
People Management Toolkit

Managing Discipline

Agreed in conjunction with ACAS and PCS

Sport for life

sportscotland
the national agency for sport

Our values are: honesty, respect, integrity, openness, inclusion, ambition

1.0 Introduction

- 1.1 **sportscotland** is committed to promoting good employment relations and will strive to achieve this by fostering a culture of open communication and consultation to support individuals in achieving the standards of behaviour expected of employees whilst at work.
- 1.2 In dealing with disciplinary matters **sportscotland** will ensure compliance with the appropriate employment legislation as noted in the [ACAS Code of Practice on Discipline and Grievances](#) .
- 1.3 In managing disciplinary matters, **sportscotland** will not discriminate on the grounds of including but not limited to disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation and also gender identity, responsibility for dependents, political beliefs, trade union activity, socio-economic background, Looked After Children and Care Experienced Young People (LACY) or other relevant factors.

2.0 Scope of Policy

- 2.1 This policy applies to all **sportscotland** employees with the exception of the Chief Executive Officer who is subject to the relevant Scottish Government policy.
- 2.2 **sportscotland's** policy is to:
 - inform employees promptly of the basis of any problem and give them an opportunity to put their case in response before any decisions are made;
 - provide training to support the effective implementation of the discipline policy and procedures for those with responsibility for managing and supervising employees;
 - expedite any formal disciplinary process within a timescale that is reasonable;
 - carry out any necessary investigations to establish the facts of each case;
 - allow individuals to be accompanied at any formal disciplinary meeting;
 - comply with legislation;
 - act fairly, reasonably and consistently.
- 2.3 **sportscotland** is committed to ensuring that any disciplinary matters are managed confidentially, sensitively and promptly and that any employee involved in the process,

either formally or informally, is able to access confidential support, through the [Employee Assistance Programme](#) should they wish to do so.

- 2.4 It is the responsibility of the Line Manager to ensure that all their staff are made fully aware of what is expected of them personally, and of their team within the organisation, through providing appropriate communication, support, training and development. The Line Manager is responsible for identifying any issues and instigating any required investigation and/or disciplinary action.
- 2.5 Separate procedures exist where the issue or concern relates to bullying, harassment or victimisation (See [Dignity at Work Policy](#)).

3.0 Overview of Procedure

Discipline in the Workplace

- 3.1 Disciplinary proceedings are usually brought in relation to issues that **sportscotland** has in relation to the conduct and/or performance of an employee.

Misconduct

- 3.2 Minor breaches of contractual terms and conditions of employment or **sportscotland** policy will be regarded as misconduct. It is important to note that some examples of misconduct can amount to gross misconduct in certain circumstances. Examples of misconduct include, but are not limited to:

- timekeeping;
- unauthorised absence;
- failure to follow sickness absence procedures;
- misuse of company time;
- negligence;
- insubordination;
- misuse of the company flexi-time.

Gross Misconduct

- 3.3 Serious breaches of contractual terms and conditions of employment will be regarded as gross misconduct and may result in dismissal without notice. Examples of gross misconduct include but are not limited to:

- physical violence;
- verbal assault;
- theft;
- misuse of it equipment or services;
- malicious damage;
- fraud;
- breach of health and safety regulations;
- reporting for duty under the influence alcohol or non prescription drugs;
- causing **sportscotland** reputational damage;
- disclosing confidential information to a third party;
- failure to report any criminal charges or convictions received during employment with **sportscotland** that are serious and/or may impact on job capability;

- unauthorised use of company vehicles, property, facilities or equipment.

How will disciplinary proceedings be managed if a grievance is raised?

- 3.4 Where a grievance is raised in response to disciplinary proceedings, the disciplinary process may be temporarily suspended in order to deal with the grievance.
- 3.5 Where the grievance and disciplinary cases are associated, it may be appropriate to deal with both issues concurrently. In these circumstances, guidance should be sought from the HR Team.
- 3.6 Where the grievance and disciplinary cases are unrelated, both cases may run concurrently, following the normal procedures. Separate managers will be appointed to each case.
- 3.7 Throughout any disciplinary process it is important that full records are kept by the Investigation Manager / Disciplinary Manager and, once a process has been concluded, these are passed to HR so that they can be kept in confidence and in accordance with the General Data Protection Regulations (GDPR).

Role of HR

HR will support Line Managers on the application of the policy throughout the process, by providing guidance and advice.

INFORMAL PROCEDURE

- 3.8 Matters involving issues about an employee's conduct and/or performance will initially be managed informally by the Line Manager, as soon as they can, as part of the everyday working relationship. The nature of the issue and how it should be resolved will be discussed between the Line Manager and employee and an agreement made about what actions will be taken. It is important for the Line Manager to keep a written note of these informal discussions so the details of what has been discussed and next steps are recorded. These can be used for reference by the parties concerned as progress is made towards the agreed resolution.
- 3.9 If during these informal discussions it is agreed that some form of mediation would offer an agreed resolution then this can be arranged through HR ([See Mediation](#))
- 3.10 Where an issue cannot be resolved informally, or is of a more serious nature, then it will be pursued formally and the employee will be informed in writing.

FORMAL PROCEDURE

Investigation Process

- 3.11 As soon as a Line Manager becomes aware of a conduct and/or performance issue, the Line Manager will make a preliminary investigation and if it is determined that a full investigation is required, an Investigation & Disciplinary Manager will be appointed by HR.

Role of the Investigation Manager

The Investigation Manager is responsible for managing the formal investigation process. They are responsible for gathering any relevant information pertaining to the investigation, including holding investigation meetings with the individual in question and any witnesses. The Investigation Manager will conclude their investigation by collating the pertinent information and producing an Investigation report.

The Investigation Manager will provide factual conclusions, however will not make any recommendations within the Investigation Report.

- 3.12 Investigations must be carried out without unreasonable delay, to establish the facts of the case. This will require the Investigation Manager to hold an investigatory meeting with the employee(s) whereby notes of the meeting will normally be taken by HR.
- 3.13 The Investigation Manager will provide the employee(s) with agreed minutes from any investigatory meeting.
- 3.14 Although there is no statutory right for an employee to be accompanied by a workplace colleague or Trade Union Representative at a formal investigatory meeting, employees who request accompaniment will be granted this.

Role of the Employee and Witnesses

Any employee involved in the process has a responsibility to attend meetings to discuss matters of concern and make themselves available at all stages. They should also ensure that any relevant information and/or documentation is made available during the process.

- 3.15 The Investigation Manager is responsible for managing the process and timescales in its entirety. Every attempt will be made to conclude the investigation and produce the Investigation Report within 2 weeks.
- 3.16 If it is not possible to complete the investigation within a reasonable timeframe then an extension of the timescale may be required.
- 3.17 The Investigation Report will lay out all the facts and conclusions of the case. No recommendations will be made; it will be the decision of the Disciplinary Manager to determine whether further action will be taken.

Disciplinary

- 3.18 If disciplinary action is appropriate, a Disciplinary Manager will notify the employee of this in writing. This notification will contain sufficient information about the alleged issues about an employee's conduct and the possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting. The Disciplinary Manager will provide the employee with the Investigation Report and any supporting documentation relevant to the case. If there are no supporting documents, this will be confirmed in writing.
- 3.19 The employee will be given written details of the time and venue for the disciplinary hearing and be advised of their right to be accompanied at the hearing, as outlined in Section 3.25.
- 3.20 In the event that there is no further action, a meeting will normally be held and the outcome will be confirmed in writing to the employee by the Disciplinary Manager.

Role of the Disciplinary Manager

The Disciplinary Manager is the individual with responsibility for managing the formal disciplinary process in its entirety.

Suspension from Work

- 3.21 In circumstances where a period of suspension with pay is considered necessary, this period will be as brief as possible and kept under review by the Disciplinary Manager. It will be made clear to the employee that suspension from work is not considered a disciplinary action in itself.

Examples of where suspension may be appropriate include, but are not limited to:

- alleged gross misconduct;
- where safety might be compromised

Alternatives to suspension may be considered, such as home working or working from another location.

The Disciplinary Meeting

- 3.22 A formal disciplinary meeting will be held within 2 weeks of the decision to progress being made. In the exceptional circumstance that this timeframe cannot be achieved, the Disciplinary Manager will communicate the reasons to the employee. The timings and organisation of meetings and issuing any follow up communications will be the responsibility of the Disciplinary Manager.
- 3.23 The employee will inform the Disciplinary Manager if they will be accompanied by a colleague or Trade Union Representative and whether they have any special requirements e.g. disability, language requirements, etc. They should advise the Disciplinary Manager of any witnesses that they wish to call to the hearing.
- 3.24 Where an employee is persistently unwilling to attend a disciplinary meeting, the Disciplinary Manager will make a decision based upon the evidence available.

Right to be accompanied

- 3.25 Employees have a statutory right to be accompanied by a Trade Union Representative or a workplace colleague.

Role of the Workplace Colleague/Trade Union Representative

Any employee may be accompanied by a Trade Union Representative or a workplace colleague during the formal disciplinary process. Representatives/workplace colleagues should have no conflict of interest in relation to the matter or people concerned in the case. At any hearing or appeal meeting, the employee's representative or colleague will be able to address the hearing/meeting in order to put the employee's case forward, sum up the case, respond on the employee's behalf to any view expressed at the hearing and confer with the employee. They will not usually answer questions on behalf of the employee, but may do so with the agreement of the Disciplinary Manager.

- 3.26 If the employee's chosen representative is not available at the time proposed for the hearing, the Disciplinary Manager will postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

Holding the Disciplinary Hearing

- 3.27 At the disciplinary hearing the Disciplinary Manager will;
- confirm that the employee is aware of their rights under the disciplinary procedure;
 - ask the employee to confirm they understand the nature of the allegation made against them;
 - ensure that the employee and/or their representative have the opportunity to present their account of events and call any witnesses (if appropriate);
 - call an adjournment to gather fresh material if required and to consider material that has been presented throughout the disciplinary hearing and contained in the investigation report.
- 3.28 In exceptional circumstances an external resource may be used to hear disciplinary hearing, for example if an Investigation/Disciplinary Manager cannot be appointed due to a conflict of interest.
- 3.29 A representative from HR will attend the hearing to provide advice to the Disciplinary Manager. A note taker will attend.

Adjournment

- 3.30 The Disciplinary Manager will adjourn to consider the findings of the hearing.
- 3.31 If it is determined that there is a need to carry out further investigations into any allegation(s) made during the disciplinary hearing, the Disciplinary Manager will adjourn the hearing and arrange for the collection of additional information, in order to have the details of the case checked.

- 3.32 If the Disciplinary Manager feels that no further investigation is necessary, then the employee will normally be notified of the outcome in writing within one working week.

Potential Outcomes

- 3.33 Disciplinary Managers must be at least Grade 5 and appropriately trained. At the end of the hearing the Disciplinary Manager will conclude upon one of the following outcomes:

Sanction	Levels of Authority
No case to answer	Disciplinary Manager
First Written Warning	Disciplinary Manager
Final Written Warning	Disciplinary Manager
Sanction short of dismissal (e.g. demotion)	Head of Service or higher
Dismissal	Head of Service or higher
Appeal	Head of Service or higher

- 3.34 A first or final written warning will set out the nature of the misconduct and the change in behaviour/improvement required (with timescale). The employee will be told how long the warning will remain current. The employee will also be informed of the consequences of further misconduct within the set period following a warning.
- 3.35 In the case of dismissal or sanction short of dismissal the employee will be informed in writing the details of the sanction and their right of appeal.
- 3.36 The following guidelines will be followed regarding 'spent' warnings on an employee's record:
- **First Written Warning** – spent after 6 months, subject to satisfactory conduct;
 - **Final Written Warning** – spent after 12 months, subject to satisfactory conduct.

4.0 The Appeal Process

- 4.1 Employees have the right to appeal against the disciplinary outcome.
- 4.2 An appeal must be made in writing to the relevant person named in the outcome letter. The Appeal must be received within 14 days of receiving the outcome letter of the disciplinary hearing and should clearly states the grounds of appeal.
- 4.3 Appeals may be made on the grounds of:
- new evidence has become available, which may affect the decision;
 - severity of the sanction in place;
 - alleged procedural flaws within the disciplinary process.

Handling an Appeal

- 4.4 When a written appeal is received, HR will appoint an appropriate Appeal Manager. For appeals against a First or Final Written Warning, the Appeal Manager will be a Head of Service or higher. For an appeal against a dismissal or sanction short of a dismissal, the Appeal Manager will be a Director not previously involved in the case. The Appeal Manager is responsible for managing the formal appeal process in its entirety.

- 4.5 The Appeal Manager will ensure that all those involved and associated with the matter are kept informed of the appeal process and its progress.

Role of HR

HR will support the appeal process by providing guidance and advice to the Appeal Manager on the application of the policy throughout.

The Appeal Meeting

- 4.6 A formal appeal meeting will be held within 2 working weeks of the appeal application being received.
- 4.7 The Appeal Manager will inform the employee of the time and location for the appeal meeting and will remind them of their right to be accompanied by a work colleague or a Trade Union Representative.
- 4.8 The employee will inform the Appeal Manager if they will be accompanied by another person and if they have any special requirements e.g. disability, language requirements, etc.
- 4.9 Employees (and their representatives) must make every effort to attend the appeal. Where an employee is persistently unwilling to attend an appeal meeting, **sportscotland** will make a decision based upon the information available in their absence.

Decide on an Appropriate Outcome

- 4.10 The appeal meeting is not intended as a full re-hearing of the original issue. The purpose of the appeal meeting is for the employee to put forward why they believe that the original outcome should be changed.
- 4.11 The Appeal Manager will adjourn to decide upon the outcome of the appeal. The decision of the Appeal Manager will be final and will normally be communicated to the employee in writing within one working week of the decision being made.

5.0 Special Cases

Trade Union Representatives

- 5.1 Where disciplinary action is being considered against an employee who is a Trade Union Representative, the normal disciplinary procedure will be followed. The matter will be discussed at an early stage with an official employed by the Union, after obtaining the employee's agreement. HR can provide advice in these circumstances.

Version Control History

Group update with HR and PCS Union.
To be reviewed within 3 years of the date below.

Name	Position	Signature	Date
Callum MacInnes	HR Manager	DocuSigned by: <i>Callum MacInnes</i>	16-Oct-19 07:54:44 P
Nichola Raccio	HR Officer	A63B04DB491E4EE... DocuSigned by: <i>Nichola Raccio</i>	16-Oct-19 15:44:32 I
Andrew Kelly	Trade Union Representative	E41C0130B7114AB... DocuSigned by: <i>Andrew Kelly</i>	17-Oct-19 09:44:46 E
Scott Baxter	Trade Union Representative	3F74D29D3E1F49E... DocuSigned by: <i>Scott Baxter</i>	16-Oct-19 16:12:19