



**Church Of Scotland**  
Ministries Council – Ministries Development Staff

Discipline Procedure

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**DISCIPLINE PROCEDURE**

**CONTENTS**

- 1 PURPOSE AND SCOPE
- 2 DISCIPLINARY PROCEDURE – INFORMAL ACTION
- 3 DISCIPLINARY PROCEDURE – FORMAL ACTION
- 4 REVIEW

**APPENDICES**

- A. FREQUENTLY ASKED QUESTIONS

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1	October 2018	Karen Smith, HR Manager	Updated Policy
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## Discipline Procedure

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### **1.0 Purpose and Scope**

- 1.1 The Ministries Council (“the MC”) aims to ensure that there will be a fair and systematic approach to the achievement and maintenance of standards of conduct affecting all employees. Where it is necessary for the MC to take action in respect of individuals whose behaviour is unacceptable, the following procedure will apply.
- 1.2 Where performance issues are concerned, these will normally be dealt with under the MC’s Capability Procedure which incorporates this disciplinary procedure as appropriate.
- 1.3 This disciplinary procedure is entirely non-contractual and does not form part of your contract of employment. It is based on good employment practice and observes current employment legislation.
- 1.4 The MC recognises that involvement in the disciplinary process can be distressing for employees and is keen to observe its duty of care of its employees at all times. Employees involved in the disciplinary process have the normal access to employee support including pastoral support via the free confidential counselling service provided by unum Lifeworks. This support is in addition to that which can be found through The Hub, the MC pastoral support team and if you are a member of a Trade Union, a Trade Union Official.

### **2 DISCIPLINARY PROCEDURE - INFORMAL ACTION**

- 2.1 The MC views disciplinary measures as a means of encouraging improvement rather than applying sanctions. Your line manager plays an important role in day to day management of their team and will seek to deal with minor issues through early intervention by talking to you, providing guidance and determining how improvements will be achieved.
- 2.2 Minor faults will be dealt with informally through discussion and training. However, in cases where informal discussion with you does not lead to an improvement in conduct or where the matter is considered to be too serious to be classed as minor, for example, unauthorised absences or persistent poor timekeeping etc., the following disciplinary procedure will be used.

### **3 DISCIPLINARY PROCEDURE – FORMAL ACTION**

#### **3.1 Investigation**

- 3.1.1 The MC will promptly and thoroughly investigate any matter that is reasonably suspected or believed to contravene any of the MC’s policies or rules or may otherwise be a disciplinary matter. Such investigations will be carried out without unreasonable delay to establish the facts of the case. In some cases this will require the holding of an investigatory meeting with you before proceeding to any disciplinary meeting. In others, the investigatory stage will be the collation of evidence by the MC for use at any disciplinary meeting.
- 3.1.2 Investigations will be undertaken by an appointed Investigating Officer, normally the Ministries Development Manager who has been trained for that purpose. Depending



## Discipline Procedure

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on the nature and complexity of the investigation they may be assisted by a member of the HR Team. The Investigating Officer will normally be accompanied by a note taker at meetings.

- 3.1.3 If there is an investigatory meeting, you will be advised in writing of the nature of what is being investigated, the purpose of the meeting and the arrangements in connection with the investigation. If you are a witness in an investigation, you will receive similar notification.
- 3.1.4 All employees involved in investigations are required to make themselves available to meet with the Investigating Officer and to participate in the investigation as necessary.
- 3.1.5 Where it is considered necessary to suspend you while the investigation is ongoing, you will be suspended with pay and the period of suspension will be as brief as possible and kept under review. This suspension does not constitute disciplinary action.
- 3.1.6 Following an investigation, you will be advised of the outcome and what action, if any, will follow as a result of that investigation.

### **3.2 Disciplinary Meeting**

- 3.2.1 If it is decided that there is a disciplinary case to answer, you will be notified in writing, normally providing five working days' notice of the disciplinary meeting. This notification will contain details of the alleged misconduct and its possible consequences to enable you to prepare to answer the allegations at a disciplinary meeting. You will be provided with copies of any written evidence, including the investigatory report prepared by the Investigation Officer which will normally include any witness statements.
- 3.2.2 The notification will give details of the time and venue for the disciplinary meeting and advise you that you are entitled to be accompanied by a trade union official or a fellow employee of your choice or any individual who does not act in a legal capacity for you.
- 3.2.2 The disciplinary meeting will be held without unreasonable delay, having given you a reasonable opportunity to consider your response to the allegations. You and your companion must make every effort to attend the meeting. Where you are persistently unable or unwilling to attend a disciplinary meeting without good cause the MC will make a decision on the evidence available.
- 3.2.3 At the disciplinary meeting the manager conducting the meeting (who will normally be the Ministries Development Manager) will explain the allegations or complaint(s) against you and go through the evidence that has been gathered. You will be allowed to set out your case and answer any allegations that have been made. You will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. You will be given an opportunity to raise points about any information provided by witnesses. Where you or the MC intends to call relevant witnesses, advance notice of at least two days should be given to the other party.



## Discipline Procedure

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- 3.2.4 If the manager conducting the disciplinary meeting deems it necessary, the Investigating Officer will attend the meeting to respond to points raised in connection with the investigation.

### **3.3 Disciplinary Action**

- 3.3.1 Following the disciplinary meeting, the manager who chaired the meeting will decide whether or not disciplinary action, or any other action, is justified and inform you in writing normally within three working days of the meeting. Where it is not possible to reach a decision within this time, you will be notified that that is the case, and the reason why and you will be advised when a decision may be expected.
- 3.3.2 Where misconduct is confirmed you will normally be given a first written warning. A further act of misconduct within a set period will normally result in a final written warning. You will be given details of the change in conduct which is required and the timescale for that change to be achieved.
- 3.3.3 If your first misconduct is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where your actions have had, or are liable to have, a serious or harmful impact on the organisation.
- 3.3.4 A first or final written warning will set out the nature of the misconduct and the change in behaviour or improvement required with timescale. You will also be told how long the warning will remain current. You will be informed of the consequences of further misconduct, or failure to improve, within the set period following a final warning. This may include dismissal or some other action short of dismissal. This will be set out in writing for you.
- 3.3.5 A first written warning will remain current for twelve months and be nullified thereafter subject to satisfactory conduct and performance.
- 3.3.6 A final written warning will remain current for eighteen months and be nullified thereafter subject to satisfactory conduct and performance.
- 3.3.7 All written warning details will be kept on file for a 2 year period in accordance with TUPE regulations regarding Employee Liability Information and thereafter will be removed and destroyed.
- 3.3.8 In a case involving a safeguarding issue, disciplinary records will be maintained indefinitely despite the warning being considered 'spent' for disciplinary purposes.
- 3.3.9 A decision to dismiss will only be taken by a manager with the authority to do so. You will be informed as soon as possible of the reasons for dismissal, the date on which the employment contract will end, the appropriate period of notice and your right of appeal.
- 3.3.10 Some acts, termed gross misconduct, are so serious or have such serious consequences that they may result in dismissal without notice for a first offence. However a fair disciplinary process, in line with [ACAS Code of Practice](#) will be followed before dismissing for gross misconduct.
- 3.3.11 You have a right of appeal if you are not satisfied with the outcome of the disciplinary process.



### 3.4 Misconduct

3.4.1 Misconduct covers a range of offences that will not normally constitute grounds for dismissal on the first occasion. However, should such offences occur more than once, or in conjunction with other offences, this could result in grounds for dismissal with notice. The following is a list of actions under this category that will result in disciplinary action being taken. It should be noted that this is not an exhaustive, nor an exclusive, list.

- Failure to maintain acceptable standards of timekeeping
- Absence from work without prior permission or authorisation in accordance with the MC procedures
- Failure to follow established working practices, procedures and instructions
- Failure to maintain an adequate and acceptable standard of work as a result of negligence and/or carelessness
- Failure to take reasonable care of the organisation's property, goods and/or vehicles
- Leaving the work premises during working hours without authorisation or permission
- Failure to maintain acceptable standards of interpersonal behaviour in respect of colleagues and other employees of the organisation
- Neglect in observing established health and safety requirements including the improper use of safety clothing and equipment
- Unauthorised use, destruction, mutilation, alteration or disclosure of the organisation's information, documents or records including those held on computerised systems
- Disclosures outside the office of information acquired in the course of your employment or any wilful act or default which prejudices the interest of the Church of Scotland
- Behaviour which is upsetting, disorderly or disruptive to the work efforts of colleagues
- Actions or behaviour outside the workplace liable to reflect adversely on the Church of Scotland or bring its name into disrepute
- Failure to comply with a reasonable management instruction
- Poor service standards in relation to the MC's stakeholders
- Gambling or betting (excluding National Lottery syndicates) while at work or on Church of Scotland premises
- Unauthorised use of Church of Scotland property and equipment
- A minor breach of the Code of Conduct
- Smoking in designated no smoking areas.

### 3.5 Gross Misconduct

3.5.1 Offences under this heading are so serious that an employee who commits them will normally be summarily dismissed. In such cases, the MC reserves the right to dismiss



## Discipline Procedure

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without notice of termination or payment in lieu of notice. Examples of gross misconduct include:

- Any breach of the criminal law, such as theft and unauthorised possession of Church of Scotland property, fraud, deliberate falsification of records or any other form of dishonesty including falsification of expenses
- Negligence, wilful misconduct or deliberate failure to comply with established health and safety rules, regulations, practices or procedures such that your own safety or that of other employees, third parties or Church of Scotland assets is jeopardised.
- Wilfully causing harm or injury to another employee, physical violence or threat of physical violence, bullying, fighting on the Church of Scotland's premises or grossly offensive behaviour
- Deliberately causing damage to Church of Scotland property or that of a stakeholder or employee of the Church of Scotland
- Causing loss, damage or injury through serious carelessness
- Wilful refusal to obey a reasonable management instruction
- Leaving work before the end of your working day without authorisation or permission
- Incapacity at work through an excess of alcohol or drugs
- Possession of illegal drugs on Church of Scotland premises
- A serious breach of health and safety rules
- Deliberate failure to follow or comply with statutory or regulatory requirements or documented internal procedures, policies or rules
- Harassing or victimising another employee on the grounds of race, colour, ethnic origin, nationality, national origin, religion or belief, sex, sexual orientation, marital status, age and/or disability
- Serious acts of insubordination
- Breach of duty regarding non-disclosure of confidential information
- Misuse of Church of Scotland equipment including misuse of the computer and email systems and unauthorised entry to computer records
- Inappropriate use of the internet including deliberately accessing internet sites containing pornographic, offensive or obscene material or accessing unsuitable chat rooms or unsuitable social media sites
- Serious breach of the Social Media Policy
- Actions such as to seriously offend a stakeholder and/or detract from the Church of Scotland's good name and/or reputation
- Bribery or corruption including taking and giving inducements
- The use for personal gain of confidential information obtained in the course of your employment
- Fraudulent misuse of the Church of Scotland's name



## Discipline Procedure

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- A criminal activity or offence (whether committed during or outside normal working hours) of a nature which is incompatible with your role as an employee of the Church of Scotland and renders you unsuitable or unable to continue to carry out the duties for which you are employed

The above is intended as a guide and is not an exhaustive list.

### 3.6 **Appeal**

3.6.1 Where you feel that disciplinary action taken against you is wrong or unjust you may appeal against the decision.

#### 3.6.2 Appeal – First or Final Written Warning

3.6.2.1 If you wish to exercise your right of appeal on a first or final written warning you should submit your appeal in writing in accordance with the Appeals Procedure – Disciplinary & Stage One and Two Capability to the Head of HR or HR Manager within ten working days of being notified of the outcome, clearly stating the grounds of your appeal.

3.6.2.2 Following the appeal meeting, you will be informed in writing of the appeal decision and the reasons for it. The employer's decision on an appeal will be final.

#### 3.6.3 Appeal – Dismissal

3.6.3.1 If you wish to exercise your right of appeal against the outcome of dismissal you should submit your appeal in writing in accordance with the Appeals Procedure – Grievance and Dismissal to the Solicitor of the Church, as Secretary to the General Assembly Appeal Group within ten working days of being notified of the outcome, clearly stating the grounds of your appeal.

3.6.3.2 Following the appeal meeting, you will be informed in writing of the appeal decision and the reasons for it. The General Assembly Appeal Group's decision on an appeal will be final.

### 4. **Review**

This policy will be reviewed on a regular basis by HR, The Hub and Faith Action senior managers to ensure adherence to best practice, and any related legislation. If necessary, the policy will be taken to the Faith Action Programme Leadership Team (Ministries Council is the employing body of FAPLT) as part of a consultation process.



**FREQUENTLY ASKED QUESTIONS**

1. Does the disciplinary procedure apply to behaviour outwith work?

Where your conduct or behaviour outwith work is deemed to have a detrimental effect on your ability to carry out your normal duties or where it has the effect of bringing your employer's good name and reputation into disrepute, that conduct or behaviour would be dealt with under the disciplinary procedure.

2. Can I be dismissed for a first instance of misconduct as defined by the disciplinary procedure?

Yes, if the behaviour or conduct amounted to gross misconduct. However, the disciplinary procedure seeks to ensure that employees are clear about what is expected of them in terms of their conduct and to, wherever possible, encourage employees to achieve and maintain acceptable standards and that is its focus.

3. Will an investigation always be carried out?

Yes, there will always be some form of investigation. However, it will be proportionate to the matter which is being investigated.

4. Who will carry out the investigation?

Managers who have been selected as appropriate Investigating Officers will be trained in advance of carrying an investigation with training provided either externally or through the HR Department. The manager who is asked to carry out the investigation will be appropriate, for example they would not be a witness in the investigation, have a conflict of interest or where possible, not the same person as would hear the disciplinary meeting. In some instances, an appropriately qualified external Investigating Officer may be appointed.

If you object the appointed Investigating Officer you should raise your concerns with the HR Department explaining your reasons.

4. Is each breach of the procedure dealt with independently of any other breach?

No, where there are a number of breaches either simultaneously or within a period where a warning is in force, disciplinary action may be cumulative which may mean that more serious action may be taken.





## Discipline Procedure

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5. If I cannot attend a disciplinary meeting, can it be held in my absence?

You need to make all reasonable efforts to attend any meetings arranged in connection with the disciplinary procedure including investigatory meetings. Normally the MC will endeavour to agree a new date with you for that meeting which will usually be within 5 days of the original date. However if you persistently fail to attend a disciplinary meeting without good reason, it may be held in your absence and you may face further disciplinary action due to your failure to attend the meeting. In cases of absence due to sickness, medical opinion will be sought regarding your fitness to attend a disciplinary meeting.

6. Under what circumstances might I be suspended from work?

If there is an allegation or complaint which would amount to gross misconduct or if your presence at work may compromise the investigation you are liable to be suspended from work. This protects both you and the MC while the investigation is undertaken. Suspension is standard procedure in matters of this nature and does not indicate guilt in any way. Suspension does not constitute disciplinary action and disciplinary action will not necessarily result. You will be paid your normal pay while suspended from work and must remain available to attend meetings or otherwise take part in the investigation or disciplinary process. You would be told in writing why you had been suspended and any suspension will be for as short a period as possible consistent with a full investigation.

7. Who can accompany me at a disciplinary meeting?

You can be accompanied at all disciplinary meetings by a work colleague or trade union representative or other person who does not act in a legal capacity for you. You do not have a right to be accompanied at an investigatory meeting. Your companion can address the meeting, ask questions and confer with you during the meeting but they are not permitted to answer questions on your behalf. On a practical basis, it is helpful for any manager to hear from you in your own words so that he or she can properly understand and so you would be encouraged to explain your issues or concerns yourself. If you found that was too difficult to do, your companion would be permitted to do that for you but any questions would still be directed to you.

8. Do I have the right to appeal against all disciplinary action?

You have the right to appeal against any disciplinary action which is in written form. Where you have received a verbal warning, that would fall outwith the formal procedure and therefore there would be no right of appeal.

9. If I am submitting an appeal, what do I need to provide in writing?



Any appeal must be submitted in writing within 10 working days of receiving a written decision regarding the outcome of a disciplinary meeting. You need to clearly state the grounds of your appeal. Normally grounds for appeal will be one of the following:

- New evidence which was not previously considered
- Challenges regarding the process which was followed which influenced the outcome
- The disciplinary action was not proportionate given the offence and/or mitigating factors
- Incorrect material facts were taken account of

If the grounds of the appeal are not set out clearly then you will be asked to do that. Appeals will not be heard if no grounds for appeal are provided.

10. Is mediation part of the disciplinary process?

It is not part of the formal disciplinary process as it cannot be an alternative to potential disciplinary action. However, it does provide an informal and often effective solution to conflict in the workplace and it may be used where conflict exists and disciplinary action is not appropriate.