

STAFFORDSHIRE FIRE AND RESCUE SERVICE

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- 1.1 This Procedure is written to help and encourage all employees to achieve and maintain satisfactory standards of conduct, to encourage improvement where necessary and to ensure consistent and fair treatment for all employees in the organisation. This procedure does not apply to cases involving genuine sickness absence or poor performance or capability (ie where an employee genuinely has been unable to perform their role due to gaps in their skills or knowledge). In those cases reference should be made to the [Performance and Capability Procedure](#).
- 1.2 The aim is to ensure that appropriate action can be taken without unnecessary delay, but in a framework which also ensures fairness for all employees.
- 1.3 The guiding principle of the procedure is that, in every case except dismissal, the aim is to obtain improvement and remedy problems. Each case shall be treated on its merits in the light of the particular circumstances involved. The basis of this procedure is that the principle of natural justice both applies, and is clearly seen to apply, at every stage. Natural justice is that:
 - A person knows the nature of the allegation against them.
 - They are given the opportunity to state their case.
 - The disciplinary body acts in good faith.

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- 1.4 In the workplace, expected standards of conduct are usually maintained through the normal day-to-day relationships between supervisors and employees. Good management practice should ensure that all employees are aware of acceptable standards of behaviour and conduct and that they receive appropriate support to ensure that these are maintained.
- 1.5 Minor breaches of conduct can be dealt with successfully in an informal way and will remind the employee of the standards of conduct and behaviour that are expected. Early intervention and action are essential to avoid matters escalating.
- 1.6 If an employee does not respond to informal action, or there is a more serious allegation of misconduct, then it may be necessary to use the formal disciplinary procedure. This procedure is a framework to ensure that Managers deal with disciplinary matters in a fair and consistent way.
- 1.7 This procedure supplements, enhances and supersedes the guidance outlined in National Terms and Conditions (Grey and Green Book).

2. PRINCIPLES

- 2.1 This is a harmonised disciplinary procedure that applies to all staff, although modified for employees within a probationary period. ([See 2.8 below and Appendix 1, section 5 regarding stages of procedure](#)).
- 2.2 In the event of disciplinary action, the emphasis should be to encourage an improvement in behaviour where appropriate, rather than merely punish the employee. A full investigation of facts and an opportunity for the individual to explain their case should be undertaken.
- 2.3 Privacy and confidentiality shall be observed at all stages under this procedure, including in relation to any documents produced in connection with the proceedings. Every employee involved in the process, whether the subject of an investigation or assisting in an investigation, is responsible for observing the high level of confidentiality that is required. Breach of confidentiality may give rise to disciplinary action under this Disciplinary Procedure.
- 2.4 The employee shall be kept fully informed of the allegations made against him/her and will have adequate opportunity to provide an explanation or rebuttal. If the employee has difficulty reading, or if English is not their first language, the Manager should explain the content of any correspondence to them orally. Where the Service deems it necessary, it will facilitate the services of an interpreter.
- 2.5 In accordance with the Employment Relations Act 1999 the employee has the right to be accompanied by a Trade Union representative or fellow worker. It is the responsibility of the employee to arrange his/her own representation. ([Appendix 5](#) gives more detail on representation).

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- 2.6 Staff who are interviewed or appear at a hearing as a witness are not entitled to be represented as they are merely providing facts and information and are NOT being investigated themselves. However, the Authority may at its discretion permit such representation where it considers it appropriate. Additional support may also be available in exceptional cases, for example, where a witness is concerned about their personal safety or the consequences of giving evidence. Witnesses must answer questions for themselves; it is neither appropriate nor permitted for anyone to speak on their behalf.
- 2.7 At all stages Managers must take professional advice from the HR Management team prior to making any decisions on conclusion of investigations.
- 2.8 It will not always be necessary to go through every stage of the procedure. The procedure may be implemented at any stage if the employee's conduct warrants it. Further, where disciplinary allegations are made against a probationary employee, a modified disciplinary procedure will apply (see [Appendix 1, section 6](#)).
- 2.9 It is aimed to treat all employees fairly and consistently. Disciplinary action previously taken against other employees for similar conduct will usually be taken into account, but should not be treated as a precedent. Each case will be considered on its own facts.
- 2.10 In relation to disciplinary action against Trade Union representatives, normal standards apply but, if disciplinary action is considered, the case should be discussed, with a senior Trade Union representative or permanent Union Official.

3. PROCEDURE

- 3.1 There are formal steps to be taken when implementing the disciplinary procedure. These include the investigation process; suspension, if applicable; the hearing; the penalties that can be applied; and the appeal procedure.

[Appendix 1](#) outlines the detail at each stage of discipline process, including timescales.

[Appendix 2](#) outlines the Managerial level that has authority to deal with the disciplinary stages and the level at which advice and support is given.

- 3.2 At the formal stage of the procedure (see Appendix 1, section 2.), misconduct that is a first offence or is not deemed to be serious, may result in written warning for up to 12 months.
- 3.3 If further misconduct occurs during the life of the initial warning and it is deemed appropriate to take further disciplinary action, then the process is as outlined in Appendix 1, section 2 should be followed and a further written warning may be issued. This may be either a final written warning or, if it is felt appropriate, the existing warning may be extended.

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- 3.4 If misconduct occurs which, if founded, means that the cumulation of existing warnings may lead to the ultimate sanction of dismissal, then the procedure for serious misconduct should be followed (see Appendix 1, Section 3) and the hearing should be conducted by a member of the Executive Team and 21 days notice of the hearing given.
- 3.5 If at any stage in this procedure it becomes apparent that the matter is actually one of performance or capability, it is appropriate to switch to the application of the Performance and Capability procedure.

4. INVESTIGATION

- 4.1 Where appropriate, an Investigating Officer will be appointed and should undertake an investigation, with the support of the HR Management team. It should aim to involve all parties and quickly establish the facts. All information communicated in connection with investigatory or disciplinary meetings should be treated as confidential.
- 4.2 Employees requested to attend an investigatory meeting may be given advance warning and time to prepare, however this is not always appropriate and is at the Service's discretion. There is no right to be accompanied at any such investigatory meeting, although this may be allowed at the discretion of the Authority.
- 4.3 Employees are required to co-operate fully and promptly in any investigation. This will include informing the Investigating Officer of the names of any relevant witnesses and disclosing any material documents.
- 4.4 This will usually be concluded within a two week period. If there are exceptional circumstances which mean that the investigation will take longer to complete, the Investigating Officer should consult with the HR Management team and the employee will be notified of the revised anticipated timescale for the conclusion of the investigation.
- 4.5 The Investigating Officer will present the findings to the HR Management team who will make a recommendation on whether to proceed with formal disciplinary proceedings based on such findings. If it is recommended that disciplinary action be considered, a Disciplining Officer will be appointed and notified by the HR Management team.
- 4.6 The employee must be kept informed of progress and likely timescales.
- 4.7 If appropriate, evidence will then be prepared and information exchanged with the employee, their representative, and relevant Managers. In exceptional cases, the name of a witness may not be disclosed in order to protect the identity of that individual. In this event, the employee will be given as much information as possible, while maintaining confidentiality.
- 4.8 The disciplinary hearing should be arranged as soon as practicable giving notice of not less than 7 calendar days, unless an alternative timescale is agreed with the employee (except in cases involving potential gross misconduct where the period of notice shall be 21 calendar days unless agreed otherwise with the employee).

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- 4.9 Where an employee is the subject of a criminal investigation this will not usually prevent an investigation or disciplinary hearing taking place, provided that this does not prejudice any Police enquiry or possible prosecution. Where an employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending current matter, a decision may be taken based on the available evidence. Cases involving criminal matters should be discussed with the HR Management Team to determine the most appropriate course of action.
- 4.10 If, following investigation, no formal disciplinary action is to be taken, this will be confirmed to the employee in writing.

5. SUSPENSION

5.1 Suspension may be considered where:

- It is believed that the allegations could be considered to amount to gross misconduct;
- Where it is inappropriate for the individual to be in the workplace or be involved on work matters in light of the nature of the allegations in question.
- Where the continued presence of an individual may prejudice an investigation;
- Where the continued presence of an individual may put others at risk;
- Where an individual's own interests may be harmed by their continued presence in the workplace.

5.2 If it is appropriate, a transfer to a different location may be considered as an alternative to suspension.

(See [Appendix 3](#) for **offences constituting gross misconduct** and [Appendix 4](#) for the policy on the **suspension of staff**).

5.3 Such a suspension is precautionary and is not a disciplinary penalty in itself.

5.4 During suspension the employee shall receive their normal pay. Normal pay includes all the guaranteed earnings that would be paid during a period of normal working, including allowances, but excludes any payments not paid on a regular basis. Full pay for those employees on the retained duty system will be calculated on the basis of their retained payments averaged over the previous twelve-week period.

5.5 Where an employee is suspended and they commence sick leave, their pay will be in accordance with the rules of the Sick Pay Scheme.

5.6 A formal notice will be issued following the decision to suspend and the employee will receive advice on their entitlements and conditions of suspension. They will be asked to return to work for a disciplinary hearing, if any, as soon as possible. It is also appropriate at this stage to discuss any conditions which will apply during the period of suspension, for example, communication channels, availability to attend meetings, facilities to meet with their representative.

5.7 Leave which has already been arranged during a period of suspension will be taken and permission to take additional leave may be sought.

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6. HEARINGS

- 6.1 The employee should receive notice of the time, date and location of the hearing in accordance with the requirements set out in [Appendix 1](#). This should include details of the allegations, the basis of those allegations and all supporting documents which may be used at the hearing. Should the employee wish to present any documentary evidence to the hearing, this should be submitted at least 24 hours prior to the date of the hearing.
- 6.2 Where the employee indicates that they cannot attend at the specified time then, provided that the explanation is reasonable, alternative arrangements may be made. An alternative date must be offered by the employee and be within 7 calendar days of the original hearing date. If the employee fails to attend the re-arranged hearing, or does not give a reasonable explanation, the hearing may proceed in their absence and a decision will be made based on the available evidence.
- 6.3 Evidence shall be made available by the Investigating Officer to the relevant Manager conducting the disciplinary hearing, who will be advised and supported by a member of the HR Management team. The Manager conducting the disciplinary hearing will, wherever possible, not be junior to the Investigating Officer or the person facing the allegations and will have had no prior involvement in the investigation. The HR Representative's role is to advise on procedure and ensure fairness and consistency. A note-taker will also be present. The employee shall be given an opportunity to make statements, call witnesses, and question as appropriate. If the Manager believes that further investigation is required, they may adjourn the hearing pending further investigation and re-convene on conclusion of the additional enquiries. The employee will be provided with any additional information or evidence that the Hearing Manager intends to refer to.
- 6.4 When the Manager believes they are in possession of sufficient evidence to consider a decision, the Manager will then adjourn the hearing to consider the evidence presented and make a decision as to misconduct and the appropriate sanction, if any, to impose. The Manager may choose to deliberate over the outcome for up to 48 hours if the matter is complex or lengthy documentation requires consideration.
- 6.4 If the employee chooses to call witnesses, it is the responsibility of the employee to arrange the attendance of such witnesses; where an employee agrees to attend as a witness the Service will wherever possible facilitate their attendance. Further, the employee must notify the Manager hearing the evidence at least 3 calendar days prior to the disciplinary hearing of the names of such witnesses.
- 6.5 The outcome of the hearing will be confirmed in writing to the employee as soon as possible, but in any case normally within seven days. Such timescale may be extended if, for example, further investigations need to be made in light of new evidence at the disciplinary hearing.
- 6.6 In exceptional circumstances, or where senior Managers are being investigated, investigations and hearings may be conducted by people external to the organisation.

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7. PENALTIES

- 7.1 If there is misconduct warranting disciplinary penalties the employee should be given an opportunity to make a statement in mitigation prior to the conclusion of the hearing. The HR Representative will give details of the employee's record of service. The Manager conducting the hearing will adjourn to consider any additional information and to decide the appropriate level of penalty. (**Details of penalties available** are attached at [Appendix 6](#)).
- 7.2 A letter confirming the outcome of the hearing and any penalties should remain active on the Personal Record File for disciplinary purposes for the appropriate period (see [Appendix 1](#)).
- 7.3 If no misconduct is evidenced on the balance of probabilities, a letter confirming the findings will be sent to the employee.

8. APPEALS

- 8.1 Natural justice requires that employees have a right of appeal against any penalties imposed under this procedure.
- 8.2 Warnings and other disciplinary penalties will, save where indicated otherwise, have immediate effect. Where an appeal is raised which is successful, any such penalty will be retrospectively revoked. In the case of dismissals which are successfully appealed against, employees will, save where indicated otherwise, be re-instated with continuity of service preserved and payment of back-pay covering the period between dismissal and confirmation of the appeal decision. Sanctions which include a demotion or change to the existing role will not take effect until the period for appeal has elapsed or, if an appeal is raised, until the appeal has been heard and a decision taken.
- 8.3 Notification of the intention to appeal against any penalty, including dismissal, must be submitted in writing to the relevant Manager specified in the outcome letter within 7 calendar days of receipt of the written confirmation of the penalty.
- 8.4 The employee must submit a written statement outlining the grounds of the appeal.

These would normally be one or more of the following:

- There was a defect in the procedure.
 - The issue was not proven on the balance of probabilities.
 - The penalty was too severe, giving reasons.
 - New evidence has come to light which has an impact on the decision.
- 8.5 The appeal only covers those elements raised by the employee in their grounds of appeal. Normally a rehearing in full will only be appropriate in the following circumstances (this is not an exhaustive list):
- There was a procedural defect in the hearing.
 - New evidence has come to light that needs to be heard in full.
- 8.6 Appeal hearings will wherever possible be conducted at a level of management higher than the first hearing. Appeals against dismissal will be heard by a member of the Executive Team.

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- 8.7 The employee will be given written notice of the date, time and place of the appeal hearing and notified of the right to be accompanied at that hearing by a Trade Union representative or fellow worker. Where the employee indicates that they cannot attend at the specified time then, provided that the explanation is reasonable, alternative arrangements may be made. An alternative date must be offered by the employee and be within 7 calendar days of the original hearing date. If the employee fails to attend the re-arranged hearing, or does not give a reasonable explanation, the hearing may proceed in their absence and a decision will be made based on the available evidence.
- 8.8 The Appeal Manager will have available all the documents presented to the original hearing, as well as a copy of the record of the hearing, the letter confirming the outcome, the letter of appeal and the written statement of the grounds for the appeal. Should the employee wish the Appeal Manager to consider any documentation not included in the letter of appeal, then this should be submitted to HR at least 24 hours prior to the hearing.
- 8.9 At the appeal hearing, the case may be presented by the Manager who conducted the original disciplinary hearing if required by the Appeal Manager. The Appeal Manager will be supported by a member of the HR Management Team, this may be the same team member as supported on the original hearing for consistency. [Appendix 7](#) details the procedure and conduct of appeal hearings. As outlined above, any advice provided by the HR team will be limited to matters relating to process and consistency, as it is for the Appeal Manager alone to decide the outcome.
- 8.10 The employee will be informed in writing of the outcome of the appeal as soon as possible. There will be no further right of appeal.
- 9. EXECUTIVE TEAM**
- 9.1 If disciplinary action is necessary in respect of a member of the Executive team, this will be dealt with in line with the Gold Book Conditions of Service.

Appendix 1

DETAILS OF THE DISCIPLINARY STAGES

1. Informal Stage

- 1.1 Cases involving minor misconduct are usually best dealt with informally by the Line Manager (which includes a Watch Manager or equivalent level or above). A quiet word is often all that is required and the informal approach means that minor problems can be dealt with quickly and confidentially. At this informal stage the Manager should ensure that the employee understands the position, and issue them written confirmation of the informal warning outlining the corrective action required.
- 1.2 This notification would not form any part of their disciplinary record but it would remain active for 6 months, unless there is insufficient improvement in the employee's conduct, in which case the informal warning may be extended or the matter may proceed to a formal process
- 1.3 There will, however, be situations where matters are more serious or where an informal approach has been tried but isn't working. At this point it may be appropriate to enter the formal stages of the procedure.
- 1.4 Where a Line Manager inappropriately or negligently fails to take action against an employee and the Service considers that the employee's conduct warrants action, either formal or informal, then it may subsequently instigate an investigation into the alleged misconduct. This will only be done following consultation with HR to ensure the approach to that particular conduct is consistent.

2. Formal Stage

- 2.1 At this stage the Employee's Line Manager (Watch Manager or support staff supervisor) or higher, will instigate an investigation into the matter, after consultation and guidance from the HR Management Team.
- 2.2 Following investigation a decision will be taken by the Line Manager in consultation with HR to either:
 - Take no further action.
 - Deal with informally.
 - Refer for formal action.
- 2.3 The decision to take no further action or deal with informally must first be discussed with the HR Management Team.
- 2.4 If it is decided to proceed to a disciplinary hearing, the employee will be given a minimum of 7 calendar days written notice of the hearing, (unless agreed otherwise with the employee). The letter should contain enough information for the employee to fully understand the case against them, including relevant documents; and the basis of the allegations.
- 2.5 The employee has the right to be accompanied at the hearing by an accredited Trade Union representative or fellow employee (see [Appendix 5](#)).

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- 2.6 Employees will have the opportunity to put their case at a disciplinary hearing before a decision is taken regarding any action.
- 2.7 Where, following a disciplinary hearing misconduct is confirmed, the usual first step would be to issue a written warning setting out the nature of the misconduct and the change in behaviour required. The expected changes or improvement may take the form of a Personal Performance Improvement Plan produced by the Manager in conjunction with HR if this is appropriate.
- 2.8 A verbal decision will normally be given following the hearing (following an adjournment of a length deemed appropriate) and this will be confirmed in writing and issued to those concerned within 7 calendar days. The employee should be informed that the warning is part of the formal disciplinary process and what the consequences will be of the failure to change behaviour. The consequences could be a further disciplinary sanction which could lead ultimately to dismissal.
- 2.9 A record of the warning will be kept, but it will usually be disregarded for disciplinary purposes after maximum of 18 months provided there are no further disciplinary issues during this time.
- 2.10 Employees should be informed of their right of appeal against the written warning.

3. Serious or Gross Misconduct

- 3.1 At this stage an appropriate level of management will instigate an investigation into the matter, after consultation and guidance from the HR Management Team.
- 3.2 If it is deemed that the allegations amount to serious or gross misconduct, the disciplining officer should be a member of the Executive Team
- 3.3 The procedure for the hearing is the same as the formal stage in 2.0 above except the penalty that may be applied is greater and ultimately may result in dismissal. In addition, the notice period given to the employee of the disciplinary hearing shall be 21 calendar days unless agreed otherwise with the employee.
- 3.4 If it is decided appropriate and if it is decided that the allegations are founded this may result in dismissal.
- 3.5 The Service reserves the right to dismiss with or without notice of termination of employment in the absence of any previous informal or formal disciplinary action should the circumstances warrant this.
- 3.6 Employees should be informed of their right of appeal against the penalty awarded.

4. Gross Misconduct

- 4.1 Examples of offences constituting gross misconduct are outlined in [Appendix 3](#).

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4.2 A period of suspension with full pay may be considered helpful or necessary while the investigation is taking place, although it should only be imposed after careful consideration and should be kept under review. It should be made clear to the employee that the suspension is a precautionary matter, not disciplinary action in itself, and does not involve any prejudgement of the case.

5. **Modified procedure for probationary employees**

5.1 Only one formal stage will apply in the case of probationary employees, (including staff attending training school for core skills). The employee's Line Manager will instigate an investigation into the matter, after consultation and guidance from the HR Management team.

5.2 Following investigation a decision will be taken by the Line Manager to either:

- Take no further action.
- Deal with informally.
- Proceed to a disciplinary hearing.

5.3 The decision to take no further action or deal with informally must first be discussed with the HR Management Team.

5.4 If it is decided to proceed to a disciplinary hearing, the employee will be given a minimum of 7 calendar days written notice of the hearing. The letter should contain enough information for the employee to fully understand the case against them, including relevant documents; and the basis of the allegations. If the employee has difficulty reading, or if English is not their first language, the Manager should explain the content of the letter to them orally.

5.5 The Disciplining Officer will be senior to the individual investigated but if dismissal is considered as a possible outcome, the Disciplining Officer will be a Group Manager or above, or support staff Head of Department or above.

5.6 The employee has the right to be accompanied at the hearing by a Trade Union representative or fellow employee (see [Appendix 5](#)).

5.7 Where, following a disciplinary hearing, it is felt appropriate to award a formal disciplinary sanction, then this may result in dismissal at this stage.

5.8 Employees should be informed of their right of appeal against the sanction imposed.

6. **General**

6.1 At any stage in the disciplinary process the Line Manager in conjunction with HR may consider it appropriate to refer the employee to Occupational Health as a possible alternative to disciplinary action (e.g. in cases of misuse of alcohol) or prior to determining what disciplinary sanction, if any, is appropriate.

Appendix 2

DISCIPLINE SUPPORT STRUCTURE

- 1.1 Wherever possible, the Investigating Officer/Manager will be senior to the person being investigated. However, the Service reserves the right to appoint an Investigating Officer who's experience or skills are most appropriate to the investigation required.
- 1.2 On completion of the investigation a Disciplining Officer/Manager will be appointed by the HR Management team if required.
- 1.3 In the event of an appeal being raised, the Manager hearing the appeal will, where possible, be senior to the person who was the Disciplining Officer/Manager.

Appendix 3

1. OFFENCES CONSTITUTING MISCONDUCT

- 1.1 Misconduct is broadly defined as behaviour which is not in keeping with that normally expected of an employee or which may have an adverse effect on their work, their relationships with other employees or on the interests of the Authority.
- Failure to comply with a reasonable instruction, order, policy, rule or contractual requirement.
 - Failure to carry out job responsibilities or a reckless disregard for job responsibilities (as opposed to inability to carry out such duties, which would normally constitute a capability issue);
 - Unsatisfactory attendance or timekeeping.
 - Unauthorised absence.
 - Whilst reportedly sick, working or indulging in activities which are inconsistent with the reason for absence or are not conducive to recovery.
 - Minor loss or damage to the Authority's property, assets or funds.
 - Obscene language or other offensive behaviour.
 - Misuse of Authority property, or excessive personal use of the telephone or IT systems.
 - Smoking in non-smoking areas.
 - Negligence (other than gross negligence); and
 - Minor breach of the Authority's expected standards of business ethics and conduct.
 - Behaviour which is in contravention of the Leadership Message or does not adhere to Service values.
- 1.2 The list above is not exhaustive, but illustrates examples of behaviour which is considered to be misconduct and may render an employee liable to disciplinary action. The nature of such action will depend on the seriousness of the behaviour.

2. OFFENCES CONSTITUTING GROSS MISCONDUCT

- 2.1 The following are examples of gross misconduct that may lead to summary dismissal, i.e. dismissal without notice.
- Theft or fraud.
 - Physical violence or bullying.
 - Deliberate and serious damage to property.
 - Serious misuse of the Authority's property or name.
 - Deliberately accessing and/or circulating pornographic, offensive or obscene material.
 - Unlawful discrimination or harassment.
 - Bringing the Authority into serious disrepute.
 - Serious incapacity at work brought on by misuse of alcohol or illegal drugs.
 - Causing loss, damage or injury through serious negligence.
 - A serious breach of Service rules/procedures, including health and safety rules.

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- A serious breach of confidence/trust.

2.2 This list is not exhaustive and there may be other offences of a similar gravity resulting in a serious breach of contractual terms that could constitute gross misconduct.

Appendix 4

POLICY ON THE PRECAUTIONARY SUSPENSION OF STAFF

1. Principles of Treatment

- 1.1 On occasions it is necessary to suspend staff on a precautionary basis where allegations of misconduct/gross misconduct have been made.
- 1.2 Such decisions are not taken without full consideration of the circumstances and facts known at the time and with proper regard for the welfare of the staff member concerned. This policy sets out the welfare and other facilities available to individuals in such circumstances.
- 1.3 A suspension may normally only be invoked where the allegations made are of a serious nature or amount to gross misconduct, (an illustrative list of offences are set out at [Appendix 3](#) of the Disciplinary Procedure). Suspension may also be considered where it is felt appropriate to protect either the individual, other colleagues or the integrity of the investigation. (see also Section 5) The decision may be made either at the start of an investigation or at any time thereafter, should it become apparent that the overall circumstances make this course of action necessary in the best interest of the Fire and Rescue Authority and/or individuals involved.
- 1.4 Consideration will always be given as to whether an alternative action to suspension is appropriate and available. However, if either through preliminary enquiries or part way through the formal investigation there is evidence to indicate that the alleged offence may constitute gross misconduct, then the offender must be suspended.
- 1.5 Decisions to suspend staff will be made by a member of the Executive Team.
- 1.6 Welfare support will be offered to the individual at the time of suspension and until the conclusion of the process.
- 1.7 Whilst suspended, the employee will be excluded from Fire Service premises for work purposes. They may attend for meetings with their representatives and have access for welfare, social/sporting purposes, subject to management approval.
- 1.8 The employee will be kept apprised of progress of the investigation and the likely timescales involved at regular intervals.
- 1.9 During investigation the decision to suspend will be reviewed by the Investigating Officer who will make recommendations a member of the Executive Team. Suspension may only be lifted with the agreement of a member of the Executive Team.

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1.10 During any period of suspension, the employee will be required to maintain confidentiality regarding the matter being investigated. A breach of this requirement is likely to be regarded as serious misconduct. If the employee requires access to documentation, information or specific persons in order to provide an explanation of their case, they must approach the Service for this via the appointed welfare officer or the HR department.

2. Entitlements/Conditions of employees subject to suspension

2.1 Attendance at Fire Service Premises

Suspended employees should not attend Fire Service premises whilst suspended, unless asked to do so by the Manager investigating the allegations or their Welfare Officer, or for purposes of representation. Depending on the circumstances the suspended employee may be allowed access for welfare, including attendance at Occupational Health or social/sporting purposes, subject to Managerial approval.

2.2 Support Facilities

Suspended employees will have unrestricted access to their representative. Welfare support will be available through their assigned Welfare Officer. In addition, depending on the circumstances, regular contact may be maintained through visits from Managers and/or the suspended employee's work colleagues. These visits are to ensure the suspended employee's well-being and to update them on work issues. The suspended individual should contact their welfare officer or self refer to Occupational Health if they require support at any time during their suspension. Members of the HR team are also available if required.

2.3 Investigation Updates

The Welfare Officer will provide updates to the suspended employee and their representative (if requested) at regular intervals.

2.4 Service Equipment (where appropriate)

The suspended employee will be advised what Service equipment must be returned to the Service at the time of suspension. This will include keys, IT equipment, mobile phone, radios etc. They will be returned to the employee if the suspension is lifted. Access to Service IT systems may also be suspended if this is deemed appropriate.

2.5 Pay and Allowances

The suspended employee will receive their normal pay and any incremental entitlement (subject to normal conditions) and allowances, that they would have been entitled to had they been at work, in accordance with section 5 [Suspension](#) of the procedure.

2.6 Annual Leave

The suspended employee may book annual leave whilst suspended subject to management approval.

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2.7 **Sickness Reporting**

If the suspended employee is ill the employee should report this, following the normal sickness reporting procedures. Normal sick pay rules and entitlements will apply from the date of reporting sick. It does not, however, override the conditions of the suspension. Sickness absence does not excuse the suspended employee from attending a disciplinary hearing and advice will be sought from Occupational Health to determine if the employee is fit to attend. If this view differs from the suspended employee's own GP or Consultant, independent advice will be sought.

2.8 **Details of Allegations**

Initial details of the allegations, as known at this stage, will be forwarded to the suspended employee as soon as possible, together with written confirmation of the precautionary suspension.

2.9 **Further Information**

If the suspended employee needs further information or has any queries about their suspension they should contact their Welfare Officer or HR Management Team in the first instance who will be pleased to assist.

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Appendix 5

REPRESENTATION

- 1.1 Employees have a statutory right to be accompanied by a fellow worker or accredited Trade Union official of their choice at all formal disciplinary hearings. .
- 1.2 In addition, employees may at the Authority's discretion be provided with the opportunity to be accompanied at the investigation stage, although this is not an entitlement and should not frustrate the process.
- 1.3 Fellow workers or Trade Union officials do not have to accept a request to accompany an employee, and they should not be pressurised to do so.
- 1.4 If an employee's choice of companion is unreasonable, the employee may be asked to choose someone else. This could arise, for example, if the choice of companion may have a conflict of interest or may prejudice the hearing.
- 1.5 An employee or lay Trade Union official who has agreed to accompany a colleague employed by the same employer is entitled to take a reasonable amount of paid time off to fulfil that responsibility. This should cover the hearing and allow time for the representative to familiarise themselves with the case and confer with the employee before and after the hearing. A request for reasonable paid time off by a Trade Union official to accompany an employee employed by another Fire Authority in the same region shall be given due consideration by the respective employers.
- 1.6 Employers should take reasonable measures to cater for an employee's disability at a meeting/hearing; they should also cater for a representative's disability, for example providing for wheelchair access if necessary.
- 1.7 Before the meeting/hearing takes place, the employee will tell the Manager who they have chosen as a representative.
- 1.8 The representative should be allowed to address the meeting/hearing in order to put the employee's case and sum up the employee's case as requested by the employee. The representative can also confer with the employee during the meeting/hearing and participate as fully as possible in the meeting/hearing, including asking witnesses questions. The representative has no right to answer questions on the employee's behalf, or to address the hearing if the employee does not wish it, or to prevent the employer or employee from explaining their case.

Appendix 6

DISCIPLINARY PENALTIES

1. Counselling/Informal Warning

1.1 It may be appropriate, in cases of minor misconduct, to take no further action beyond counselling the individual. This shall be recorded as an informal warning and kept on the Personal Record File for a period of no more than 6 months.

2. Written Warning

2.1 There are two levels of written warning. These remain on file for a specified period and will be disclosed at a future disciplinary hearing if they are still 'live' at the time of the misconduct. Once the period has expired they shall be disregarded for disciplinary purposes.

Written warning – to remain active for a maximum 12 months.

Final written warning – to remain active for a maximum 18 months.

2.2 In the event that an individual breaches a written warning of any level or demonstrates insufficient or inconsistent improvement in the behaviour in question, the Service reserves the right to extend that warning as an alternative to proceeding to the next stage of the procedure. This will only be considered in a case where the Service considers the breach is minor in nature.

3. Payback of time/recoup of loss

3.1 This may be appropriate, for example, where an employee has not been attending a college course that is funded (or part-funded) by Staffordshire Fire and Rescue Service. They may be required to refund the cost of the course and/or to make up the time given to them to attend.

3.2 It might also be appropriate where damage has been caused to property to pay for the cost of repair/replacement.

3.3 If an individual has been abusing the flexible working hours scheme they may be removed from the scheme and may be required to make up time owing or to refund the equivalent in salary.

4. Dismissal

4.1 This can be either with or without notice. Summary dismissal (ie dismissal without notice) will normally only arise from allegations of gross misconduct.

5. Other sanction short of dismissal

5.1 If the Service believes that a serious disciplinary offence has been committed that could amount to dismissal, there may be circumstances where it will consider alternative action and a different disciplinary penalty. Such a penalty may include:

- Disciplinary transfer (to another location, role or department).
- Disciplinary suspension without pay.
- Demotion.

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- Loss of increment (temporary or permanent).
- 5.2 Where one of the above sanctions is applied, the corresponding terms and conditions for that role, location or department will apply.
- 5.3 Where an action alternative to dismissal is agreed with the employee at the disciplinary hearing, this does not affect their right of appeal.
- 5.4 Where a sanction short of dismissal is awarded and the employee chooses not to accept such a decision in writing (which may involve signing new terms and conditions of employment), the Service will have no alternative but to consider alternative appropriate sanctions, which may include dismissal from the current post.

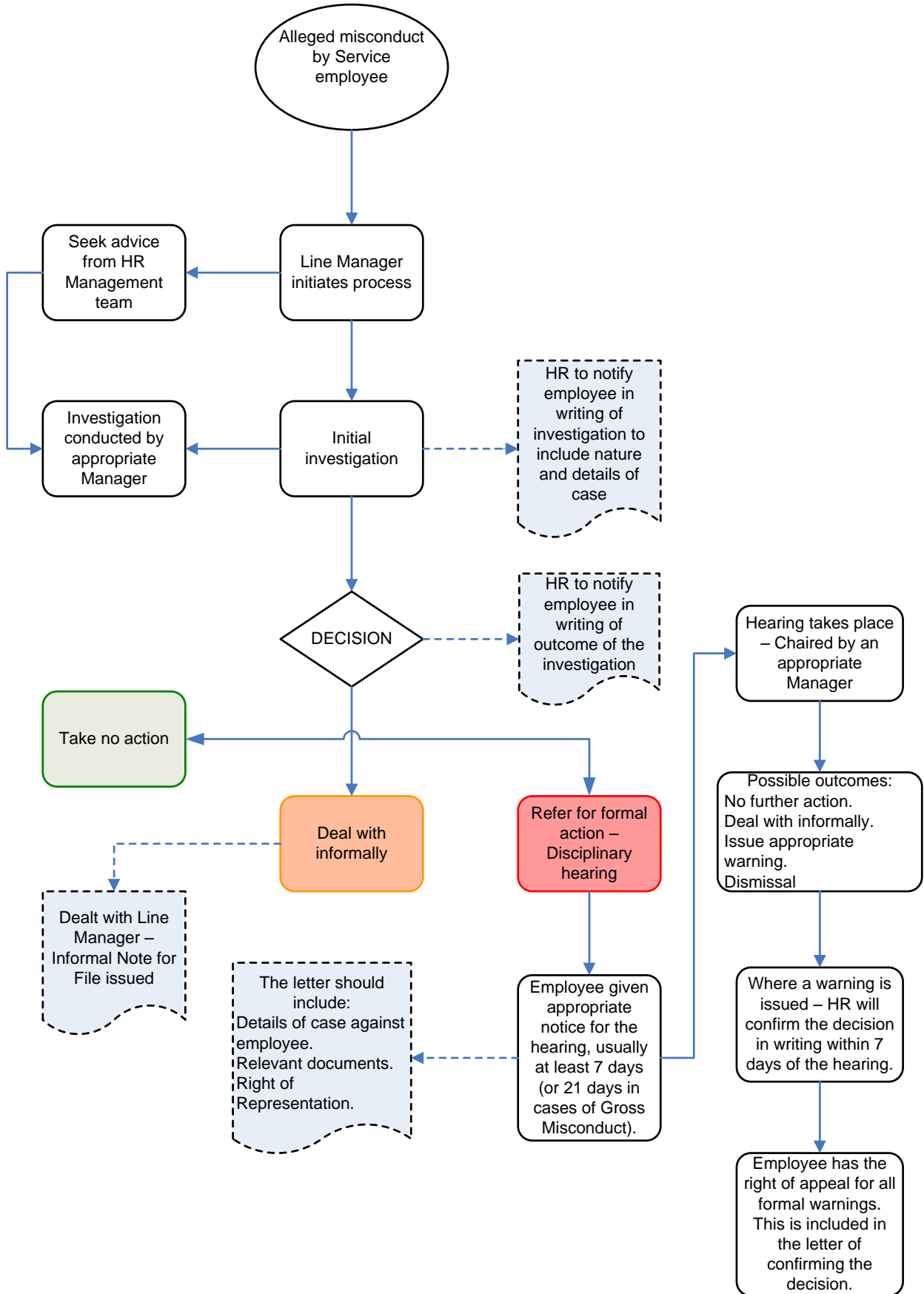
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Appendix 7

APPEAL REVIEWS/HEARINGS PROCEDURE AND CONDUCT

- 1.1 Not less than 7 calendar days notice will normally be given of appeal hearings (other than when a hearing is rearranged).
- 1.2 Appeal hearings will be conducted at a level of management higher than the first hearing wherever possible.
- 1.3 The Appeal Manager will be supported and advised by a member of the HR Management team.
- 1.4 The employee will put their case by explaining the grounds of the appeal and presenting any relevant evidence. Relevant witnesses may be brought by either side, and be questioned by all parties. If the employee chooses to call witnesses, it is the responsibility of the employee to arrange the attendance of such witnesses; where an employee agrees to attend as a witness the Service will facilitate their attendance wherever possible. Further, the employee must notify the Manager hearing the evidence at least 3 calendar days prior to the appeal hearing of the names of such witnesses.
- 1.5 The outcome of the appeal will be either:
 - The case against the employee is not upheld.
 - The case against the employee is upheld (in whole or part).
- 1.6 The outcome of the appeal will be confirmed in writing as soon as possible and normally within 7 days of the decision.
- 1.7 In cases of gross misconduct dismissal will be summary following the hearing. If dismissal is not upheld on appeal, the employee will be reinstated and pay will be backdated to the date the dismissal became effective.

FLOWCHART – DISCIPLINARY PROCEDURE



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Date of Issue	Title of Document:	Job No.	Author:	Department:	Director/Manager Approval:	Additional Information:
26/04/2017	Disciplinary Policy & Procedure	849	Sue Wilkinson	HR	Tim Hyde 26/04/2017	
16/07/2014	Disciplinary Procedure	849	Sue Wilkinson	HR	Rob Barber 15/07/2014	
15/05/2013	Disciplinary Procedure	849	Sue Wilkinson	HR	Judith Doran 15/05/2013	
25/05/2010	Disciplinary Procedure	849				
31/08/2009	FT-08-13-10 Disciplinary Procedure	849	Sue Wilkinson	HR		Consultation