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# Conduct and Discipline' cases in HMRC

Recent cases have called into question the consistency and proportionality of HMRC's approach to Conduct and Discipline cases, along with the approach taken by the department's Expert Advice Service.

Any Conduct and Discipline system relies on having the confidence of the workforce it covers. To do that, not just the system itself, but those operating that system, need to be trusted to act fairly, consistently and proportionately. However, in recent months, there has been a number of incidents where the department's approach to what constitutes an offence, and what constitutes an appropriate sanction, have both been called into question.

## **Lack of consistency and proportionality**

In the last few months, despite having been instructed to the contrary by Human Resources, a number of managers in HMRC have been using a system authorisation code clearly marked "Not for use in HMRC", to authorise excess carryovers of annual leave, in contravention of the department's policy on excess carryover.

The department decided that they would retrospectively remove the additional annual leave carryover from staff. PCS argued that if the leave carryover was authorised by the manager, then it should be honoured by the department, but HMRC refused. To our knowledge, those managers who had (the department says) inappropriately used the system and breached policy, were unaffected by their actions; and the only people punished were the members of staff who had requested the carryover in good faith, and had that request authorised.

Compare and contrast that, with the decision to dismiss without notice, a PCS representative for 'potential' computer misuse, despite having almost 30 years of unblemished service to the department. In the decision maker's report, the department's representative admitted that a lesser sanction was within the band of possible responses, but opted for dismissal, because they didn't think the

representative was sorry enough.

In that same case, two HMRC employees – both working in the same team – submitted evidence to the investigating officer which clearly differed from the material that had been sent by the sacked PCS representative. The department was fully aware of this, because the investigator had directly downloaded the relevant material from the system.

You would imagine the investigator would want to pursue the fact that material evidence provided to the investigation had been altered. Disappointingly, the investigator asked one question about the amended evidence, which had only appeared in the material provided by those two HMRC employees, and then simply dropped the line of enquiry, making no further mention or making no further recommendations on the matter.

PCS is now preparing to commence the Employment Tribunal process, and the roles played by everyone involved in the case will soon become a matter of public record.

### **A law unto themselves?**

This has been a developing problem. In both 2022 and 2023, branches submitted motions to our group conference, raising concerns about the operation of the Conduct and Discipline process in HMRC, and the role of the ‘Expert Advice Service’.

Following the decision to dismiss our representative for what the department has described as “gross misconduct”, PCS wrote to senior management and asked two really quite reasonable questions:

- Was the action taken by our representative, which the department has currently decreed that it considers to be gross misconduct, any greater offence than the act of physically altering evidence prior to submission to an official HMRC misconduct investigation?; and
- In the face of receiving evidence that appears for all intents and purposes, to have been altered prior to submission to an official HMRC misconduct investigation; why did the investigating officer seem only casually interested in the fact, and totally drop the matter after only one question to one of the employees concerned?

Senior management haven’t answered either question; and have simply written back to say that they’re advised that all the appropriate evidence was properly

considered; and that this is the end of the internal process.

What this clearly shows is that once the process begins, the department is content to simply trust those they've appointed to fairly, consistently and proportionately respond to cases like this; and what we've ended up with, is a department that faces two ways where what constitutes computer misuse is concerned, depending upon whether you're a junior member of staff or a more senior grade; and one that considers that some HMRC employees doctoring evidence to an official investigation, isn't even an offence at all.

### **Overhauling the process**

If HMRC are going to continue to adopt a 'fire and forget' policy, when it comes to Conduct and Discipline cases; clearly there needs to be an overhaul of the system; and more accountability for those involved.

### **Join PCS**

As your trade union, PCS continues to negotiate with HMRC to stand-up for your interests. If you aren't yet a member of PCS, then you should [join today](#).