



Know the Disciplinary Procedure

Protecting your rights when you are charged in the Public Service
UG Member Education Session

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Why this session matters



Unprocedural decisions

Cases are sometimes decided without following the steps and time limits the Code sets out.



Double punishment

Members receive the prescribed penalty and then a second one, such as a written warning plus demotion.



Self-incrimination

Members who do not know the process admit more than they are charged with or ignore the charge altogether.

Goal: every member knows the process before they need it, and calls the union before writing anything.

The rule book that governs your case

LAWS



**Constitution of
Zambia**



**Employment Code
Act No. 3 of 2019**



**Service Commissions
Act No. 10 of 2016**



**Industrial and Labour
Relations legislation**

PUBLIC SERVICE INSTRUMENTS



**Terms and Conditions of Service
(May 2023)**

Conduct rules, absence, leave,
retirement in public interest



**Disciplinary Code and
Procedures (May 2023)**

Offences, penalties, steps, time limits,
appeals



**Code of Ethics for the Public
Service**

Referred to by the Code; not covered
in today's session

¶6: Service Commissions, Responsible Officers and HR Management Committees must observe all of these at all times when handling cases.



Principles and penalties

What the Code promises, and what each offence should cost

The Code's own promises to you



Basic principles (¶7)

- Prevention, counselling and correction first; punishment is the last step
- Just and uniform rules: like cases treated alike
- Efficient handling and disposal of cases
- Protection of employees against arbitrary judgement and punishment
- The right of an employee to be heard

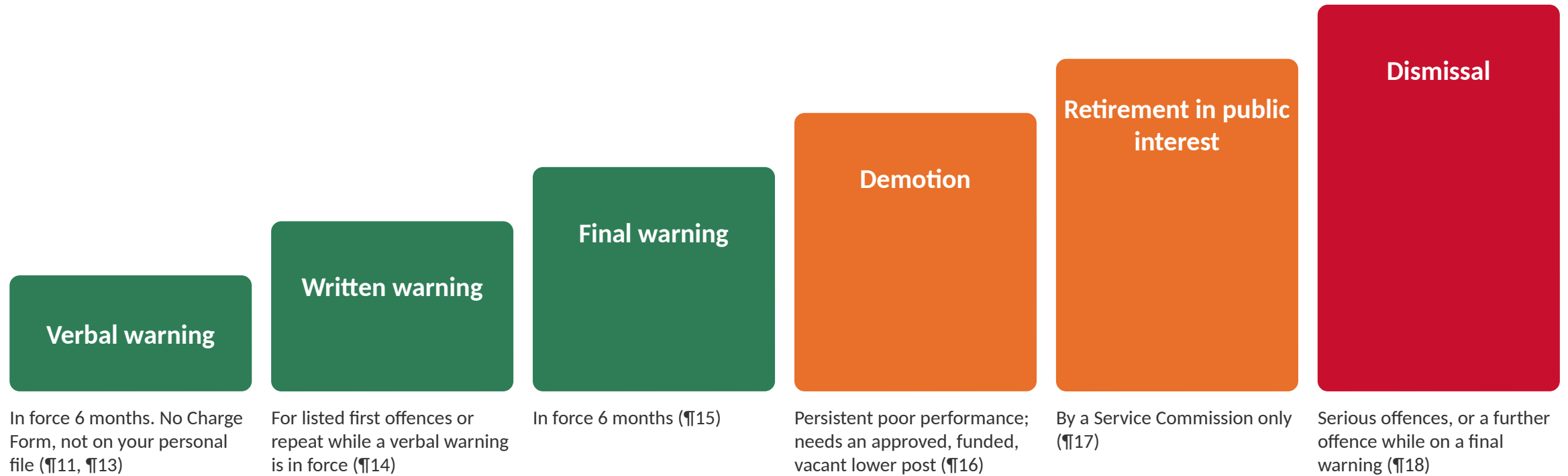


The employer must (¶9(a))

- Educate staff first, giving them the policy documents and Terms and Conditions of Service
- Investigate the alleged offence thoroughly
- Consider all the circumstances of each case before acting
- Act promptly, fairly and firmly

¶5: supervisors' discretion must be used within the framework and spirit of the Code — not outside it.

The ladder of penalties



Surcharge: added to a penalty for loss of public money or property; equal to the loss (¶19–20)

Punitive suspension: max 30 days without pay; only to reinforce a written or final warning, never alone (¶30)

Each offence has a set penalty: the Schedule

Offence	1st breach	2nd breach	3rd breach
Absenteeism, up to 2 days	Verbal warning	Final warning	Dismissal
Absenteeism, 3 to 9 days	Written warning	Dismissal	–
Reporting late for work	Verbal warning	Final warning	Dismissal
Negligence of duty	Written warning	Final warning	Demotion or dismissal
Sub-standard performance	Written warning	Final warning	Demotion or dismissal
Incompetence	Written warning	Final warning	Demotion or dismissal
Carelessness	Written warning	Final warning	Dismissal
Refusal to obey lawful instructions	Written warning	Final warning	Dismissal
Insubordination	Final warning	Dismissal	–
Using abusive language	Final warning	Dismissal	–



Read it closely

Demotion appears only at the 3rd breach, and only for performance-type offences.

Ask: which breach is this, and are earlier warnings still in force?

Extract from the Schedule of Penalties and Sanctions (pp. 42–48). Theft, fraud, bribery, misappropriation and abuse of office carry dismissal on a first breach.

One offence, one penalty: the demotion problem



The scenario

An officer is charged with Negligence of Duty, a first breach. The Schedule prescribes a Written Warning.

Management issues the Written Warning and also demotes the officer.

Arguments for the member

- 1 The Schedule sets a Written Warning for a 1st breach; demotion appears only at the 3rd.
- 2 Demotion is for persistent poor performance (¶16(b)); one incident is not persistent.
- 3 The Code names only two add-ons: surcharge (¶20) and punitive suspension (¶30). Demotion is not one.
- 4 Discipline must be uniform and consistent (¶4, ¶7(b)); punishment is the last step (¶7(a)).
- 5 Demotion needs an approved, funded, vacant lower post (¶16(d)). Ask for proof.

Expect management to cite ¶16(c) (demotion "for any other offence"). Answer: that discretion must be used within the framework and spirit of the Code (¶5) and fairly (¶7(e)). Appeal to the Service Commission within 30 days (¶41(b)).

Two kinds of suspension: know which one you are on



To facilitate investigation (¶23–29)

- Only for an alleged serious offence
- Written notice of the reasons (¶29(a))
- Full pay throughout (¶29(d))
- Findings reported to the Responsible Officer within a month (¶25)
- Lifted immediately if no breach is found (¶27)
- Do not leave Zambia without permission (¶29(e))



Punitive suspension (¶30)

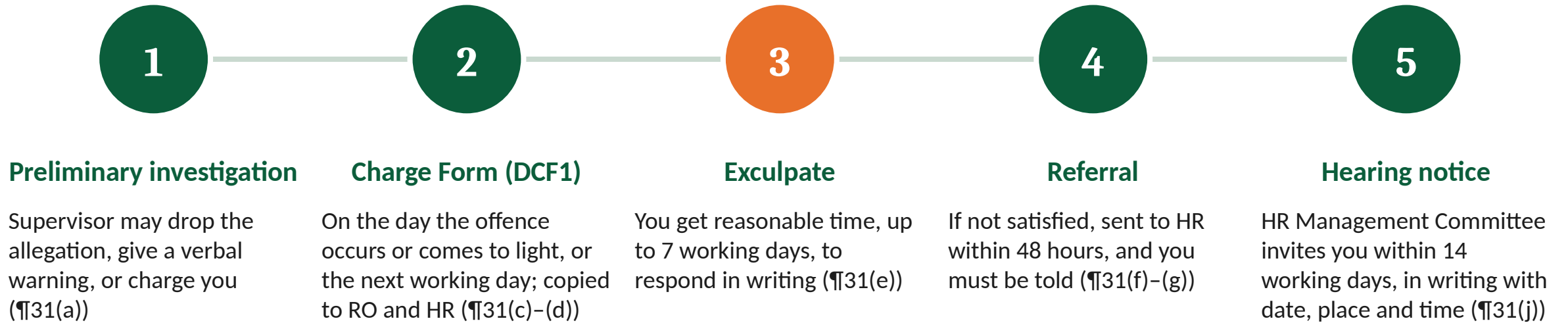
- It is a penalty, not a holding measure
- Maximum 30 days without pay
- Only to reinforce a written or final warning; never on its own
- Imposed by a Service Commission or Responsible Officer
- Appeal lies to the Responsible Officer (¶41(a))



The process step by step

From the first allegation to the decision

From allegation to hearing (§31)



Silence is not safe at step 3. If you do not exculpate in time, the case is decided on the available evidence alone (§31(h)). New charges found later must be added to the Charge Form, and you get to answer them too (§31(i)).

Your rights at the hearing



Charge Form checked

Committee must confirm the particulars are correct and follow the Code (¶31(m)(i))



You understand the charge

Charges are read and the committee must ensure you understand them (¶31(m)(ii))



You are heard

Answer and add comments even after your written statement (¶31(m)(iii))



Right to remain silent

The case is decided on the evidence; your silence is not discussed (¶31(m)(iv))



More evidence

You may submit further evidence within 14 working days of asking (¶31(m)(vi))



An impartial panel

Charging officer is not a member; anyone with an interest must declare it (¶31(l), ¶32)

If you fail to attend two consecutive hearings without reasonable cause, the case is decided in your absence (¶31(k)).

After the hearing: who decides



HR Management Committee

Decides by majority, in private (¶33).
Sends its recommendation to the
Responsible Officer within 5 working days
(¶34)



Responsible Officer

Agrees and effects it, or refers it back to
the committee with reasons (¶35)



Service Commission

If the RO still disagrees after
reconsideration, both views go to the
Commission (¶36)



HR does not punish

The HR department or unit may not charge or impose penalties
except on its own subordinates (¶53(a)). It is the secretariat and
adviser.



Your appeal clock starts

You have 30 days from receiving the sanction to appeal (¶38(a)). Note
the date you receive it.

Time limits to watch

Next day

Charge issued no later than the working day after the offence comes to light (¶31(c))

7 days

Working days, at most, to submit your exculpatory statement (¶31(e))

48 hrs

To refer an unsatisfactory statement to HR (¶31(f))

14 days

Working days within which you must be invited to the hearing (¶31(j))

5 days

Working days for the committee's recommendation to the RO (¶34)

1 month

For investigation findings after suspension (¶25)

30 days

To lodge your appeal after receiving the sanction (¶38(a))

7 days

Working days within which the appeal hearing must be set (¶38(c))

30 days

For the Service Commission to hear and decide an appeal (¶44)



Protecting yourself

Avoiding self-incrimination, spotting irregularities, appealing

When you are accused: do and don't



Do

- Ask for the charge in writing on the Charge Form (DCF1) before giving any statement
- Contact UG immediately, before you write anything
- Use your time: up to 7 working days to exculpate
- Tell the truth, stick to facts, attach evidence (permissions, medical certificates, messages)
- Keep copies of every document and note all dates
- Attend every hearing; if you cannot, explain in writing why



Don't

- Make "informal" confessions to supervisors or in WhatsApp groups
- Tick "accept" on the Exculpatory Form (DCF2) without advice
- Volunteer unrelated issues; they can become new charges (¶31(i))
- Ignore the charge; the case is then decided on the employer's evidence (¶31(h))
- Post about your case or share official documents (Category B offences)
- Lie: Deceit is itself an offence (Final Warning on a first breach)

Writing your exculpatory statement

- 1 Check the charge: does it name a specific offence and the clause of the Code? Are the date and time right?
- 2 Answer that charge only, setting out the facts in order
- 3 Give your explanation: permission obtained, unclear instruction, circumstances beyond your control
- 4 List witnesses (the form allows three) and attach your evidence
- 5 If any fault is admitted, add mitigation: clean record, first breach, circumstances
- 6 Politely note any procedural defects: late charge, wrong offence, wrong penalty band
- 7 Sign, date, keep a copy, and get proof of delivery



"I hereby accept / deny the charge"

The Exculpatory Form (DCF2) ends with this line. Accepting is an admission that closes most defences.

Decide only after speaking to your union representative.

Red flags: signs the procedure was not followed

In the penalty

-  Penalty heavier than the Schedule allows for that breach
-  Two penalties for one offence, e.g. written warning plus demotion
-  Demotion with no approved, funded, vacant lower post (¶16(d))
-  Expired warnings used to escalate (verbal and final last 6 months)
-  Punitive suspension over 30 days, or used alone (¶30)
-  Verbal warning placed on your personal file (¶11(c))
-  Penalty imposed by HR instead of the proper authority (¶53(a))

In the process

-  No Charge Form, or the charge names no offence or clause
-  Charge issued long after the offence came to light (¶31(c))
-  Less than reasonable time to exculpate (¶31(e))
-  No written notice of hearing date, place and time (¶31(j))
-  Charging officer sits on the committee (¶31(l))
-  Investigative suspension without written reasons, or on reduced pay (¶29)
-  Disciplinary case run while a criminal case on the same facts is pending (¶48)

Appealing a decision



Within 30 days, in writing (¶38)

- State whether you appeal the finding or the sentence
- Set out your grounds
- Add a plea in mitigation
- You may bring a union representative (¶39)

Warnings, punitive suspension, surcharge



Responsible Officer (¶41(a))

Demotion, dismissal, retirement in public interest



Service Commission, decides within 30 days (¶41(b), ¶44)

Not satisfied with the Service Commission? Appeal to the High Court (¶45).

Warning: starting a court case while your appeal is pending makes the appeal lapse automatically (¶40). Talk to UG before going to court.

Special cases: criminal charges and absence



Criminal matters (Part VI)

- Administrative action should be tried first where practicable (§46(b))
- Once reported to law enforcement, administrative action stops (§46(c))
- No disciplinary case on the same ground until the criminal case and any appeal end (§48)
- Full pay while suspended (§47(d))
- Acquitted: no punishment on those charges; reinstatement (§51–52)
- Convicted: dismissal (§49)



Absence and sickness (TCS)

- Absent 10+ working days: liable to dismissal, but the RO must first write to you and give 5 working days to respond (TCS 63(d))
- No pay for absence without satisfactory evidence (TCS 63(b))
- Report ill-health as soon as possible (TCS 154)
- Over 2 days sick: submit a medical certificate (TCS 156)

Why you must call the union early



What the Code allows the union at hearings

- Accompany you to the case or appeal hearing as an observer (¶55, ¶39)
- Not part of the committee and does not take part in the proceedings
- Invited to mitigate on your behalf before the final decision

So the real work happens before the hearing

- ✓ Read the charge and check it against the Code
- ✓ Draft the exculpatory statement with you
- ✓ Gather evidence and identify witnesses
- ✓ Spot procedural defects and wrong penalties
- ✓ Prepare mitigation and, if needed, the appeal

If you are charged

1

Stay calm; say little

2

Get the charge in writing

3

Call UG

4

Respond within 7 working days

5

Attend the hearing with your rep

6

Appeal within 30 days if needed



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General guidance based on the Disciplinary Code and Procedures (May 2023) and the Terms and Conditions of Service (May 2023). Every case turns on its own facts; seek advice on yours.