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Flowchart – Discipline – Police Staff

Informal action conducted due to individual breaching the standards. Outcome?

Informal action proves ineffective or breach is of a serious nature to conduct a formal investigation. PSD to conduct a severity assessment here

Receives notice of misconduct investigation as a result of the allegations made against them, from Investigative Officer

Receives notice of investigation for investigative interview, from Investigative Officer

Investigative interview conducted and facts and figures collated. Outcome?

Formal action required

Serve documents to individual in any case no less than 21 days

Key:
- Individual
- Line Manager
- PSD
- Investigative Officer

Notify the panel of any witnesses who are attending within 7 calendar days prior to the hearing

Discipline Hearing and individual must be sent written confirmation of the outcome within 14 calendar days. Outcome?

Verbal Warning

Written Warning

Final Written Warning (& other sanctions in conjunction if deemed appropriate)

Dismissal (Relevant for ACC/ACO hearing only)

Submits a notification of appeal within 7 calendar days of the written confirmation of the decision, and follows appeals process
Policy Statement

Summary
This policy aims to support the objectives of the Code of Ethics and the Code of Conduct for all West Yorkshire Police (WYP) staff. In order to ensure the allegations of misconduct are investigated appropriately and that the highest standards of professional behaviour are maintained, this policy outlines the discipline procedure, formal and informal action for police staff employees.

The discipline procedure is to investigate the breaches of the standards stated in the Code of Conduct which reflects the Code of Ethics within. Where the Professional Standards Department (PSD), will be involved in formal investigations and Line Managers will conduct informal action.

Scope
This policy applies to all police staff, irrespective of role or service. This includes staff members in their probationary period, unless otherwise indicated.

Principles

General
- A copy of this policy must be given to the individual who is subject to a discipline.
- All material relevant to disciplinary proceedings will be marked with the GPMS marking of 'Confidential'. Everybody will be reminded of the obligation to treat the material in accordance with the marking throughout the process and in particular at the point the papers are served on the individual in furtherance of misconduct proceedings and any other ancillary related processes.
- Confidentiality will be observed in all actions taken using this policy.
- The dates of discipline investigation interviews and hearings should be arranged promptly and with mutual consent.
- In accordance with the Employment Relations Act 1999, at each stage of the process, the individual has the right to be accompanied by a recognised Trade Union representative or work colleague. It is the member of staff's responsibility to arrange representation.
- At any stage of the process, the individual does not have the right to legal representation under this discipline procedure.
- No discipline action will be taken against a recognised Trade Union representative until the circumstances of the case have been discussed with a senior or full time Trade Union official of the union concerned.
- Representatives must confirm their status as a recognised representative or steward when they are informed they are being investigated.
- Minor breaches of the code of conduct may be dealt with informally, and more serious alleged breaches will be dealt with formally.
- Where necessary, PSD will refer some offences to the Independent Police

NOT PROTECTIVELY MARKED
Complaints Commission (IPCC).

- In certain circumstances, in order to conduct essential investigations it may be necessary for the individual concerned to:
  - Change or restrict duties;
  - Be removed to another post with their consent; or
  - Remove or suspend the individual from their current role, which is a last resort and will be decided by the PSD leadership team and advice from HR.

These are not disciplinary sanctions.

- The investigating officer will notify relevant District Commanders/Departmental Heads if the duties change of the individual for them to consider the impact on ongoing court cases.

- Individuals are able to engage in the staff resolution process at any time during the discipline process. The request will be assessed on a case by case basis by the staff resolution panel. If during the discipline process a member of staff makes a request for the formal resolution of a matter that is related to the case then consideration will be given as to the appropriateness of suspending the discipline procedure for a short period whilst this is dealt with. Human Resources/PSD will make that decision, taking account of any representations from the individuals Trade Union representative.

- All public complaints made against police staff members, regardless of role or grade, must be dealt with accordance with the procedure stated within the Public Complaints policy.

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**Informal Action**

**Principles**

- Informal action is conducted through Line Management with the intention of early invention being essential to prevent matters escalating, however PSD must be informed when the standards have been breached on a continuous or repetitive basis.

- These matters are usually minor breaches and Line Managers must use the [Code of Conduct for Police Staff](#) to determine whether informal action is deemed appropriate.

- Line Managers must discuss with the individual about the matter(s) concerned giving them the opportunity to respond. These informal meetings must not escalate into disciplinary hearings.

- A decision must be made based on the information stated and discussed whether a Performance Examples Notebook (PEN) entry should be issued in order for the individual to meet the standards set.

- All information must be recorded on the individual’s personal file for future reference in relation to future disciplinary issues or Performance Development Reviews (PDRs).

- In cases where informal action proves ineffective or the allegation is serious, then PSD should be informed in order to conduct an assessment on severity.
Formal Investigation/Misconduct

**Principles**

- If it is decided by PSD that there is a need for a formal investigation then:
  - PSD will appoint an investigator; and
  - The individual must be given an opportunity to explain their actions and state their case.
- No discipline sanction will be taken against the individual until the case has been thoroughly investigated.
- The individual must be available to attend any meetings that are required to be held during the course of the investigation, unless they have applied for and been granted annual leave or are unable to attend due to sickness.
- The person hearing the case will be a manager senior to the investigating officer and the employee subject to the discipline.
- HR Officers will advise the investigative officer on procedure if necessary. Also PSD during the investigation and assessment stages where applicable.
- Employee Relations Specialists will advise the person hearing the case where a discipline hearing is chaired by an Assistant Chief Constable.
- If the individual refuses to attend an investigative interview, a decision to hold a hearing will be made subject to the strength of the evidence available.
- Investigators should be aware of and operate to the principles contained within the ACAS ‘Conducting Workplace Investigations’ guidance document.

**Investigating Officer Responsibilities**

The Investigating Officer is responsible for:

- Ensuring in the first instance, the individual is served with a notice of investigation;
- Undertaking a thorough and balanced investigation
- Gathering information promptly, to establish the basic facts, making a note of all the documents sent to the individual and the method in which they were delivered;
- Ensuring the individual is served with a notice to attend an investigative interview and conducting an investigative interview as soon as possible, arranging accompaniment prior to this;
- Taking statements, witness and individual, and obtaining the relevant documents, ensuring the written records are accurate and signed off;
- Maintaining a written record of all the decisions or actions and the rationale behind them throughout the course of the investigation process; and
- Prepare a case file containing all the recorded information, conversations, statements and documentation that may be needed for a hearing. Opinions and recommendations must not be made, only the facts should be presented.
**No Further Action**

**Principles**

If as a result of the formal investigation, no disciplinary action is to be taken against the individual, then:

- They must be informed of this decision through written confirmation at the earliest opportunity to allow for the resumption of their duties in accordance with their role.
- A copy of the written confirmation should be retained with the case file and forwarded with all other relevant information to the PSD Intelligence Unit.
- Any minor issues must be dealt with, through the normal management intervention process.

**Change in Duties or Suspension**

**Change in Duties**

- If the person is subject of a formal investigation, it may be appropriate to change or restrict the duties of the individual in their current role. This is so that staff who are involved in the processing of evidence don’t hinder the gathering of evidence, as they won’t be a part of the evidential chain and aren’t able to compromise prosecution cases. Staff may be moved for other reasons for example where the investigation would be prejudice in any way without their removal.
- The individual must consent to the removal of their current position and to be placed in a position where the investigation would not be prejudiced in anyway.
- If the individual does not give their consent, then consideration must be given to suspending them.

**Suspension**

- It is important to remember that suspension from work as a precautionary measure is not a discipline sanction in itself. The individual will only be suspended if:
  - The allegation made against them involves gross misconduct;
  - The individuals presence in the workplace may prejudice the investigation, or harm their interests or those of others; or
  - Changes or restrictions of the duties have been considered and either or not appropriate or the individual has not consented.
- The decision to suspend an individual is made by the Deputy Chief Constable (DCC), or in their absence, a member of COT. PSD will provide advice, and a written rationale must be recorded on the individual’s personal file.
- The individual must be personally handed a written notification outlining the details of their suspension (see supporting information).
- At least monthly during the investigation the decision to suspend must be reviewed. PSD will provide updates to the DCC and a written record must
• At the time of suspension, the individual must surrender their identity card and any equipment that is considered by the investigating officer to be relevant to the investigation.
• The individual must not attend police premises whilst suspended, unless asked to do so for the purposes of the investigation or in circumstances similarly to the public, e.g. reporting a crime, however the individual will still have access to Occupational Health and Trade Union services, where applicable.
• The individual will not have access to police premises or sports facilities as a member or guest unless this restriction has been waived by the District Commander/Departmental Head.
• Whilst suspended, the individual will continue to receive their normal pay including all contractual earnings, allowances and benefits and any incremental progression up to the top of the current grade, as if they are in their normal working period. There is no entitlement to progression to a higher grade. Each case will be assessed individually with the person hearing the case able to authorise payments retrospectively.
• Subscriptions will continue to be deducted at source, unless the individual requests in writing, that the payments should cease.
• The individual must not represent the Force in any capacity or be allowed to participate in any Force sporting events. The DCC is able to lift the restriction at their choosing if this is requested.
• The individual must be informed at the time of their suspension that they are still required to give evidence at court if required, failure to do so may result in a witness summons or warrant of arrest.
• If the suspended individual has submitted witnesses’ statements, then subject to their investigation, their position as a witness must be reconsidered. If necessary this must be made aware to the prosecutor within the Criminal Procedure and Investigations Act 1996. The Witness Care Bureau and HR officer must also be informed to then make aware all the witness evidence the individual has submitted. If the discipline proceedings are of such a serious nature, the Crown Prosecution Service must be informed at the earliest opportunity.
• Annual leave entitlement will continue to accrue during the individuals suspension. Requests should be made for annual leave in the same way as if the individual was at work, but through line managers to register on CARM, as they are unable to enter police premises.
• Individuals must be available to attend the meetings required, so leave should be requested for periods of time the individual would be unavailable. Taking leave without authorisation may lead to further disciplinary proceedings.
• There will be a nominated welfare contact for the individual suspended, in order to update the individual regarding work related issues and answer any welfare concerns that arise. Other colleagues should not be discouraged from maintaining contact with the individual, but the integrity
of the investigation is of crucial importance and contact may not be advisable.

- The normal sickness reporting procedure must still be adhered to, and they will receive normal pay. This does not override the conditions of the suspension. If the individual is still off work due to sickness and their suspension has been lifted, then the normal sickness rules will apply from the date of reinstatement.
- Sickness absence does not necessarily excuse the individual from attending the discipline hearing and advice may be sought from the Force Medical Officer to determine if they are fit to attend. The individuals own GPs advice should be taken into consideration.

### Formal Action

**Preparation for the Discipline Hearing**

**Principles**

- In cases where the investigation has established that there is a case to answer and formal action is to be taken against the individual, then a discipline hearing must be arranged as soon as practicable. This should normally be within one month of the completion of the investigation.
- The individual must be served all documentation as soon as possible, but in any case no less than 21 calendar days before the hearing date. Mutual agreement can dictate this period be shorter to allow the hearing to be held sooner.
- This disciplinary procedure must be strictly adhered to by all parties as failure to do so may invalidate proceedings, even though cases would be considered individually.
- This process must not be used as a means of imposing sanctions or as a lead up to dismissal.
- Whenever possible, cases involving police staff and police officers, efforts should be made to hold the two separate hearings on the same day. However, this arrangement must not cause unreasonable delay in proceedings.
- The panel must comprise of the person hearing the case and a HR professional acting in an advisory capacity. Both who are independent to the investigation. The person hearing the case will be a manager senior to the investigating officer and the individual who is subject to the discipline.
- The person hearing the case must be Chief Officer Team (COT) member if the individual is:
  - Subject to a live final written warning;
  - Subject to a suspension;
  - Subject to an allegation of gross misconduct;
  - Or is a Departmental Head.
- If the individual is in their probationary period when they have breached the standards that result in a disciplinary hearing, the provisions of the probationary procedure for police staff policy will apply.
• Before the disciplinary hearing, the person hearing the case will, after discussion with both parties, if necessary, determine the number of witnesses that each side can bring to the hearing. The evidence from other witnesses must be presented in writing.
• Hearings may be rearranged to accommodate the individual, however there may be circumstances when the hearing will continue in the individual’s absence. This is in the case of long term sickness, and if the individual repeatedly fails to attend and all reasonable attempts have been taken to ensure their attendance.
• Normally a hearing will not be rearranged more than twice, unless there are exceptional circumstances. If the individual cannot attend on the second occasion, the person hearing the case has the authority to decide to proceed in their absence, the individual will be notified in writing and offered the opportunity to be represented.

**PSD Responsibilities**

PSD are responsible for:
• Providing the individual with all the relevant details of the hearing and their right to be accompanied by a Trade Union representative or workplace colleague; and
• Ensuring that copies of all correspondence with the individual are stored within the discipline file.

**Investigating Officer Responsibilities**

The Investigating Officer is responsible for:
• Notifying the individual of the attendance of any witnesses that they intend to call within a minimum of 21 calendar days, subsequently notifying panel members of the witnesses who will be attending within 7 calendar days.

**Individuals Responsibilities**

The Individual subject to the discipline hearing is responsible for:
• Providing the details of their Trade Union representative or work colleague who will be accompanying them to their hearing, requesting their witnesses and subsequently notifying the panel of the witnesses who are to be called, at least 7 calendar days before the hearing; and
• Providing copies of any documentation to be presented at the hearing to the panel members and investigating officer, at least 7 calendar days before the hearing.

**At the Discipline Hearing**

**Process**
• The discipline hearing will initially consist of the person hearing the case introducing all parties present and confirming the purpose of the hearing, clarifying the nature of the allegation of misconduct, describing the process in which the hearing will take, confirming that if the allegation is
proven and the discipline action that will be taken.

- The investigative officer will start by presenting the facts and information that has been gathered during the investigation. Questions may then be asked by the individual and their representative or any member of the panel.
- Witnesses who are called on to give evidence may also be asked questions based on their statements.
- The individual will then be given the opportunity, along with their representative, to respond. Questions may then be asked by the investigating officer or any member of the panel. Witnesses the employee calls on to give evidence may also be asked questions.
- The person hearing the case will then adjourn the hearing to consider all the facts and make a decision with advice from the HR advisor. This may require the hearing be adjourned and reconvened at a later date to gather more information.

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**Decision – Balance of Probabilities**

- The person hearing the case must decide whether on the balance of probabilities, the individual has committed the act of misconduct that has been alleged, and does not need to be satisfied beyond reasonable doubt of the individual’s guilt.

- In reaching a decision, the person hearing the case must consider the following questions:
  - Has there been as much investigation as is reasonable in the circumstances?
  - Have the requirements of the discipline procedure been met?
  - Have I paid sufficient regard to the explanation by the employee or those on their behalf?
  - Do I believe that employee has committed the misconduct as alleged?

- The person hearing the case must give a verbal summary of what factors and considerations influenced their final decision and provide this to the individual where possible. The individual must be sent written confirmation of the decision within 14 calendar days of the hearing by recorded delivery. This must state details of any sanctions and also the right of appeal.

- Only warnings which are live at the time of a subsequent discipline offence will be taken into account in determining the appropriate level of discipline sanction.

- If the person hearing the case concludes that no sanction is appropriate, then they should follow the ‘no further action’ process. The individual must return to work the next normal working day after a suspension has been lifted unless the person hearing the case states otherwise. There should be a structured return to work plan implemented.

- If the person hearing the case concludes that a sanction is appropriate, this sanction must be appropriate to the hearing, and the individual notified in writing.
Sanctions

Warnings

Information

• All warnings must state:
  o The nature of the misconduct;
  o The rationale for the decision taken by the person hearing the case and the discipline action taken, confirming also the period in which the discipline will remain live;
  o The improvement expected, and timescales where necessary, stating the consequences of failing to attain the require change; and
  o The individual’s right of appeal.

• Verbal warnings will be given for minor breaches. Written warnings will be given when a matter is considered to be of sufficiently serious nature. A final written warning will be given when a written warning has not been effective or where a matter is considered to be of sufficiently serious nature. A letter must be sent to the individual confirming that a warning has been issued and the date in which it will commence. A copy of the letter will be placed on the employee’s personal file.

• The live periods of each timescales are:
  o Verbal Warning – 6 month live period;
  o Written Warning – 12 month live period; and
  o Final Written Warning – 18 month period (longer if the misconduct is deemed exceptionally serious).

• Individuals who have been issued with a final written warning, after the live period and the warning is removed, they must be clearly informed that a further infringement could result in their dismissal.

• After the live period, the letter confirming the warning has been given must be removed from the individual’s personal file, unless the breach was a matter of honesty and integrity.

• Confidentiality will be maintained between HR, PSD and the staff member in relation to any sanctions/outcomes.

Dismissal

Information

• Dismissal can only occur if the individual has already had a final written warning which is still live, or in the cases of gross misconduct and the person hearing the case has the power to dismiss. The decision will be made by a member of COT.

• For individuals in their probationary period, the provisions of the Probationary procedure for Police staff policy will apply.

• For cases where an individual is dismissed due to repeated acts of misconduct, they will be dismissed but would be given contractual paid notice.

• For cases where an individual is dismissed due to an act of gross
misconduct, they will be immediately dismissed and no payment will be made in lieu of notice.

- A letter of dismissal must be sent, by recorded delivery, to the individual within 14 days of the decision being made, this must state clearly the rationale for the decision.

Other Sanctions

Information

- Where circumstances warrant it, and the opportunity exists, the person hearing the case may consider the following alternatives, in conjunction with a final written warning:
  - Suspension without pay for a specified period;
  - Salary may be reduced or increments withheld permanently or for a specified period;
  - Demotion or transfer to a post at a lower grade; or
  - Transfer to another location or post at the same grade.
- For demotions and transfers, the Capability procedure performance provisions will apply, protections of earnings will not apply.
- Any discipline sanction imposed must be reasonable, fair and proportionate.
- If a decision is made to transfer the individual to another location or post then consideration will be given to their domestic circumstances.
- For the duration of the sanction the individual may apply for other roles within the Force, at their new ‘demoted grade’ role, but not for a role that is a promotion from their ‘demoted grade’ role.

Appeal

Principles

- The appeal hearing will determine whether the decision taken by the hearing the original case was fair and reasonable. The sanction imposed can remain the same or be decreased but not increased. Discipline sanctions will remain in force pending the outcome of the appeal.
- If the individual is in their probationary period, the probationary procedure for police staff policy provisions will apply.
- Within 7 calendar days of receiving written confirmation of the sanction, the individual must personally submit, or send by recorded delivery, written notification of their intention to appeal against any sanction to PSD.
- Within 28 calendar days from the date of the initial hearing, the individual must submit a written statement, providing a detailed explanation of their grounds and underlying reasons for the appeal. It must state they are appealing against either one or more of the following:
  - The finding of misconduct;
  - The severity of the sanctions; or
In relation to a procedural irregularity.

- An appeal hearing must be arranged to sit within two months of the written notification being received. Priority will be given to appeals against dismissal.

- All parties must be notified in advance if the employee or the investigating officers requires witnesses to attend. New witnesses not party to the initial hearing may be asked to attend the appeal hearing. Written witness statements may also be considered at the appeal hearing.

**Decision**

- The individual, representative and investigating officer all will have the opportunity to present submissions. The person who heard the original case may be called to outline the reasons for determining that on the balance of probabilities the individual was guilty of the misconduct alleged and why the discipline sanction was imposed.

- The appeals panel will consider the evidence presented and will be tasked with reaching a fair outcome, taking into account all circumstances. Their decision is final.

- It may be that panel determine that the appeal reasoning is justified, however this does not automatically overturn a decision where the panel is satisfied the misconduct did take place and the sanction is proportionate, e.g. an irregularity in the process.

- The individual must be informed verbally of the outcome of the appeal and the rationale for the decision. Within 14 days of the hearing, this must also be confirmed in writing to the individual.

- If the sanction changes, then the live period of the warning must be checked and adjusted to account for any time already elapsed.

- If the discipline action, after reconsideration, is withdrawn, any written reference to it must be removed from the individual’s personal file.

- The person appointed to hearing the appeal will be based on the sanction imposed at the original hearing as follows:-

  - Sanction - Verbal/ written warnings – independent person at least at the same level as the person hearing the original case and an HR manager.

  - Appeals against dismissal, the DCC or in exemption circumstances the CC with another COT member (where necessary for complex cases) and a member of the HR department Senior leadership Team as an advisor.
Additional Information

Compliance

This policy complies with the following legislation, policy and guidance:

- College of Policing – Code of Ethics
- Code of Conduct for Police Staff policy
- Public Complaints policy
- Capability Procedure Performance policy
- Probationary Procedure – Police Staff policy
- Equality Act 2010
- Employment Relations Act 1999
- Human Rights Act 1998
- Employment Rights Act 1996
- Employment Protection (Consolidation) Act 1978 (as amended by the Employment Act 1989)
- Advisory, Conciliation and Arbitration Service (ACAS) code of practice on disciplinary practice and procedure in employment.

Supporting Information

The supporting information for this policy can be accessed via this link.

Policy Database Administration

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The Equality and Human Rights Assessment for this policy is held on Force Registry which can be accessed via this link.

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