of performance only (Appendix I DISCP 8)
- Reduction in grade or position (Appendix I DISCP 9 or DISCP10)

The implications of this action must be carefully considered and a strategy developed. It is not enough to demote and transfer an employee without considering the implications for the new manager, colleagues and not least the employee whose duties must be reduced accordingly.

Issues therefore may include:

- Ensuring support/induction for the employee in his/her new role.
- Support for the new line manager to deal with the situation; s/he may be less experienced than the demoted employee.
- In all of the above instances, the employee's trade union, where appropriate, will be formally notified.

### 8.2.5 Dismissal

An employee may be dismissed for gross misconduct or serious repeated misconduct or poor performance during the currency of a final written, written or oral warning. The employee will be advised of the grounds for the dismissal, its effective date and whether it is summary dismissal or dismissal with notice. Gross misconduct is generally seen as misconduct serious enough to invalidate the employment contract between the employer and the employee and make any further working relationship and trust impossible. It is normally restricted to very serious offences e.g. physical violence, theft, fraud, gross negligence, serious insubordination, incapability due to the influence of drugs or alcohol, serious breach of health and safety rules, malicious damage to Board property, acts of harassment or discrimination, exploitation of a vulnerable service user, serious abuse of the Board's email and/or internet policies.

### 8.2.6 Dismissal with Notice

In circumstances other than gross misconduct, a dismissed employee will be entitled to notice. Notice will be either the statutory or contractual period, whichever is the greater. (Appendix I Standard Letters DISCP 11 or DISCP 12)

Before deciding to make a payment in lieu of notice, consideration should be given to the circumstances. It may be more appropriate for the employee to work the period of notice rather than receive payment in lieu. There must be a valid reason why the manager does *not* want the employee to work out their notice period. An example of this may be: -

*An employee is being dismissed as a result of their unacceptable performance. The manager may feel that it would be inappropriate for the employee to remain on the premises if they have access to computer records. In these circumstances they would be dismissed with immediate effect and appropriate payment in lieu of notice.*

### 8.2.7 Dismissal without Notice

When an employee is summarily dismissed without notice on the grounds of gross misconduct, no payment will be made in lieu of notice, however there will be entitlement to payment of accrued annual leave based on the statutory minimum (pro-rated where appropriate). (Appendix I Standard Letters DISCP 13)

If an employee is dismissed with immediate effect they should be accompanied by a member of management to collect personal belongings and escorted from the premises. All Board property should be reclaimed, keys, identification badge, etc.

**8.3 Time Limits for Disciplinary Action**

Disciplinary action will be recorded and be admissible against further breaches of discipline, misconduct or poor performance for the undernoted periods of time, effective from the date of the letter confirming the outcome of a disciplinary hearing.

Level of Action	Time Limit (Months)*
Oral Warning	6 Months
Written Warning	6 Months
Final Written Warning	12 Months
Final Written Warning & Punitive Action (demotion, reduction in grade, suspension of an increment, suspension without pay)	12 Months for final written warning (time limit on punitive action as deemed appropriate)

**8.4 Taking Disciplinary Action**

8.4.1 Following the hearing, once a decision has been reached, the Disciplining Officer should recall the employee, their representative and manager to advise of the outcome. Before notifying the decision, the disciplining officer should summarise: -

- The case presented by the management side and the employee's response
- The Disciplining Officer's view of the case, including an assessment of any facts in dispute and his/her conclusions
- Issues taken into account when reaching the decision: -
  - The severity of the allegation/misconduct
  - Any existing disciplinary record
  - The employee's position and length of service
  - Any mitigating circumstances
- The action being taken and the time limit which applies.
- To whom the employee may appeal and the time limit for submitting an appeal. An appeal against punitive disciplinary action, a warning issued by the Assessor is heard by the Board's Sub-Committee (Appeals)

8.4.2 It is the responsibility of the Disciplining Officer to ensure that the employee is clearly told the required level of improvement in their conduct or performance and over what period of time this is expected. The employee must also be made aware of the next stage in the process if this is not attained.

Remember that the purpose of discipline is to encourage improvement so further discussions may be required together with a strategy to assist/support the employee to reach the required standard.

8.4.3 Employees will be advised in writing of the disciplinary sanction and the reason for it, any improvements expected, the availability of appropriate support to achieve and maintain the improvement and the consequences of further misdemeanour.

8.4.4 All disciplinary action will be recorded in writing and remain in the employee's personal file during the period of the currency of the warning together with any relevant records which relate to the disciplinary action.

8.4.5 After the appropriate period of time, the warning will not be held against an employee in any further incident except where the employee's conduct is satisfactory for the period that the action is in force only to become unsatisfactory shortly thereafter, or where a pattern of behaviour like this emerged and there is evidence of abuse. In such circumstances the employee's disciplinary record should be borne in mind in deciding the level of any future action.

## 8.5 Follow Up

8.5.1 The Incident Report Form (DCP REP 1) should be completed by the disciplining officer.

All documentation and correspondence must be collated and filed in the employee's personal file for future reference. This should include: -

- A copy of the submissions
- Copies of correspondence relating to the disciplinary hearing
- Copy of the written confirmation of disciplinary action taken
- The completed Incident Report Form

8.5.2 In circumstances where an employee is registered with an outside body such as the Royal Institution of Chartered Surveyors (RICS) is dismissed or there are circumstances surrounding the misconduct which give rise to concern about the employee's registration, the Board is required to make a formal notification to the appropriate body. The employee will be advised of this in the letter confirming disciplinary action.

## 8.6 Prevent Recurrence

It is important to prevent any recurrence of the situation. The Disciplining Officer should advise the employee's manager of:

- any management issues which became evident during the hearing e.g. the need to clarify operating systems/procedures, introduce/review training, and review supervision arrangements.
- any support/assistance identified as being required to enable the employee to reach/maintain the required standard of conduct or performance.

## 9. PARTICULAR CASES

### 9.1 Criminal Offences

9.1.1 An employee should not be dismissed or otherwise disciplined solely because he/she has been charged with or convicted of a criminal offence. What needs to be considered is whether the employee's conduct warrants action because of the implications for their employment. The Board's Code of Conduct states that any employee convicted of a criminal offence must advise the Assessor immediately. However, if an employee fails to inform the Assessor, this in itself may lead to disciplinary action being considered.

9.1.2 Where it is thought that the conduct warrants disciplinary action the following should be considered:

- The matter should be investigated as far as possible to enable a view to be reached on whether the disciplinary procedure needs to be instigated. Where the conduct requires prompt attention, the manager need not wait for the outcome of any prosecution before taking fair and reasonable action.
- Where an employee charged or convicted of a criminal offence refuses or is unable to co-operate with disciplinary investigations or proceedings, this should not deter any action being taken. The employee should be advised in writing that unless further information is provided, a disciplinary decision will be taken on the basis of the information available that could result in dismissal. Any decision taken needs to be reasonable in the circumstances.

9.1.3 Given the particular circumstances, it may be necessary to consider:

- Redeployment to other duties or to another location pending the outcome of the criminal proceedings
- Removal from the workplace with pay pending an investigation
- Disciplinary proceedings.

Further advice may be sought from SAC Human Resources.

## 9.2 **Absence**

Absence from work will normally be dealt with under the Board's policy on "Maximising Attendance". Managers must be aware of the various support mechanisms available to employees and should take steps to ensure that this is offered at the earliest opportunity. They should deal immediately, fairly and sensitively with their employees when they are ill and provide support to encourage attendance.

Following each absence, managers should conduct a Return to Work interview. On return from a third period of absence, or earlier as is appropriate, an Attendance Review Meeting should be arranged to agree targets and actions required. Further absences should be reviewed and where there is an unacceptable level of short term persistent absences and no underlying health problem, action in terms of the disciplinary procedures considered.

If there is a breach of the Board's absence reporting procedures, then the matter should be treated as a conduct issue, and dealt with appropriately.

## 9.3 **Dealing with Addiction**

The Board has a policy to help employees experiencing addiction problems which is detailed in Appendix G.

Addiction includes alcohol, drug, solvent abuse, gambling or any other recognised addiction which interferes with an employee's conduct or performance whilst at work.

Information about the existence of an addiction problem might emerge during a disciplinary hearing or be provided as mitigating circumstances. The Disciplining Officer must conclude the hearing, assess the evidence and reach a view as to what action to take, if any. The existence of an addiction problem will form part of the evaluation of the level of action that is appropriate. The Disciplining Officer should advise the employee of the outcome of the hearing, and if appropriate can decide to hold any action in abeyance pending the employee's satisfactory referral under the Addiction Programme. The disciplinary action remains in abeyance for the duration of the warning e.g. 6 months for a warning. Should the employee not comply with the

addiction programme, the hearing will be reconvened and the warning imposed.

The employee will be expected to comply with the recovery programme for example in the case of an addiction to alcohol by attending regular counselling sessions and abstaining from alcohol. During the period of referral, his/her line manager will provide support but will also be expected to monitor the employee's general conduct including work performance, attendance and timekeeping. Regular meetings should be held with the employee to discuss progress, and identify any areas where improvement is required at an early stage when intervention would be most effective.

#### 9.4 When an Employee Raises a Grievance

Where an employee raises a grievance prior to or during the disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the discipline and grievance cases are related, it may be appropriate to deal with both issues concurrently. In these circumstances advice may be sought from SAC Human Resources.

### 10. APPEALS

#### 10.1 Right of Appeal

Employees will be advised in writing of their right of appeal against all levels of disciplinary action imposed and the process and timescales to be followed to submit an appeal. Appeals against disciplinary action will not be heard by the same person who implemented the action in the first place and any appeal should normally be heard by a more senior officer than the disciplining officer.

The following table outlines *as an example*, the appropriate level at which appeals may be heard:

Level of Warning	Imposed by	Appeal Heard by
Oral warning	Supervisor/Divisional Assessor	Principal Admin. Officer/ Assessor
Written warning	Supervisor/Divisional Assessor	Principal Admin. Officer/ Assessor
Final Written Warning	Principal Admin Officer /Divisional Assessor	Assessor
Final Written Warning & Punitive Action (demotion, transfer or suspension of an increment)	Principal Admin Officer /Divisional Assessor/ Assessor	Board's Sub-Committee (Appeals)
Dismissal	Assessor	Board's Sub-Committee (Appeals)



## 10.2 Time Limits for Submitting an Appeal

If an employee considers the disciplinary action taken to be unfair, an appeal may be submitted in writing, preferably through a trade union within 14 days of receipt of notification of the decision of the disciplinary hearing.

## 10.3 Appeal Hearing at Assessor Level

Appeals against oral, written and final written will be heard as soon as possible at Assessor level and normally within 28 days of receipt of the application.

The employee must be advised in writing of the arrangements for hearing the appeal, including the right to representation should they wish someone to be present. Representation will be by a trade union representative or work colleague only and it is the responsibility of the employee to ensure the presence of his/her representative should they wish someone to be present.

Reasonable notice should be given to allow for preparation by the employee or the employee's representative where appropriate.

The procedure followed will be the same as for the Board's Sub-Committee (Appeals) (reference Appendix F).

The officer hearing the appeal may vary the disciplinary action previously taken but in no instance can the previous disciplinary action imposed be increased.

Written confirmation of the decision will be issued within 7 days of conclusion of the appeal hearing.

Following an appeal should any disciplinary action be revised, the employee will be notified accordingly and records amended. If an appeal is successful and the original disciplinary sanction is withdrawn all references to the case will be removed from the employee's personal file.

Appeals against warnings will be concluded by the Assessor with two exceptions:

- Where a warning has been issued by the Assessor the appeal will be heard by the Sub-Committee; and
- Where the Assessor has been involved in the decision to take disciplinary action against an employee the appeal will be heard by the Sub-Committee.

## 10.4 The Appeals Panel

Appeals against Punitive Disciplinary Action or against a Warning issued by the Assessor should be submitted in writing and preferably through a trade union, for hearing by the Sub-Committee. Appeals will be dealt with as soon as possible and normally within 28 days of receipt of the application.

The role of the Sub-Committee is to consider the case before it by reviewing and providing an independent assessment of the case. Members are required to hear, question and assess the evidence submitted from either side to reach a view which might be to uphold, reject or vary the previous decision taken by the officers within the Board.

The employee must be advised in writing of the arrangements for hearing the appeal, including the right to representation. Normally representation at an Appeals Panel will be by a trade union representative or work colleague only. However in certain limited

cases an employee may be permitted to legal representation. Legal representation may be appropriate where the disciplinary action could have implications for her/his general employability through registration or de-registration with a professional body. If legal representation is requested this must be agreed with the Chair of the Sub-Committee at least 7 days prior to the date of the Hearing. In all cases, it is the responsibility of the employee to ensure the presence of her/his representative.

Together with the written notification of lodgement of the appeal, the employee or his/her representative should specify the grounds for the appeal and may include a brief statement of the case to be made, together with supporting documents.

The management representative shall also be invited to submit a brief statement. This should be submitted within 14 days of the date of the appeal hearing.

At least 7 days notice of the Hearing of the Sub-Committee will be given to the parties involved and will include copies of any papers submitted by the parties.

In exceptional circumstances, if either side intends to submit or refer to any further documentary evidence, then this should be submitted to the Sub-Committee no later than 3 days prior to the Hearing. Committee Services will ensure, where practicable, that copies are available at the Hearing and that parties are notified of the intention to submit or refer to this further documentary evidence.

Details of the procedures adopted by the Sub-Committee will be supplied to the appellant(s) and their trade union representatives. These are set out in Appendix F.

**Should the appellant fail to appear on the set date, the Sub-Committee will dismiss the appeal unless, within 7 days prior to the date of the hearing, the appellant has provided, in writing, acceptable reason why the Sub-Committee should not do so.**

Where a Sub-Committee decides to revise the original disciplinary action the employee will be notified accordingly and records amended.

## 11. **DISCIPLINARY PROCEDURES FOR CHIEF OFFICIALS**

The Board Sub-Committee will be responsible for all matters affecting the discipline of Chief Officials.

### **Investigation**

In circumstances where a Chief Official is suspected of misconduct or unsatisfactory work performance, the Board Sub-Committee will carry out, or arrange for, an investigation to establish the facts. Depending on the circumstances, and to assist with the investigation, the Chief Official may be suspended on full pay, pending completion of the investigation.

### **Disciplinary Hearing**

In all circumstances where disciplinary action is being considered, the Board Sub-Committee, at the earliest opportunity, will interview the Chief Official, having advised him/her in advance of the purpose of the interview. At this interview the allegations will be put to the Chief Official, who will be given the opportunity to explain or defend himself/herself. This may be done personally or with the assistance of a representative of his/her choice.

The Head of Employee and Customer Services will be present as an adviser at all disciplinary interviews.

### **Disciplinary Action**

Where a situation arises in relation to a Chief Official's work performance or conduct and it is considered that some form of disciplinary action should be taken, Board Sub-Committee will take the necessary action which may include a warning, final warning, suspension without pay, demotion\*, reduction in salary or dismissal\*.

Any disciplinary action imposed will be confirmed in writing by the Chair of the Sub-Committee. The letter will specify the reason for the disciplinary action, its extent, and the consequences for the Chief Official of further misconduct, the right of appeal and the nominated official to whom the appeal should be submitted. The letter will be delivered to the Chief Official by hand, or by post using recorded delivery.

### **Appeals**

If the Chief Official wishes to appeal, he/she should do so in writing to the Chair of the Board within 14 days of receipt of notification of the disciplinary action taken.

If he/she is a member of a recognised trade union, the appeal should be submitted through the trade union acting on the official's behalf.

On receipt of the letter intimating an appeal, the Chair of the Board, will call a meeting of the appropriate Appeals Panel. Where possible, this meeting should be convened within 28 days of an appeal being submitted, although this timescale may be varied with the agreement of both parties.

Any appeal should be heard in accordance with the procedures laid down for the Sub-Committee, all such meetings of the Sub-Committee shall be taken in private session.

- \* Local Government etc (Scotland) Act 1994: - Note in cases where the demotion or dismissal of Assessor appointed within the terms of the Local Government etc (Scotland) Act 1994 is considered, the sub-committee must arrange for the matter to be considered by resolution of the full Board and with the consent of the Secretary of State in accordance with sub section 27 (5) of the Act.

**DISCIPLINARY PROCEDURES – INCIDENT REPORT FORM / RECORD SHEET (DCP REP1)**

Note: If completing by hand, please do so *clearly* and in *black ink*. If you require assistance in completing this form please contact the Boards Personnel Representatives.

**SECTION A**

To be completed by the employee’s Supervisor or Manager as soon as possible following an incident, and *before* the disciplinary hearing.

**EMPLOYEE DETAILS**

Name:		Directorate:	
NI Number:		Service:	
Date of Birth:		Designation:	
Home Address:		Work Location:	
Phone (Home):		Phone (Work):	
Date entered service:		Grade/Level:	
Trade Union details:			

**BRIEF DESCRIPTION OF ALLEGED OFFENCE/INCIDENT:**

**SECTION A - CHECKLIST:**

Has the employee been advised of potential disciplinary hearing and advised of his/her rights?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Person Reporting Alleged Offence/Incident: (Investigating Officer)	Name: Designation:
Having considered the alleged offence/incident, do you wish to continue to a formal disciplinary hearing?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Person taking this decision: (Disciplining Officer)	If YES move to Section B Name: Designation: Date:

**SECTION B**

To be completed *prior* to the date of the disciplinary hearing.

**SUMMARY OF PREVIOUS UNEXPIRED DISCIPLINARY ACTION**

Disciplinary Action	Yes/No	Date Issued	Expiry Date	Details
Oral Warning				
Written Warning				
Final Written Warning				
Suspension without Pay				
Demotion				
Reduction in Grade				
Withheld Increment				

**Note:** This summary should only be taken into account when deciding on the severity of the action to be taken. The current incident under investigation should be judged on its own merits.

**SECTION B – CHECKLIST:**

Has standard letter calling employee to the disciplinary hearing been issued?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Details of Disciplinary Hearing:	Date: Time: Disciplining Officer: SAC HR Representative:
If the employee is a TU representative has the Full Time Official been advised?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Person taking this decision: (Disciplining Officer)	Name: Designation: Date:

**Note:** Sections A and B must be completed prior to the start of the disciplinary hearing and if requested the information contained therein should be made available to the employee.

**SECTION C**

To be completed during / immediately following the disciplinary hearing.

**REPRESENTING MANAGEMENT**

Name:		Designation:	
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**ACCOMPANYING EMPLOYEE / REPRESENTATIVE**

Name:	T.U./Other:	Address:	Tel No:

**DETAILS OF ALLEGED OFFENCE / INCIDENT**

--

**EXPLANATION OFFERED BY EMPLOYEE**

--

**MITIGATING CIRCUMSTANCES**

--

**WITNESSES CALLED AT DISCIPLINARY HEARING**

Name:	Status:	Address:	Tel No:

**STATEMENT SUBMITTED**

Name:	Status:	Address:	Tel No:

**Note:** Statements must be attached to this form.

**SECTION D**

NON PUNITIVE ACTION	Tick	PUNITIVE ACTION	Tick
No action		Suspension Without Pay	
Counselling		Demotion	
Addiction Referral		Reduction in Grade	
Oral/Warning		Withhold Increment	
Written Warning		Dismissal with Notice	
Final Written Warning		Dismissal without Notice	
Detail:			

**DATE EMPLOYEE ADVISED IN WRITING****Notes:**

- a) If no disciplinary action is taken then advise employee accordingly
- b) If disciplinary action is taken then issue employee with appropriate letter (see Standard Letters)
- c) In the case of **punitive action** a copy of this completed form, together with a copy of the letter to the employee and any other relevant papers **must** be passed to the Board's Personnel Representatives.

**DISCIPLINING OFFICER**

Name:		Designation:	
Work Tel:		Work Location:	
Date:		Signature:	

**Note:** when completed, please store securely in employees **personal** file for record purposes.

**This form is used for the investigation and recording of an incident which might lead to disciplinary action. It will be securely stored in your personal file where only authorised personnel will have access to it.**

**AYRSHIRE VALUATION JOINT BOARD****Fact Finding Report  
Date  
Area and subject of investigation  
Investigating officer(s)****1. Background**

Give a summary of the background to the investigation

**2. Terms of Reference**

The area and extent of the investigation

**3. Method of Investigation**

Describe the approach taken by the investigating officers e.g. list any witnesses interviewed and areas of records or other evidence sourced.

**4. Findings**

Set out the findings, supporting them with evidence from witnesses and records, attaching as appendices, copies of documents or records where relevant, and any witness statements. If there is more than one allegation, the findings should address each in turn. This section should be a detailed and balanced analysis of the evidence setting out those areas where information is supported by witness statement or other records.

**5. Conclusions**

The conclusions should be based on the findings as set out above. There should be no 'surprises' at this point in that the evidence and arguments will have already been presented in detail.

**6. Recommendations**

The investigating officers(s) should set out the recommendations based on their findings. These may include:

- There is no case to answer
- There is no case to answer however there are concerns about administrative/financial/management or other procedures or professional practices which should be addressed.



**PROCEDURES FOR INVESTIGATIONS INTO PROFESSIONAL CONDUCT, COMPETENCE, ETC.**

Situations could arise whereby it may be appropriate to have an agreed special procedure available which would enable a "Special Investigation" to be undertaken to establish the facts of an incident or complaint prior to any consideration being given to the need for disciplinary action being taken against an employee.

This area mainly concerns professional staff and is related to professional conduct or competence in the carrying out of duties in situations where it is considered advisable to have the matter investigated and a report prepared by officers qualified to do so and who have no direct involvement in the situation or with local management of the employee(s) involved.

Where such a move is contemplated, the following procedures will apply:

1. Such a decision will normally rest with the Assessor or nominated senior officer and he/she should advise the Head of Employee and Customer Services of his/her wish to have a "Special Investigation" carried out.
2. Having discussed the situation with the Assessor or nominated senior officer and being satisfied that this is the proper course, the Head of Employee and Customer Services (or representative) will convene a meeting with the full-time officer or senior trade union officials of the appropriate trade union(s) together with the Assessor and his/her support staff.
3. At the meeting, the trade union(s) will be formally advised of the background to the situation and of their reasons for a "Special Investigation" being considered necessary. The union representatives will be advised of the officers nominated to undertake the investigation and asked to nominate their own Liaison Officer.
4. At this stage, the terms of reference and the scope of the investigation should be agreed with the trade union(s) and the procedures set in motion.
5. All employees to be interviewed will have the right to be interviewed in the presence of the nominated Liaison Officer or, if a member of a different union, an official of that union, if they so wish, and the union(s) will be kept advised of the progress of the investigation.
6. At the conclusion of the investigation, a report will be prepared and presented to the Assessor or senior nominated officer and the Head of Employee and Customer Services and arrangements made for the trade union(s) to be likewise provided with a copy.
7. A meeting will then be arranged, attended by the trade union(s) at which the content and the recommendations of the report will be discussed.
8. Where the report clearly indicates that remedial action as opposed to disciplinary action is indicated, then agreement on this should be sought with the union(s) involved and an agreed statement recorded.
9. Where, however, the findings are such as to warrant disciplinary action, then management shall indicate to the trade union(s) the course of action they propose taking and thereafter take the appropriate procedural steps in terms of the Disciplinary Procedures.

10. Thereafter, the normal disciplinary procedures, rights and privileges etc will apply together with the right of appeal, where appropriate.

**FRAUD, FINANCIAL REGULATIONS AND STANDING ORDERS PROCEDURES**

In line with the Board's Anti-Fraud Strategy, this section sets out the procedures to be followed where fraud is uncovered or suspected.

*(Please note a separate strategy and response exists for Housing and Council Tax Benefits Fraud as detailed in Appendix E).*

1. The Assessor or nominated Senior Officer shall make arrangements to ensure that where it is suspected or known that fraud has occurred (i.e. the misappropriation or embezzlement of monies, materials, etc, placed in an employee's charge) or a significant breach of Financial Regulations, the matter shall be reported immediately to them for the purpose of receiving on their behalf reports concerning suspected or known defalcations or a significant breach of Financial Regulations.
2. Where the Assessor or nominated Senior Officer, is informed of a suspected or known defalcation or a significant breach of Financial Regulations, they shall immediately contact the SAC Section 95 Officer requesting that an investigation be carried out. Performance Appraisal and Audit Services will thereafter carry out a preliminary investigation and report back to the Assessor or nominated Senior Officer concerned.
3. On the basis of a report on the preliminary investigation from Performance Appraisal and Audit Services, a decision shall be taken by the Assessor or nominated Senior Officer, in consultation with the SAC Section 95 Officer as to whether or not the employee concerned should be removed from the workplace and found alternative work, or suspended with pay pending the results of further investigation.
4. Prior to this decision being implemented, the employee concerned shall be called to an interview (accompanied if wished, by a trade union representative or fellow worker) and advised of the reasons for the interview, of the decision to extend the audit investigation and if suspension with pay is proposed pending the completion of the investigation.
5. If, in the course of the investigation, further interviews by Performance Appraisal and Audit Services or other Officials are required with the employee concerned, the employee must be given the opportunity of being accompanied by a trade union representative or fellow worker.
6. On completion of the investigation, the SAC Section 95 Officer shall prepare a written report.
7. Where disciplinary procedures appear necessary, the SAC Section 95 Officer shall advise the Assessor.
8. The SAC Section 95 Officer and nominated Senior Officer shall consult jointly with the Assessor on all cases of defalcation or a significant breach of Financial Regulations and advise the Assessor in writing on what further action they consider should be taken.
9. At the conclusion of the investigation when the findings are known and the required consultations between the Assessor and the SAC Section 95 Officer have taken

place, the employee concerned shall be called to a further interview by the Assessor or the nominated Senior Officer, and advised of the broad nature of the findings and of the proposed course of action (e.g. a return to place of work and normal working, or disciplinary action).

10. In the event of disciplinary action being contemplated, the employee shall be given written information on the broad nature of the findings of the investigation. Thereafter, the employee shall be called to a disciplinary interview by the Assessor (or nominated Senior Officer) and may be accompanied if so wished by a trade union representative or fellow worker.
11. At this disciplinary interview, the employee should be given an opportunity to answer the case before any decision is taken and thereafter the normal disciplinary procedures shall apply.
12. In cases of significant breaches of Standing Orders, the South Ayrshire Council's Monitoring Officer should be kept fully informed. Breaches of Standing Orders that may involve financial irregularities would be investigated by applying the above procedure. Other significant breaches of Standing Orders will be investigated following the procedure for the investigation into professional conduct.

**Please note:**

**No approach is to be made to the Police regarding defalcation except by the Assessor or other person acting on the Assessor's authority.**

**INVESTIGATION INTO COUNCIL TAX BENEFIT/HOUSING BENEFIT FRAUD**

1. The Board has a duty to protect the public funds it administers, and to this end, may use information provided for payroll purposes within the authority by its employees to ensure proper and appropriate control of public funds. Consequently, the Board will assist the three Council Financial Services who wish to match staff records from the payroll system to the unified benefits system and to Council Tax records for which warrants have been issued.
2. The Councils' Council Tax Benefit/Housing Benefit Fraud and Prosecution Policy, were introduced to protect the public purse, specifically in relation to alleged abuse of the benefits system, and to ensure that any action is applied fairly and equitably.
3. Ayrshire Valuation Joint Board will not condone employees of the Board fraudulently claiming benefits. Any such claims will be deemed as misconduct. The procedure for dealing with suspected benefits fraud by Ayrshire Valuation Joint Board employees is as follows:
  - 3.1 Should the Senior Investigation Officer become aware of possible fraudulent claims made by Ayrshire Valuation Joint Board employees, he will conduct a preliminary investigation into the claim, within the boundaries of the Social Security Administration (Fraud) Act 1997, and the Data Protection Act 1998. As part of the investigation, the employee shall be contacted, to clarify the issue.
  - 3.2 On completion of his investigation, the Senior Investigation Officer shall prepare a written report.
  - 3.3 Should further action be required, the Senior Investigation Officer will present the report to the Assessor. Due care will be given to maintaining confidentiality given the sensitivity of the issue.
  - 3.4 The Assessor should then examine the Report and assess the authenticity of the information provided, giving careful consideration to the circumstances surrounding the claim, the nature and seriousness of the claim, and if satisfied thereafter on all these points, arrange a disciplinary interview with the employee concerned. This should be in writing and give at least 7 days notice and should include a copy of the Senior Investigations Officer's Report.
  - 3.5 At a properly convened meeting, the employee, accompanied if so wished by a Trade Union representative or other appropriate person, shall be appraised of the facts concerning the incident by the Disciplining Officer and shall be given the opportunity any decision is taken. Thereafter, the normal Disciplinary Procedure shall apply.
  - 3.6 The Senior Investigation Officer may be called to act as a witness, if required, at the disciplinary hearing.
  - 3.7 The outcome of the hearing will be reported to the Assessor.

**PROCEDURE TO BE FOLLOWED AT HEARING OF AN APPEAL AGAINST PUNITIVE DISCIPLINARY ACTION**

1. There may be present at all times, the appellant, his/her representative and a Board representative.
2. A person or persons acting in an advisory capacity only to the appellant his/her representative or to the Board representative, may also be allowed to be present at the hearing provided such persons are made known to the Board's Sub-Committee (Appeals) prior to the case commencing.
3. The Board representative will put forward its case in the presence of the appellant and his/her representative, and call such witness(es) as may be required.
4. The appellant's representative or the appellant (if not represented) will have the opportunity to ask questions of witnesses called by the Board.
5. The members of the Sub-Committee will then have the opportunity to ask questions of the witness.
6. The Board representative will have the opportunity to ask further questions to clarify points arising from questions from the appellant's representative and members of the Sub-Committee.
7. The appellant or his/her representative will put his/her case in the presence of the Board representative and may call any witnesses required.
8. The Board representative will have the opportunity to ask questions of any witnesses called by the appellant or his/her representative.
9. The members of the Sub-Committee will then have the opportunity to ask questions of the appellant's representative, the appellant or any witnesses called.
10. The appellant or his/her representative will have the opportunity to ask further questions of the witness, to make points of clarification arising from questions from the Board representative and members of the Sub-Committee.
11. The Board representative followed by the appellant or his/her representative will have the opportunity, if they wish, to sum up their case introducing no new material.
12. The Board representative, the appellant and his/her representative and any advisers if present, will then withdraw.
13. The Sub-Committee in the presence of the officer(s) appointed to assist the Panel, will then deliberate in private, only recalling if necessary the Board representative, the appellant and his/her representative to clarify points of uncertainty on evidence already given. If recall is necessary, **both** parties have to return even if only one of the parties is required to clarify any point.
14. The Sub-Committee will recall the Board representative, the appellant and his/her representative and announce its decision on the appeal which will be confirmed in writing.

Under the Board's Scheme of Delegation, the Sub-Committee is authorised to uphold or reject appeals against disciplinary action or to order the varying of the disciplinary action taken. The form of the decision to be announced by the Sub-Committee will be one of the following as appropriate.

- (1) That the grounds of the appeal have been substantiated and the appeal be upheld.
- (2) That the grounds of the appeal have been substantiated in part and the appeal is upheld to the extent that .....
- (3) That the grounds of the appeal have not been substantiated and the appeal is not upheld.

#### **PROCEDURES FOLLOWING THE HEARING OF A DISCIPLINARY APPEAL**

1. The Clerk to the Board (or his appointee) will give the parties written confirmation of the decision taken by the Sub-Committee. This will be in writing within 7 days of the hearing at which the decision was taken.
2. An employee shall be entitled to request written reasons for the decision by writing to the Clerk within 14 days of the notification of the decision.
3. If such a request is received, the written reasons shall be given within 14 days of the receipt of the request.

#### **Please Note:**

**Where the decision of the Sub-Committee is to vary the disciplinary action to a period of unpaid suspension, the duration of the suspension will be a matter for the determination of the Sub-Committee at its complete discretion having due regard to the circumstances of the case.**

**Where the grounds of an appeal against dismissal have been substantiated in part and the Sub-Committee varies the disciplinary action previously taken to action other than dismissal, the appellant shall be deemed to have been reinstated to the employ of the Board with effect from the date of the dismissal.**

**PROCEDURES FOR DEALING WITH ADDICTION PROBLEMS**

The following information and procedures outlined below, apply equally to alcohol related problems, drug related problems, solvent abuse, gambling and other recognised addictions which interfere with an employee's health and/or work capability.

Employees who come to notice through normal disciplinary procedures or as the result of a decision by the Appeals Panel as possibly having an addiction problem will be offered the opportunity to seek diagnosis and treatment, if necessary, from the appropriate agencies approved by the Board.

Further information is available in the Board's Addiction Policy.

Those employees who:

- decline to accept the offer of referral for diagnosis and/or help and treatment;
- discontinue a course of treatment before its satisfactory completion;
- continue to return unsatisfactory levels of work performance and attendance

will be subject to the normal and recognised disciplinary procedures.

Where an employee has work capability problems, the cause of which is known or suspected to be addiction related and where disciplinary measures have been applied or are indicated, the following procedures will apply:

1. The Assessor (or nominated senior officer) will interview the employee in the normal course of endeavouring to rectify work performance, in the presence of a trade union representative or work colleague, if the employee so wishes.
2. The Assessor (or nominated senior officer) will offer referral to SAC Occupational Health through SAC Human Resources.
3. SAC Occupational Health Referral can be carried out as an alternative to taking disciplinary action OR, dependant on the nature of the misconduct, after disciplinary action has been applied.
4. If the employee accepts the offer of a referral to SAC Occupational Health, the Assessor (or nominated senior officer) will arrange a referral through SAC Human Resources.

SAC Occupational Health have responsibility to progress all addiction related problems in the most appropriate way depending on the support needs of the employees individual case. This may include referral to appropriate external support agencies or a medical examination.

5. If an employee rejects the offer of referral, the next stage of the disciplinary procedures will be applied.
6. SAC Occupational Health will issue a report confirming whether or not an addiction problem is confirmed. SAC Occupational Health will be aware of this via the external support agencies put in place and a report will be sent through SAC Human Resources to the Assessor (or nominated senior officer).



If an addiction problem is confirmed, SAC Human Resources will obtain the co-operation and agreement of the employees department regarding any required absence from work. This could include attending appointments and/or to accommodate any other appropriate support. Where the employee co-operates and accepts the help and treatment prescribed and returns to an acceptable level of work performance and attendance the problem is then resolved.

If an addiction problem is confirmed and the employee does not co-operate with the support mechanisms put in place SAC Occupational Health will be notified and in turn, via SAC Human Resources, will refer the employee back to the Assessor (or nominated senior officer).

If an addiction problem is not confirmed, the employee will be referred back to the Assessor (or nominated senior officer) and the next appropriate stage of the disciplinary procedures applied.

7. If work performance and attendance problems continue or recur, a decision will be taken as to whether the employee should be sent for further treatment or if the next stage of the disciplinary procedures should be applied.

**MANAGING PERFORMANCE – HOW TO DEAL WITH ISSUES OF CAPABILITY**

Performance review meeting held – discuss job remit, standards of performance, levels of competence, conduct, manager’s expectations

CONSIDER - IS PERFORMANCE AN ISSUE OF CAPABILITY?

Discuss and agree performance improvement measures, set SMART objectives and set an appropriate review period, this should be confirmed in writing to the employee. If the performance problem is related to disability, consult SAC HR and Occupational Health for guidance

REVIEW – IF THERE IS NO PERFORMANCE IMPROVEMENT

Performance review meeting held – allow employee to offer an explanation if failing to perform to the required standard. consider other appropriate measures to assist the employee

POOR PERFORMANCE CONTINUES ALL OTHER OPTIONS ARE EXHAUSTED

\* Instigate disciplinary action on grounds of capability, action taken should be within the range of reasonable responses for the type of misconduct

IF CONTINUED FAILURE TO IMPROVE THEN ESCALATE THROUGH DISCIPLINARY PROCEDURE, ULTIMATELY LEADING TO DISMISSAL ON THE GROUNDS OF CAPABILITY

EMPLOYEE – RIGHT TO APPEAL

\* Please note the employees has the right to be accompanied/represented at disciplinary stages of the above procedure

**INDEX TO STANDARD LETTERS**

The following letters are for general guidance only and will require minor adjustment to take account of individual circumstances.

Performance Improvement:	Letter to employee confirming performance improvement measures
Fact Finding 1:	Letter advising employee who is the subject of an investigation
Fact Finding 2:	Letter to employee who is a witness to an investigation
Fact Finding 3:	Letter to employee advising of Special Investigation
Sign off statement:	Cover letter and sign off sheet for fact finding interview statements
DISCP 1	Letter advising employee of removal from the workplace on Full Pay pending Investigation
DISCP 2	Letter advising employee of extension to period of removal from the workplace on Full Pay
DISCP 3	Letter calling employee to Disciplinary Hearing
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DISCP 15	Letter Calling employee to Appeal Hearing
DISCP 16	Letter advising employee of Outcome of Appeal - Appeal not upheld
DISCP 17	Letter advising employee of Outcome of Appeal - Appeal upheld in part
DISCP 18	Letter advising employee of outcome of Appeal - Appeal upheld

## **Performance Improvement - Letter to employee detailing performance improvement measures**

Dear (insert name)

### **PERFORMANCE IMPROVEMENT**

I refer to the meeting which was held on (insert date), regarding XXXXX.

Following this discussion, I would confirm that the \*conduct or performance improvement expected is as follows XXXXXX, and it is expected that this improvement will take place (insert timescale) and thereafter on an ongoing basis.

Appropriate training and support will be provided as follows XXXXXX.

I will meet with you again on (insert date) at (insert time) in (insert location) to review progress.

Yours sincerely,

Assessor or Nominated Senior Officer

Copy: Personal file

## Fact Finding Letter 1 - Letter to employee who is subject of investigation

Dear (insert name)

### **FACT FINDING INVESTIGATION**

I write to confirm that an investigation is being undertaken into the following matter:  
xxxxxxx.

I am therefore writing to ask you attend a fact finding interview on (insert date) at (insert time) in (insert location) at which you will be given the opportunity to respond to the allegation and to provide any information or names of witnesses who can support your case. Your trade union representative or work colleague may accompany you at the interview. It would be helpful if you would confirm both your attendance and the name of anyone accompanying you at the interview.

On completion of the investigation a report will be prepared for the Disciplining Officer to consider. You will be advised in due course of the outcome of the investigation and of any further proceedings which the Board may wish to instigate.

Yours sincerely,

Assessor or Nominated Senior Officer

Copy: Line Manager  
Trade Union (as appropriate)

## Fact Finding Letter 2 - Letter to employee who is a witness to an investigation

Dear (insert name)

### **FACT FINDING INVESTIGATION**

I write to confirm that I would like you to attend an interview with (insert name) from (insert service/Directorate) on (insert date) at (insert time) in (insert location).

The purpose of the interview is to seek your assistance with regard to an ongoing investigation and would confirm that you are not the subject of the investigation.

If you would find it helpful, a trade union representative or work colleague may accompany you. The interview should take approximately xxxxx and I would ask that you treat this request as confidential. Your line manager has been advised and will arrange appropriate time off for you to attend.

Please confirm with (insert name) that you are able to attend the meeting at the above noted time.

Yours sincerely,

Assessor or Nominated Senior Officer

Copy: Line manager  
Trade Union (as appropriate)

### Fact Finding Letter 3 – Letter advising employee of special investigation

Dear (insert name)

#### **Special Investigation into (insert detail)**

As you are aware from your meeting on (insert date) with (insert name and job title), a Special Investigation under the Board's Disciplinary Procedure is being undertaken by (insert name) into the following matters:

- a) Insert detail
- b)
- c)

I am therefore writing to ask you to attend a fact finding interview on (insert date) at (insert time) in (insert location), where you will be interviewed to ascertain facts and information on the matters detailed above. Your trade union representative or work colleague may accompany you at the interview.

It would be helpful, if you would confirm to (insert name and contact details), both your attendance and the name of anyone accompanying you at the interview.

\*I can also confirm that you will be removed from work during the Investigation and initially this will be for up to (insert number of weeks) i.e. from (insert date) to (insert date), at which point your suspension will be reviewed. Your suspension from duty is with pay and this will not be recorded on your personal record, consequently you have no right of appeal.

Since your removal from work is on full pay you are required to be available for recall to work at any time during your normal working hours. Accordingly if you fall ill during this period you must report this to your line manager providing the appropriate fit note from your GP. If you wish to take annual leave during the period of removal, you must seek the approval from your line manager.

On completion of the investigation, a report will be prepared for SAC's Section 95 Officer, detailing the findings. You will be advised in due course of the outcome of the investigation and of any further proceedings the Board may wish to instigate.

Finally, you are advised that you should not contact any potential witnesses to discuss the investigation as it may prejudice the outcome.

Yours sincerely,

Assessor or Nominated Senior Officer

\* Call in paragraph, use if employee being removed from work during investigation

**Sign off Statement: Cover letter for fact finding interview statements**

Dear (insert name)

**INVESTIGATORY INTERVIEW – INTERVIEW RECORD**

Please find enclosed two copies of the interview record taken during our investigatory interview held on (insert date).

I would ask that you review the enclosed interview record and respond by either signing and returning or advising of any suggested variations to the document. The second copy is for your retention.

If you wish to provide additional information, please do so by including a clearly marked appendix to the interview record.

Please return your signed copies or suggested amendments to (insert name) by (insert time) on (insert date), at the above address.

I have to advise you that should you fail to respond by the above date then the Investigating Officer will progress the investigation based on the original record issued to you.

\* I can confirm that a copy of the enclosed interview record has also been issued, by email, to your Representative.

Yours sincerely

Assessor or Nominated Senior Officer

\* Call in paragraph, use if appropriate



**Sign Off Statement Cover Sheet**

**INTERVIEW RECORD – date**

**START TIME:**            am                    **FINISH TIME:**            pm

**PRESENT:**            **Name**  
                              **Name**

This is an accurate account of the interview conducted by xxname and name on datexx .

The answers are a note of the responses provided by xxnamexx.

---

I, xxname and job titlexx, agree that the interview record is an accurate account of the interview that took place on xxdatexx as a result of the investigation into xx brief detail xx :

<b>Signed:</b>	
<b>Name:</b>	
<b>Date:</b>	

## **DISCP 1 - Letter to employee - removal from workplace pending investigation**

Dear (insert name)

### **REMOVAL FROM THE WORKPLACE ON FULL PAY DURING INVESTIGATION**

I refer to the meeting which was held on (insert date). In terms of the Board's Disciplinary Procedures, I have to advise you that you will be removed from work with pay from (insert date) to (insert date).

The reason for your removal is to enable the Board to carry out an investigation concerning XXXXXXXX.

Your removal from duty with pay is a temporary measure which will not be recorded on your personal record; consequently you have no right of appeal.

Since your removal is on full pay you are required to be available for recall to work at any time during your normal working hours. Accordingly if you fall ill during this period you must report this to your line manager in the normal manner providing the appropriate Fit Note from your GP. If you wish to take annual leave during the period of removal you must seek the approval of your line manager to take leave in the normal manner.

You will be advised in due course of the outcome of the investigation and of any further proceedings which the Board I may wish to instigate.

A copy of this letter has been forwarded to the Assessor (if applicable) and to your Trade Union (as appropriate).

Yours sincerely,

Assessor or Nominated Senior Officer

## **DISCP 2 - Letter to employee - extension to removal from workplace**

Dear (insert name)

### **EXTENSION OF REMOVAL FROM THE WORKPLACE ON FULL PAY DURING INVESTIGATION**

I refer to my letter dated (insert date) confirming the decision to remove you from the workplace on full pay from (insert date) to (insert date) to enable an investigation to take place concerning XXXXXXXX.

I have now to advise you that the investigation is not yet complete and consequently you will continue to be removed from duty with pay from (insert date) to (insert date) pending the outcome of the investigation.

Since your removal is on full pay you are required to be available for recall to work at any time during your normal working hours. Accordingly if you fall ill during this period you must report this to your supervisor in the normal manner providing the appropriate medical certificates. If you wish to go away on leave during the period of removal you must seek the approval of your supervisor to take leave in the normal manner.

You will be advised in due course of the outcome of the investigation and of any further proceedings which the Board may wish to instigate.

A copy of this letter has been forwarded to the Assessor (if applicable) and to your Trade Union (as appropriate).

Yours sincerely,

Assessor of Nominated Senior Officer

### **DISCP 3 - Letter calling employee to disciplinary hearing**

Dear (insert name)

#### **DISCIPLINARY HEARING**

In accordance with the Board's Disciplinary Procedures you are required to attend a disciplinary hearing on (insert date) at (insert time) in (insert location).

The reason(s) for the hearing is/are XXXXXXXXXXXX.

You will be given the opportunity to explain your views on the allegations. If you wish, you may be accompanied by your Trade Union representative or work colleague.

\*call in clause:       The purpose of the hearing is to decide whether any disciplinary action, up to and including dismissal is appropriate.

\*\* call in clause:    You / your representative should advise me of any written submission you wish to make. A copy of the management submission is enclosed / will be sent to you / your representative prior to the hearing.

You should also advise me of any witnesses you intend to call on your behalf.

It would be helpful if you would confirm both your attendance and the name of anyone accompanying you at the interview.

Yours sincerely,

Assessor

## **DISCP 4 - Letter confirming oral warning**

Dear (insert name)

### **DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I have to confirm that I issued you with an Oral Warning regarding XXXXXXXXXXXX.

The \*conduct or performance improvement expected is as follows XXXXXX and it is expected that this improvement will take place (insert timescale).

This warning will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of six months from the date of this letter, namely until (insert date). Any further complaint I receive about your conduct or work performance may result in more serious disciplinary action being taken against you.

I have to advise you that the Disciplinary Procedures entitle you to appeal to (insert name) within fourteen days of receipt of this letter if you believe the issuing of an Oral Warning to be unfair in the circumstances. If you choose to appeal, you will be given an opportunity to explain your reasons at an interview with (inset name) at which you may be represented by your Trade Union official or work colleague.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely,

Assessor

\* use as appropriate

## DISCP 5 - Letter confirming written warning

Dear (insert name)

### **DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I am issuing this Written Warning to you regarding XXXXXXXX.

The \*conduct or performance improvement expected is as follows XXXXXXXX and it is expected that this improvement will take place (insert timescale).

\*\*Your conduct/work performance has previously given cause for concern and resulted in an Oral Warning being issued to you on (insert date).

This Written Warning will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of six months from the date of this letter, namely until (insert date). Any future complaint I receive about your conduct or work performance may result in more serious disciplinary action being taken against you.

I have to advise you that the Disciplinary Procedures entitle you to appeal to (insert name) within fourteen days of receipt of this letter if you believe the issuing of a Written Warning to be unfair in the circumstances. If you choose to appeal, you will be given an opportunity to explain your reasons at an interview with (insert name) at which you may be represented by your Trade Union Official or other person of your choice.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely,

Assessor

\* Use as appropriate

\*\*Call in paragraph, use if appropriate where disciplinary action is still live

## DISCP 6 - Letter confirming final written warning

Dear (insert name)

### DISCIPLINARY PROCEDURES

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I am issuing this Final Written Warning to you regarding XXXXXXXX.

The \*conduct or performance improvement expected is as follows XXXXXX and it is expected that this improvement will take place (insert timescale)

\*\*Your conduct/work performance has previously given cause for concern and resulted in an Oral Warning being issued to you on (insert date) and a Written Warning being issued to you on (insert date).

This Final Written Warning will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of one year from the date of this letter, namely until (insert date). Any further complaint I receive about your conduct or work performance may result in more serious disciplinary action being taken against you which may be dismissal.

\*\*\*In addition, as this misconduct is serious verging on gross misconduct, should there be any repetition in the future, this Final Written Warning may be taken into account.

I have to advise you that the Disciplinary Procedures entitle you to appeal to (insert name) within fourteen days of receipt of this letter if you believe the issuing of a Final Written Warning to be unfair in the circumstances. If you choose to appeal, you will be given an opportunity to explain your reasons at an interview with (insert name) at which you may be represented by your Trade Union official or work colleague.

\*\*\*\*A copy of this letter has been forwarded to your Trade Union \*\*\*\*

Yours sincerely

Assessor of Nominated Senior Officer

- \* Call in paragraph, use if appropriate where disciplinary action is still live
- \*\* Call in paragraph, use if appropriate
- \*\*\* Call in paragraph, use if Trade Union Representative attended disciplinary hearing
- \*\*\*\* Use if appeal against final warning will be heard by Appeals Sub Committee i.e. warning issued by the Assessor.

**DISCP 7 - Letter confirming final written warning and punitive action, suspension without pay**

Dear (insert name)

**DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I have to advise you that you have been issued with a final written warning and that you will be suspended from work without pay from (insert date) to (insert date).

The reason(s) for this action is/are XXXXXXXX.

The \*conduct or performance improvement expected is as follows XXXXXX and it is expected that this improvement will take place (insert timescale)

\*\*Your conduct/work performance has previously given cause for concern and resulted in a(n) (insert type of warning) Warning being issued to you on (insert date).

The action will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of one year from the date of this letter, namely until (insert date).

Any future complaint I receive about your conduct or work performance may result in more serious disciplinary action being taken against you which may be dismissal.

\*\*\*In addition, as this misconduct is serious verging on gross misconduct, should there be any repetition in the future, this action may be taken into account.

If you consider this action to be unfair in the circumstances you may appeal, in writing and preferably through your Trade Union, within fourteen days of receipt of this letter to the Chair of the Board, for consideration by the Appeals Panel.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely

Manager or Nominated Senior Officer

\* use as appropriate

\*\* Call in paragraph, use as appropriate where disciplinary action still live

\*\*\* Call in paragraph, use as appropriate



## **DISCP 8 - Letter confirming final written warning and punitive action – withholding increment**

Dear (insert name)

### **DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I write to advise you that you have been issued with a Final Written Warning with effect from (insert date) and payment of the increment due to you on (insert date) will be withheld.

The reason(s) for this action is/are XXXXXXXX.

The \*conduct or performance improvement expected is as follows XXXXXX and it is expected that this improvement will take place (insert timescale)

\*\*Your conduct/work performance has previously given cause for concern and resulted in a(n) (insert type of warning) Warning being issued to you on (insert date).

This action will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of one year from the date of this letter, namely until (insert date). Any future complaint I receive about your conduct or work performance may result in more serious disciplinary action being taken against you which may be dismissal.

\*\*\*In addition, as this misconduct is serious verging on gross misconduct, should there be any repetition in the future, this action may be taken into account.

If you consider this action to be unfair in the circumstances you may appeal in writing and preferably through your Trade Union, within fourteen days of receipt of this letter, to the Chair of the Board for consideration by the Appeals Panel.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely

Manager or Nominated Senior Officer

\* Use as appropriate

\*\* Call in paragraph, use if appropriate where disciplinary action still live

\*\*\* Call in paragraph, use if appropriate

## **DISCP 9 - Letter confirming final written warning and punitive action - reduction in grade**

Dear (insert name)

### **DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I write to advise you that you have been issued with a Final Written Warning and your grade has been reduced from (insert grade/level) to (insert grade/level) with effect from (insert date).

The reason(s) for this action is/are XXXXXXXX.

The \*conduct or performance improvement expected is as follows XXXXXX and it is expected that this improvement will take place (insert timescale)

\*\*Your conduct/work performance has previously given cause for concern and resulted in a(n) (insert type of warning) Warning being issued to you on (insert date).

This action will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of one year from the date of this letter, namely until (insert date). Any future complaint I receive about your conduct or work performance may result in more serious disciplinary action being taken against you which may be dismissal.

\*\*\*In addition, as this misconduct is serious verging on gross misconduct, should there be any repetition in the future, this action may be taken into account.

If you consider this action to be unfair in the circumstances you may appeal in writing and preferably through your Trade Union, within fourteen days of receipt of this letter, to the Chair of the Board for consideration by the Appeals Panel.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely

Assessor or Nominated Senior Officer

- \* Use as appropriate
- \*\* Call in paragraph, use if appropriate, where disciplinary action is still live
- \*\*\* Call in paragraph, use if appropriate

## DISCP 10 - Letter confirming final written warning and punitive action - demotion

Dear (insert name)

### DISCIPLINARY PROCEDURES

I refer to the disciplinary hearing which was held on XXXXXXXX. In terms of the Board's Disciplinary Procedures, I write to advise you that you have been issued with a Final Written Warning and demoted from (insert post/grade/level) to (insert post/grade/level) with effect from (insert date).

The reason(s) for the action is/are XXXXXXXX.

The \*conduct or performance improvement expected is as follows XXXXXX and it is expected that this improvement will take place (insert timescale)

\*\*Your conduct/work performance has previously given cause for concern and resulted in a(n) (insert type of warning) Warning being issued to you on (insert date).

This action will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of one year from the date of this letter, namely until (insert date). Any future complaints I receive about your conduct or work performance may result in more serious disciplinary action being taken against you which may be dismissal.

\*\*\*In addition, as this misconduct is serious verging on gross misconduct, should there be any repetition of this type of misconduct in the future, this action may be taken into account.

If you consider this action to be unfair in the circumstances you may appeal, in writing and preferably through your Trade Union, within fourteen days of receipt of this letter to the Chair of the Board for consideration by the Appeals Panel.

A copy of this letter has been forwarded to the Head of Employee and Customer Services and to your Trade Union (as appropriate).

Yours sincerely

Assessor or Nominated Senior Officer

\* Use as appropriate

\*\* Call in paragraph, use if appropriate, where disciplinary action is still live

\*\*\* Call in paragraph, use if appropriate

## **DISCP 11 - Letter confirming dismissal (notice to be paid)**

Dear (Insert Name)

### **DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I have to advise you that you will be dismissed from your post of (insert post title) with effect from (insert date).

You will receive a payment of XX weeks pay in lieu of notice and any outstanding annual leave entitlement.

The reason(s) for your dismissal is/are XXXXXXXX.

\*Your conduct/work performance has previously given cause for concern and resulted in a(n) (insert type of warning) Warning being issued to you on (insert date).

If you consider this action to be unfair in the circumstances you may appeal, in writing and preferably through your Trade Union, within fourteen days of receipt of this letter to the Chair of the Board for consideration by the Appeals Panel.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely

Assessor of Nominated Senior Officer

\* Call in paragraph, use if appropriate where disciplinary action is still live

## **DISCP 12 - Letter confirming Dismissal – notice to be worked**

Dear (insert name)

### **DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I have to advise you that you will be dismissed from your post of (insert post) with effect from (insert date).

The reason(s) for your dismissal is/are XXXXXXXX.

\*Your conduct/work performance has previously given cause for concern and resulted in a(n) (insert type of warning) Warning being issued to you on (insert date).

If you consider this action to be unfair in the circumstances you may appeal, in writing and preferably through your Trade Union, within fourteen days of receipt of this letter to the Chair of the Board, for consideration by the Appeals Panel.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely

Assessor of Nominated Senior Officer

\*Call in paragraph, use if appropriate where disciplinary action is still live

## **DISCP 13 - Letter confirming summary dismissal (gross misconduct)**

Dear (insert name)

### **DISCIPLINARY PROCEDURES**

I refer to the disciplinary hearing which was held on (insert date). In terms of the Board's Disciplinary Procedures, I write to advise you that you are being/have been dismissed from your post of (insert post title) with effect from (insert date) on the grounds of gross misconduct.

You will not be entitled to any payment in lieu of notice however you are entitled to accrued annual leave based on the statutory minimum of 28 days pro rata, which includes public holidays already taken.

The reason(s) for your summary dismissal for gross misconduct is/are XXXXXXXX.

\*Your conduct/work performance has previously given cause for concern and resulted in a(n) (insert type of warning) Warning being issued to you on (insert date).

If you consider this action to be unfair in the circumstances you may appeal, in writing and preferably through your Trade Union, within fourteen days of receipt of this letter to the Chair to the Board for consideration by the Appeals Panel.

A copy of this letter has been forwarded to your Trade Union (as appropriate).

Yours sincerely

Assessor or Nominated Senior Officer

\* Call in paragraph, use if appropriate where disciplinary action is still live

## **DCP 14 - Add in clause for Addiction issues**

However, as you have indicated that you may have an alcohol/drug/gambling/solvent abuse related problem and have accepted the offer of assistance offered by the Board's policy, I am holding the above mentioned disciplinary action in abeyance pending the outcome of your attendance at the appropriate helping agency and satisfactory attendance, conduct and performance at work which will be monitored during your attendance for counselling.

## **DISCP 15 - Letter to invite employee to Appeal Hearing**

Dear (insert name)

### **APPEAL HEARING**

I refer to your letter dated (insert date) appealing against the (insert type of warning) Warning issued to you on (insert date).

I have to advise you that, in accordance with the Board's Disciplinary Procedures an Appeal Hearing will be held on (insert date) at (insert time) at (insert location).

You will be given the opportunity to put forward your case for appeal. If you wish, you may be represented by your Trade Union representative or work colleague.

Please confirm with (insert name) that you are able to attend the appeal hearing at the above noted time.

Yours sincerely

Assessor or Nominated Senior Officer



## **DISCP 16 - Letter confirming outcome of Appeal Hearing - Appeal not upheld**

Dear (insert name)

### **APPEAL HEARING**

I refer to the Appeals Hearing which was held on (insert date) to consider your appeal against the (insert type of warning) Warning issued to you on (insert date) regarding XXXXXXX.

Following consideration of the case put forward by you and/or your representative, I have to advise you that I have decided not to uphold your appeal. In terms of the Board's Disciplinary Procedures, you have no further right of appeal against this decision.

Consequently, in accordance with the Disciplinary Procedures, the XXXXXX Warning issued to you on (insert date) will stand and will continue to be admissible against any further misdemeanour for a period of six months/one year from that date, namely until (insert date).

A copy of this letter has been forwarded to your Trade Union (use as appropriate).

Yours sincerely

Assessor or Nominated Senior Officer

## **DISCP 17 - Letter confirming outcome of Appeal Hearing – appeal upheld**

Dear (insert name)

### **APPEAL HEARING**

I refer to the Appeals Hearing which was held on (insert date) to consider your appeal against the XXXXXX Warning issued to you on (insert date) regarding XXXXXXXX.

Following consideration of the case put forward by you and/or your representative, in accordance with the Board's Disciplinary Procedures I have decided to uphold your appeal in part, to the extent that the XXXXXXXX Warning issued to you on (insert date) will be replaced with a XXXXXXXX Warning.

This warning will be noted on your personal record and will stand to be admissible against any further misdemeanour for a period of six months effective from the date of the original letter intimating the XXXXX Warning, namely (insert date).

Any future complaint I receive about your conduct or work performance may result in more serious disciplinary action being taken against you.

\*A copy of this letter has been forwarded to your Trade Union (use as appropriate).

Yours sincerely

Assessor of Nominated Senior Officer

**DISCP 18 - Letter confirming outcome of Appeal Hearing – appeal upheld no further action**

Dear (insert name)

**APPEAL HEARING**

I refer to the Appeals Hearing which was held on (insert date) to consider your appeal against the XXXXXX Warning issued to you on (insert date) regarding XXXXXXXX.

Following consideration of the case put forward by you and/or your representative, I have to advise you that I have decided to uphold your appeal.

Consequently, in accordance with the Board's Disciplinary Procedures the XXXXX Warning issued to you on (insert date) will be expunged from your record and no written reference to the warning will be held in your personal file.

\*A copy of this letter has been forwarded to your Trade Union (use as appropriate).

Yours sincerely

Assessor or Nominated Senior Officer