



## Disciplinary Policy Police Staff

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# Police Staff Disciplinary Policy

## 1. Policy statement

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Cleveland Police and the Office of the Police Crime and commissioner for Cleveland has adopted the revised National Police Staff Council part 3 guidance on police staff misconduct procedures as published on 13<sup>th</sup> November 2020 and updated in February 2021.

There has been local agreement to make one amendment to this which will better fit the force and maintain consistency between the assessment of conduct for police officers and police staff. This change is to delegate the appropriate authority position to the rank of Inspector (and police staff equivalent), rather than Chief Inspector (and Police Staff equivalent) as recommended by PSC. This is to maintain consistency of decision making between police officers and police staff by allowing a single appropriate authority to have responsibility for both officers and staff.

This Policy will assist in providing a detailed guide regarding the staff disciplinary procedure. The Taylor report recognised that it would be desirable, where possible, for the disciplinary procedures for police officers and police staff to be compatible in order to drive consistency nationally.

The Police Staff Council considers it important that police officers and police staff receive equal treatment when subject of an investigation into an allegation of misconduct. Some cases already involve police officers and police staff being investigated for matters arising from the same incident and therefore having procedures that are as compatible as possible is clearly desirable. Cleveland Police and the Office of the Police and Crime Commissioner expect all staff to fully cooperate with any investigation and disciplinary process.

This policy must be applied fairly, equally and consistently to all employees irrespective of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or any other unjustifiable grounds.

This policy applies to all police staff in the employ of the Chief Constable of Cleveland Police, and the Police and Crime Commissioner for Cleveland.

The Chief Constable and the Police and Crime Commissioner have overall responsibility for the management and discipline of police staff within their employ but may delegate full responsibility for the management of staff discipline to an appropriate authority with advice from Human Resources.

For those employed by the Police and Crime Commissioner only the Chief of Staff or the Deputy Chief of Staff has the authority to carry out the dismissal stage of the disciplinary procedure any subsequent appeal will be heard by either the equivalent or higher member of the office. The disciplinary process

within the office of the PCC will follow ACAS best practice for small organisations.

## **2. Purpose (Police Staff Council Standards of Professional Behaviour)**

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The purpose of this policy is to provide a fair, open and proportionate method of dealing with misconduct as set out by Police Staff Council which shall apply to all police staff as supported by this procedure. If the conduct of an individual falls below the standards, then this may be assessed by the Appropriate Authority as misconduct or gross misconduct.

Cleveland Police and UNISON are committed to ensuring that this procedure is applied fairly to everyone.

## **3. Underpinning procedures**

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### **3.1 Key Principles**

The misconduct procedure should apply to all police staff and is underpinned by the Police Staff Council (PSC) Standards of Professional Behaviour (joint circular 54) which set out the high standards of behaviour that the police force and the public expect of police staff. The procedure aims to provide a fair, open and proportionate method of dealing with alleged misconduct. The procedure is intended to encourage a culture of learning and development for individuals and / or the organisation.

Improvement will always be an integral dimension of any outcome (even in the case where an individual has been dismissed there can be learning opportunities for the Police Force). The Police Force and recognised trade unions are committed to ensuring that this procedure is applied fairly to everyone. It is important that managers understand their responsibility to respond to and deal promptly and effectively with unsatisfactory behaviour and complaints about police staff conduct from members of the public and / or colleagues. It is a key responsibility of all managers to understand and apply this procedure in a fair, proportionate and timely manner. The Police Force will support any manager who has exercised their judgement reasonably, fairly and objectively and has adhered to the guidance provided.

### **3.2 Definitions**

Misconduct is a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action.

Gross Misconduct is a breach of the Standards of Professional Behaviour so serious that dismissal may be justified.

Appropriate Authority means the chief officer of the police force concerned, or as delegated – provided this is not delegated below the level of Inspector or police staff equivalent.

Director General means the Director General of the Independent Office for Police Conduct.

Working day means any day other than a Saturday or Sunday or a bank holiday or a public holiday in England and Wales.

Practice Requiring Improvement means under-performance or conduct not amounting to misconduct or gross misconduct, which falls short of the standards as set out in the Police Staff Council Standards of Professional Behaviour.

### **3.3 Special Cases**

Where disciplinary action is being considered against a Police Staff member who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the Police Staff member's agreement. If a Police Staff member is charged with or convicted of a criminal offence this is not automatically in itself reason for disciplinary action, however a conduct assessment will be undertaken. Consideration needs to be given to what effect the charge or conviction has on the individual's suitability to do the job and their relationship with the organisation, work colleagues and the public.

Where an individual raises a grievance during a disciplinary process the process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

### **3.4 Provision of notices and documents**

Where any written notice or document is to be given or supplied to the individual under this procedure, it must be:

- Given in person to the individual;
- Left with a person at, or sent by recorded delivery to, the last known address of the individual;
- Given to the individual in any other manner agreed between the person who is required to give the notice or document and the individual, for example, by email.

Any notice or document is deemed to be served when it is delivered except where delivered by email, in which case acknowledgement of receipt is necessary.

Information in documents which are stated to be subject to the harm test under this procedure must not be supplied to the individual in so far as the Appropriate Authority considers that preventing disclosure to the individual is:

- Necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings;
- Necessary in the interests of national security;
- Necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders;
- Necessary for the purpose of the prevention or detection of misconduct by other police staff members or police officers or the apprehension of such matters;
- Necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
- Otherwise in the public interest.

### **3.5 Representation**

The individual has the right to consult with and be represented by a trade union representative or a workplace companion at all stages of the formal misconduct procedure. A trade union representative or workplace companion will only be involved in a Reflective Practice Review Process in a supportive capacity; to provide encouragement and emotional support to the individual.

Any person acting as a trade union representative or workplace companion should be allowed to do so during normal working hours. The trade union representative or workplace companion may:

- Advise and confer with the individual throughout the procedure;
- Attend any meetings or interviews with the individual, which form part of the procedure;
- Address the meeting or hearing to both state and sum up the individual's case;
- Provide any relevant documentation to the investigator / person(s) conducting the misconduct proceedings who shall give full consideration to such documents;
- Respond on the individual's behalf to any views expressed at the misconduct meeting or hearing;
- During misconduct meetings or hearings, ask questions of any witness
- Make representations to the Appropriate Authority concerning any aspect of this procedure.

It is good practice to allow the trade union representative or workplace companion to participate as fully as possible, but at an interview, meeting or hearing the trade union representative or workplace companion is not there to answer questions on the individual's behalf. It is for the individual to speak for themselves when asked questions. A workplace companion must be employed by either Cleveland Police or the OPCC. A trade union representative or

workplace companion cannot be appointed to act as such if their presence might cause a conflict of interest (i.e. has had some involvement in the matter or is a witness to the alleged misconduct).

There is no right to legal representation at either a misconduct meeting or a misconduct hearing.

### **3.6 Reflective Practice Review process**

The Reflective Practice Review Process is not a misconduct outcome. It is a process for handling matters which, if proven, would amount to Practice Requiring Improvement. Where a matter, whether raised internally or via a complaint, meets the definition of Practice Requiring Improvement and does not reach the threshold for disciplinary action, it should be handled locally by line managers with a clear focus on reflection, learning from mistakes and focussing on actions / development to improve and, where necessary, put the issue right and prevent it from happening again.

An Appropriate Authority or the line manager can determine whether the Reflective Practice Review Process is the most appropriate way of dealing with the issue. A matter may also be referred to the Reflective Practice Review Process through a misconduct investigation, disciplinary procedure or by the Director General.

In a Reflective Practice Review Process the 'participating individual' is the member of staff whose actions or behaviour is subject to the Reflective Practice Review Process, and the 'reviewer' is the manager who is conducting the Reflective Practice Review Process. The reviewer must be the line manager of the participating individual or another supervisor / manager who is senior to the participating individual.

Where a matter is referred to the Reflective Practice Review Process, the reviewer must as soon as practicable provide the participating individual with details of the matter that has been referred and the circumstances that are being considered, and an invitation to provide an account of the matter that has been referred for review. The participating individual must provide any account within five working days of receiving the invitation to do so, unless a longer period is agreed with the reviewer. Where an account has previously been given e.g. during a previous investigation, it may not be necessary to require a further account, unless the participating individual wishes to provide further detail or clarification.

Enquiries made by the reviewer during the fact-finding stage must be reasonable, proportionate and relevant to the purpose, which is to establish the facts of the matter subject to the review process. If at any time during the fact-finding stage substantial evidence becomes available to the reviewer, which was not available to the Appropriate Authority when it made its severity assessment, the reviewer must refer the matter to the Appropriate Authority for a further assessment.

The reviewer must, following completion of the fact-finding stage, invite the participating individual to attend a Reflective Practice Review Discussion. Such discussion must take place as soon as reasonably practicable. The discussion must cover detail of the practice requiring improvement and related circumstances that have been identified, whether there are or were welfare considerations and wider factors, including the individual's personal circumstances that affected their behaviour. In addition to the discussion should include identification of key lessons to be learnt by the participating individual, line management or police force to address the matter and prevent a recurrence.

The reviewer must, following the completion of the discussion stage, produce a Reflective Review Development Report, which must contain:

- A summary of the issue and any relevant background circumstances;
- A summary of the Reflective Practice Review Discussion;
- Key actions to be undertaken by the participating individuals within a specified time period;
- Any lessons identified for the participating individual;
- Any lessons for the line management or police force concerned;
- A specified period of time for reviewing the report and the actions taken.

The reviewer must send a copy of the report to the Appropriate Authority. The Appropriate Authority must take appropriate action to ensure that any lessons identified for the line management or police force concerned are addressed. A copy of the report, together with a note of the review of the report and of actions taken, must be retained on the participating individual's PDR record. The report and review notes may be discussed as part of the participating individual's performance and development review during the 12-month period following agreement of the report. Any discussion should focus on lessons learnt and actions to be taken.

If the reviewer considers that the participating individual is failing to engage with the Reflective Practice Review Process, or that there is evidence of further practice requiring improvement on the part of the participating individual related to the matter that was referred to the process, the reviewer may refer the matter for assessment by the Appropriate Authority.

Any account given by the participating individual during the Reflective Practice Review Discussion is not admissible in any subsequent disciplinary proceedings brought against the participating individual, except to the extent that it consists of an admission relating to a matter that has not been referred to be dealt with under the Reflective Practice Review Process. This protection provides a safeguard to allow the participating individual to participate openly and fully with the process and to reflect on their individual actions and / or behaviour. This is necessarily limited to the matters for which they have been referred to the Reflective Practice Review Process. This does not preclude an admission or account that suggested there may have been misconduct or gross misconduct from being referred to the Appropriate Authority for consideration and, if necessary, commencing a formal investigation. However, even if proceedings

were to follow, the admission and any account would not be admissible in those proceedings.

### **3.7 Formal Procedure**

Where an allegation is made against an individual, an assessment will be made as to whether the conduct (if proved or admitted) would amount to misconduct or gross misconduct (see appendix 1 for examples of misconduct and gross misconduct). The purpose of assessing whether a matter is potentially misconduct or gross misconduct is to allow the individual subject to the misconduct procedure to have an early indication of the possible outcome if the allegation is proven or admitted and to give an indication of how the matter should be handled.

Where it is determined that the conduct, if proved, would constitute either misconduct or gross misconduct, it must be investigated. Where it is assessed that the conduct, if proved, would not constitute misconduct nor gross misconduct; then the Appropriate Authority should decide whether to take no action, whether a Reflective Practice Review Process is the most appropriate and proportionate response to the allegation, or whether to refer the matter to be dealt with under the force performance management procedures. This should be notified to the individual.

The assessment will also determine whether, if the matter was referred to misconduct proceedings, those proceedings would be likely to be a misconduct meeting (for cases of misconduct) or a misconduct hearing (for cases of gross misconduct or if the individual has a live final written warning at the time of the assessment and there is a further allegation of misconduct).

If the initial assessment has been made incorrectly or if new evidence emerges, then a fresh assessment can be made. The matter may be moved up to a level of gross misconduct or down to a level of misconduct. In the interests of fairness to the individual, where a further severity assessment is made which alters the original assessment then the individual will be informed and will be provided with the reasons for the change in the assessment. The same principle applies where the initial assessment suggests that the matter is one of misconduct or gross misconduct, but subsequent investigation reveals that it is not, and may be, for example, one of unsatisfactory performance. In such cases the individual will be informed that the matter is now not being considered as a matter of misconduct.

Where there are possible or outstanding criminal proceedings against the individual these will potentially delay the misconduct investigation. The presumption is that action for misconduct will possibly be taken prior to, or in parallel with, any criminal proceedings. Where potential prejudice to any criminal proceedings is identified the misconduct matter will still be investigated and a report submitted to the Appropriate Authority who will decide whether there is a case to answer in respect of misconduct or gross misconduct. If a decision is made that the matter amounts to misconduct or gross misconduct, and consequently, the Reflective Practice Review Process is not appropriate,

no referral to disciplinary proceedings will take place if this would prejudice the criminal proceedings.

### **3.8 Investigation**

Individuals have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally. If a matter has been assessed as either misconduct or gross misconduct, then the Appropriate Authority will appoint a person to investigate the matter. The investigator should be a person who has the appropriate level of knowledge, skills and experience to plan and manage the investigation.

A misconduct investigation shall be proportionate to the nature and gravity of the allegations. The purpose of the investigation is to:

- Gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct;
- Assist the Appropriate Authority (or Director General of the IOPC) to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer;
- Identify any learning for the individual or organisation as a whole.

The investigator will as soon as reasonably practicable after being appointed, cause the individual to be given written notice of the allegation which will set out the following information:

- Inform the individual that there is to be an investigation of their potential breach of the PSC Standards of Professional Behaviour and inform the individual of the name of the investigator who will investigate the matter;
- Describe the conduct that is the subject of the investigation and how the conduct is alleged to have fallen below the PSC Standards of Professional Behaviour;
- Inform the individual of the force's assessment of whether the conduct alleged, if proved, would amount to misconduct or gross misconduct;
- Inform the individual of whether, if the case were to be referred to misconduct proceedings, those proceedings would be a misconduct meeting or misconduct hearing;
- Inform the individual that if the likely form of any misconduct proceedings changes the individual will be notified of this together with the reasons for that change;
- Inform the individual of their right to seek advice from their trade union or a workplace companion who the individual may choose to act as their representative.

The notice should clearly describe in unambiguous language the particulars of the conduct that it is alleged fell below the standards expected of the individual. The terms of reference for the investigation, or the part of the terms of reference for the investigation relating to the individual's conduct, should, subject to there being no prejudice to that or any other investigation, be supplied to the

individual and to their trade union representative or workplace companion on request, and they should be informed if the terms of reference change.

The written notification may be provided to a manager (including by email) to give to the individual. The notice should ordinarily be given to the individual in person. In cases where this is not possible the notice should be sent by recorded delivery to their last known address. The responsibility for ensuring the notice is served rests with the investigator. The investigator should ensure that the individual subject to investigation shall, as soon as practicable, be provided with this written notification unless to do so would prejudice the investigation or any other investigation (including a criminal one). Any decision not to inform the individual will be recorded and kept under regular review in order to avoid unreasonable delay in notifying the individual.

Where the IOPC is conducting an independent or directed investigation then the responsibility for ensuring that the individual is provided with the written notification (as soon as practicable) rests with the investigator appointed or designated to conduct that investigation.

In the interests of fairness, care should be taken where an incident is being investigated to ensure that the notification is given to the individual as soon as practicable after an investigator is appointed (subject to any prejudice to that or any other investigation). If at any time after the service of the notice the Appropriate Authority revises the assessment of the conduct or the level of the misconduct proceedings, then as soon as practicable the individual shall be given a further written notice.

**Prejudice Test** - potential examples of 'prejudice' are:

- Where there is more than one individual under investigation and providing full terms would prejudice / taint the other investigation;
- Where there are witnesses to be spoken to or urgent actions to be taken and it would prejudice the investigation if the individual knew of these in advance;
- Where there are covert / sensitive tactics being employed.

### **3.9 Investigation Interview / Written response**

It will not always be necessary to conduct a formal interview with the police staff member subject of the investigation. In some cases, possibly involving misconduct cases, it may be more appropriate, proportionate and timely to request a written account from the individual. The written response together with any supporting documentation should be provided by the individual to the Appropriate Authority within 10 working days, commencing the first working day following service of the formal notice of the investigation.

Where an interview with the individual is necessary, the investigator and the individual should agree a date and time for the interview. The trade union representative or workplace companion should also be consulted and allowed to make representations about the date and time of the interview. If no

agreement can be reached then the investigator may specify a time and date, giving at least 10 working days advance notice of the time and date. If the individual or their trade union representative or workplace companion is not available on the specified date, then the interview can be postponed to a time proposed by the individual provided it is reasonable and within five working days of the specified date. Interviews should be audio recorded and, if appropriate, agreed (for example in complex cases), or a written record taken of the interview which the individual will have the opportunity to comment on and agree as being an accurate record of the interview.

The individual shall be given a written notice, by the investigator, at least 10 working days in advance of the date, time and place of the interview which the individual must attend. The interview cannot take place where the individual has not received the terms of reference for their investigation, or the written notice which states that no terms will be given. The individual shall also be advised of the right to be accompanied by a trade union representative or workplace companion and if so accompanied it shall be pointed out that this person may not answer any questions asked of the individual during the interview. The investigator will, at least 10 working days in advance of the interview, provide the individual with such information as the investigator considers appropriate in the circumstances of the case to enable the individual to prepare for the interview. This should normally be full disclosure.

Documentary evidence shall be subject to the harm test and will not be supplied to the individual if the investigator considers that preventing disclosure is necessary:

- To prevent the premature or inappropriate disclosure of information that is relevant to or may be used in any criminal proceedings;
- In the interests of national security;
- For the prevention or detection of crime or the apprehension or prosecution of offenders;
- For the prevention or detection of misconduct by other police officers or police staff or their apprehension for such matters;
- Necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
- Otherwise in the public interest.

It is, however, best practice in these investigations to have an approach to disclosure of evidence that, subject to the harm test or prejudice test, is full and open, providing the individual the opportunity to consider the evidence and provide a full and meaningful response at interview.

The investigator will notify the individual of the progress of the investigation at least every four weeks commencing from the date of service of the notice of investigation. Where an investigation is not completed within a 12-month period beginning on the day the allegation first came to the attention of the appropriate authority; the appropriate authority must provide the following information in writing to the local policing body. This should describe the progress of the

investigation, the planned steps to progress the investigation and bring it to a conclusion and an estimate of when the investigation will be concluded.

A further report should be submitted after each subsequent period of six months.

This requirement does not apply in a case where it appears to the appropriate authority that to do so might prejudice the investigation or any other investigation (including a criminal investigation). Subject to the harm test, a copy of the information provided to the local policing body must be sent to the individual.

### **3.10 Investigation report**

The misconduct investigation shall only be deemed as completed when the Appropriate Authority is satisfied that all the issues have been fully addressed and the investigator's report conforms to the required standard. To achieve this standard the report should:

- Provide an accurate and objective summary of the evidence;
- Attach or refer to any relevant documents; and
- Indicate the investigator's opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

Where the investigator's opinion is that there is no case to answer, the investigator should indicate their opinion as to whether the matter should be referred to be dealt with under the performance procedures or the Reflective Practice Review Process. When the Appropriate Authority is satisfied that the investigation is complete it will determine whether the individual has a case to answer. Where it is determined that there is no case to answer under misconduct or gross misconduct, the Appropriate Authority may:

- Take no further action;
- Refer the matter to be dealt with under the Reflective Practice Review Process; or
- Refer the matter to be dealt with under the force performance management procedures.

Where it is determined that there is a case to answer in respect of misconduct then the matter will be referred to a misconduct meeting. Where it is determined that there is a case to answer in respect of gross misconduct then the case shall be referred to a misconduct hearing. Upon receiving the investigator's report, the Appropriate Authority shall as soon as reasonably practicable inform the individual of its determination. Where no determination has been made within 15 working days of the completion of the investigation then the Appropriate Authority will notify the individual together with reasons why a determination has not been made.

Upon making a determination that the matter is to be referred to misconduct proceedings the Appropriate Authority shall as soon as reasonably practicable ensure the individual receives a written notice with the following information:

- Notification of the referral to a misconduct meeting or hearing;
- Details of the alleged conduct and how it amounts to misconduct or gross misconduct;
- The name of the person(s) appointed to conduct the misconduct meeting or hearing and the adviser to it (if applicable);
- A copy of any statement the individual may have made to the investigator;
- Subject to the harm test – a copy of the investigation report or parts thereof (together with any documents attached to or referred to in that report as related to the individual);
- Any other relevant document gathered during the course of the investigation;
- Advised of the right to be represented by a trade union representative or workplace companion.

## **4. Misconduct**

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### **4.1 Types of misconduct proceedings**

There are two types of misconduct proceedings:

- A Misconduct Meeting for cases where there is a case to answer in respect of misconduct and where the maximum outcome would be a final written warning;
- A Misconduct Hearing for cases where there is a case to answer in respect of gross misconduct or where the individual has a live final written warning and there is a case to answer in respect of a further act of misconduct. The maximum outcome at this hearing would be dismissal from the police force without notice.

It is important that misconduct hearings are only used for those matters where the individual has a live final written warning and has potentially committed a further act of misconduct that warrants misconduct proceedings or the misconduct alleged is so serious that it is genuinely considered that if proven or admitted dismissal from the police force would be justified.

### **4.2 Misconduct Meeting / Hearing**

A misconduct meeting will be conducted by a senior manager (if this is a police officer it must be a substantive Chief Inspector or above) with an understanding of police staff employment matters who has had no previous involvement in the case. An appropriate HR advisor, who has not had previous involvement in the case, may attend to advise on procedural matters only. A misconduct hearing

should be conducted by up to, but not exceeding, three people who have not had any previous involvement in the case.

Where one person is conducting the hearing alone, they should be a senior Human Resources professional. A senior HR professional means a human resources professional who in the opinion of the Appropriate Authority has sufficient seniority, skills and experience to conduct the misconduct hearing. An appropriate HR advisor should attend to provide procedural support only.

Where more than one person is conducting the hearing, the chair should be either a senior officer (Chief Superintendent or above) or a senior Human Resources Professional. The other members of the panel should consist of either a police officer of Superintendent rank or above, a senior HR professional or senior police staff managers. There should be at least one senior HR Professional on the panel and an appropriate HR advisor may attend to provide procedural support only.

Following service of the notice of referral to a meeting or hearing the individual may object to the person(s) appointed to conduct the meeting / hearing or any person named who will advise at the meeting / hearing. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the referral notice, setting out the grounds for objection. The Appropriate Authority will notify the individual whether it upholds or rejects the objections. If the objections are upheld the person(s) to whom the individual objects will be replaced and the individual will be advised of the replacement person(s).

The individual may object to the replacement person(s) appointed to conduct the meeting / hearing or any person named who will advise at the meeting / hearing. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the referral notice, setting out the grounds for objection. If the objections are upheld the replacement person(s) to whom the individual objects will be replaced. The individual will be advised of the intended replacement.

Within 14 working days commencing the first working day following service of the referral to a meeting / hearing, the individual may provide the following:

- Written notice of whether or not they accept that their conduct amounts to misconduct or gross misconduct as the case may be;
- Where the individual accepts that their conduct amounts to misconduct or gross misconduct as the case may be, any written submission they wish to make in mitigation;
- Where the individual does not accept that their conduct amounts to misconduct or gross misconduct as the case may be, or they dispute part of the case against them, written notice of:
  - the allegation they dispute and their account of the relevant events; and

- any arguments on points of law which they wish to be considered.
- A copy of any document to be relied upon during the misconduct proceedings.

Cleveland Police will continue to follow the process agreed with Unison in misconduct meetings and misconduct hearings. Generally speaking a meeting / hearing will be conducted with witnesses. Where there are proposed witnesses the individual and the investigator will submit details of proposed witnesses to the Appropriate Authority who will supply the list to the person(s) conducting the meeting / hearing. The list will include brief details of the evidence the witnesses are able to provide and their name and address, where appropriate.

Where a relevant witness is required to attend, and if that person is a police officer they will be ordered to attend, all other relevant witnesses required to attend will be given written notice that their attendance at the meeting / hearing is necessary.

A misconduct meeting will take place no later than 20 working days commencing with the first working day following service of the notice of referral to the misconduct meeting. A misconduct hearing will take place no later than 30 working days commencing with the first working day following service of the notice of referral to the misconduct hearing. This period may be extended by the person(s) conducting the meeting / hearing if they consider it necessary in the interests of justice.

If reasonably practicable the date and time of the meeting / hearing should be agreed with the individual. At least 10 working days' notice must be given of any meeting / hearing. If no agreement can be reached, then the person(s) conducting the meeting / hearing will set a date and time. Once the date and time has been agreed or set by the person(s) conducting the meeting / hearing the Appropriate Authority shall provide the individual with a written notice giving details of the date and time of the meeting / hearing at least 10 working days in advance of any such meeting / hearing.

If the individual or their trade union representative or workplace companion is unable to attend the meeting / hearing, then the individual can propose an alternative date and time which must be reasonable and within five working days of the previously specified date. In such circumstances and if reasonable, the meeting / hearing should be held on the proposed alternative date and the Appropriate Authority will provide an amended notice to the individual.

The individual and the person(s) conducting the meeting / hearing will be supplied with the same documents at least 10 working days in advance of the meeting / hearing. Prior to the meeting / hearing, the person(s) conducting the proceedings must fully appraise themselves of all the evidential and procedural issues set out in the documentation. The documents supplied by the Appropriate Authority are:

- Written notice of the referral;

- The conduct that is the subject of the case and how that conduct is alleged to amount to misconduct or gross misconduct as the case may be;
- A copy of any statement they may have made to the investigator during the course of the investigation; and
- Subject to the harm test, a copy of the investigator's report or such parts of that report as relate to them (together with any document attached to or referred to in that report as relates to them) and any other relevant document gathered during the investigation;
- Documents provided by the individual in response to the notice of referral to a meeting / hearing;
- Where the individual does not accept that their conduct amounts to misconduct or gross misconduct or where they dispute any part of the case, any other documents that in the opinion of the appropriate authority should be considered at the misconduct proceedings.

If the individual is a trade union representative then subject to the consent of the individual, the person(s) conducting the meeting / hearing should discuss the case with a senior trade union representative or a full time official of the trade union concerned in order to avoid the perception that the proceedings are an attack on the union.

Once the date and time of the meeting / hearing has been agreed or specified, the individual shall attend the meeting / hearing. If the individual is unable to attend and the person(s) conducting the meeting / hearing considers the grounds to be reasonable, the individual may be allowed to participate in the meeting / hearing by other means (for example by a conference telephone call) or the meeting / hearing may be postponed.

If the individual fails to attend the meeting / hearing they may still be represented by a trade union representative or workplace companion. Where the individual fails to attend the meeting / hearing without good cause then the case may still proceed and be concluded in their absence. When making a determination to proceed without the presence of the individual the person(s) conducting the meeting / hearing shall take into consideration the nature of the allegation, the individual's misconduct record and any medical opinion on whether the person is fit to attend the meeting / hearing.

Where an individual raises a grievance during the misconduct proceedings the proceedings may (if appropriate) be temporarily suspended in order to deal with the grievance. Where the grievance and misconduct proceedings are related, it may be appropriate to deal with both issues concurrently. The misconduct procedures should be capable of dealing with issues relating to those proceedings. For example, if the grievance related to the person(s) appointed to hear the matter at a meeting / hearing then the provision will exist to object to that person and therefore the reason for the grievance will have been resolved.

A record will be made of the meeting / hearing and this may include by means of audio digital recording.

### **4.3 Outcome of meetings / hearings**

If the person(s) conducting the meeting / hearing finds that the individual's conduct did fail to meet the PSC Standards of Professional Behaviour then the person(s) conducting the meeting / hearing will then determine the most appropriate outcome. In considering the question of outcome the person(s) conducting the meeting / hearing will need to take into account any previous written warnings that were live at the time of the initial assessment of the conduct in question, any aggravating or mitigating factors and have regard to the individual's record of service, including any previous live misconduct outcomes.

The person(s) conducting the proceedings is also entitled to take account of any early admission of the conduct on behalf of the individual and attach whatever weight to this as they consider appropriate in the circumstances of the case. In addition, the individual and their trade union representative or workplace companion should be given the opportunity to make representations on the question of the most appropriate outcome of the case.

The person(s) conducting the proceedings shall provide a written notice of the finding and outcome to the individual as soon as practicable after the conclusion of the meeting / hearing and in any case within three working days. The written notice shall set out the finding of the person(s) conducting the meeting / hearing, any disciplinary outcome imposed and the right to appeal against the finding and / or outcome.

A previous written warning is 'live' for the purposes of misconduct proceedings if it had not expired on the date upon which the report of the alleged misconduct or gross misconduct is assessed and not the date upon which the actual misconduct meeting or misconduct hearing is held.

#### **4.3.1 Outcomes available at a misconduct meeting**

Where the person(s) conducting the meeting finds that the conduct does not amount to misconduct, they may direct the matter to be referred to the Reflective Practice Review Process or take no further action. Where they find that conduct amounts to misconduct, they may impose the following sanctions:

- Written warning;
- Final written warning.

Where on the date of the severity assessment the individual had a written warning in force, a written warning should not be given.

Written warnings shall remain live on the personal file of the individual for a period of up to 12 months from the date the warning is given. This means that following a written warning, any finding of misconduct in the next 12 months is likely to lead to a final written warning.

Final written warnings will remain live on file for a period of 1 year from the date the final written warning is given. This may be extended, by the person considering the question of disciplinary action, to a maximum period of 2 years in exceptional circumstances. Any future misconduct following a final written warning whilst that warning is 'live' may result in dismissal.

#### 4.3.2 Outcomes available at a misconduct hearing

Where the person(s) conducting the hearing finds that the conduct does not amount to misconduct or gross misconduct, they may direct the matter to be referred to the Reflective Practice Review Process or take no further action. Where they find that conduct amounts to gross misconduct they may dismiss without notice. Dismissal without notice will mean the individual is dismissed from the police force with immediate effect and will not receive pay in lieu of notice.

#### **4.4 Appeals against findings at a misconduct meeting**

An appeal against the finding and / or the outcome from a misconduct meeting will be heard by a police officer or police staff manager who in the opinion of the Appropriate Authority is considered to be of a higher rank or grade than the person who conducted the misconduct meeting and who has had no previous involvement in the investigation of the case or in the misconduct meeting. In addition, a HR advisor totally unconnected with the case may also be present to advise the person conducting the appeal on procedural matters only.

If the misconduct was admitted, the individual may only appeal against the outcome. If the misconduct was denied, the individual may appeal against both the finding and / or the outcome.

The individual must give written notice of appeal stating the grounds for appeal to the Appropriate Authority before the end of seven working days commencing the first working day following service of the notice of outcome (unless this period is extended by the Appropriate Authority in exceptional circumstances).

The grounds for appeal are as follows:

- The finding and / or outcome imposed was unreasonable;
- There is evidence that could not reasonably have been considered at the misconduct meeting which could have materially affected the finding or decision on outcome;
- That there was a serious breach of procedures or other unfairness which could have materially affected the finding or decision on outcome.

Following receipt of the notice of appeal, the Appropriate Authority shall as soon as practicable give the individual written notice of the appeal meeting and the person appointed to hear the appeal and the person appointed to act as advisor (if applicable). The individual may object to the person appointed to conduct the appeal meeting or the person named to act as advisor. Any objection must be provided in writing and submitted to the Appropriate Authority within three

working days commencing the first working day following service of the notice of appeal meeting. The Appropriate Authority will notify the individual whether they uphold or reject the objections. If the objections are upheld the person(s) to whom the individual objects will be replaced.

Where the person(s) appointed to conduct an appeal meeting is replaced, the individual may object to the person(s) appointed to conduct the appeal meeting or any person named who will advise at the appeal meeting. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the referral notice, setting out the grounds for objection. The Appropriate Authority will notify the individual whether it upholds or rejects the objections. If the objections are upheld the person(s) to whom the individual objects will be replaced. No further objections will be permitted.

The person determining the appeal will be provided with the following documents:

- The notice of appeal from the individual setting out the grounds of appeal;
- The record of the original misconduct meeting;
- The documents that were given to the person who held the original misconduct meeting;
- Any evidence that the individual wishes to submit in support of their appeal that was not considered at the misconduct meeting.

The person appointed to deal with the appeal will hold an appeal meeting within 10 working days of the receipt of the appeal by the individual. The individual has the right to be represented by a trade union representative or workplace companion at the appeal meeting. If the individual fails to attend the meeting without good cause, then the person conducting the appeal may proceed in their absence.

If the individual and / or trade union representative or workplace companion is not available at the date or time specified by the persons conducting the appeal, the individual may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of five working days beginning with the first working day after that proposed by the persons conducting the appeal, the appeal should be postponed to that time.

The person conducting the appeal may consider:

- Whether the finding of the original misconduct meeting was unreasonable having regard to all the evidence considered or if the finding could now be in doubt due to evidence which has emerged since the meeting;
- Any outcome imposed by the misconduct meeting which may be considered as too severe having regard to all the circumstances of the case;

- Whether the finding or outcome could be unsafe due to procedural unfairness and prejudice to the individual (although the persons conducting the appeal must also consider whether the unfairness or prejudice could have materially influenced the outcome).

The person determining the appeal may confirm or reverse the decision appealed against. An appeal is not a repeat of the misconduct meeting. It is to examine a particular part(s) of the misconduct case which is under question and which may affect the finding or the outcome.

The individual shall be notified in writing by or on behalf of the person conducting the appeal meeting, giving details of the determination of the appeal within three working days of the conclusion of the appeal meeting.

#### **4.5 Appeals against findings at a misconduct hearing**

The appeal process for an individual following a misconduct hearing is governed by the final outcome. The appeal will be heard by the Director of People and Organisational Development or a senior officer (ACC or above) and a HR professional. All must be of higher rank or grade than the persons who conducted the misconduct hearing and who have had no previous involvement in the investigation of the case or in the misconduct hearing which followed.

If the misconduct was admitted, the individual may only appeal against the misconduct hearing outcome. If the misconduct was denied, the individual may appeal against both the finding and / or the misconduct outcome. The individual must give written notice of appeal stating the grounds for appeal to the Appropriate Authority within seven working days commencing the first working day following service of the notice of outcome (unless this period is extended by the Appropriate Authority in exceptional circumstances).

The grounds for appeal are as follows:

- The finding and / or misconduct outcome was unreasonable;
- There is evidence that could not reasonably have been considered at the misconduct hearing which could have materially affected the finding or decision on misconduct action;
- That there was a serious breach of procedures or other unfairness which could have materially affected the finding or decision on misconduct action.

Following receipt of the notice of appeal, the Appropriate Authority shall as soon as practicable give the individual written notice of the appeal meeting and the persons appointed to hear the appeal. The individual may object to any of the persons appointed to conduct the appeal meeting. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the notice of appeal meeting. The Appropriate Authority will notify the individual whether they uphold or reject the objections. If the objections are upheld the person(s) to

whom the individual objects will be replaced, and the individual will be advised of the replacement person(s).

The individual may object to the replacement person(s) appointed to conduct the meeting / hearing or any person named who will advise at the meeting / hearing. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following receipt of the referral notice, setting out the grounds for objection. If the objections are upheld the replacement person(s) to whom the individual objects will be replaced.

No further objections to the appointed person(s) will be considered.

The persons appointed to deal with the appeal will hold an appeal meeting within 10 working days of the receipt of the appeal by the individual. The individual has the right to be represented by a trade union representative or workplace companion at an appeal meeting. Where the individual fails to attend the meeting without good cause, the persons conducting the appeal may proceed in their absence.

Following the determination to hold an appeal meeting, the persons appointed to conduct the appeal and the individual should seek to agree the date and time of the appeal meeting. If no date and time can be agreed then the persons appointed to hear the appeal shall specify a date and time. If the individual and / or the trade union representative or workplace companion is not available at the date or time specified by the persons conducting the appeal, the individual may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of five working days beginning with the first working day after the previously specified date and time, the appeal must be postponed to that time.

The persons determining the appeal will be provided with the following documents:

- The notice of appeal from the individual setting out the grounds of appeal
- The record of the original misconduct hearing
- The documents that were given to the persons who held the original misconduct hearing
- Any evidence that the individual wishes to submit in support of their appeal that was not considered at the misconduct hearing.

The persons conducting the appeal may consider:

- Whether the finding of the original misconduct hearing was unreasonable having regard to all the evidence considered, or if the finding could now be in doubt due to evidence which has emerged since the original hearing;
- Any outcome imposed by the misconduct hearing which may be considered as too severe having regard to all the circumstances of the case;

- Whether the finding or outcome could be unsafe due to procedural unfairness and prejudice to the individual (although the person conducting the appeal must also take into account whether the unfairness or prejudice could have materially influenced the outcome).

The persons determining the appeal may confirm or reverse the decision appealed against.

An appeal is not a repeat of the misconduct hearing. It is to examine a particular part(s) of the misconduct case which is under question and which may affect the finding or the outcome.

#### **4.6 Suspension**

Suspension must be authorised by the Deputy Chief Constable, the Director of People and Organisational Development or a senior officer (ACC or above), although the decision may be communicated to the individual by an appropriate manager. Suspension will only take place after careful consideration of all the facts and shall be for the shortest possible period. The decision to suspend an individual is not a presumption of guilt and should not be seen as misconduct action against the individual. Suspension will be with full pay and allowances. Where practicable, a temporary move to a new location or an appropriate role within relevant and existing terms of employment must be considered first as an alternative to suspension.

The individual shall not be suspended from work unless the following conditions apply:

- Temporary redeployment to alternative duties or an alternative location is not appropriate in all the circumstances of the case;
- It would prejudice the effective investigation of the case if the individual was not suspended;
- The public interest regarding the nature of the allegation and other relevant consideration requires that they should be suspended. Reasonable grounds for considering that the effective investigation might be prejudiced will include concern that the gathering of evidence could be compromised, or witnesses tainted.

Where it is considered necessary to suspend an individual, a meeting shall take place with the individual to inform them of the reason(s) why the suspension is taking place. The individual must be given the opportunity to have a trade union representative or workplace companion present at this meeting.

Notification of suspension from work may be given orally or in writing. If given orally it will be confirmed in writing within three working days setting out the conditions of the suspension and details of the appointed liaison officer who will be the main point of contact for the individual during suspension. The appointed liaison officer should have no involvement in the allegation against the individual or associated events. The written notice shall contain the following information:

- That during the period of suspension they will receive their full pay entitlement including any allowances applicable at the time as defined in their conditions of service;
- That they must remain available for interview and must obtain permission before taking leave away from home;
- That suspension is not a presumption of guilt and should not be seen as misconduct action against them.

The individual, or their trade union representative or a workplace companion, may make representations against their suspension to the Appropriate Authority within seven working days of being suspended or at any time during the suspension if they believe that the relevant circumstances have changed. The Head of DSE will review the decision to suspend the individual on a four-weekly basis, or sooner where facts become known which would suggest that suspension is no longer appropriate, or at any time following receipt of formal representation from the individual. Following a review of the suspension conditions the individual shall, within three working days, be notified of the outcome. If the suspension conditions remain satisfied the individual shall be given a summary of the reasons.

An individual suspended from work shall still be allowed to take their annual leave entitlement in the normal way provided they seek permission from the Appropriate Authority. This can be delegated as appropriate. The individual may be suspended from employment at any time and will stay suspended until:

- It is decided that the conduct of the individual shall not be referred to a meeting / hearing;
- The reasons for suspension no longer apply and there are no other valid reasons for suspension;
- Such proceedings have been concluded.

In the case of staff issued with a uniform and / or equipment to be worn / used in the course of their work these items, under exceptional circumstances, may have to be surrendered for the period of the suspension. Staff who are issued with authorities such as warrant card, access cards / keys etc. will be required to surrender them for the period of suspension.

#### Restrictions on entry to Police premises and force sports / social activities

Restrictions relating to these aspects will be carefully considered and each will be examined individually. There should be no blanket ban unless it is strictly necessary. Accordingly, Sports and Social Club contributions should not be stopped automatically. Suspended staff will be advised of any restrictions imposed.

#### Training

Depending on the nature of the alleged misconduct, anyone undergoing a period of external (force funded) training may be allowed to continue that training only where the training has commenced and is an approved course of

study e.g. qualification course. Other training will be considered taking into account the nature of the alleged misconduct.

### Career break

Where a member of staff has been suspended and is about to commence a career break the approval for the career break may be withdrawn taking into account the nature of the alleged misconduct.

## **4.7 Sickness Absence**

If an individual is on sick leave during the disciplinary process, the following guidance must be followed.

### During the Investigatory Stage

If the Police Staff member cannot attend the workplace they should be offered the opportunity for the interview to take place at an alternative mutually agreeable venue. The individual will be advised that they can be accompanied by a trade union representative or a work colleague.

If the Police Staff member indicates that they are medically unfit for this interview they should be referred to the Cleveland Medical Advisor (FMA) via the appropriate Human Resources representative. At the same time, they must be informed that the investigation will proceed. If the individual refuses to attend the Occupational Health appointment they will be informed that the investigation will continue and a judgement will be made on the information available at the time.

The investigation will continue by the collection of appropriate evidence and by interviewing witnesses. If the individual is unfit to be interviewed they will be given the opportunity to respond to questions in writing and to submit any additional written material they wish to be considered by the Investigator.

The interview can be delayed once only on medical grounds for a period not exceeding one month but usually less. For individuals covered by the Equality Act, where additional medical reports have been sought, the delay may be longer. If the individual states that they are still unable to be interviewed on medical grounds, the investigation will continue using any written material and / or by interviewing witnesses / colleagues as required.

### Disciplinary Hearing

If the individual is on sick leave and unable to attend the hearing a referral must be made to the FMA for advice as to any suitable adjustments and on their fitness to attend. If the individual refuses to attend the appointment, a judgement will be made on the information available at the time.

If the Police Staff member cannot attend the workplace they should be offered the opportunity for the hearing to take place at an alternative mutually agreeable

venue. The individual should be advised that they have the right to be accompanied by a trade union representative or a work colleague.

The hearing can be delayed once only on medical grounds for a period not exceeding one month but usually less. For individuals covered by the Equality Act, where additional medical reports have been sought, the delay may be longer.

If the individual states they are still unable to attend on medical grounds they will be informed that the hearing will take place in their absence. The individual must be given the opportunity to forward any written material they wish to be considered and in addition can nominate a Union representative or work colleague to present their statement of case if they wish. It is in no one's interest to prolong the process particularly if the process may be contributing to the ill health of the individual. The hearing must take place whilst evidence is fresh and witnesses can recall events.

#### **4.8 Support**

The individuals Senior Leadership Team have primary responsibility for ensuring the well-being of any member of their staff who is suspended or precautionary posted, to ensure that their supervisors make regular visits (or require individuals to attend a meeting at work) to safeguard the well-being of the individual concerned. This will involve keeping him / her abreast of progress (gained from the investigating officer), discussing any underlying health issues, as well as any fears or concerns they may have and to avoid feelings of isolation and / or alienation. Suspended Staff will be provided with a document from DSE with information detailing support that is available to them and will be allocated a named welfare support officer.

#### **4.9 Disclosure of Misconduct Sanction to Crown Prosecution Service (CPS) – record keeping**

Where an individual is involved in any criminal proceedings i.e. taking statements or police witness, then they need to inform the CPS, by way of completing form MG6B, that they have been informed that they will be subject of formal misconduct proceedings and / or had a misconduct sanction imposed. After a meeting / hearing the individual will be written to by DSE informing of this requirement to make such a disclosure and the period of time for which it will continue. DSE will also provide the form of words to be used for disclosure.

#### **4.10 Publication of Misconduct Matters.**

When an individual is given a formal discipline sanction, a summary may be published on the force intranet, although steps will be taken to prevent the identification of the individual as necessary. The purpose of publishing the details is not intended to be punitive. The reason for doing so is to prevent misinformation, to promote lessons learnt and to ensure staff are aware of unacceptable conduct and behaviour.

#### **4.11 Resignation prior to conclusion of misconduct process**

When a member of police staff resigns following an allegation of misconduct a proportionate investigation may still take place. This will proceed to a hearing if the organisation believes that this is necessary and proportionate. The outcome will be recorded and will be used to provide legitimate information to third parties such as prospective employers or to inform the Police barred and advisory list.

#### **4.12 Barred and Advisory List**

The Police Barred List and Advisory List Regulations 2017 came into effect on 15th December 2017.

Where serving staff are dismissed, or where officers / staff who have resigned or retired whilst under investigation and a subsequent hearing determines they would have been dismissed had they still been serving, the individual will be entered onto the barred list and prevented in law from gaining employment with most policing bodies in the future. There are a number of variations insofar as how long an individual will remain on the barred list dependant on whether they have been dismissed for conduct or performance. In summary, however, officers / staff dismissed for gross misconduct will remain on the list for life.

Where a staff member resigns or retires whilst under investigation for an allegation of gross misconduct, they will be entered onto the advisory list. There they will remain until such time as disciplinary proceedings have concluded. If a hearing then determines that the individual would have been dismissed from their role had they still been serving, then they will be transferred onto the barred list. If the determination is that the allegation is unproven or proven but a sanction short of dismissal would have been given, the individual will be removed from the advisory list. The advisory list is a private list that policing bodies are expected to consult when deciding whether to make an offer of employment, although it does not act as an absolute bar to policing.

Those police staff who undertake special constable duties need to be aware that should they be have a disciplinary sanction imposed on them in that role then that can affect their police staff employment and again lead to inclusion on the barred and advisory list.

A copy of the Police Barred List and Police Advisory List Regulations 2017 can be found [here](#).

Home Office Guidance to accompany the above regulations can be found [here](#)

## 5. Appendices

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Appendix	Description
1.	Examples of possible misconduct and gross misconduct

## 6. Compliance and monitoring

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The Head of HR is responsible for the accuracy and integrity of this document. This policy will be continuously monitored, and updated when appropriate, to ensure full compliance with legislation.

The Head of HR will review this process to ensure that all aspects are being adhered to in accordance with the framework of this policy.

## 7. Version control

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This policy will be reviewed and updated at least every three years by the owner, and more frequently if necessary.

The Corporate Services Department will ensure this document is available on the Force intranet, including any interim updates.

The following identifies all version changes.

Version	Date	Reason for update	Author
2.2	17.05.12	Policy review in line with Force policy schedule	████████
2.3	19.11.12	Policy amendments to reflect changes to delegation of authority as a result of the election of the Police and Crime Commissioner (PCC)	████████
2.4	01.04.14	Policy amendment to reflect Chief Constable and PCC for Cleveland separate Employing bodies	████████
2.5	04.11.14	Policy amendment to reflect changes in organisational structure to Cleveland Police Human Resources	████████
2.6	07.09.15	Policy amendment to incorporate substantive Chief Superintendents / Police Staff equivalent to undertake dismissal hearings	████████

2.7	01.12.15	Policy amendments to incorporate consultation feedback from key stakeholders	████████
2.8	16.12.15	Policy approved at Management Board	████████
2.9	01.02.17	Changes to reflect the move to e-forms and remove references to People Services	████████
3.0	19.3.19	Review date extension and ownership transferred to DSE	████████
3.1	Sept 2019	Policy review carried out and review date extended to Feb 20 so a revised policy can be produced based on the Regs due to be published then	████████
3.2		Not published	
3.3	July 2021	New policy to take into account the National PSC revised disciplinary process and change of ownership back to HR	████████ ████████
3.4	May 2022	Corrections to Section 7 version control within v3.3. No amendments to policy content	████████

## NOTES OF GUIDANCE POLICE STAFF CONDUCT

### 1. INTRODUCTION

- 1.1 The public has a right to expect the highest standards of honesty and integrity from police staff members, both at work and outside of work (off duty). In turn, Cleveland Police expects all members of staff to conduct themselves in a manner that promotes rather than injures a good public image.
- 1.2 This guidance sets out the general rules of conduct and provides examples of behaviour which might fall within the terms 'gross misconduct' and 'misconduct', Although all necessary action will be taken, including dismissal, where misconduct warrants it, the main purpose of the misconduct procedure is to help and encourage individuals to achieve and maintain the required standard of behaviour.
- 1.3 Staff must be aware that because they are employed by Cleveland Police they may be subject to restrictions and requirements not normally found elsewhere, some of which are required by law.
- 1.4 If staff are unsure whether or not a particular requirement applies to them generally or to something they intend to do, they should ask their supervisor or manager. A breach of any of the requirements shown below by a member of staff covered by them will be dealt with as a misconduct matter.

### 2. TYPES OF MISCONDUCT

- 2.1 The following lists indicate, within broad parameters, the types of conduct which could instigate formal misconduct action. They are not meant to be exhaustive, and are a guide only. Each case will be determined on its circumstances:-

#### A. Gross Misconduct

Some types of misbehaviour are so serious that Cleveland Police regards them as a breach of trust which destroys the contractual relationship between the force and the member of staff. This type of misbehaviour is known as 'gross misconduct' and the sanction if proven will normally be summary dismissal (also referred to as dismissal without notice).

These are examples of the types of misbehaviour which are normally regarded as gross misconduct:

- Serious or wilful refusal to undertake task relevant to the post or to obey reasonable instructions;
- Possessing or supplying illegal drugs or fail to respond to treatment for substance / alcohol misuse;
- Being under the influence of alcohol or illegal drugs whilst at work;
- Sexual misconduct at work;
- Serious criminal activity;
- Any wilful act of discrimination, intimidation or harassment against another member of staff;
- Fighting, assault (including threats of violence) on another member of staff;
- Serious act(s) of insubordination;

- Gross neglect of duty or failure to provide professional expertise in the area of competence for which the member of staff is employed;
- Working in a second job whilst off sick and in receipt of contractual sick pay;
- Theft, fraud or deliberate falsification of records;
- Working for financial gain (business interest) without proper authority;
- Serious, excessive, persistent, unreasonable and / or disproportionate use / misuse of force information systems;
- Serious misuse of police held information or disclosing police held information to any unauthorised person;
- Deliberate damage to force property / equipment;
- Serious breaches of health and safety rules;
- Serious breach of documented policies and procedures;
- Criminal activities, corrupt or improper practice or breach of trust.

## **B. Misconduct other than Gross Misconduct**

First breach of any rule (or any other misbehaviour) which is not regarded as gross misconduct will normally be dealt with by the issue of a warning. There are several levels of warnings which are explained at paragraph 3.5.1 to 3.5.3 of the practice direction. The distinction between what will be regarded as gross misconduct and misconduct cannot be rigidly defined and so the examples given are only a guide and are by no means exhaustive.

- Persistent lateness;
- Unauthorised absence from work;
- Failure to adhere to working hours;
- Failing to obey a reasonable instruction;
- Abuse of uncertified or certified sickness provisions;
- Wilful failure to produce work of the required standard or maintain a satisfactory work output;
- Acting in a manner which may undermine the confidence of the public;
- Acting in a manner which is contrary to Cleveland Police legitimate interest;
- Acting in an improper or disorderly manner for any illegal act on force premises (owned or leased) or vehicles or in association with any official duty;
- Any act that could result in a civil action against Cleveland Police for negligence or for breach of the duty of care;
- Failure to comply with a health and safety rule or regulation;
- Misuse of force information systems;
- Misuse of force facilities;
- Loss or damage to force equipment as a result of negligence.