

# **SCOTTISH PRISON SERVICE**

**Employee Code of Conduct**  
**(REVISED SEPTEMBER 2000)**



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## SECTION 1

### SCOPE

- 1.1 This Code of Conduct (hereinafter referred to as “The Code”) applies to all employees of the Scottish Prison Service. It supersedes the Employee Code of Conduct 1998.
- 1.2 The revised Code shall come into force with effect from 1 September 2000. It shall have effect in relation to any conduct that amounts to Misconduct/Gross Misconduct, or is suspected of amounting, or is alleged to amount, to Misconduct/Gross Misconduct, where the conduct occurs, or is alleged to have occurred, on or after 1 September 2000.
- 1.3 Except as specified in paragraph 1.4 below, the Scottish Prison Service Discipline Code 1993 (“the 1993 Code”) and the Employee Code of Conduct 1998 (“the 1998 Code”) shall cease to apply.
- 1.4 The 1993 and the 1998 Codes continue to apply respectively in relation to any offence against discipline as specified in paragraph 1 of the 1993 Code, committed, or alleged to have been committed, before 1 August 1998, and to any offence committed or alleged to have been committed after 1 August 1998 and before 1 September 2000.
- 1.5 As an integral part of the criminal justice system, the Scottish Prison Service sets certain standards of conduct for its employees, which in some instances are significantly higher than those expected in other employment relationships. The standards that SPS employees are required to meet are detailed in the SPS Standards documents relating to Conduct and Behaviour and the Strategy to deal with Discrimination, Victimisation, Harassment and all forms of Unacceptable Behaviours.
- 1.6 Those specialist staff employed within Scottish Prison Service who are members of professional bodies are additionally subject to the provisions contained within the Codes of Conduct of such professional bodies.

### PURPOSE

- 1.7 The primary purpose of the Code is to ensure that the high standards of conduct demanded of employees of the Scottish Prison Service are achieved and maintained.
- 1.8 The Code provides an effective framework within which consistent application of procedures will provide for fair and equitable treatment for all and will ensure that the rights and responsibilities of both management and staff are protected.
- 1.9 The Code is intended for use when dealing with issues of conduct only. Policies and procedures are in place to deal with other issues that may arise. Staff should be aware of these policies and Collective Agreements listed at **Appendix I** (which may be amended from time to time). Separate policies and procedures may operate simultaneously.

**PRINCIPLES**

- 2.1 The Code is based on the principles, meets the requirements, of natural justice. The Code complies with current employment legislation and the relevant ACAS Code of Practice.
- 2.2 The Code will be applied fairly and consistently to all employees of the Scottish Prison Service. All employees will be treated in accordance with current HR policies and Collective Agreements.
- 2.3 In applying the Code, all concerned should be aware of an endeavour to fully reflect the stated Standards and Values of the Scottish Prison Service. Advice and guidance on the application of the Code can be obtained from local SPS Human Resource Managers.
- 2.4 The Code should be used as a positive means of ensuring the maintenance of consistent standards of conduct – **not** necessarily as a means of punishment.
- 2.5 It is a principle of the Code that informal counselling will always precede the formal procedure in appropriate cases.
- 2.6 It is a principle of the Code that conduct issues will be dealt with as promptly as possible, and certainly within the timescales set down in the Code, unless there are exceptional circumstances when timescales may be varied by mutual agreement.
- 2.7 The Code is based on the principle that authority to deal with conduct issues will be delegated to the appropriate level of line management. Individuals appointed to establish the facts in a case shall have access to any person or document in connection with the exercise.
- 2.8 The Code incorporates an appeals mechanism and employees will have the right to appeal against any level of disciplinary decision.
- 2.9 At all stages of the formal procedure, an employee will have the right to be accompanied/represented by a trade union representative or by a fellow employee of their choice. At any appeal hearing against a dismissal decision, this right is extended to include the right to legal representation.
- 2.10 No disciplinary action will be taken against a trade union representative until discussions have taken place with a full time official of the appropriate trade union.
- 2.11 Employees will always be informed in writing of the nature of the complaint against them and given the opportunity to state their case before any decision is made.

- 2.12 No disciplinary action will be taken against an employee until the facts or available information in each case has been fully explored and established.
- 2.13 No employee will be dismissed for a first breach of discipline except when an offence is found to be Gross Misconduct, and it would be likely to result in summary dismissal (ie dismissal without notice or payment in lieu of notice).
- 2.14 The formal procedures are set out in Section 4 and 5. The stage at which action is initiated will depend on the seriousness of the alleged misconduct. However, in most circumstances, it will be appropriate for the stages to be followed on a progressive basis. **Section 6 details procedures for dealing with alleged Gross Misconduct.**
- 2.15 Suspension will be used only in exceptional circumstances. This means, in circumstances where the alleged offence, if proven, may result in dismissal of the employee, and/or where it is considered that the interests of the employee, or where the organisation would be best served by such suspension. The normal rules will apply to any sick absence during the period of the suspension.
- 2.16 As an alternative to suspension, consideration should first be given to temporary transfer to another establishment/branch/directorate if appropriate.
- 2.17 Any recommendation to suspend without pay will only be made in very exceptional circumstances and will be submitted for decision to the Director, Human Resources (or their nominee). An opportunity will be given to the employee (or their representative) to make representations prior to any decision being taken.
- 2.18 The burden of proof in all disciplinary matters raised under the code will be on the basis of the balance of probabilities. Line Managers are required to demonstrate the reasonableness of their decision – see Section 15.

## SECTION 3

### INFORMAL STAGE: COUNSELLING

- 3.1 The Scottish Prison Service aims to encourage and maintain appropriate standards of conduct in its employees. Good management practice includes day-to-day communication with employees during which conduct issues can be identified and discussed. Line Managers will be expected to raise and deal with minor issues through such informal counselling. Effective handling of conduct issues through this **INFORMAL** approach, should, in the majority of cases, avoid the need to implement the formal procedure.
- 3.2 The outcome of the 'counselling' interview should be clear to both parties. During the interview, the specific area(s) of difficulty should be highlighted and agreement reached on what action, if any, is to be taken by either party. **Both parties may wish to keep their own informal notes of the discussion and expected outcome, but no formal record of the interview will be retained on the employee's career file.**
- 3.3 If, during the course of the counselling interview, issues which are performance related are identified (eg training) then these should be dealt with through the appropriate procedure eg Personal Performance Programme and/or the Charter for Helping.
- 3.4 A clear distinction exists between the **informal** and the **formal** stages of the Employee Code of Conduct and management must ensure that this distinction is not blurred.
- 3.5 If it becomes clear to the line manager during the course of an informal counselling interview that matters are more serious than first thought the counselling interview should be terminated immediately. A full explanation must be given to the employee that they will now be managed through the formal procedures set out in Sections 4, 5 or 6 of the Code.
- 3.6 **A formal warning of any nature must never be the outcome of the informal counselling.**
- 3.7 Where informal counselling does not resolve the issue(s), or the matter is a more serious one where informal counselling is clearly inappropriate, the formal procedures set out in Sections 4, 5 and 6 of the Code will be used.

## SECTION 4

### FORMAL PROCEDURES GENERAL ADVICE

#### “FACT-FINDING EXERCISES”

- 4.1 If a conduct issue arises which cannot be dealt with informally under Section 3, and is not obviously Gross Misconduct under Section 6, the line manager will investigate the relevant circumstances through a Fact-Finding Exercise. The employee will be informed in writing that such an exercise is to take place **Appendix II**. The line manager must ensure that any allegation is clearly and unambiguously explained to the employee. Vague or generalised statements should be avoided.
- 4.2 The Fact-Finding Exercise is usually a local level of investigation, conducted by the appropriate line manager, to establish what happened and why; prior to deciding whether or not a disciplinary interview is required. Careful planning and preparation is required for a good Fact-Finding Exercise. Line managers should bear this in mind as they draw together fact based evidence and information, which must include:
- a full understanding of what happened, when, who was involved, where, how it occurred and the circumstances leading up to the alleged misconduct; and
  - original copies of any related and relevant documentation.

It may also be sensible, dependent on circumstances, to collect:

- signed and dated interview notes of all relevant parties involved including, if appropriate, the person subject to the Fact-Finding Exercise. If the subject of the Fact-Finding Exercise is interviewed they should be informed of the right to be accompanied by a trade union representative or fellow employee of their choice.

If it emerges during the Fact-Finding Exercise that the matter being enquired into may be more serious than initially believed, and that it could result in a warning greater than they are empowered to award the line manager should:

- complete the Fact-Finding Exercise; and
- refer the matter, with all relevant information and documentation, to their line manager with a recommendation to initiate Gross Misconduct proceedings or to issue a Final Written Warning.

**The Fact-Finding Exercise will normally take no more than 10 working days.**

## **MULTIPLE ALLEGATIONS OF MISCONDUCT/GROSS MISCONDUCT ARISING FROM ONE INCIDENT OR EVENT**

- 4.3 Following a Fact-Finding Exercise or Gross Misconduct Investigation; where there is a suspicion that more than one person may be involved in unacceptable behaviour or misconduct, the Governor in Charge, Head of Branch or Directorate, may appoint an appropriate line manager, (who may have conducted the Fact-Finding Exercise or Gross Misconduct Investigation), to complete a wider ranging General Investigation covering all those involved. All individuals will receive notification of the investigation using **Appendix II or VIII**. The same person appointed by the Governor in Charge, Head of Branch or Directorate will decide who will proceed to Disciplinary Interview and to the conclusion of the procedures, **unless** the matter is one of Gross Misconduct where the Governor in Charge, Head of Branch or Directorate will take the matter forward in line with Section 6.
- 4.4 This includes circumstances where a suspicion or allegation exists or arises that unacceptable behaviour or misconduct is occurring at more than one location.
- 4.5 In some circumstances it may be necessary for management to conduct a broad General Investigation where information or suspicions of Misconduct or Gross Misconduct arise. In this case individual notification of Fact-Finding is not necessary. A general letter or circular will be issued by the Governor in Charge, Head of Branch or Directorate, to all employees covered. Following the completion of the General Investigation, where merited, individuals will be notified using **Appendix IV or IX**, that they are required to attend a Disciplinary Interview.

### **WITNESSES**

- 4.6 If an employee is required to attend a Disciplinary Interview they are entitled to request witnesses to be called. All such requests should be notified to the line manager conducting the Disciplinary Interview at least 3 working days before the Interview. The names of witnesses may be given at shorter notice at the discretion of the person conducting the Disciplinary Interview and subject to the provisions of 4.7. This may delay proceedings while the availability of such witnesses is arranged. Witnesses who are employees of the SPS will be required to attend.
- 4.7 Careful consideration will be given by the person conducting the interview what is capable of being presented as a factual written statement from witnesses (ie not already part of the Fact-Finding evidence) and what is required to be presented personally, allowing questioning. Prior to the Disciplinary Interview, the employee may seek and subsequently present relevant voluntarily written testimony or statements on their own behalf. Subject to the above, no reasonable request for the attendance of a witness should be refused. Any written witness statements that are to be relied upon must be signed and dated by the individuals submitting them.
- 4.8 Management will be entitled to call witnesses. These will be notified to the employee at least 3 working days prior to the disciplinary interview.

- 4.9 Once agreed it will be the responsibility of management to notify witnesses of the date and time of the interview.

#### **FORMAL PROCEDURE: DISCIPLINARY INTERVIEW**

- 4.10 The appropriate line manager will conduct Disciplinary Interviews concerning allegations or complaints relating to conduct. The employee will be notified of the Disciplinary Interview, **Appendix IV**, and informed that they are entitled to be represented by a trade union representative or by a fellow employee of their choice.
- 4.11 The Disciplinary Interview is the employee's opportunity to put forward their version of events and/or points of mitigation to the facts and information that have arisen from the Fact-Finding Exercise. The employee will be entitled to submit written documentation/evidence in addition to making oral representations.
- 4.12 During the Disciplinary Interview the line manager will consider the points made in mitigation and/or the information/evidence offered on behalf of the employee. The line manager may ask questions of the employee to seek further information and/or clarification of any aspect of the information gathered during Fact-Finding or as provided by the employee in oral or written submissions.
- 4.13 The employee will be entitled to call witnesses in support of their case (see Section 4, 4.6-4.9).
- 4.14 During the course of the interview, either party can call a short recess at any time.
- 4.15 If either party introduces new evidence or further material information, an adjournment can be requested by either party and called at the discretion of the Chair to allow for further investigation. The duration of such an adjournment will be mutually agreed, but will not normally last longer than 3 working days.
- 4.16 A note of the interview will be taken by a note taker appointed by the line manager and copied to the employee within 3 working days of the interview being concluded. If the employee disputes the content of this note they can submit further comments in writing which will be retained along with all other relevant information and documentation.
- 4.17 Following final adjournment of the interview, a decision will be issued in writing to the employee (and at the employee's request to their representative) within 3 working days.
- 4.18 The line manager will be entitled to:
- a. decide no penalty is appropriate; or
  - b. issue an appropriate level of warning
- 4.19 If a decision is taken to impose a Warning, the employee will be informed in writing of their rights of appeal and representation at appeal.

## SECTION 5

### FORMAL PROCEDURES (excluding allegations of Gross Misconduct)

#### STAGE 1 Verbal Warning

- 5.1 If on the basis of a Fact-Finding Exercise it is clear conduct does not meet acceptable standards the employee, and if they wish a trade union representative or fellow employee, will attend a Disciplinary Interview with their line manager and be given an opportunity to explain their version of events and their actions. Notification of this interview, along with all relevant documentation and papers will be issued to the employee at least 5 working days before the date of interview.
- 5.2 After considering all available information, together with any evidence, explanations or mitigation offered, the line manager may:
- decide no further action be taken and complete **Appendix III**; or
  - issue a formal verbal warning.
- 5.3 If issued, the record of the warning will be entered on **Appendix V** and copied to the employee within 3 working days of the interview. At this stage the line manager should discuss with the employee any improvements required and identify the standards of conduct and behaviour expected of them.
- 5.4 This warning will remain live for 6 calendar months from the date of issue after which time, subject to 5.6, 5.13 and 5.22 it will be removed from the career folder provided suitable improvement is evident to the employee's current line manager.
- 5.5 The employee will be informed in writing, through the issue of the Warning letter of their right to appeal (see Section 9).

#### STAGE 2 Written Warning

- 5.6 An employee will enter into the second stage of the Code if:
- a. there is no satisfactory improvement in the standard of conduct whilst a Verbal Warning remains live; or
  - b. there is a further instance of misconduct or unacceptable behaviour whilst a Verbal Warning remains live; or
  - c. the nature of a single instance of misconduct or unacceptable behaviour is considered to merit a Written Warning whether or not a Verbal Warning was previously issued.

- 5.7 In the case of a., prior to the expiry of the Verbal Warning, the first line manager is required to review the conduct and behaviour of the employee. If there has not been satisfactory improvement overall, the line manager will notify the employee of the date for a further Disciplinary Interview **Appendix IV**. The Procedure should then resume at paragraph 4.1.
- 5.8 In the case of b. and c. a Fact-Finding Exercise conducted by the first line manager will establish whether or not a Disciplinary Interview is required. The employee, and if they wish a trade union representative or fellow employee, will attend an interview with their line manager and be given an opportunity to explain their version of events and their actions. Notification of this interview, along with all relevant documentation and papers, will be issued to the employee at least 5 working days before the date of interview.
- 5.9 After considering all the available information and evidence, and any explanations or mitigation, the first line manager may:
- decide no further action is required and complete **Appendix III**; or
  - issue a formal Written Warning **Appendix VI**.
- 5.10 If issued the record of the Written Warning will be copied to the employee within 3 working days of the interview. At this stage the line manager should discuss with the employee any improvements required and identify the standards of conduct and behaviour expected of them.
- 5.11 This Warning will remain live for 9 calendar months from the date of issue after which time, subject to 5.13 and 5.22, it will be removed from the career folder.
- 5.12 The employee will be informed in writing, through the issue of the Warning letter, of their right of appeal (see Section 9).

### **STAGE 3 Final Written Warning**

- 5.13 An employee will enter into the third stage of the code if:
- a. there is no satisfactory improvement in the standard of conduct whilst a Written Warning remains live: or
  - b. there is a further or new instance of misconduct or unacceptable behaviour whilst a Written Warning remains live; or
  - c. the nature of a single instance of misconduct or unacceptable behaviour is considered to merit a Final Written Warning – whether or not a Verbal or First Written Warning was previously issued.

- 5.14 In the case of a., prior to the expiry of the Written Warning, the employee's second line manager is required to review the conduct and behaviour of the employee. If overall there has not been satisfactory improvement, the second line manager will notify the employee of the date for a further Disciplinary Interview **Appendix IV**.
- 5.15 In the case of b. or c. a Fact-Finding Exercise, either passed to the second line manager with a recommendation from the first line manager, or conducted by the second line manager will establish whether or not a Disciplinary Interview is required.
- 5.16 The employee, and if they wish a trade union representative or fellow employee, will attend an interview with the second line manager and be given an opportunity to explain their version of events and their actions. Notification of this interview, along with all-relevant documentation and papers will be issued to the employee at least 5 working days before the date of interview.
- 5.17 After considering all available information and evidence, and any explanations or mitigation the second line manager may:
- decide no further action is required and complete **Appendix III**; or
  - issue a Final Written Warning **Appendix VII**.
- 5.18 If issued the record of the Final Written Warning will be entered on the appropriate form and copied to the employee within 3 working days of the interview. At this stage the line manager should discuss with the employee any improvements required and identify the standards of conduct and behaviour expected of them.
- 5.19 This Warning will remain live for 12 calendar months from the date of issue after which time, subject to 5.22, it will be removed from the career folder, provided suitable improvement is evident to the current line manager.
- 5.20 The employee will be informed in writing, through the issue of the Warning letter of their right of appeal (see Section 9).

#### **STAGE 4 Dismissal**

- 5.21 An employee will enter into the Dismissal stage of the Code if:
- a. there is no sustained improvement in the standard of conduct whilst a Final Written Warning remains live; or
  - b. there is any instance of misconduct or unacceptable behaviour whilst a Final Written Warning remains live.

**Note: Single allegations or instances of Misconduct or Unacceptable Behaviour considered serious enough to lead to dismissal should be actioned under the Gross Misconduct Procedure at Section 6.**

- 5.22 In the case of a., prior to the expiry of the Final Written Warning, the Governor in Charge, Head of Branch or Directorate is required to review the conduct and behaviour of the employee. If there has not been satisfactory improvement they will notify the employee of the date for a Dismissal Interview.
- 5.23 In the case of b. a Fact-Finding Exercise conducted by the second line manager will establish whether or not a Dismissal Interview is required. Notification of this interview, along with all relevant documentation and papers will be issued to the employee at least 5 working days before the date of interview.
- 5.24 In either case if an interview is required the second line manager will pass all relevant documentation and a recommended outcome to the Governor in Charge, Head of Branch or Directorate. The employee will be informed of the date of interview using **Appendix IV**. The employee will be interviewed by the Governor in Charge, Head of Branch or Directorate to explain their side of events and their actions.
- 5.25 After considering the detail of the allegation, all available information and evidence, and any explanations or mitigation the Governor in Charge, Head of Branch or Directorate or equivalent may:
- decide no further action is required and complete **Appendix III**; or
  - dismiss the employee.
- 5.26 If appropriate a letter indicating the intention to dismiss will be prepared and issued within 3 working days of the interview which will stage:
- a summing up of the conclusions reached at the Dismissal Interview;
  - the reason for the dismissal;
  - the right of appeal and the right of legal representation at appeal, or to be represented by a trade union representative or fellow employee.
- 5.27 Unless the employee has been suspended without pay, employees exercising their right of appeal will remain in paid employment until the decision of the Internal Dismissal Appeal Board (IDAB) is reached; or if no appeal is lodged until the end of the appeal period.

## **ROLE OF THE DIRECTOR OF HUMAN RESOURCES**

- 5.28 In those cases where an employee **does not exercise their right of appeal against a dismissal decision**, the original decision to dismiss will be reviewed by the Director of Human Resources or their nominee who may, after the appeal period has passed:
- confirm the decision; or
  - overturn the dismissal decision; or
  - substitute a lesser penalty.

## SECTION 6

### GROSS MISCONDUCT

#### GENERAL ADVICE

- 6.1 Cross Misconduct is regarded by the SPS as any conduct, unacceptable behaviour, breach of the rules or fundamental breach of contract, which, if substantiated, is so serious it would be likely to result in summary dismissal. Summary dismissal means dismissal without paid notice or pay in lieu of notice.
- 6.2 In general, acts, which constitute Gross Misconduct, are for the Scottish Prison Service to decide. However, they might include the following:
- theft, fraud and deliberate falsification of records;
  - physical violence;
  - deliberate damage to property;
  - fraudulent misuse of SPS property or name;
  - serious incapability brought on by alcohol or substance abuse;
  - serious negligence which causes unacceptable loss, damage or injury;
  - serious acts of insubordination;
  - serious infringement of health and safety rules and regulations;
  - serious breach of confidence;
  - alleged criminal offence or conviction.
- 6.3 If an allegation arises which is believed to be Gross Misconduct the Governor in Charge, Head of Branch or Directorate will appoint an appropriate line manager to carry out a full Investigation into the circumstances. On appointing an Investigator the Governor in Charge, Head of Branch or Directorate must clearly set out the terms of reference for, and timescale within which, the Investigation should reasonably be concluded.
- 6.4 The employee will be advised that the Investigation is taking place **Appendix VIII**. When framing the detail of the allegation the Governor in Charge, Head of Branch or Directorate must be as clear as possible in specifying the act of Gross Misconduct, which is alleged to have occurred. Vague or general statements should be avoided.

#### GROSS MISCONDUCT INVESTIGATIONS

- 6.5 The Investigator is required to establish the circumstances, facts, available information and evidence surrounding the allegation or complaint made. This may require the investigator to interview and possible re-interview individuals to fully explore, corroborate and double check facts and information. Evidence collected should include:

- a full understanding and explanation of what happened, when, who was involved, where and how it occurred and the circumstances leading up to the Gross Misconduct; and
- original copies of any related and relevant documentation.

It is also essential to collect:

- signed interview notes from all relevant parties involved including, if appropriate, the person subject to the Investigation. If the subject of the Investigation is interviewed they should be informed of the right to be accompanied by a trade union representative or fellow employee of their choice.
- 6.6 On completion of the Gross Misconduct Investigation the Investigator will present their Report of the Investigation and a brief summary to the Governor in Charge, Head of Branch or Directorate. The Report **will not make any recommendations about disciplinary outcomes** but will conclude whether or not, in their opinion, and based on the available facts and evidence collected, there is a case to answer and why.
- 6.7 Should the Investigator carrying out the Investigation be unable to report within the given timescale, a request for additional time should be made, giving reasons, to the appropriate Governor in Charge, Head of Branch or Directorate.
- 6.8 If, following the Investigation, it becomes clear to the Governor in Charge, Head of Branch or Directorate that continuing with the Gross Misconduct Procedure is inappropriate the matter may be passed to the first or second line manager to be dealt with informally under Section 3 or formally under Section 5. Alternatively they may decide no further action is required and complete **Appendix III**.

#### **REQUEST FOR AN ALTERNATIVE LINE MANAGER TO CARRY OUT THE GROSS MISCONDUCT PROCEDURE**

- 6.9 If, exceptionally, the Governor in Charge, Head of Branch or Directorate, or the employee feel there are serious and material reasons why the normal arrangements are not appropriate for the fair discharge of the Code, they may request, from the Director of Human Resources, or their nominee, that an alternative line manager carry out the Gross Misconduct Procedure. If those reasons are accepted an alternative line manager will be appointed to take forward all aspects of the Gross Misconduct Procedure as detailed in this Section of the Code.

## SUSPENSION

- 6.10 The Governor in Charge, Head of Branch or Directorate will consider whether it is appropriate to suspend the employee whilst an Investigation is carried out. Suspension will be used only in exceptional circumstances eg, where the alleged offence, if proven, may result in dismissal and/or where the interests of the employee or of the organisation would be best served by such suspension. The normal rules in relation to sick absence will apply during any period of suspension.
- 6.11 A period of suspension should not normally exceed 2 working weeks and will usually be with pay. Any recommendation to suspend without pay will only be made in very exceptional circumstances and will be submitted for decision to the Director, Human Resources (or their nominee). An opportunity will be given to the employee (or their representative) to make representations prior to any such decision being taken. If, in exceptional circumstances, a period of suspension exceeds 2 working weeks, the reasons for this must be notified to the employee and/or to their representative. The Governor in Charge, Head of Branch or Directorate will review the need for continued suspension at 2 weekly intervals thereafter. If the suspension is continued, the employee will be notified in writing of the reasons for their continued suspension.

## GROSS MISCONDUCT: DISCIPLINARY INTERVIEW

- 6.12 The Governor in Charge, Head of Branch or Directorate will conduct interviews concerning allegation of Gross Misconduct. The employee will be notified of the Disciplinary Interview **Appendix IX** and of their right to representation by a trade union representative, or by a fellow employee of their choice.
- 6.13 This interview is the employee's opportunity to put forward their version of events and/or points of mitigation in relation to the information, facts and evidence collected during the investigation of the allegation(s) made. The employee will be entitled to submit written documentation/evidence in addition to making oral representations. During the disciplinary interview the Governor in Charge, Head of Branch or Directorate, will consider the points made in mitigation and/or the information/evidence offered on behalf of the employee. The Governor in Charge, Head of Branch or Directorate may ask questions of the employee to seek further information and/or clarification as required on any aspect of the information gathered during investigation or as provided by the employee in oral or written submissions.
- 6.14 The employee will be entitled to call witnesses in support of their case, as outlined in Section 4, 4.6 – 4.9, and will normally give, at minimum, 3 working days notice to the Governor in Charge, Head of Branch or Directorate of the names of such witnesses. The names of witnesses may be given at shorter notice subject to the provisions in Section 4, and at the discretion of the person conducting the Disciplinary Interview. This may delay proceedings while the availability of such witnesses is arranged. Witnesses who are employees of the Scottish Prison Service will be required to attend. It will be the responsibility of the Governor in Charge, Head of Branch or Directorate to call these persons to the interview.

- 6.15 During the course of the interview a short recess may be called at any time, by any party.
- 6.16 If new evidence or further material information is introduced an adjournment can be requested by either party and called at the discretion of the Chair, to allow for further investigation. The duration of such an adjournment will be mutually agreed, but will not normally last longer than 5 working days.
- 6.17 An accurate but not necessarily verbatim transcript of the interview will be taken by a note taker appointed by the Governor in Charge, Head of Branch or Directorate and copied to the employee within 5 working days of the interview being concluded.
- 6.18 Following final adjournment of the interview, a decision will be issued in writing to the employee (and at the employee's request to their representative) normally within 5 working days.
- 6.19 The Governor in Charge, Head of Branch or Directorate will be entitled to:
- a. decide no penalty is appropriate; or
  - b. issue an appropriate level of warning; or
  - c. decide that dismissal is appropriate.
- 6.20 If a decision is taken to dismiss or to impose a warning, the employee will be informed in writing of their right of appeal and, in the case of dismissal, also of their right to legal representation at appeal hearings. If appropriate a letter of dismissal containing this information and the reason for dismissal will be prepared within 3 working days of the interview (see Section 9).
- 6.21 Unless the employee has been suspended without pay, employees exercising their right of appeal will remain in paid employment until the decision of the Internal Dismissal Appeal Board (IDAB) is reached.

## **ROLE OF THE DIRECTOR OF HUMAN RESOURCES**

- 6.22 In those cases where an employee does not exercise their right of appeal against a dismissal decision, the original decision to dismiss will be reviewed by the Director of Human Resources or their nominee who may, after the appeal period has passed:
- confirm the decision and issue a dismissal letter; or
  - overturn the dismissal decision; or
  - substitute a lesser penalty.

## SECTION 7

### TYPES OF OFFENCES

- 7.1 It is in the best interests of the Scottish Prison Service and of its employees that acceptable standards of conduct at work are clearly understood. In order to indicate the general standards required of employees, the list below sets out some examples of unacceptable conduct which may lead to disciplinary action. **The list is not exhaustive nor is it in any order of perceived gravity of offence.**
- 7.2 Offences will never be **automatically** dealt with at any particular stage of the conduct procedures. The seriousness of the act of misconduct may depend also on the circumstances in which it occurs. Facts will be established in individual cases and action taken at the **appropriate** stage of the procedures depending upon the full circumstances of the case, including any mitigating issues.
- 7.3 Some examples of unacceptable conduct, which could lead to disciplinary action under either the Gross Misconduct or formal Misconduct procedures, are:
- failure to obey a reasonable instruction;
  - failure to report:
    - bankruptcy
    - insolvency
    - a second job
  - arrest, criminal charge or criminal conviction;
  - unauthorised lateness;
  - unauthorised absence;
  - neglect of duty/responsibility for observing security standards;
  - smoking in a designated 'No Smoking' area;
  - breach or disregard of the rules and policies governing the integrity or security of the Scottish Prison Service, including its computerised equipment, data or software;

(Employees should be aware of SPIN infosheet 99/10 and Staff Notices 471/99 and 474/99, in regard to the use of the Scottish Prisons Information Network (SPIN)).

- non-compliance with Health and Safety Rules and Regulations;
- assault;
- regular Arrestment of Wages;
- trafficking (supplying, procuring or receiving any unauthorised item (eg food, money, illegal substances etc));
- breach of Confidentiality (Official Secrets Acts)
- being under the influence of/or unauthorised consumption of alcohol and/or illegal substances whilst on duty.

(Problems related to alcohol and/or substance abuse should be dealt with through the appropriate procedure. Disciplinary action may be suspended pending outcome of any other action taken under these procedures.)

- being found guilty in a criminal court of a criminal act;
- victimisation, harassment, discrimination or bullying (see also Guidelines contained in Equal Opportunities Policy);
- abuse of a position of trust with prisoners;

(This includes, amongst others, any inappropriate relationship with a prisoner and any form of abuse physical, mental or sexual. It also extends to young prisoners in a relationship of trust.)

- embezzlement;
- theft;
- fraud (see also Guidelines contained in Fraud Response Plan);

(Where fraud, theft or embezzlement is suspected; the procedures outlined in the “Fraud Response Plan” come into operation. A Fraud Response Investigation Team will prepare a report for the Governor in Charge, Head of Branch or Directorate with recommendations on disciplinary action if appropriate. The employee(s) involved may be suspended immediately or moved to another area of work if it is in the interests of the organisation.)

## SECTION 8

### MANAGEMENT LEVELS AUTHORISED TO ISSUE WARNINGS

TYPE OF WARNING	LEVEL OF AUTHORITY
8.1 <b>Verbal</b> Warning	First Line Manager (ie Reporting Officer)
8.2 <b>Written</b> Warning	First Line Manager (ie Reporting Officer)
8.3 <b>Final Written</b> Warning	Second Line Manager (ie Reporting Officer's Line Manager)
8.4 <b>Dismissal</b>	Governor in Charge/Head of Branch/ Directorate or equivalent
8.5 If an appeal is lodged, final dismissal action will await the decision of the Internal Dismissal Appeal Board, or, if no appeal is lodged, the end of the appeal period.	

### DURATION OF WARNINGS:

8.6 <b>STAGE 1 – Verbal Warning</b>	Will remain in employee's career folder for <b>6 calendar months.</b>
8.7 <b>STAGE 2 – Written Warning</b>	Will remain in employee's career folder for <b>9 calendar months.</b>
8.8 <b>STAGE 3 – Final Written Warning</b>	Will remain in employee's career folder for <b>12 calendar months.</b>

**In all cases the removal of Warnings is subject to satisfactory conduct**

## SECTION 9

### APPEALS

#### GENERAL ADVICE

- 9.1 Employees have the right of appeal against any disciplinary action. The appeal process is to allow consideration of the reasonableness of the original decision, not to re-hear the allegation or complaint. The employee will be advised in writing of the right of appeal and of the right to representation at the appeal either by a trade union representative, a fellow employee, or by a legal representative where appropriate. Employees will be advised of how and when to exercise this right of appeal when the warning is issued.
- 9.2 No person involved in the original disciplinary decision should participate in the appeal hearing. Appeals should be to at least one level of management above that at which the disciplinary action was taken.
- 9.3 At each stage of the appeal, the employee has the right to make oral representations in addition to written submissions.
- 9.4 **The employee's intention to appeal should be lodged in writing with the appropriate line manager within 3 working days of the disciplinary decision.** The grounds of any appeal should be lodged, in writing, with the appropriate line manager within 10 working days of receipt of the disciplinary decision.

#### APPEAL AGAINST VERBAL AND WRITTEN WARNING

- 9.5 Appeals against **Verbal Warnings and Written Warnings** are to a level equivalent to Second Line Manager (an appropriate individual to be appointed by the employee's HR Manager). The appeal will be considered and a written decision (including full substantiated reasons for the decision reached based on each point of appeal) given to the employee within 5 working days of the close of the appeal proceedings. The decision of the appointed manager is final.

#### APPEAL AGAINST FINAL WRITTEN WARNING

- 9.6 Appeals against **Final Written Warnings** are to the Governor in Charge, Head of Branch or Directorate. The appeal will be considered and a written decision (including full substantiated reasons for the decision reached based on each point of appeal) given to the employee within 5 working days of the close of the appeal proceedings. The decision of the Governor in Charge, Head of Branch or Directorate is final.

## APPEAL AGAINST DISMISSAL

9.7 Appeals against **Dismissal** are to the Internal Dismissal Appeal Board (IDAB), composed of:

The Director of Human Resources (or their nominee), who will act as Chairperson, together with 2 senior managers drawn from outwith the direct line management chain of the appellant. Where it is appropriate and practicable, at least one of the senior managers will be familiar with the subject area relevant to the appellant's duties.

9.8 The employee (or their representative) will have the right to challenge the suitability of the IDAB membership chosen to perform this role. Grounds for challenge should be in writing and should be submitted to the Director of Human Resources no later than 2 working days after being notified officially of the membership of the Board.

9.9 The appeal will be considered and a written decision (including full substantiated reasons for the decision reached based on each point of appeal) normally given within 7 working days of the close of the appeal proceedings. The IDAB shall be entitled to:

- a. confirm the dismissal decision;
- b. overturn the dismissal decision; or
- c. substitute a lesser penalty (ie an appropriate level of warning).

9.10 In the case of a. and c. the IDAB may also make a recommendation that the transfer of the employee may be appropriate. (Consideration would have to be given to individual terms and conditions of employment.)

9.11 Following exhaustion of the SPS internal appeals procedure, appeal thereafter (for eligible employees) is to The Civil Service Appeal Board. Appeal to the Civil Service Appeal Board must be lodged within 3 months of the date of termination of employment.

9.12 The Director of Human Resources or their nominee will issue letters of termination of employment. This letter will detail the date of termination of employment, reasons for dismissal and how an application to the CSAB can be made.

## SECTION 10

### LEGAL REPRESENTATION

Employees will have the right to legal representation (at their own expense) at any appeal hearing against a dismissal decision. Such right will be confirmed in writing when the dismissal decision is given.

## SECTION 11

### TIMESCALES

11.1 Every effort should be made to deal with conduct issues as promptly as possible and certainly within the timescales set down in this Code.

11.2 The timescales outlined in the Code are:

- **fact-finding** normally completed within **10 working days** (see Section 4);
- **gross misconduct investigations** – as advised (see Section 6);
- **notification of Disciplinary Interview** issued within **5 working days** of interview (see Section 5);
- **notification of witnesses** within **3 working days of interview** (see Section 4);
- **all Warnings** issued within **3 working days** of Disciplinary Interview;
- **letters notifying decision to Dismiss** issued with **3 working days** of Disciplinary Interview;
- **suspension** should not normally exceed **2 working weeks**;
- **adjournments** should not normally exceed **3 working days** (see Section 4) or **5 working days** (see Section 6);
- **appeals** lodged, in writing, within **3 working days** of the disciplinary decision;
- **grounds of appeal** should be lodged, in writing, within **10 working days** of receipt of the disciplinary decision;
- a decision on the **grounds of appeal** will normally be issued within **7 working days** of the close of appeal proceedings.

11.3 Timescales for Fact-Finding Exercises or Investigations may be amended at any stage by management. Normally this will be done by mutual agreement.

## SECTION 12

### ALLEGATIONS OF CRIMINAL OFFENCES

- 12.1 **The SPS Code of Conduct procedures may run in tandem with any criminal proceedings.** Where a decision is taken to do so, The Director of Human Resources (or nominee) will take cognisance of any representations from the employee (or their representative) and will give a written response explaining the reasons for proceeding.
- 12.2 If a decision is made to proceed in cases where the alleged criminal conduct takes place in connection with an employee's duties/responsibilities, the employee may request from the Director of Human Resources (or nominee) legal representation (at their own cost) at whatever Stage the procedure is entered into. If this request is refused, a full written explanation for the refusal must be provided to the employee concerned.
- 12.3 Where appropriate, management may await the outcome of any criminal proceedings before making a decision.

## SECTION 13

### RECOVERY OF LOSSES TO PUBLIC FUNDS

- 13.1 If an employee is dismissed for an offence involving loss to public funds, any sums due to the individual by the Scottish Prison Service in respect of salary or wages up to the last day of duty, or of income tax overpaid on salary may be withheld as a set-off against the loss. Similar set-offs may be made if someone who would have been dismissed for an offence resigns before the dismissal can be put into effect.
- 13.2 In all cases of financial irregularity, whether fraudulent or not and whether or not a disciplinary penalty is imposed, the individual will be required to repay the sum in question.

## SECTION 14

### RESTITUTION FOR CULPABLE LOSS, DAMAGE OR UNAUTHORISED ABSENCE

- 14.1 Where an employee has or is judged to have been responsible for culpable loss or damage or has been absent from duty without authorisation a monetary payment by way of restitution may be imposed by the Governor in Charge, Head of Branch or Directorate. Such payments may be recovered by deduction from pay with the individual's prior knowledge and will not exceed the value of the loss or damage.

- 14.2 Employees have the right to appeal against such decisions to the Director of Human Resources or their nominee. Appeals against restitution must be lodged with the Director of Human Resources or their nominee within 3 working days of the decision to seek restitution (see **Section 9, 9.12 – 13**).

#### **APPEAL AGAINST RESTITUTION FOR CULPABLE LOSS OR UNAUTHORISED ABSENCE**

- 14.3 Appeals against an imposition of restitution for culpable loss, damage or absence from duty without authorisation are to the Director of Human Resources or their nominee.
- 14.4 The appeal must be lodged within 3 working days of the decision. The appeal will be considered and a written decision given to the employee within 5 working days of the close of the appeal proceedings. The decision of the Director of Human Resources or their nominee is final.

### **SECTION 15**

#### **STANDARDS OF PROOF**

- 15.1 Employment law requires the burden of proof in disciplinary matters to be demonstrated up to the standard of the ‘**balance of probability**’ (similar to Civil Law). Line managers are required to consider, on the basis of, the information and facts available, whether or not it is more probable than less probable that an alleged Misconduct or Gross Misconduct occurred. Line managers are required to show that when coming to a decision they can demonstrate reasonableness in their conclusions.
- 15.2 There is a clear and separate distinction between the burden of proof in Employment Law and in Criminal Law.

### **SECTION 16**

#### **INFORMATION COLLECTED DURING THE COURSE OF FACT FINDING OR INVESTIGATION**

- 16.1 During Fact-Finding Exercises or Gross Misconduct Investigations a significant amount of notes, documents information and evidence may be accumulated. Throughout the course of the proceedings the line manager or Investigator will ensure these materials are kept securely and confidentially.
- 16.2 In the case of Gross Misconduct Investigations, once the Investigation is complete, in addition to the final report, **all** originals and copies of notes, documents, evidence and information will be passed to Governor in Charge, Head of Branch or Directorate conducting the Disciplinary Interview. They will ensure these materials are kept securely and confidentially.

- 16.3 At the conclusion of the Disciplinary Interview all related materials, unless an appeal has been lodged, will be passed to the Human Resource Manager. The Human Resource Manager will keep details relating to the nature of any breach of disciplinary rules, the employee's defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records will be stored securely and confidentially.
- 16.4 If a decision is made to dismiss the employee and an appeal against dismissal is lodged with an Internal Dismissal Appeal Board (IDAB) all originals and copies of relevant papers will be passed to the IDAB Chairperson, who will ensure these materials are kept securely and confidentially.
- 16.5 Once any warning issued has expired the Human Resource Manager will prepare, retain and copy to the employee a summary record of the case, based on the information referred to in paragraph 16.3. This record will be stored in a confidential and secure manner and will not be associated with the employee's career folder. **Materials associated with cases will be dis-applied once this summary has been completed.**

**COLLECTIVE AGREEMENTS AND HR POLICIES**

This list is by no means exhaustive and for any queries on policies or agreements please contact your HR Manager in the first instance. You may also wish to contact the Industrial Relations Unit, Room 129, Calton House (extension 8405) for any further information.

- Agreement on Cost of Living Addition (COLA) for Staff Posted Overseas Between HM Treasury on behalf of the Official Side and the Council of Civil Service Unions.
- Scottish Prison Service National Whitley Council Revised Agreement on Facilities for Industrial Relations Duties and trade union Activities in the Non-Industrial Civil Service – 1986.
- Agreement on Procedures Governing Promotion 1992.
- Staff Grievance Procedure, May 1994.
- Agreement on the Principles and Procedures of Managing Surplus Staff and Redundancies, May 1994.
- Agreement on the Guide to Managing Unsatisfactory Performance (A Charter for Helping), March 1997.
- Scottish Prison Service Policy on Equal Opportunities: Discrimination, Victimisation and Harassment, April 1996.
- Pay Protection Agreement, April 1994.
- Acting Up Arrangements, November 1995.
- Framework Agreement for Job Evaluation, March 1997.
- Scottish Prison Service Agreement on Procedures Governing Alternative Working Arrangements: Job Sharing, May 1995.
- Smoking Policy )
- Alcohol and Substance Abuse Policies )
- Managing Attendance Policy )
- Wage Arrestment Guidelines )

These documents are nearing completion at the time of going print



SCOTTISH PRISON SERVICE

NOTIFICATION OF FACT-FINDING EXERCISE INTO ALLEGATION OF MISCONDUCT

NAME OF EMPLOYEE: .....

You are advised that a Fact-Finding Exercise will take place into an allegation of misconduct against you.

Details: .....  
.....  
.....  
.....

[Give details of alleged misconduct. Be specific – avoid generalisation]

The Fact-Finding Exercise will be conducted by: .....

The timescale of the Fact-Finding Exercise will be: .....

A copy of the report showing the outcome of the fact-finding investigation will be issued to you when available, and, in any case, at least 5 working days before any disciplinary interview is to take place.

SIGNED: ..... DATE: .....  
(Appropriate level of Line Manager)



SCOTTISH PRISON SERVICE

NOTIFICATION OF DECISION NOT TO PROCEED TO DISCIPLINARY INTERVIEW

(TO BE ISSUED TO EMPLOYEE WITHIN 5 WORKING DAYS OF THE COMPLETION OF A FACT-FINDING EXERCISE OR GROSS MISCONDUCT INVESTIGATION)

NAME OF EMPLOYEE: .....

You are advised that following a Fact-Finding Exercise/Gross Misconduct Investigation into:

.....  
.....  
.....  
.....

I have decided not to proceed to a disciplinary interview on the grounds that:

.....  
.....  
.....  
.....

SIGNED: ..... DATE: .....  
(Appropriate Line Manager)



SCOTTISH PRISON SERVICE

NOTIFICATION OF DISCIPLINARY INTERVIEW FOLLOWING A  
FACT-FINDING EXERCISE: STAGES 1-4

(TO BE ISSUED TO EMPLOYEE WITHIN 5 WORKING DAYS OF THE  
COMPLETION OF A FACT-FINDING EXERCISE OR GROSS MISCONDUCT  
INVESTIGATION)

NAME OF EMPLOYEE: .....

You are required to attend an interview in connection with: .....  
.....  
.....  
.....  
.....  
.....

[Give brief details of alleged misconduct. Be specific – avoid generalisation]

(Attach all relevant documents)

DATE OF INTERVIEW: .....

TIME OF INTERVIEW: .....

PLACE OF INTERVIEW: .....

The interview will be conducted by: .....

Minutes will be taken by: .....

SIGNED: ..... DATE: .....

(Appropriate Line Manager)

**YOU HAVE THE RIGHT TO BE REPRESENTED AT THE INTERVIEW BY  
EITHER YOUR TRADE UNION REPRESENTATIVE OR BY A FELLOW  
EMPLOYEE OF YOUR OWN CHOICE.**

**YOU ALSO HAVE THE RIGHT TO REQUEST WITNESSES TO BE CALLED. ALL  
SUCH REQUESTS SHOULD BE MADE AT LEAST 3 WORKING DAYS BEFORE  
THE INTERVIEW TO THE LINE MANAGER CONDUCTING THE INTERVIEW.**



SCOTTISH PRISON SERVICE

RECORD OF VERBAL WARNING

(TO BE ISSUED TO THE EMPLOYEE WITHIN 3 WORKING DAYS OF INTERVIEW)

NAME OF EMPLOYEE: .....

DATE VERBAL WARNING ISSUED: .....

This is a formal verbal warning issued in respect of conduct described below.

Reason for Warning: .....  
.....  
.....  
.....

You have the right of appeal against the written warning and the right to representation by your trade union representative, or by a fellow employee of your choice.

SIGNED: ..... DATE: .....  
(First Line Manager)

I acknowledge that I received a verbal warning from the above-named person for the reasons stated. I was informed of my right to appeal against the verbal warning and of my right to representation by a trade union representative, or by a fellow employee of my choice.

SIGNED: ..... DATE: .....  
(Employee)

- cc: 1. Employee
- 2. Career Folder

Expiry Date: .....(6 calendar months from date of issue)



SCOTTISH PRISON SERVICE

RECORD OF WRITTEN WARNING

(TO BE ISSUED TO THE EMPLOYEE WITHIN 3 WORKING DAYS OF INTERVIEW)

NAME OF EMPLOYEE: .....

DATE WRITTEN WARNING ISSUED: .....

This is a formal written warning issued in respect of conduct described below:

Reason for Warning: .....  
.....  
.....  
.....

You have the right of appeal against the written warning and the right to representation by your trade union representative, or by a fellow employee of your choice.

SIGNED: ..... DATE: .....  
(First Line Manager)

I acknowledge that I received a written warning from the above-named person for the reasons stated. I was informed of my right to appeal against the written warning and of my right to representation by a trade union representative, or by a fellow employee of my choice.

SIGNED: ..... DATE: .....  
(Employee)

- cc 1. Employee
- 2. Career Folder

Expiry Date: ..... (9 calendar months from date of issue)



SCOTTISH PRISON SERVICE

RECORD OF FINAL WRITTEN WARNING

(TO BE ISSUED TO THE EMPLOYEE WITHIN 3 WORKING DAYS OF INTERVIEW)

NAME OF EMPLOYEE: .....

DATE FINAL WRITTEN WARNING ISSUED: .....

This is a **final** formal written warning issued in respect of conduct described below.

Reason for Warning: .....  
.....  
.....

You have the right of appeal against the final written warning and the right to representation by your trade union representative or by a fellow employee of your choice.

SIGNED: ..... DATE: .....  
(Second Line Manager)

I acknowledge that I received a final written warning from the above-named person for the reasons stated. I was informed of my right to appeal against the final written warning and of my right to representation by a trade union representative or a fellow employee of my choice.

SIGNED: ..... DATE: .....  
(Employee)

- cc 1. Employee
- 2. Career Folder

Expiry Date: ..... (12 calendar months from date of issue)



SCOTTISH PRISON SERVICE

NOTIFICATION OF INVESTIGATION INTO ALLEGATION OF GROSS MISCONDUCT

NAME OF EMPLOYEE: .....

You are advised that an investigation will take place into an allegation of gross misconduct against you.

Details (Please be specific and avoid generalisation): .....  
.....  
.....  
.....  
.....

The investigation will be conducted by: .....

The investigation should be concluded by: .....

A copy of the report showing the outcome of the investigation with a recommendation of how to proceed will be issued to you when available and, in any case, at least 5 working days before any disciplinary interview is to take place.

SIGNED: ..... DATE: .....  
(Governor in Charge/Head of Branch/  
Directorate or equivalent)



SCOTTISH PRISON SERVICE

NOTIFICATION OF DISCIPLINARY INTERVIEW FOLLOWING AN ALLEGATION OF GROSS MISCONDUCT

(TO BE ISSUED TO EMPLOYEE AT LEAST 5 WORKING DAYS BEFORE DATE OF INTERVIEW)

NAME OF EMPLOYEE: .....

You are required to attend an interview in connection with: .....  
.....  
.....  
.....  
.....  
.....

[Give full and specific details of alleged Gross Misconduct. Attach all relevant documentation)

DATE OF INTERVIEW: .....

TIME OF INTERVIEW: .....

PLACE OF INTERVIEW: .....

The interview will be conducted by: .....

Minutes will be taken by: .....

SIGNED: ..... DATE: .....  
(Appropriate Line Manager)

YOU HAVE THE RIGHT TO BE REPRESENTED AT THE INTERVIEW BY EITHER YOUR TRADE UNION REPRESENTATIVE OR BY A FELLOW EMPLOYEE OF YOUR OWN CHOICE.

YOU ALSO HAVE THE RIGHT TO REQUEST WITNESSES TO BE CALLED. ALL SUCH REQUESTS SHOULD BE MADE AT LEAST 3 WORKING DAYS, BEFORE THE INTERVIEW TO THE LINE MANAGER CONDUCTING THE INTERVIEW.



## APPENDIX X

### SCOTTISH PRISON SERVICE

#### SPS STANDARDS OF PROFESSIONAL CONDUCT

Maintaining high levels of professional conduct both at work and in our private lives is required of everyone employed by the Scottish Prison Service (SPS). This is necessary if we are to achieve our stated Mission, Aims and Values and retain the trust and respect of the public we serve. The following list, though not exhaustive, is intended as a guide to staff on the standards we are all required to maintain:

1. Demonstrate commitment at all times to the Mission, Aims and Values of the Scottish Prison Service.
2. Take pride as professionals in delivering a quality service to the public and do so conscientiously and courteously.
3. Follow the rules and procedures which govern our roles within the Scottish Prison Service.
4. Follow reasonable instructions and refrain from acting in a way we know, or ought to know, is unlawful.
5. Have no financial or business relationships or interests that could interfere with the proper discharge of our duties or could compromise, or be perceived to compromise, us in the discharge of our duties.
6. Behave with discretion in matters of public and political controversy, observing Scottish Government rules relating to the public expression of personal opinion on Scottish Prison Service policies.
7. Do not directly or indirectly, make any unauthorised communication or provide information to a representative of the media on any matter which has become known to us in the course of our duties.
8. Obtain prior permission from our Line Manger for any form of additional external employment.
9. Report any information which may assist the SPS or other agencies in the Criminal Justice System, to uphold the requirements of these Standards of Professional Conduct and the Law.
10. Do not disclose to unauthorised persons or prisoners confidential information, or information that could pose a risk to colleagues or to anyone outside the SPS.

11. Do not provide personal information about staff, contractors, prisoners or their friends and relatives to any member of staff, contractor, prisoner, ex-prisoner, prisoner's family member or visitor to the prison without prior authority.
12. Respect colleagues and others beliefs and values, avoiding prejudice and challenge those who behave in a way which is contrary to the SPS Values, particularly those who promote gossip and blame.
13. Promote Equality and Diversity, avoiding Harassment, Victimisation, Bullying and inappropriate Discrimination of any kind to anyone, and challenging those who behave inappropriately.
14. Do not remove SPS property for personal use without formal written authority.
15. Whether on or off duty, never behave in a manner which brings or is likely to bring discredit on ourselves as individuals or on the Scottish Prison Service.
16. Never knowingly become involved in criminal activity.
17. In the event of ever being charged or convicted of an offence, regardless of its nature, inform one of our Line Managers without delay.
18. In the event of ever being the subject of a Police enquiry and/or held under arrest or in custody even if no charges were brought, you are required report the circumstances to one of our Line Managers without delay.
19. Never be under the influence of alcohol when on duty or attending for duty.
20. Never be in possession of or under the influence of illegal drugs when on or off duty. (where controlled substances are prescribed as a medical treatment staff are required to inform one of our Line Managers of this fact)
21. Do not solicit or accept for self or others any gift, reward or preferential treatment from any source internal or external to the SPS.
22. Work in ways which protect the welfare and health and safety of others.
23. Exercise particular care in the community to ensure that any dealings with prisoners and their families or contact with ex prisoners and their families are not open to abuse, misinterpretation or exploitation, reporting any such contacts to one of our Line Managers without delay. (the only exception to this is where casual and unplanned meetings occur where pleasantries are exchanged and no more)
24. When in accordance with your training for such instances, you required to exercise force in the course of your duty, use only the minimum required to protect self, colleagues or prisoners and to maintain secure custody and good order
25. Always avoid unnecessary physical contact with prisoners.

26. Never initiate or respond to any sexual advances with prisoners.
27. Never introduce items into the prison for prisoners without the prior authority of one of our Line Managers.
28. Always treat prisoners, prisoners' families and all visitors with fairness, respect and humanity, safeguarding their legal rights and entitlements.
29. Demonstrate a duty of care to prisoners at all times.