Chapter 20: Disciplinary Procedures

1. About this Chapter

1.1 This chapter explains:

- the House of Commons disciplinary procedures
- what to expect if your conduct falls short of accepted standards

2. Introduction

2.1 The House of Commons disciplinary procedures are aimed at upholding standards of individual conduct. They are designed to ensure that all cases are handled consistently and fairly and that any alleged disciplinary offence is fully and properly investigated.

2.2 If your conduct falls short of the expected standards, your Line Manager will normally try to bring about an improvement through training, coaching, counselling, advice and encouragement or an informal action. In most cases, these informal methods will be successful in improving conduct.

2.3 However, where informal methods do not succeed and conduct does not improve, it may be necessary to begin disciplinary procedures. Your Line Manager may also instigate formal disciplinary procedures without going through an informal stage if the case involves something which is regarded as serious or gross misconduct, or has had a considerable impact on others.

2.4 Your Line Manager must always consider disciplinary cases against as full an understanding of the situation as possible, including relevant personal, domestic or social circumstances. Managers must also take into consideration any advice or assistance which the Diversity and Inclusion Manager or Parliamentary Health and Wellbeing Service may be able to give.

2.5 In some cases, such as those where there are attendance or performance issues, and there are interactions between procedures set out in chapter 15 and chapter 17, it may be more appropriate to run these in parallel and for the processes to be adjusted if necessary. HR Advice Services should be consulted in such cases.

Departure from the disciplinary process

2.6 The disciplinary process is a formal process designed to respond to alleged breaches of conduct. Generally, managers should not depart from the process. However, there could be circumstances where a particular case does not lend itself to following the procedures as described. In such limited circumstances and only in prior consultation with HR Advice Services and with the member of staff if this is reasonably possible, some variation may be justified. This would simply be an alternative method of reaching an outcome and must align as much as possible with the disciplinary process and protect the rights of the employee.

3. Authority to Exercise Disciplinary Powers

3.1 Your Managing Director or Head of Office, acting on delegated authority from the House of Commons Commission, has the authority to exercise disciplinary powers. On a day-to-day basis this power is delegated to Managers. Managers will administer formal procedures, and act as decision makers, in consultation with HR Advice Services.
3.2 If your line manager is not able to conduct the disciplinary procedures, an appropriate alternative manager may be appointed. To ensure consistency in approach the Director of People, or an HR Adviser with delegated responsibility, must be consulted on any sanction(s) in a disciplinary case.

3.3 A decision to dismiss will only be taken by someone at band B1 or above after the appropriate investigations and interviews have taken place. You have the right of appeal against disciplinary sanctions or dismissal to the decision maker’s Manager. If you are dismissed, in some circumstances you will also have a right of appeal to an employment tribunal (see section 11).

3.4 In cases involving SCS staff, the Clerk of the House will make the decision to dismiss.

4. Special Considerations: Trade Union Officials

4.1 Normal disciplinary standards apply to the conduct of Trade Union officials as employees. If any disciplinary action is considered (including an investigation which could lead to disciplinary action), the case should be discussed, after obtaining the employee’s consent, with the Trade Union Side President, the relevant national officer and the Director of People. Managers should take care that disciplinary action on a Trade Union Representative is not seen as an attack on the Trade Union’s functions.

5. Informal Action

Preliminary enquiries

5.1 In some cases it may become obvious very quickly that informal proceedings are inappropriate, at which stage preliminary enquiries should be curtailed and a formal investigation set up. Preliminary enquiries may be carried out to establish the facts before any formal procedures are considered. These are to establish whether any further action is required. The breadth and depth of any preliminary enquiries will vary from case to case. Any evidence gathered will normally be done so in line with the guidance on evidence used in investigations.

5.2 Information gathered from preliminary enquiries can be used as part of the formal investigation. If during informal discussions it becomes apparent that a formal investigation is required the manager should not pursue the discussion further until it can be undertaken as part of the formal process.

5.3 The person conducting the preliminary enquiries may be your Line Manager, or an appropriate manager. At this stage they may decide:

- there is no further case to answer and the matter can be dropped
- matters can be resolved informally, for instance through advice or guidance
- to proceed to formal investigation

Informal action

5.4 When it appears that a member of staff may have committed a minor offence Line Managers may decide to deal with the matter informally, for example, through discussion with the staff member concerned, advice, training, coaching or counselling. This approach may be appropriate, for example, to bring to the attention of a member of staff some unsatisfactory aspect of their behaviour such as general bad manners or ill-temper, which they may regard as trivial, but which is unacceptable at work.
5.5 The purpose of informal action is to discuss problems with the objective of encouraging and helping staff to resolve the situation. However, incidents of serious or gross misconduct must always be dealt with formally.

5.6 As part of the informal discussion your Line Manager will ensure that they give you all of the information you need to understand their concerns, including the following, although all of these will not apply in every case:

- what level of conduct is required
- the improvement required
- the date by which these must be made
- any help which may be available, for example where ill health may be affecting your behaviour

5.7 Your Line Manager will take a note of the meeting, agree the accuracy of the note with you and give you a copy. No record will be kept on your personal file at this stage but the meeting note will be included if a formal process is invoked.

**Cooling-off periods**

5.8 Sometimes incidents which lead to disciplinary action involve emotional behaviour, and a cooling-off period may be needed before the matter can be dealt with sensibly. When, for instance, a member of staff loses their temper in the office, Line Managers may, if necessary, send the person home for the remainder of the day (it should never be for a longer period) to cool off. Sending a person home in these circumstances is not regarded as suspension from work and should not be referred to as such.

**Counselling**

5.9 Sometimes domestic, personal or health problems can be at the root of the problematic behaviour. Staff are encouraged to discuss the matter with their Line Manager, but if for some reason this would not be appropriate, they can talk with their HR Adviser, a doctor, the Employee Assistance Programme (EAP) or Trade Union Representative.

**6. Suspension**

6.1 Suspension during a disciplinary investigation and proceeding is not in itself a disciplinary sanction or a sign of guilt. It is simply a way to progress enquiries or an investigation smoothly or to protect the health and safety of the individual(s) involved. In many cases employees will not be suspended during the disciplinary process. If you are suspended, your Line Manager will write to you stating the reason for the suspension, whether it will be with or without pay, and the length of the suspension. The length of the suspension will be reviewed regularly by HR and you will be kept informed.

6.2 If the allegation is of serious misconduct, your Line Manager may decide, in consultation with the Director of People or Head of HR Policy and Advice, to suspend you while enquiries take place.

6.3 If you are accused of gross misconduct, you will normally be suspended for seven to 14 calendar days (usually on full pay) while investigations are made.

6.4 In cases involving SCS staff, the Clerk of the House will need to be involved in the decision on whether to suspend.
6.5 You will usually be paid during a period of suspension, but suspension may be made with or without pay, depending on the nature of the allegation and the particular circumstances. A suspension made with pay can be changed to a suspension without pay, depending on the nature of the allegation and the particular circumstances.

6.6 If you are suspended without pay but the subsequent disciplinary action concludes with no sanction being taken against you then retrospective payment for the period of suspension will be made. However, if the disciplinary proceedings result in a disciplinary sanction, the Director of People has discretion to decide that pay which has been withheld should be wholly or partly forfeited.

6.7 During the suspension you will remain an employee of the House of Commons and must be available to return to work when required to do so.

7. Formal Disciplinary Procedures

7.1 It is most important to the House of Commons that staff should maintain high standards of conduct. Most breaches of conduct will be handled by informal means as detailed above. However more serious misconduct, gross misconduct, or repeated minor breaches are likely to warrant formal action. The purpose of such action is to correct the misconduct, in the interests of the organisation and the individual, rather than to punish the employee. It is the policy of the House that if you are subject to formal disciplinary procedures:

- you should be told of the alleged misconduct as soon as formal procedures start, if not before
- you should be subject to formal procedures only if there is good reason and evidence of an alleged offence, normally compiled through preliminary enquiries
- any investigation and sanctions should be appropriate to the nature of the alleged offence
- any sanctions should be demonstrably fair and consistent with previous action in similar circumstances
- you have the right to be represented by a Trade Union Representative or fellow employee of the House during any interview or hearing which could lead to a warning or some other disciplinary procedure
- you have the right of appeal against any disciplinary action

Right to be accompanied at formal meetings

7.2 Managers should note that members of staff have the right to be accompanied by a Trade Union Representative or fellow employee of the House of Commons during paid working hours for any interview or hearing which forms part of the formal disciplinary procedures.

Role of the Trade Union Representative or fellow employee

7.3 If you wish a Trade Union Representative or fellow employee to attend a formal interview with you, they may:

- put your case
- sum up your case
- respond on your behalf to any view expressed at the hearing
- confer with you during the hearing
They may not:

- answer questions on your behalf
- address the hearing if you do not wish them to do so
- prevent your employer from explaining their case

**Formal investigations**

7.4 Any potentially formal case will require an investigation of the evidence. The purpose of the investigation is to establish, fairly, whether there is a case for the employee to answer. Any evidence gathered will normally be done so in line with the [guidance on evidence used in investigations](#).

Formal investigations may include:

- interviewing witnesses
- collecting witness statements
- reviewing relevant documentation or other evidence
- overseeing or commissioning searches
- preparing an investigation report

7.5 Further details can be found in the management guidance on the Intranet at:

[Managing discipline](#)

**Interviewing witnesses**

7.6 Investigating managers may interview you and other potential witnesses. This interview is part of the formal investigation and your evidence may be considered as part of the disciplinary hearing.

You are entitled to be accompanied by a colleague or Trade Union Representative. As a matter of good practice, a note of these interviews will be made and you will be asked to sign the record.

**Conducting searches of House of Commons Service employees**

7.7 The House reserves the right to search employees, their desk, locker, personal property and effects, as appropriate, where there is a reasonable belief that some unauthorised or criminal activity has taken place.

7.8 Unauthorised activities may include actions such as:

- secreting or withholding work-related documents (for example, secreting invoices which require processing)
- unauthorised possession of official equipment or property
- accepting inappropriate gifts

7.9 The search will be undertaken by an officer of the same sex as the employee wherever possible. The manager requesting the search and/or an HR representative will also be in attendance if felt necessary. You will be entitled to be accompanied during any such search by a colleague or Trade Union Representative.

7.10 In addition, the House also reserves the right to search any vehicle entering, leaving or on the parliamentary estate at any time.

7.11 If you are found to be in unauthorised possession of House property or property belonging to a third party, you may be suspended from duty until the matter has been investigated (see section 6 above). Staff should bear in mind that during their absence, to avoid disruption to services, their
managers may need to gain access to any cupboards, drawers or cabinets they may use for the storage of work-related items.

**Disciplinary hearings**

7.12 The purpose of the disciplinary hearing is to consider all the evidence relating to the allegations, decide based on that evidence whether the allegations are true and decide what sanction, if any, is appropriate. The hearing will be conducted by a manager advised by a representative from HR.

7.13 Depending on the nature of the case, for example, when there is an allegation of harassment, it may be necessary to appoint a manager to hear the case who has not been involved in, and does not have a detailed knowledge of, the investigation, the allegation or the person who brought the complaint against the employee. It is, however, unrealistic to insist that panel representatives will have no prior knowledge at all of the case.

7.14 You will be given in writing:

- at least seven calendar days’ notice of the hearing
- details of the alleged offence, and supporting evidence
- an opportunity to respond to the allegation in writing
- notice that the interview is a disciplinary one
- Details of your rights to be accompanied by a Trade Union Representative or a fellow employee of the House of Commons Service (see paragraphs 7.2 and 7.3).

7.15 If you are unable to find a representative or if your representative is not available on the date of the hearing you can ask that the hearing be delayed (for not more than seven calendar days) so you can make further arrangements.

7.16 An HR representative acting in an advisory capacity will normally attend formal meetings. A note will be taken of the meeting by either the HR representative or another member of staff.

7.17 The formal meeting record will be placed on your personal file and a copy given to you.

7.18 If you are unable to attend a meeting, for instance if you are absent from work due to ill health, the manager hearing the case will decide on the appropriate action to take. This may include arranging an alternative date for the meeting or seeing you at a more convenient location closer to your home. However, if despite making alternative arrangements, you still do not attend a meeting, a decision on the outcome can be made in your absence. In this case you would be notified of any decision on the outcome.

7.19 The hearing will normally adjourn before any decision is made. This will provide an opportunity, if necessary, to obtain and consider any additional evidence and to consult HR. Following the adjournment, the decision, based on all the evidence, will be one of the following:

- to drop the matter and take no further action
- to take informal action (see 5.4 to 5.7 above)
- to issue a formal sanction (formal warning, final warning or dismissal)

7.20 When deciding on the outcome, and on what, if any, sanction should apply, the manager will consider the extent to which standards have been breached, precedent, your general record, role, length of service and special circumstances which might make it appropriate to adjust the severity of the penalty.
8. Disciplinary Sanctions

8.1 The appropriate level of disciplinary sanction will be affected by the circumstances of the offence. It is not necessary in every case to begin with a First Written Warning and to proceed to a Final Written Warning. For example, for serious misconduct, an immediate Final Written Warning may be appropriate. In cases of gross misconduct, summary dismissal may be appropriate.

**First Written Warning**

8.2 In isolated instances of misconduct where your conduct does not meet agreed standards (see section 9), you may be given a First Written Warning by your Line Manager, however, this will depend on the severity of the case.

8.3 A First Written Warning will state:

- the reason for the warning
- the improvement required
- the date by which improvement must be made
- the expiration date of the warning
- your right to appeal

8.4 If there is no sustained change in behaviour or misconduct is repeated during an unexpired previous warning, further action under the disciplinary procedures may be taken which could result in a Final Written Warning. Further misdemeanours could lead to a Final Warning or your dismissal.

8.5 A record of the warning will be stored on your personal file and a copy will be given to you. Subject to satisfactory conduct, a First Written Warning will be disregarded for disciplinary purposes 12 months after it is issued.

**Final Written Warning**

8.6 A Final Written Warning will be issued when:

- there is still a failure to improve and conduct is unsatisfactory or
- a further offence occurs within the 12-month period or
- If the initial misconduct is sufficiently serious but not serious enough to justify summary dismissal.

8.7 A Final Written Warning will state:

- the reason for the warning
- the improvement required
- the date by which improvement must be made
- warn that dismissal will result if there is no satisfactory improvement within a given timescale
- the expiration date of the warning
- your right to appeal

8.8 If there is no sustained change in behaviour, misconduct is repeated or other misdemeanours occur during an unexpired previous warning, further action under the disciplinary procedures may be taken which could result in your dismissal.
8.9 A record of the warning will be stored on your personal file and a copy will be given to you. Subject to satisfactory conduct, a Final Written Warning will be disregarded for disciplinary purposes 24 months after it is issued.

Dismissal

8.10 If your conduct remains unsatisfactory after a Final Written Warning, dismissal may result.

8.11 Consideration of and the decision to dismiss will not be taken by anyone who is below the level of a band B1 Manager, and only after the appropriate investigations and interviews have taken place. If your Line Manager is below this pay band, the decision will be passed up the line management chain. You will be provided with written reasons for dismissal, the date on which the employment will terminate and the right of appeal, within 14 calendar days of the date of the hearing.

Summary dismissal

8.12 If on completion of the investigation and the disciplinary hearing, the person taking the decision to dismiss is satisfied that it is more probable than not (on the balance of probabilities) that you have committed gross misconduct, the result will normally be summary dismissal without notice.

Additional sanctions

8.13 In addition to, or instead of, the sanctions outlined above, the manager concerned may, in appropriate circumstances, apply any of the following sanctions:

- suspension for a specific period with loss of pay
- payment for any loss or damage you have caused
- loss of pay for unauthorised absence
- ban on promotion or on consideration for promotion (including temporary promotion or substitution) for a specified period
- movement to a lower pay band for a specified minimum period, after which you will be eligible for consideration for promotion
- removal from a post attracting additional allowances
- loss of privileges if they are abused, such as the right to further season ticket loan if a previous loan for this purpose has not been spent on a season ticket.

8.14 In dismissal cases involving loss of public money, any unpaid salary may be withheld and offset against the loss. Similar set-offs can be made if a member of staff resigns before the dismissal can be put into effect. The decision to withhold unpaid salary should be made by the Director of People.

8.15 Pension benefits may be withheld in whole or in part if you are convicted of any criminal offence that is gravely injurious to the state or may lead to a serious loss of confidence in the House of Commons Service. The decision to withhold pension benefits is a matter for the Director of People and the Employee Pay and Pensions Service will administer the decision. If you have been employed by the House of Commons Service for one year or more, you may be eligible to appeal against the withholding of any of your pension benefits. For further information or to submit an appeal, you should contact the Department of Work and Pensions (DWP) as follows:

- Website: Civil Service Appeal Board
- Telephone: 0207 962 8017
8.16 If you are dismissed or suspended (subject to any appeal) you must not return to the Parliamentary Estate without permission. Dismissed or suspended employees are entitled to gain access to their Trade Union Representative, having first sought guidance on access arrangements from the Head of HR Advice.

8.17 Where in the view of the House the nature of an offence makes it inappropriate for you to continue in your present post, the House may consider:

- moving you to another post in the team
- transferring you to a suitable post in another team
- if no suitable alternative can be found, dismissal

9. Levels of Misconduct

9.1 There is no code automatically assigning particular sanctions to particular offences. The disciplinary hearing panel will take full account of the circumstances in deciding what the sanction should be. The following is set out for guidance only and the list is not definitive. Some items are listed under more than one heading. The seriousness of the offence will depend on the circumstances of the case.

**Informal action**

9.2 Examples of misconduct where informal action may be appropriate might include an isolated incidence of:

- bad time keeping
- inappropriate offensive language
- insubordination
- minor violations of, or failure to maintain appropriate standards of dress or personal hygiene
- other minor misbehaviour

**Misconduct**

9.3 Examples of misconduct where a First Written Warning may be appropriate might include:

- refusing or neglecting to follow an instruction by management
- misuse of alcohol or illegal drugs in the workplace (this could be more serious depending on the circumstances - see below)
- rude, offensive or unacceptable behaviour to colleagues, Members or others either directly, by email or via social networking sites
- unauthorised possession of official equipment or property
- bad time keeping or unauthorised absence
- refusing or neglecting to follow prescribed working procedures
- minor breaches of confidentiality
- more serious violations of, or failure to maintain appropriate standards of dress or personal hygiene
- excessive use of the email and Internet systems for personal, social or recreational reasons during work time
9.4 Particularly grave, or repeated, instances of the above might be viewed as serious misconduct. Alternatively, if there were powerful mitigating circumstances, an offence which would normally be serious misconduct might be regarded as misconduct.

**Serious Misconduct**

9.5 Serious misconduct where a Final Written Warning may be appropriate might include:

- consumption of alcohol during duties or working after consuming alcohol for those engaged in hazardous or dangerous work, working at a height, or whose actions might cause a danger to third parties
- persistent bad timekeeping or unauthorised absence
- breaches of health and safety procedures
- misuse of official equipment or property including telephones, computers or office stationery
- misuse of personal information, as prohibited under the Data Protection Act
- conviction for a criminal offence other than a traffic offence (but see section 10 below)
- breaches of the Behaviour Code which do not constitute harassment, bullying or sexual misconduct

9.6 Particularly grave, or repeated, instances of the above might be viewed as gross misconduct. Alternatively, if there were powerful mitigating circumstances, an offence which would normally be gross misconduct might be regarded as serious misconduct.

**Gross misconduct**

9.7 Gross misconduct, where summary dismissal may be appropriate, might include:

- fighting or assault at work
- theft, fraud, corruption or falsification including false claims for travel, subsistence or overtime payments
- unauthorised possession or misuse of controlled drugs at work
- breaches of the Behaviour Code which constitute harassment or bullying, including cyber bullying, or sexual misconduct
- acts of discrimination on the grounds of, for example, race, sex or disability
- breaches of health and safety procedures which led, or could have led, to serious loss, damage or injury
- certain criminal offences which call into question your ability or suitability to work in your current post, or for the House of Commons (see section 10 below)
- activity intended to cause serious damage to the reputation of the House or Parliament
- serious breaches of safeguarding policy and procedure
- the circulation or retrieval of inappropriate, offensive or obscene material, including via social networking sites, or the visiting of web sites which contain such material.
- serious breaches of the requirements relating to political impartiality

**10. Criminal Offences**

10.1 You must let your Line Manager, Countersigning Manager or Head of team know as soon as practicable if you receive a Police caution, reprimand, or final warning; are arrested and refused bail; are convicted by a court of any criminal offence(s). This does not apply to a traffic offence unless the penalty includes imprisonment or the requirement to drive is an integral part of your job. Failure to
report an unspent criminal conviction may result in disciplinary action being taken against you. You must also let your Line Manager, Countersigning Manager or Head of team know of any other information you believe could potentially affect your security clearance. If you are in any doubt you should discuss with your Line Manager who will seek clarification.

10.2 Being charged with or convicted of a criminal offence is not an automatic reason for dismissal. Each offence will be considered on its merits. An offence will normally be of concern if it:

- is relevant to your duties as an employee
- affects working relationships with your fellow employees or third parties
- may affect the reputation of the House of Commons Service

11. Appeals

Internal appeals

11.1 The appeal will be heard by the decision maker’s Manager. In the alternative, they may nominate another manager to hear the appeal who has not been involved in the events which led to the sanction or dismissal. Prior to the meeting, the Manager hearing the appeal will review all relevant documentation and the reasons for the sanction or dismissal.

11.2 If you have received a disciplinary sanction, including dismissal, you will be notified in writing of the appeals procedure, which includes the following elements:

- any appeal against a disciplinary decision must be made in writing within seven calendar days of receipt of the written notification of the decision
- your appeal will be heard within 14 calendar days unless both parties agree otherwise
- You may be accompanied by a fellow employee of the House or a Trade Union Representative (see paragraphs 7.2 and 7.3).

11.3 You must indicate clearly the grounds for your appeal, which should fall into one or more of the following categories:

- new facts or evidence that have not been considered at the original hearing
- procedures have not been correctly followed
- the penalty given was too severe, disproportionate or inconsistent with penalties given for similar offences
- the decision was arbitrary or unfair

11.4 You have a right to be accompanied by a Trade Union Representative or a colleague from the House of Commons Service at this meeting. See paragraphs 7.2 and 7.3 on their role at the meeting.

11.5 If you are unable to find a representative or if your representative is not available on the date of the hearing you can ask that the hearing be delayed (for not more than seven calendar days) so you can make further arrangements.

11.6 An HR representative acting in an advisory capacity will normally attend formal meetings. A note of the meeting will be taken by either the HR representative or another member of staff.

11.7 The formal meeting record will be placed on your personal file and a copy given to you.

11.8 The manager hearing the appeal may decide to:

- confirm that the decision was appropriate
• refer the issue back to the manager who took the action so that it can be reconsidered
• substitute some lesser sanction
• vary the conditions attached to the sanction
• allow the appeal entirely and dismiss the allegation

11.9 Where an allegation is dismissed entirely, any details relating to appealed action will be removed from your personal file. However, a successful appeal against a Final Written Warning does not imply that previous actions such as a First Written Warning will be removed.

External appeal

11.10 If you are dismissed, you also have the right to appeal against dismissal to an employment tribunal if you have been employed by the House for one year or more prior to 6 April 2012 or two years if you are employed from 6 April 2012. If you wish to appeal to the ET, you must do so within 90 days of the effective date of dismissal.

11.11 You may obtain further information from ACAS on their ET public enquiry line (0300 123 1100) or on their website: www.acas.org.uk

12. Record Keeping

12.1 Managers should normally keep notes for six months of any informal actions and informal support given to help improve conduct.

12.2 The following details will be kept of any disciplinary hearing:

• the full circumstances of any offence
• evidence presented during the hearing
• the decision of the disciplinary panel and the reason for that decision
• the action taken
• whether an appeal was lodged
• the outcome of the appeal
• any subsequent developments

12.3 Disciplinary cases resulting in an informal warning, First Written Warning and/or Final Written Warning will be kept on your personal file for six years after the warnings expire.

12.4 Disciplinary cases resulting in loss of pay, debarred promotion, movement to a lower pay band, suspension, or dismissal, will be kept on your personal file until your 100th birthday for pension administration purposes.

12.5 A summary of all formal disciplinary actions will also be kept centrally for future reference to ensure consistency and fairness of approach.

12.6 Depending on the nature of the offence and sanctions applied, reference may be made to the disciplinary action in Coach and Focus discussions, for example where an improvement in conduct is sought and feedback and ongoing review is helpful.

12.7 Records of any anonymous or unsubstantiated allegations will be destroyed if allegations of misconduct are proven to be unfounded.

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