

## Unsatisfactory Attendance Procedure – Police Staff

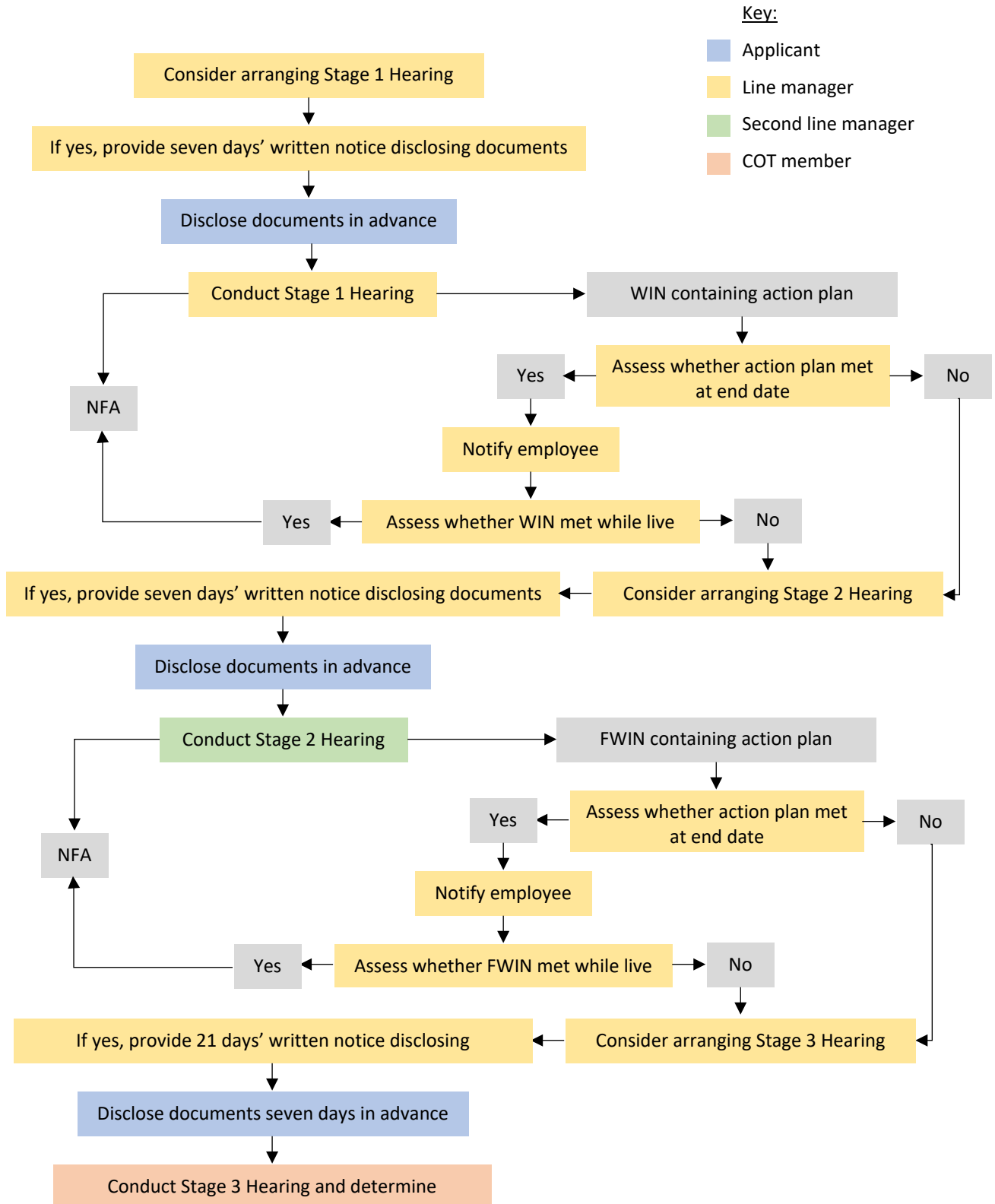
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## Flowchart



## Policy Statement

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### Summary

This procedure establishes a fair, reasonable and proportionate means of dealing with employees whose attendance is considered to be unsatisfactory due to attendance standard breaches that have not been resolved by supportive measures or a failure to return to full duties in accordance with a recuperative duties plan.

In such cases managers will have discretion to decide whether formal action is appropriate under this procedure in order to improve attendance.

Managers are:

- Expected to treat such individuals with fairness, integrity and respect in line with the College of Policing's Code of Ethics and the organisation's purpose and values; and
  - Accountable for the decisions they make using the National Decision Model and the information available to them, including in this and the Attendance Management policy.
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### Scope

This policy applies to all police staff except those in their probationary period. Attendance issues for probationary staff must be managed as per the Probationary Procedure – Police Staff policy.

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## Principles

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### General Principles

- All issues relating to attendance will be thoroughly explored.
  - All matters relating to ill health and absence will be dealt with confidentially and information will only be shared in line with medical confidentiality guidance and legislation.
  - Managers will record the rationale for their decisions at each stage of this procedure on the personal file, whether action is taken or not.
  - Managers will ensure that they, and the organisation, comply with their obligations under the Equality Act 2010.
  - Managers are expected to seek advice from Employee Relations teams and Occupational Health (OH), when appropriate.
  - Trade Union representatives or work colleagues may attend all meetings with their members.
  - Employees have a right of appeal against all sanctions imposed under this policy.
  - The organisation can only manage cases based on the information it has available to it.
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## Responsibilities

### Employees

Employees are responsible for:

- Engaging with the organisation in the operation of this policy, including attending hearings and OH referrals, if appropriate; and
- Disclosing any written documents to be relied on in advance of stage 1 and 2 hearings, and at least seven calendar days in advance of a stage 3 hearing.

### Line Managers

Line managers are responsible for:

- Deciding whether the use of this policy is appropriate based on the individual merits of the case;
- Ensuring that all aspects of this policy are applied correctly;
- Ensuring that all records are accurate and up to date;
- Gaining the consent of the individual if an OH referral is needed;
- Considering fully all the individual circumstances and being able to account for the decisions they make before deciding to progress a case under any stage of this policy or determining the outcome of a hearing;
- Reaching decisions on formal action that are reasonable and proportionate in all the circumstances;
- Recording the reasons for their decisions and sending them to the People Services department for retention on the employee's personal file;
- Making decisions based on the available information if the employee refuses to engage with the operation of this policy; and
- Providing at least seven calendar days' written notice of stage 1 and 2 hearings and at least 21 days' notice of stage 3 hearings and disclosing any written documents to be relied on at the hearings to the same timescales.

### Employee Relations

Employee Relations are responsible for:

- Providing advice and guidance to managers and employees when required;
- Intervening when management action may result in the organisation failing to meet its statutory and legal obligations; and
- Providing at least seven calendar days' written notice of an appeal hearing.

## Informal Action Unsuccessful

### Deciding on formal action

If sickness absence persists and supportive measures, such as an informal attendance plan issued in accordance with the Attendance Management policy, do not succeed then the line manager must decide whether formal action is needed.

### Considerations

In making their decision, managers must consider:

- Whether, on the basis of medical evidence, the use of this policy or the Medical Capability policy is appropriate;
  - The nature of the illness, injury or condition;
  - The likelihood of recurrence;
  - Any patterns of sickness absence;
  - The extent to which the person has co-operated with supportive/informal action;
  - Whether the person was made aware in earlier supportive action that unless improvement was made action would be taken under this policy;
  - The need for the work to be done and impact of the absence on the organisation's performance and workload;
  - The extent to which satisfactory attendance has otherwise been achieved throughout their service and in particular the periods of good health between absences; and
  - The impact of the Equality Act 2010.
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## Formal Action – Stage 1

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- Stage 1 Hearing** Once it has been decided that attendance is unsatisfactory, a stage 1 hearing will be arranged to discuss the matter. This will involve:
- The first line manager, who will conduct the hearing and provide specific information about the employee's attendance;
  - The employee, and if they wish their trade union representative or work colleague to present their case; and
  - An ER Advisor to advise on procedure and employment law.
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- Purpose** The hearing is intended to inform the employee of the reasons for convening the hearing and remind them of:
- The standards of attendance required;
  - Any earlier informal discussions and/or informal attendance plan; and
  - Any support.
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- Written Improvement Notice** If the line manager considers that further improvement is required, they will issue the employee with a Written Improvement Notice (WIN) containing an action plan within 14 calendar days of the hearing.

The WIN constitutes a formal written warning that the organisation will consider taking further action in respect of attendance if the objectives and standards are not:

- Achieved within the time allowed in the action plan. (The timescale for the action plan will vary depending on the:
  - Nature of any support measures; and
  - The extent of the attendance issue.

The timescale should not be excessive but reasonable in the circumstances); and

- Maintained during the 'live' period of the WIN (i.e. twelve months from the date of issue).

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**Action Plan**

If, by the end of the time allowed in the action plan, the employee's attendance has improved to the required standard, they will be notified in writing and reminded that their improved performance must be maintained during the 'live' period of the WIN.

If it has not improved:

- To an acceptable standard within the time allowed in the action plan; or
- Has improved but not been maintained at an acceptable standard during the live period of the WIN,

then the first line manager will give consideration to progressing to the next stage of the policy without recourse to earlier stages.

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## Formal Action – Stage 2

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**Stage 2 Hearing**

Once it has been decided that attendance still remains unsatisfactory after stage 1, a stage 2 hearing will be arranged to discuss the matter. This will involve:

- The second line manager to conduct the hearing;
  - The first line manager to provide specific information about the employee's attendance;
  - The employee, and if they wish their trade union representative or work colleague to present their case; and
  - An ER Advisor to advise on procedure and employment law.
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**Purpose**

The hearing is intended to appraise the employee of the rationale for convening the hearing and remind them of:

- The standards of attendance required;
  - Any earlier informal and formal action; and
  - Any support.
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**Final Written Improvement Notice (FWIN) & Action Plan**

See Written Improvement Notice and action plan information above.

The Final Written Improvement Notice must advise the employee that if the required improvement is not achieved and maintained then any further action could result in their dismissal.

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## Formal Action – Stage 3

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<b>Stage 3 Hearing</b>	<p>Only after stage 1 and stage 2 have occurred, and attendance still remains unsatisfactory, a stage 3 hearing will be arranged to discuss the matter. The final review hearing will involve:</p> <ul style="list-style-type: none"> <li>• A member of the Chief Officer Team to conduct the hearing;</li> <li>• The first and/or second line manager to provide specific information about the employee's attendance;</li> <li>• The employee, and if they wish their trade union representative or work colleague to present their case; and</li> <li>• A Senior Employee Relations Advisor to advise on policy and employment law.</li> </ul>
<b>Purpose</b>	<ul style="list-style-type: none"> <li>• The stage 3 hearing is to consider all relevant facts from both parties including any measures taken to improve attendance in order to determine the appropriate outcome.</li> </ul>
<b>Outcome</b>	<p>The possible outcomes of stage 3 are to:</p> <ul style="list-style-type: none"> <li>• Dismiss having concluded that reasonable opportunity has been provided to achieve satisfactory attendance but without success;</li> <li>• Set a further FWIN with an appropriate timescale if the facts indicate that reasonable opportunity has not been given; or</li> <li>• Determine that no further action will be taken.</li> </ul>
<b>Payment in Lieu of Notice</b>	<ul style="list-style-type: none"> <li>• If dismissed, the employee will receive payment in lieu of notice from the date of the decision, which will become their last day in the employment of West Yorkshire Police.</li> </ul>

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## Appeals

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<b>Introduction</b>	<ul style="list-style-type: none"> <li>• Employees have the right to appeal against all sanctions imposed under this policy based on:             <ul style="list-style-type: none"> <li>○ The facts the decision was based on;</li> <li>○ The severity of the sanction; or</li> <li>○ A procedural irregularity.</li> </ul> </li> <li>• An appeal must be submitted personally or by recorded delivery within 28 calendar days of the date of the hearing, explaining the grounds and reasons for the appeal.</li> <li>• Appeals against warnings must be submitted to the Head of Employee Relations and appeals against dismissal to the People Director.</li> <li>• An appeal hearing will be arranged to take place within two months and will consider all the facts together with submissions made by the employee</li> </ul>
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and/or their representative, and line management will determine whether the decision taken by the person hearing the original case was fair and reasonable in light of the specific appeal criteria.

- Individuals must receive at least seven calendar days' notice of the appeal hearing and can be accompanied by a trade union representative or work colleague of their choice.

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**Appeals Panel**

Appeals panels for warnings will be comprised as follows:

- An independent person of at least the same level as the person hearing the original case; and
- An independent Senior Employee Relations Advisor to advise on procedure and employment law.

Appeals panels for dismissal will be comprised as follows:

- The Deputy Chief Constable;
- One other member of the Chief Officer Team (where necessary for complex cases); and
- A member of the People Directorate Senior Leadership Team to advise on procedure and employment law.

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**Decision**

- Appellants will be notified verbally and in writing of the outcome and the reasons for the decision within 14 calendar days of the date of the hearing.
  - Any decision at appeal is final.
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## Additional Information

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**Compliance**

This policy complies with the following legislation and policies:

- Equality Act 2010
  - Data Protection Act 2018
  - Attendance Management policy
  - Disability policy
  - Probationary Procedure – Police Staff policy
  - Capability Procedure – Performance policy
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**Terminal  
diagnosis**

- West Yorkshire Police has signed the TUC's recognised Dying To Work Charter.
  - This acknowledges that individuals who receive a terminal diagnosis require support and understanding.
  - Further information and guidance is available on the intranet.
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**Supporting  
information**

The supporting information for this policy can be accessed online.

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