



0201 Disciplinary Procedure

ORDER NO. 2/1

WEST MIDLANDS FIRE SERVICE DISCIPLINARY PROCEDURE

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1. STRATEGY

West Midlands Fire Service requires appropriate standards of discipline from its employees, together with satisfactory standards of work.

The purpose of this Standing Order is to ensure that any issues which fall under the disciplinary policy are handled in a fair, consistent and a timely manner.

The Service recognises that a disciplinary procedure is essential for the conduct of the organisation's affairs. Disciplinary procedures help to promote fairness and order in the treatment of individuals and in the conduct of employee relations. The following procedure is intended to operate in cases where it is alleged that the conduct or behaviour of an employee falls below acceptable standards. This disciplinary procedure has been drafted with reference to the ACAS Code of Practice on Disciplinary and Grievance Procedures and incorporates the principles of natural justice.

Matters of capability will be dealt with under the capability procedure [0207 Capability Procedure](#). This ensures that employees who are experiencing performance difficulties are managed appropriately and separately from arrangements set out in this document. Performance issues relating to an employee's probation period will be dealt with under the capability procedure.

This Standing Order applies to all employees within the West Midlands Fire Service including those within their probation period.

For discipline issues involving Brigade Managers, the approach is defined within the [Authority constitution](#). For further information and guidance please contact People Support Services (PSS) or the Clerk to the Authority.

At all times during employment, the organisation expects all its employees to conduct themselves appropriately as a representative of the Service and behave in accordance with our Code of Conduct.

2. PROCEDURES

2.1 Principles

The procedures incorporate the following principles:

- **Good faith:** the application of this procedure will be fair, timely, reasonable, consistent and applied without unfair or unlawful discrimination.
- **Confidentiality:** information relating to the allegation should not be divulged to a third party not involved in the disciplinary process unless there is a requirement for that individual to know in order to make correct decisions. Statements, letters and other communications are confidential to those involved in the procedure.
- **Fairness:** action will be promoted which is reasonable, necessary, known and understood. All parties involved are entitled to be heard with courtesy and respect.
- **Representation:** at all formal levels (from investigation onwards) of the disciplinary procedure, the employee shall be entitled to be accompanied. Representation may be provided by a trade union representative or by a fellow worker of the organisation (not involved in the disciplinary investigation). The representative will be able to address the hearing and provide advice during it, they will not be allowed to answer questions on behalf of the person they are representing, unless in special circumstances, where this is previously agreed. Witnesses called by either party do not have the right to representation.
- **Equality and diversity:** all employees have the right to be heard and to state their case, without any distinction as to age, gender, sexual orientation, marital or parental status or other family circumstances, race, ethnic or national origin, colour, disability, political belief, membership of or activities as part of a trade union, or social or economic status. Assistance will be provided for any employee who might otherwise have difficulty in participating fully in the proceedings, for example, due to a disability such as deafness or difficulty with spoken or written English.
- The discipline procedure is not intended to undermine the normal management process.

2.2 General provisions

At all levels of the procedure, including any investigation, the employee will be given the opportunity to state his or her case.

Anyone accused of misconduct or gross misconduct will be informed in writing of the nature of any allegation against him or her under these procedures.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice.

Before attending a disciplinary hearing the employee will receive a letter detailing the specific allegations made against him or her.

Any person against whom formal disciplinary action has been taken has the right of appeal.

An employee will not be dismissed or otherwise disciplined merely because he or she has been charged with or convicted of a criminal offence or is absent through being in custody.

Formal disciplinary action will not be taken against an officially recognised trade union representative until the circumstances of the case have been notified to either a senior trade union representative or a full-time official.

Before starting any disciplinary proceedings the manager is advised to consult with a HR Practitioner for professional advice and guidance to ensure consistency. This person within this document is known as the Business Partner.

Depending on the seriousness of the matter, disciplinary proceedings may be put into effect at any level, including dismissal without notice for a first offence.

2.3 Notes for guidance

The procedure is outlined below and this document should be read in conjunction with the Management and Employee Notes for Guidance (Disciplinary Procedure), Appendix 1.

2.4 Informal advice, coaching or guidance

Where possible, if the situation does not fall under gross misconduct, the organisation will first try to resolve disciplinary issues informally, through discussion between the employee concerned and their manager, if this is the case then it is the responsibility of the line manager to ensure that this conversation is documented and a copy of this document should be kept on HRMS.

There will be cases where the allegation or complaint is serious and formal disciplinary procedures are the only appropriate course of action.

Informal advice, coaching or guidance is not part of the formal disciplinary procedure and employees for whom assistance of this type is being provided are not entitled to representation. See Employer and Manager Guidance (Disciplinary Procedure) Appendix 1.

2.5 Allegation

Allegations will be investigated before any disciplinary action is taken.

2.6 Fact finding investigation

The investigation will be commissioned by a Commissioning Manager. If it is a gross misconduct investigation this will be by an Area Commander or equivalent, and if it is a misconduct investigation this will be a Group Commander or equivalent.

The Commissioning Manager will give consideration to appointing a Welfare Officer to the employee under investigation. The Welfare Officer will normally not be involved in the investigation at all, nor will they be privy to any information concerning the investigation. They are support for the employee.

Before any decision about disciplinary action being taken there will be a full investigation to establish the facts. The employee will be informed as soon as possible that an investigation is taking place and when it has been concluded. A suitably trained manager (please see guidance,

Appendix 1), will be responsible for the conduct of the investigation, overseen by the Commissioning Manager. An Investigating Officer will be appointed by the Commissioning Manager; usually this will be the employee's line manager. Any witness to the alleged misconduct may be required to make a written statement, to sign and date that statement and to attend for interview if required. Appropriate arrangements will be made where any witness has a genuine and reasonable fear of reprisal from any party to the allegation and wishes to remain anonymous for his or her own safety.

If the behaviour is considered to be serious enough to be investigated as gross misconduct, suspension may be considered along with other suitable alternatives (this may include restricting the duties or temporarily changing the work location of the employee for the duration of the investigation or until such time as it becomes clear that the issue being investigated does not constitute gross misconduct).

Suspension should normally only be used where:

- an employee may represent a threat or a danger to themselves or others;
- there is a risk that an individual might interfere with or compromise any investigation;
- there is a concern that further misconduct or offences might occur that are of a serious nature; or
- criminal charges have been brought against the employee and there is evidence of suspected criminal activity, which is connected with or may affect the employee's performance or suitability for continued employment.

WMFS employees facing criminal charges, including for example arrests and cautions will give notice of this, without delay, to their line manager. Employees are required to give notification in all circumstances, whether they personally feel the matter is relevant or not.

All employees who find themselves party to such knowledge must at all times maintain the strictest confidence. See [Standing Order 2/12](#) Code of Conduct Policy.

If an employee is the subject of a criminal investigation this will not always prevent a disciplinary hearing taking place, provided that this does not prejudice any police enquiry or possible prosecution.

2.7 Disciplinary hearing

Where it is considered there is a disciplinary case to answer, the Commissioning Officer shall advise the employee, in writing of the following:

- That they are required to attend a disciplinary hearing at a specified place and time
- Details of the allegations that have been made against them, including a copy of the Investigating Officer's report.
- There is a statutory right to be accompanied by a colleague or trade union representative.

Where the person accompanying the employee is unavailable the hearing may be postponed

by no more than 5 working days.

The employee should be given at least five working days notice of the date for the hearing to enable him or her to prepare. The Investigating Officer and the employee responding to any allegation must make available to the other party prior to the hearing any papers that are to be relied upon during the disciplinary hearing. People Support Services will set a date by which all relevant papers should be exchanged.

If an employee does not attend the disciplinary hearing, without good reason, a decision may be taken in their absence.

The Commissioning Manager will hear the case and be the Presiding Officer. They will chair the hearing and a Business Partner will be present to advise the Presiding Officer. (Please see Management guidance for the process of hearing and the role of individuals within the hearing - Appendix 2).

The Presiding Officer, having fully considered the circumstances of the case, will decide what disciplinary action, if any, will be taken. The decision will normally be indicated verbally to the employee at the end of the hearing and will normally be confirmed in writing within 2 working days of the hearing. A copy will be sent to the representative attending and to the employee's line manager.

2.8 Levels of disciplinary action

Disciplinary action will only be taken following investigation and a disciplinary hearing.

Levels of formal disciplinary action are as follows:

- Written warning for the duration of 6 months
- Final written warning for the duration of 18 months
- Dismissal with notice
- Dismissal without notice (used only in cases of gross misconduct).

Some examples of gross misconduct which might be good cause for dismissal without notice are listed below. This list is not intended to be exhaustive:

- Serious negligence resulting in unacceptable loss, damage or injury.
- Intentional serious breach of West Midlands Fire Service regulations or improper conduct in relation to job responsibilities.
- Bringing the West Midlands Fire Service into serious disrepute in your capacity as employee.
- Serious breach of West Midlands Fire Service Dignity at Work Standing Order.
- Theft, fraud or deliberate falsification of records or West Midlands Fire Service documents.
- Assault or attempted assault or physical violence.
- Malicious damage to West Midlands Fire Service property.

- Intentional and/or malicious refusal to comply with reasonable instructions or requests made by a line manager within the work place.
- Incapability to work due to being under the influence of alcohol or illegal substances, having regard to the West Midlands Fire Service obligations under its Misuse of Alcohol, Drugs and other Substances Policy [0212 Code of Conduct](#).
- Any breach of health and safety rules which places an employee or others in danger.
- Intentional misuse of confidential information of the West Midlands Fire Service.
- Fraudulent misuse of the West Midlands Fire Service property or name.
- Unauthorised entry to computer records.

2.9 Currency of warnings

Unless otherwise specified disciplinary warnings will remain 'live' for the periods set out below. After the expiry of that period, subject to the employee having committed no further disciplinary offence, the letter will remain on the employee's Personal Record file but will not normally be taken into account on any subsequent disciplinary decisions other than as provided below:

- written warning 6 months; or
- final written warning 18 months.

Where a pattern of re-offending after expiry of previous warnings occurs then that pattern may be taken into account by a presiding officer in determining a currency beyond the standard period when issuing a subsequent warning.

2.10 Notification of outcome of hearing and/or appeal hearing

In every case where disciplinary action is taken, the employee will be informed of the outcome. The decision will normally be indicated verbally to the employee at the end of the hearing and will normally be confirmed in writing within 2 working days of the hearing. If they are informed of the outcome at the hearing they must receive confirmation in writing within seven days of the hearing date.

The employee will be informed of:

- The disciplinary action taken including the level of any warning given.
- The reason(s) why the disciplinary action was taken.
- Consequences of any further failure to adhere to acceptable standards of conduct. In cases where a final written warning is given it should be made clear that further formal disciplinary action may result in dismissal.
- The time period within which the warning given will be considered to have lapsed from the record of the employee. The fact that a record of warnings will be kept.

The right of appeal, advising that any appeal should be submitted in writing to the Business Partner within five working days of receipt of the decision letter, and the right to representation at any future appeal hearing.

2.11 Appeal procedure

Where an employee is notified of a disciplinary decision against them, they will also be notified of the right of appeal. The Appeal Hearing Manager will have had no involvement in the disciplinary process.

The appeal will usually be heard by a manager more senior to the one who originally heard the case. Where this is not practical, it will be heard by a manager who has the authority to review and change the original decision.

An employee wishing to appeal against disciplinary action should submit notice of appeal to the Business Partner in writing within five working days of receipt of the written confirmation of disciplinary action, stating the grounds of appeal (please see Employee Guidance for grounds for appeal).

The Appeal Hearing Manager will make contact with the employee (in writing) to confirm receipt of the appeal letter.

Arrangements will be made for appeals against disciplinary action to be heard as soon as reasonably practicable following receipt of the notice of appeal.

The appellant will be notified as soon as is reasonably practicable of the time, date and place of the appeal hearing. They will be advised that they may be accompanied by their trade union representative or fellow worker.

The disciplinary action imposed as a result of the original hearing will remain in force unless and until it is modified as a result of the appeal, that is, if an employee is dismissed without notice it will come into effect before the appeal is heard.

Where an appeal against dismissal is upheld, the employee shall be reinstated/re-engaged from the date of dismissal, and continuity of service will be maintained.

The result of the appeal and the reasons for the decision will normally be notified to the employee orally at the end of the hearing and in writing within 2 working days of the appeal hearing. A copy will be sent to the representative attending and to the employee's line manager. Appeals process is outlined in appendix 3 page 18.

This forms the final decision and concludes the formal procedure within the workplace.

3. Debriefing Process

The organisation is committed to establishing an effective and constructive approach to facilitate organisational learning and improvement by capturing key learning from our day to day activities within dispute resolution. The feedback that is received from this process will be used to inform and improve the systems and processes that we have in place. This process is suitable for any

formal internal and external resolution processes including litigation. However, it is important to note that the internal process may continue prior to the conclusion of any external intervention (See Appendix 5 for information).

4. CROSS REFERENCES

[0207 Capability Procedure](#)

[0212 Code of Conduct](#)

[1611 Alcohol, Drugs and Other Substances](#)

5. KEY CONSULTEES

People Support Services Joint Consultative Committee

Joint Working Parties

FBU

Unison

FOA

6. EQUALITY IMPACT ASSESSMENT

The preliminary impact assessment screening raised issues which were dealt with by a full impact assessment.

7. OWNERSHIP

This Order did not require SET approval.

8. RESPONSIBILITY AND REVIEW/AMENDMENT DETAILS

9.1 Responsible SET Member/Department

Strategic Enabler for People/Employee Relations.

9.2 Created/fully reviewed/amended

This Standing Order has been amended in August 2017

If you have followed any of the processes included in this Policy please complete the following debrief form by clicking [here](#)

Appendix 1

EMPLOYEE AND MANAGER

NOTES FOR GUIDANCE (DISCIPLINARY PROCEDURES)

These notes must be read in conjunction with the disciplinary procedure. A management checklist has been created, please see Appendix 4 for guidance.

1. Informal Action

Before any formal investigation takes place managers should, following discussion with their Business Partner, consider whether informal action is appropriate in this instance. If informal action is deemed appropriate the line manager should meet with the employee and discuss the issue(s). They should then follow up the meeting in writing to the employee detailing the discussion and any outcomes and/or expectations that were agreed. It is important to note that informal action is part of day to day management of employees and not part of the disciplinary process. However it can lead into the formal disciplinary process if the agreement from the meeting is not adhered to.

2. Representation

A Trade Union Representative may be a lay Trade Union officer or the union workplace representative, or a full-time officer employed by a trade union. The lay trade union officer or workplace representative should have been certified by their union as having experience of, or having received training in, acting as a worker's companion at disciplinary hearings. There is no duty on a fellow worker or trade union official to accept a request to accompany a worker and no pressure should be brought to bear on a person if they do not wish to act as a companion. Legal representation is not permitted. Witnesses cited in an investigation would not normally have the right to such representation.

The representatives will be able to participate fully in the hearing, and provide advice during it, but will only be able to answer questions on behalf of the person they are representing in agreed circumstances. If a chosen companion is not available, for good reason, the hearing may be delayed for up to five working days until the companion is available.

3. Training

It is important that all those involved in investigating an allegation and conducting disciplinary hearings should have received training in the use of this procedure. The advice of People Support Services should be sought, if required.

4. General provisions (medical reports)

Any medical reports are confidential to the organisation's Occupational Health Doctor/Advisor, who may be requested to make relevant interpretations for legitimate purposes of this procedure.

Role of Commissioning Manager

The Commissioning Manager is responsible for overseeing the conduct of the investigation. Investigating Officers should provide regular updates to the Commissioning Manager. Investigating

Officers are to find the facts of the case and detail these in a report to the Commissioning Manager, whose decision it is on whether or not there is enough evidence to proceed to a disciplinary hearing.

5. Role of People Support Services

The role of the People Support Services is to advise on the operation and application of this procedure. It should also take a proactive role in ensuring consistency of application across the West Midlands Fire Service.

People Support Services must be notified of all formal disciplinary matters raised. The Business Partners will monitor the matter through all necessary stages. At the end of each stage, a complete record of all documentation generated during the various stages of the formal procedure must be passed to People Support Services by the Investigating Officer.

Role of a Welfare Officer

The Welfare Officer should not be someone directly connected to the investigation. They are appointed to provide welfare support to the employee under investigation. When appointed they should make contact with the employee, introduce themselves and explain what their role is. The Welfare Officer is able to make refer the employee to Occupational Health. They should keep in regular contact with the employee and be kept up-to-date with the timescales of the investigation by the Investigating Officers.

6. Role of an Investigating Officer

Investigation of any incident is a responsible and serious undertaking. It is important that you prepare and are supported adequately. Seek guidance from People Support Services as necessary.

A suitably trained manager will be responsible for the conduct of the investigation. Usually this will be the employee's line manager; otherwise an Investigating Officer will be appointed. The Investigation Officer will carry out the investigation through interviews and gathering of other evidence, where appropriate. The employees will be notified in advance if any investigation meeting is due to take place.

7. Role of a Presiding Officer

The manager hearing the case (the Presiding Officer) will chair the hearing and a Business Partner will be present to advise the Presiding Officer. (Please see Manager's guidance for the process of hearing and the role of individuals within the hearing).

The Presiding Officer, having fully considered the circumstances of the case, will decide what disciplinary action, if any, will be taken. The decision will normally be indicated. The Presiding Officer will confirm the decision Role of an Appeal Hearing Manager

The appeal will usually be heard by a manager more senior to the one who originally heard the case. Where this is not practical, it will be heard by a manager who has the authority to review and change the original decision.

The Appeal Hearing Manager will make contact with the employee (in writing) to confirm receipt of the appeal letter.

Arrangements will be made for appeals against disciplinary action to be heard as soon as reasonably practicable following receipt of the notice of appeal.

The result of the appeal and the reasons for the decision will normally be notified to the employee orally at the end of the hearing and in writing within 2 working days of the appeal hearing. A copy will be sent to the representative attending and to the employee's line manager.

This forms the final decision and concludes the formal procedure within the workplace.

Appendix 2

Guidance for Managers (Disciplinary Procedure)

1. Throughout the disciplinary process

- **Starting point** - read the disciplinary procedure and these guidelines; the Investigating Officer will contact the employee subject of the investigation to confirm an investigation is underway and specify the allegations.
- **Guiding principles** - ensure impartiality, fairness and confidentiality and avoid discrimination. Consider whether you have a potential conflict of interest in taking on the investigation. For example, if one of the principal parties is well known to you to an extent preventing your involvement in the case (for example, personal relationships).
- **Disciplinary skills training** – make sure that you have been on relevant ACAS or equivalent course in advance; if not, contact People Support Services to make sure that you receive coaching.
- **Equality and Diversity**- make sure that you have been on relevant training or equivalent course in advance; if not, contact People Support Services to make sure that you receive coaching.
- **Role** - investigate the evidence in relation to the allegations, give the employee who is the subject of the investigation the opportunity to state his or her case in respect of the allegations and establish the facts.. Balance speed and sensitivity with thoroughness, to ensure a careful and reasonable investigation is achieved.
- **Allegations** - establish the elements and issues constituting the proposed allegations then prepare in advance the question sets relevant to explore those issues with each witness and the employee subject of the investigation.

- **Order** - establish who you need to interview and in what order; issue invitations and provide sufficient notice of meetings.
- **Advice and Support** – The Business Partner who is assigned will provide professional guidance and support throughout the process.
- **Investigating Officer** – The Investigating Officer will need to arrange their own administration support to take notes or book recording equipment, book meeting rooms and arrange meetings . Where statements are provided these should be signed also. The recording method should be agreed with the witness in advance of the interview to ensure they know what to expect.
- **Representation** – employees subject to an investigation have a statutory right to be accompanied by a colleague or trade union representative. Not applicable for witnesses; if witnesses request representation then consult with your Business Partner; legal representation is not permitted.
- **Role of representative** - normally limited to provide advice to the employee subject of the investigation and make statements to the Investigating Officer, but not normally expected to answer questions on behalf of the employee subject of the investigation unless with prior agreement (discuss with Business Partner if this arises).
- **Documentation** - consider what documentary evidence (for example, relevant procedures or communications) you need to gather; copies should be supplied to the employee subject of the investigation so they are aware of evidence against them and can respond as appropriate.
- **Witnesses** - establish their rights and responsibilities at the start; use open or closed questions; develop question sets in advance; where common issues are explored with several witnesses make sure the same questions are asked of all; establish or clarify the sequence of events; always ask at end if they have any further information they think you should have related to the allegations and evidence they have submitted; make sure they are aware they could be called to a hearing to elaborate on the evidence or give new evidence related to the case; make sure they are aware that the employee subject of the investigation will get sight of their (the witnesses') statement(s) should it proceed to a hearing; always thank witnesses for their contribution and indicate whether that is expected to be the end of their involvement in the case; if continued involvement is expected try to clarify the extent of such involvement.
- **Anonymous informants and evidence** - where the employee wishes to retain anonymity, statements should be in writing, available to the employee subject of the investigation, and give details of time, place and dates. The investigating manager should ask about the character of the informant and assess the credibility and weight to be attached to their evidence. Where documents are received anonymously they should be treated similarly to evidence from anonymous informants, for example, made available to the employee subject of the investigation and assessed for credibility and weight attached to them.

- **Refusal** - if witnesses refuse to give statements or answer the questions you wish to ask, discuss with your Business Partner.
- **Additional issues** - if any are raised (for example, harassment, personal circumstances) then explore only insofar as they are relevant to the case. Please discuss with the Business Partner.
- **Medical issues** - if the employee subject of the investigation, or their representative, indicates during the investigation that health issues (for example, stress from the disciplinary process) have a bearing on the case, explore these provisionally with them to clarify their immediate relevance then discuss how to proceed with the Business Partner.
- **Sensitive issues** - such as harassment should be documented and explored with care. Witnesses may be reluctant to discuss such matters, or the employee subject of the investigation may raise them in explanation or mitigation or fear of subsequent retribution may be an issue. Discuss how to proceed with the Business Partner as necessary.
- **Suspension** - if at any stage during the investigation you consider there are grounds for suspending the employee subject of the investigation discuss this with the Commissioning Manager and Business Partner immediately.
- **Time** – make sure that the investigation is completed in a reasonable timeframe, preferably within 10 working days, to make sure that the evidence is gathered before recollections fade.
- **Performance issues** - should be dealt with under the capability procedure unless the reason for lack of performance is a conduct one, for example, deliberate non-performance, lack of effort or avoiding responsibility.
- **Report** - standard pro forma for report is available from People Support Services ; provide report to the Commissioning Manager and copy to the Business Partner upon completion.

2. Holding the meetings

Managers are required to hold a number of meetings during the disciplinary process. These can be from investigation, hearing and even to appeal hearing. The format of these meetings will always be the same.

- Make sure that meetings will not be subject to interruptions.
- Introduce those present and confirm role of the individual and the person accompanying or representing them
- Explain the purpose of meeting, the allegations under consideration (specify them), role of Investigating Officer, format for the meeting (including administrative provision), and expected next steps afterwards.
- Highlight an expectation of honesty and confidentiality.
- Note that statements from the investigation are to be signed to confirm agreement.

- Advise witnesses that their statements may later be made available to the employee subject of the investigation and that they may have to attend a subsequent disciplinary hearing if there is one.
- At the conclusion of the interview with the employee subject of the investigation, advise him or her of what your intended next steps are (for example, write report or interview other witnesses).
- At the conclusion of each interview, summarise the evidence you have been given to clarify your understanding of the facts of the situation. Offer the opportunity to add further relevant information.

3. Investigation process

Where a disciplinary matter arises, the employee may be suspended from work for as long as necessary, on normal pay, pending the outcome of an investigation into the alleged misconduct. Such action should only be used in the most serious of instances.

Only after an investigation will the Commissioning Manager decide whether or not there is a disciplinary case to answer.

4. Investigation Officer role

The investigation will be conducted in accordance with the procedure detailed below.

The Investigating Officer will conduct an investigation which will include meeting with all parties relevant to the alleged misconduct including, where appropriate, any witnesses to incident(s) of misconduct. The Investigating Officer may have a Business Partner or other person present at such meeting(s) to offer advice. **The employee concerned may be accompanied at such meeting(s) by a trade union representative or fellow worker.**

At the meeting with the employee, the Investigating Officer will invite his or her response to the alleged misconduct.

The Investigating Officer will summarise and clarify their understanding of the facts of the situation. At the end of the interview the Investigating Officer will indicate whether further enquiries will be made, for example, interviewing potential witnesses and the likely duration of such enquiries.

On completion of the investigation, the Investigating Officer will prepare a report summarising the findings of their investigation. The Investigating Officer will forward the report to the Commissioning Manager who, with advice from the Business Partner will determine whether a hearing is to be arranged.

If the Commissioning Manager Officer considers that it is not necessary to hold a formal disciplinary hearing, but where informal advice, coaching or guidance is felt to be helpful, they will discuss the matter with the employee's most appropriate line manager (please see guidance), to

take suitable informal action. The employee will be informed in writing that no formal disciplinary action is being taken.

5. Disciplinary hearing

The Business Partner will be present to offer professional advice and guidance; they are not tasked to take minutes/notes of any meetings. They will provide line managers with guidance throughout the process. If you need support with any note taking, the managers are asked to liaise with DPM. Whichever person fulfils this role cannot be called as a witness to the proceedings.

The room used for the hearing will be laid out in a manner which is not intimidating, for example, only the Presiding Officer and Business Partner face those presenting their cases. No discussion of the case (apart from clarification) will take place between the Presiding Officer and the Investigating officer outside the hearing.

The proceedings will be conducted by the head of department in accordance with the guidance notes detailed below:

- The Presiding Officer should introduce those present. Those in attendance will normally include the Presiding Officer, the Business Partner, the Investigating Officer, the employee concerned and the person accompanying or representing him or her.
- The Presiding Officer should explain the purpose of the disciplinary hearing and detail the allegations levelled against the member of staff. He or she should also explain the procedure to be followed during the hearing.
- Normally only documentation, written or typed statements or evidence that has been made available to both parties prior to the hearing will be admissible. However, where new documentation becomes available, a recess or adjournment may be necessary for the parties to acquaint themselves with this material.
- The Investigating Officer should present the outcome of their investigation, calling witnesses as appropriate.
- The employee and the person accompanying or representing him or her should be allowed to question any witnesses called, or query any documentation, as may the Presiding Officer and Business Partner.
- The employee and the person accompanying or representing them will have the opportunity to present their case in response to the evidence.
- The employee or the person accompanying or representing them may call on any witnesses as appropriate.
- The Presiding Officer and, if necessary, the Business Partner may question the member of staff, the person accompanying or representing them and any witnesses called.
- Clarification may be sought from anyone present at any time during the hearing.

- The Presiding Officer may formally adjourn the hearing in response to a request to do so at any time.
- The Investigating Officer should be given the opportunity to sum up.
- The employee or their representative should be given the opportunity to sum up.
- On completion, the hearing will be closed, for the Presiding Officer to deliberate. If any points require further clarification, the employee and his or her representative may be recalled.
- When deciding whether a disciplinary penalty is appropriate and what form it should take, the Presiding Officer, in consultation with the Business Partner, should take into account all the facts and circumstances, including the employee's general disciplinary record, position, length of service and any special circumstances which might make it appropriate to adjust the severity of the penalty.
- In taking into account an employee's general disciplinary record, the Presiding Officer will be entitled to consider any lapsed warnings. However the existence of a lapsed warning will not entitle the Presiding Officer to automatically impose the next level of disciplinary penalty. For example, simply because an employee has a lapsed written warning on his or her personnel record does not mean that the correct disciplinary penalty will be a final written warning. A further written warning may be suitable in all the circumstances. By contrast it may be right to impose a more serious disciplinary penalty on an employee who has a history of misconduct.

6. Levels of disciplinary action

Level 1 - written warning, for the duration of 6 months

Level 1 will be applied where:

- there is no improvement in the conduct complained of; or
- another related offence has occurred during the currency of a previous warning.

Where it is found that such a disciplinary offence has occurred a written warning will be given to the employee and a copy placed on his or her personal record within People Support Services. Employees should be advised of this.

Level 2 - final written warning, for up to 18 months

Level 2 will be applied where:

- there is no improvement in the conduct complained of;
- another related offence has occurred during the currency of a previous warning; or
- the conduct is of such seriousness that Level 1 and 2 actions are not appropriate.

Where it is found that such a disciplinary offence has occurred a final written warning will be given to the employee and a copy placed on his or her Personal Record File within People Support

Services. Employees should be advised of this.

Level 3 - dismissal

Level 3 will be applied where:

- there is no improvement in the conduct complained of;
- another offence has occurred during the currency of a previous warning; or
- a final written warning has already been issued.

Where dismissed, the employee will receive a written statement of the reasons for his or her dismissal and a reiteration of his or her right of appeal.

However, if the Presiding Officer considers that in light of all the circumstances, dismissal is not warranted, an alternative to dismissal will be imposed in the form of extending the period of the existing final written warning for a further twelve months.

Level 4 - dismissal without notice

Dismissal without notice will be applied in cases of gross misconduct where, following investigation, it has become clear that recourse to the earlier stages of this procedure is not appropriate. Dismissal without notice is applied in circumstances where it is considered that to allow an employee to remain at work is dangerous or undesirable and, where practical, after consultation with the employee's representative.

If the manager considers after investigation that disciplinary action short of dismissal is appropriate, the decision may result in an alternative to dismissal being imposed in the form of a final written warning indicating that any further infringement will result in dismissal.

Please see section *.* for some examples of gross misconduct which might be good cause for summary dismissal

8. Records

Records and documents should be kept in a confidential file and not be disclosed to or discussed with any person who is not directly involved in the investigatory or disciplinary procedure.

9. Debriefing

The Manager who dealt with the last process (hearing or appeal) should co-ordinate the debriefing exercise (please see appendix 5 for further information).

It is the intention that policies and procedures be reviewed periodically, in the light of any developments in employment legislation or good employment practice, and if necessary revised to ensure continuing relevance and effectiveness.

Appendix 3

PROCESS FOR DISCIPLINARY APPEAL HEARINGS

1. Who will attend?

Comissioning Officer – to consider and decide on the outcome.

Business Partner to the Employee - who has submitted the Appeal.

Employee's representative - the employee can be represented by a trade union, or a fellow employee, or they can choose not to be represented and present their own case at the appeal hearing.

Management representative – who will present the management case, including the outcome of any earlier stage(s) of the disciplinary.

Any witnesses called by either side.

2. Introduction

- asks individuals to introduce themselves and their role within the hearing.

3. Employee's case is presented

- Employee (or employee's representative) presents their case.
- Employee (or employee's representative) calls witnesses and questions them (if applicable).
- Management representative has the opportunity to question the employee and/or the witnesses.
- Presiding officer has the opportunity to question the employee and/or the witnesses.

Note on witnesses

Where a witness is called, the employee, or their representative, will question them, then the management representative and then the Presiding Officer. The witness will then leave and the employee, or their representative, will continue presenting their case.

4. Management case is presented

- Management representative presents their case.
- Management representative calls witnesses and questions them (if applicable).
- Employee (or employee's representative) has the opportunity to question the management representative and/or witnesses.
- Presiding Officer has opportunity to question the management representative and/or witnesses (see Note on witnesses above).

5. Summing up

- Management representative sums up their case.

Note – no new information should be introduced at this stage.

- Employee (or employee's representative) sums up their case.

Note – no new information should be introduced at this stage.

6. Adjournment for decision

- All parties will withdraw, with the exception of the Presiding Officer and the Business Partner, who will advise the Presiding Officer.
- Should the Presiding Officer need to recall anyone to answer further questions, all parties will be recalled so that they have the opportunity to hear the question(s) and to comment and reflect on the responses.
- Once the Presiding Officer has reached a decision, all parties will be recalled and the Presiding Officer will advise them of the decision. This decision will then be confirmed in writing, usually within 7 working days of the decision being delivered orally.
- Where it proves impossible to reach that decision within a relatively short period of time, the presiding officer will recall all parties and advise them of this. The decision will then be given in writing to all parties, usually within 7 working days of the completion of the hearing.

This forms the final decision and concludes the formal procedure within the workplace.

Appendix 4 Management Checklist (DISCIPLINARY PROCEDURES)

Name of employee;

Job title;

Department/Station;

Line Manager;

Allegation;

Fact Finding

1. Specify allegations
2. Has informal action been carried out/considered.
3. Discuss with Business Partner
4. Business Partner discusses with Commissioning Manager and agree disciplinary level
5. Assign investigation to appropriately trained manager at appropriate level & identify People Support Services support
6. Is suspension or a temporary move to be considered
7. Write to employee, hand deliver the letter and explain the allegations so they are clear what the investigation is about and that they have a right to representation.
8. Offer appropriate support to employee if needed i.e. Occupational Health, Service Chaplin, Supporting officer, Employee Assistance Service
9. Scope out investigation
 - Set out time scales
 - Identify witnesses for interview
 - Collate supporting records/ photographs/ computer records etc...
 - Identify participants availability
10. Book rooms & recording equipment/note taker
11. Write to witnesses informing of interview date and venue
12. Carry out interviews
13. Send copies of transcripts/interview notes to the interviewees following the interviews for verification of accuracy
14. Write up investigation report and submit to Commissioning Manager.
15. Decision made whether to go to full hearing
16. Notify employee of decision if no out come or if the matter is to proceed to a formal hearing

Formal Hearing

1. Identify Presiding Officer & Business Partner
2. Identify participants availability
3. Write to employee re date & time of hearing

4. Book room & recording equipment/note taker
5. Write to witnesses if their attendance is required
6. Collate all relevant documentation into an evidence bundle including anything from the employee's side.
7. Copies of bundle to go to Presiding Officer, Business Partner, Employee, Employees representative & the Presenting Officer
8. Presiding Officer and Business Partner to meet prior to hearing
9. Hearing takes place
10. Write to employee re outcome

Appeal

11. Arrange appeal Presiding Officer, Business Partner, Room booking and Appeal bundle
12. Write to employee re appeal arrangements
13. Send out copies of appeal bundle to Presiding Officer, Business Partner, Employee, Employees Representative & Presenting Officer
14. Appeal takes place
15. Write to employee re outcome
16. End of process

Appendix 5

DEBRIEFING PROCESS - Guidance

1. Composition of the Debrief Team

It is important that this review involves representatives from Trade Unions, Management and People Support Services.

1.1 The composition of the Debrief Team will include:

- The Manager who dealt with the last process (hearing or appeal) will chair the meeting

- The relevant Trade Union Representatives
- The Investigation Officer/s, Presiding Officer and Appeal Hearing Manager
- Relevant representatives from People Support including Senior Business Partner and/or Manager.

2. Arrangement and timing of meetings

· Debrief Meeting will be coordinated by the last People Support Service (PSS) Representative who supported the Manager with the final internal process. If this PSS representative is unavailable then it will be the PSS representative who supported the previous internal process.

· A debriefing should aim to be completed within 4 weeks of the final stage of the internal and/or external process.

3. Agenda for discussion

- Overview of the case
- Overview of the timescales and process
- Rational for deviating from the standard process (if that has happened)
- Areas of good practice
- Areas of concern
- Any other information

(See case debrief record form attached)

4. Key Learning and Actions required

Application of policy, timescales, decision making, behaviors of those involved, including areas of good practice and areas of improvement should be recorded. Feedback given will be constructive with a view to improving our approaches. Learning will be captured and shared as part of our consultative arrangements with Joint Working Party and Joint Consultative Panel.

Strictly Confidential

CASE DEBRIEF RECORD FORM

Case details/No. :

Names of Attendees:

Date of Meeting:

Overview of the case

Overview of the timescales and process

Rational for deviating from the standard process (if that has happened)

Areas of good practice

Areas of concern

Any other information

Key learning and actions required