



Disciplinary Policy Police Staff

Policy Number	193
Policy Owner	Head of Standards and Ethics
Version	3.1
Last Review Date	February 2017
Next Review Date	February 2020
Date of approval	16/12/15
Protective Marking	Official

This document has been assessed for:	
Compliance with Legislation	<input checked="" type="checkbox"/>
Equality Impact Assessment	<input checked="" type="checkbox"/>
Freedom of Information issues	<input checked="" type="checkbox"/>
Human Rights compliance	<input checked="" type="checkbox"/>
Health and Safety	<input checked="" type="checkbox"/>
Risk Management	<input checked="" type="checkbox"/>

Disciplinary Policy Police Staff

1. Policy statement

The disciplinary policy sets out the action to be taken when the required standards of conduct have not been attained, or the Code of Conduct for Police Staff has been breached.

This policy applies to all Police Staff employees (including those employed by the Police and Crime Commissioner (PCC) for Cleveland) who have satisfied their probationary period

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.

2. Purpose

This policy is designed to help and encourage all Police Staff employees to achieve and maintain acceptable standards of conduct. The Code of Conduct, which can be found on the intranet along with this policy, applies to all Police Staff employees.

An employee who is not achieving the required standard of work because of ill health or capability will be dealt with under the Capability or Attendance Management procedures. This policy does not apply to dismissals due to redundancy, unsuccessful completion of a probationary period, or the non-renewal of fixed term contracts on their expiry.

3. Underpinning procedures

All forms and supporting documentation relating to this policy is available on the force intranet, should additional information or support be needed in completing these then the Shared Service Centre will be able to assist.

3.1 Code of Conduct

The Police Staff Code of Conduct, states: -

"The public is entitled to expect the highest standards of conduct from all employees who work for Cleveland Police. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist Cleveland Police and their employees in their day to day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment. "

The Code of Conduct also incorporates the Police Staff Council (PSC) Standards of Professional Behaviour which are contractually binding on all Cleveland Police Staff.

3.2 Complaints from the Public

When a complaint against a member of Police Staff is received from a member of the public or an external organisation, it will be recorded and a decision made by Professional Standards for staff employed by the Chief Constable (in consultation with the Head of HR or a nominated Deputy) as to how the matter will be progressed. For staff employed by the Police and Crime Commissioner all complaints will be dealt with by the Chief of Staff. In most cases, matters will be dealt with via local resolution and are unlikely to trigger the Disciplinary Policy for Police Staff. However, in the most serious cases, matters may be referred to the Independent Police Complaints Commission (IPCC), which could also trigger the Disciplinary Policy for Police Staff.

The Police Staff member who is the subject of the complaint will be notified of the nature of the allegation and who has been appointed to investigate it.

3.3 Resolving Disciplinary Issues Informally

The disciplinary procedure will normally apply to situations in which there has been a potential breach of conduct which may warrant formal disciplinary action including where dismissal is a possible outcome. If a potential disciplinary situation arises the relevant line manager must seek advice from a representative of Human Resources.

Where a member of Police Staff has committed a minor infringement of conduct, line managers may utilise management action as appropriate, which may include guidance, advice, positive instruction or prohibition (which is an instruction to stop undertaking an action which may be seen as an act of misconduct).

The purpose of the informal procedure is to ensure that problems are discussed at an early stage with the objective of encouraging and helping employees to improve and to warn that if advice, guidance, instruction or prohibition is not observed, formal disciplinary action may follow.

Timely and positive discussions with a member of Police Staff to highlight problems may avoid formal disciplinary action at a later time. Line manager's may, where appropriate from time to time informally advise a member of Police Staff of matters of concern, or issue advice and guidance designed to help them meet required standards.

Such advice and guidance is not part of the formal disciplinary procedures and the member of Police Staff should be informed that this is the case.

Whenever a line manager gives advice, guidance, instruction or prohibition to a member of Police Staff, it should be carried out in confidence and the individual should be informed that a note of this will be placed on their personal file for a period of 12 months. In accordance with Freedom of Information requests individuals will have the opportunity to view what has been written and included on their personal file.

3.4 Designation of Disciplinary Powers

The Chief Constable has overall responsibility for the management and discipline of Police Staff within his/her employment but may delegate full responsibility for the

management of staff discipline to an appropriate Authority, with advice from the Human Resources.

Disciplinary investigations shall be carried out by an individual of an appropriate level of seniority in line with the organisation's Scheme of Delegation.

For a formal disciplinary Hearing deemed potential gross-misconduct only the Chief Constable (CC), Deputy Chief Constable (DCC), Assistant Chief Constable (ACC), Assistant Chief Officer (ACO), and substantive Chief Superintendents and/or police staff equivalent will carry out the hearing.

In the event of an individual being on a "live" final written warning and a further disciplinary hearing is required, which could result in a dismissal from the organisation, the hearing will be chaired by a member of the Executive team and/or substantive Chief Superintendent or police staff equivalent.

3.4.1 The Office of the Police and Crime Commissioner

The Police and Crime Commissioner for Cleveland has overall responsibility for the management and discipline of Police Staff within his/her employment, but may delegate full responsibility for the management of staff discipline to the Chief of Staff or the Deputy Chief of Staff, with advice from Human Resources. A disciplinary meeting or hearing will be carried out by a Manager of an appropriate level of seniority.

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 would be heard by either an equivalent or higher member of the Office.

The disciplinary process within the Office of the PCC shall be processed in accordance with ACAS best practice for small organisations.

3.5 Procedural Guidance

The formal procedure may be implemented at any stage, following consultation with the Head of Human Resources and/or a nominated Deputy, if the alleged misconduct/gross-misconduct warrants this.

A flowchart of the disciplinary procedure is available from the force intranet and should be used in conjunction with this document.

At all stages within the formal disciplinary procedure the Police Staff member shall:

- Have the right to be accompanied by a trade union representative, or a work colleague.
- Have no disciplinary action taken against them until the case has been fully investigated.
- Be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case i.e. respond to the allegations before any decision is made as to what action will be appropriate.

- Be provided, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing.
- Not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be summary dismissal i.e. dismissal without notice and without payment in lieu of notice. (See Section 3.11 for examples of gross misconduct).
- Have the right to appeal against any disciplinary action.

3.6 Investigation

The investigation procedure will normally only be used when a member of Police Staff is suspected of committing an act of serious misconduct or an act which is a serious breach of any of the policies, procedures, or rules recognised by Cleveland Police. It will not be used in cases of minor misconduct; this should be dealt with directly and promptly by the individual's line manager as outlined in section 3.3.

Consideration will need to be given in cases of suspected gross misconduct that an independent Investigator (from outside of the Command/Service Unit or in some cases from outside of the organisation) may be appointed to carry out the investigation. In all such cases the Investigator should have had no previous involvement in the matter to ensure that the process is impartial. An appropriate Human Resources representative shall be responsible for allocating an Investigator.

Either the Head of Human Resources or a nominated Deputy, in consultation with the Head of Command/Service Unit Manager (and when applicable the Head of PSD, for staff employed by the Chief Constable), will decide when to appoint an independent Investigator and whether the Investigator should be from the Professional Standards Department (PSD). An appropriate member of Human Resources will also be appointed to provide advice and ensure the case is managed in line with the disciplinary procedure and ACAS code of practice.

A nominated individual will inform the Police Staff member of the allegation of misconduct against him/her. If an Investigator has been appointed the name of the person who will be conducting the investigation should be provided to the Police Staff member. The notification of investigation will be confirmed in writing to the Police Staff member's home address, enclosing a copy of the Disciplinary Policy. A copy of the letter will also be sent to People Services.

The Investigator must check with People Services to ascertain whether the individual has a current 'live' disciplinary sanction on their file at the time the alleged misconduct occurred. If this is the case Human Resources will notify the individual, in writing, that the sanction will remain 'live' until the conclusion of the current investigation and any subsequent hearing, even if the sanction was due to expire before that time.

The Investigator will interview all relevant people and examine all relevant information including documents and system records as necessary. Interview notes should be confirmed with the interviewee(s) as these can be used as witness statements if required.

Disciplinary action should not be taken without a proportionate investigation of the case. It will be necessary to formally interview the Police Staff member concerned to establish or verify the facts regarding the matter under investigation. Prior to the investigatory interview the Police Staff member will be advised that they can be accompanied by a trade union representative or a work colleague and he/she must be afforded reasonable time to make arrangements to be accompanied. Subject to the exigencies of the service, accompanying employees will be released to attend during their normal working hours. There may be some exceptions when an investigation interview cannot be conducted; these can be found in Section 3.12.

It should be made clear to the Police Staff member that the interview is investigatory and is not a disciplinary hearing. The Police Staff member must, however, be advised at the investigatory interview that disciplinary action may be one of the possible recommendations made as an outcome of the investigation.

To aid with effective note taking at both an investigatory interview and also a subsequent meeting/hearing, the Police Staff member who is the subject of the disciplinary process may be recorded, unless the member of police staff objects, to enable the Investigator to produce a full transcript of the investigatory interview. If the interview is not recorded the Investigator will produce notes of the interview which will not be verbatim. Copies of either the transcript or the notes taken will be forwarded to the Police Staff member who is the subject of the investigation, who will be asked to indicate that they are/are not an accurate record of the meeting. This should be brought to the attention of the Human Resources representative within five working days of receipt.

As soon as the investigation is complete the Investigator will produce a full report of the findings, including recommendations, and present the report to the appropriate designated Manager, following advice from the Human Services representative. The Investigator will recommend one or more of the following:

- a. no further action
- b. support, training, guidance or information to the member of Staff
- c. that a disciplinary hearing be held to consider the matter further
- d. a review of procedure or process

The nominated individual will then inform the employee of what action, if any, will be pursued and confirm the decision in writing.

If a disciplinary hearing is to proceed those parts of the report relating to the hearing should then be forwarded to Human Resources. The Human Resources representative will liaise with the manager responsible for taking disciplinary action to establish when a disciplinary hearing is to be convened, and to make the necessary arrangements. If a disciplinary hearing is recommended this does not necessarily mean that disciplinary action will follow.

The Investigator is responsible for ensuring that all necessary steps are taken promptly and without unreasonable delays. The Head of Human Resources and/or a nominated Deputy will be responsible for monitoring progress of all disciplinary investigations.

Cleveland Police would normally expect that a disciplinary investigation should be completed within one month. In exceptional or complex situations it may take longer and the Investigator (in consultation with their Human Resources contact) should inform the Head of Human Resources and/or a nominated Deputy, as to why the investigation will take longer to complete.

3.7 Suspension

During the initial investigation of the case, or immediately following the occurrence of a particular incident, it may be appropriate for a Police Staff member to be suspended from duty. When the possibility of suspension arises consideration should be first given as to whether the Police Staff member can either continue to carry out their role at a different location or be temporarily redeployed into another role. If this is not appropriate, suspension may be applied in particular where:

- a. the possibility of dismissal may arise, particularly where an allegation of gross misconduct is being investigated;
- b. criminal investigations or proceedings are taking place;
- c. it is not in the interests of the employee or the organisation for the individual to be present at the work place during the investigation.

Where it is considered necessary to suspend, the Police Staff member should be informed of the reason(s) for the suspension. The nominated Authority (individual chosen to carry out the suspension on behalf of the organisation) should suspend the Police Staff member after consultation with the Head of Human Resources and/or a nominated Deputy.

The nominated Authority will confirm the decision to suspend in writing to the employee stating the reason(s) as soon as practicable. A copy of the suspension letter will be forwarded to Human Resources, who will then notify the Head of Human Resources and/or a nominated Deputy.

Suspension should be as short as possible and during the period of suspension the employee shall receive full pay and allowances as defined in their Conditions of Service.

During the period of suspension the Police Staff member must be available to attend meetings as required but must not access any Police Station or premises controlled by Cleveland Police. In these circumstances, they will be asked to return their identification card and any other items (where considered appropriate). Management recognises, however, that it may be appropriate to allow access to Police premises to enable the Police Staff member and their union representative or work colleague to prepare their case. In such circumstances, the proposed time, date, and venue must be notified in advance to the appropriate Human Resources representative.

When a Police Staff member is suspended, the organisation shall ensure that welfare support is offered. Formal support through the Occupational Health Service will be signposted, but in addition, a Contact Officer from within the Command/Service Unit shall be signposted to the individual. There should be regular contact from the Unit to check on welfare and to update the suspended Police Staff member on Command/Service Unit activities to ensure that the individual does not feel isolated. If

the employee has any concerns or enquiries they should contact their nominated Contact Officer in the first instance.

Cleveland Police considers suspension a neutral act: it is not an assumption of guilt or a disciplinary penalty in itself. Suspension is precautionary, not disciplinary, in nature. Suspension will always be used as a last resort.

Any suspension will be reviewed on a regular basis by the organisation to ensure that it does not become unnecessarily protracted.

3.7.1 Staff returning from suspension

Where the organisation has decided that an individual is able to return to work, after a period of suspension, the following action(s) must take place:

- All IT systems access & building control access have been re-enabled for the individual before their return to work;
- ID card plus any other materials removed from the individual at the point of suspension returned to the individual;
- A return to work meeting to take place with an appropriate manager (ideally before the individual commences work and in consultation with a representative from Human Resources) to ensure that the individual is returned back into the workforce, with any appropriate support mechanisms in place.

3.8 Disciplinary Hearing

It is the Head of Human Resources and/or a nominated Deputy's responsibility to confirm that a hearing needs to be convened. In all cases where formal disciplinary action may result, a disciplinary hearing must be convened in accordance with the following procedure.

When a disciplinary hearing is to be convened it should be arranged whenever possible at a mutually convenient time and the Police Staff member must be given at least **ten** working days notice.

A Nominated individual must write to the employee, at their home address, inviting them to the hearing and informing them in advance of:

- a. The procedure to be followed;
- b. Their statutory right to be accompanied by an appropriate trade union representative or a work colleague of their choice;
- c. Details of alleged misconduct;
- d. The requirement to attend to discuss the matter;
- e. The date, time and location of the hearing;
- f. The supporting evidence, including the outcome of the investigation, which is to be submitted at the hearing;

- g. The right to call witnesses and submit relevant information within the agreed timescale;
- h. The possible outcome of the hearing e.g. action up to and including dismissal

Any documentary evidence, which either party intends to submit, must be made available to the other party at least **five** working days prior to the hearing, or a later date only by agreement. If it is not made available five days in advance then the other party will have the option of requesting a postponement or the Authority hearing the case may choose not to accept it.

Cleveland Police expects the Police Staff member to attend the hearing. The Chair (Authority) should be accompanied and advised by a Human Resources expert in all cases. The hearing should proceed in accordance with the procedure for Disciplinary Hearings contained within section 3.17 of this document.

The Chair (Authority) may adjourn the hearing to enable him/her to consider the facts and reach a decision or to call for additional information. When the hearing is re-convened the Police Staff member will be informed of the decision and if appropriate will be notified of the right to appeal against the decision. This will be followed up in writing.

Wherever possible no disciplinary hearing or appeal should last more than one day. In considering 'natural justice' the burden of proof is based on the 'balance of probabilities'. Witnesses should be kept to a minimum, consistent with the need to allow a reasonable exploration of the facts of the case.

3.9 Disciplinary Outcomes

Where, following a disciplinary hearing, Cleveland Police establishes that the Police Staff member has committed a disciplinary offence the following formal actions may be taken:

- Stage 1 – First Written Warning
- Stage 2 – Final Written Warning
- Stage 3 – Dismissal

Management may impose a disciplinary outcome at any Stage depending upon their level of designated disciplinary powers as outlined in section 3.4. The outcome will depend on the nature or gravity of the offence.

Where a disciplinary outcome results in an individual(s) suspension being lifted, the points outlined in section 3.7.1 must be adhered to.

Stage 1 – First Written Warning

A first written warning (which is different from advice and guidance issued at the Informal Stage of the disciplinary procedure in section 3.3) may be given by the appropriate Authority following a disciplinary hearing. Such a warning may be given if the breach of discipline or unsatisfactory conduct is so serious that advice or guidance would not be appropriate in the circumstances or where there has been a further breach of discipline or unsatisfactory conduct following informal advice or guidance.

The first written warning will be confirmed in writing and will set out the nature of the misconduct, including any improvement(s) if required and stating the likely consequences of further misconduct. This warning will be placed on the individual's personal file and will remain valid for a period of 12 months from the date of issue subject to satisfactory conduct during that time. The employee will be informed in the warning letter of their right of appeal.

Stage 2 – Final Written Warning

A final written warning may be given by the appropriate Authority following a disciplinary hearing. Such a warning may be given if the breach of discipline or unsatisfactory conduct is so serious that a first written warning only would not be appropriate in the circumstances or where there has been a further breach of discipline or unsatisfactory conduct following a first written warning which is still valid.

The final written warning will be confirmed in writing and will set out the nature of the misconduct, including any improvement(s) if required and stating the likely consequences of further misconduct. This warning will be placed on the individual's personal file and will remain valid for a period of 18 months from the date of issue subject to satisfactory conduct during that period. The Police Staff member will be informed in the warning letter of their right of appeal.

Stage 3 – Dismissal

Dismissal may be invoked by the appropriate Authority (in accordance with the list of roles outlined in section 3.4 of this policy) following a disciplinary hearing. Dismissal is deemed appropriate in any of the following instances:

- a. Where there has been a previous warning, or warnings issued which were valid and there has been further misconduct or the Police Staff member's conduct or behaviour remains unsatisfactory;
- b. Where there has been a finding of gross misconduct;
- c. If the Police staff member could not continue to work in the position held without contravention of an enactment then dismissal may be invoked without previous warnings.

In the event that a Police Staff member commits an act of gross misconduct, Cleveland Police will be entitled to terminate their contract of employment summarily without notice or pay in lieu of notice.

On occasions where, as an alternative to dismissal, a Police Staff member may be demoted and/or redeployed, pay protection will **not** be given. Should this alternative sanction be invoked it should be linked to a final written warning.

In the event that an individual is dismissed on the grounds of further misconduct but the sanction is not a summary dismissal, the organisation reserves the right to consider waiving the individual's contractual notice period and enact a PILON (payment in lieu of notice).

The dismissal will be confirmed in writing and will set out the nature of the misconduct or gross misconduct. It will confirm the date on which employment will terminate. The Police Staff member will be informed of their right of appeal.

Disciplinary sanctions will be expunged after the above time periods have been exhausted provided no further misconduct has taken place during the life of the warning.

3.10 Appeals

There shall be a right of appeal against all warnings and dismissals. If a Police Staff member wishes to appeal a warning, they must do so to the level of Authority which will be stated in the warning letter. Appeals against dismissal will be to the appropriate level of the organisation.

Appeals must be submitted in writing within fourteen calendar days of receipt of the written notification of the disciplinary action taken and must clearly state the grounds on which the appeal is based, for example:

- The perceived unfairness of the judgement;
- The severity of the penalty;
- New evidence coming to light;
- Procedural irregularities.

The Authority hearing the appeal against a first or final written warning should consult with a representative from Human Resources, who will make arrangements for the appeal to be heard within one month of receipt of the notice of appeal. The Police Staff member will be given at least ten working days notice of the date of appeal. Exchange of papers will take place no later than five days on both sides.

Dismissal appeals will be arranged within one month of receipt of notice by the relevant Authority hearing the appeal.

The Authority hearing an appeal will have the approval to either confirm the original decision appealed against, or overturn that decision and replace it with an appropriate alternative. The sanction at an appeal cannot be increased. The hearing's decision will be final. The appeal hearing will not re-hear the whole case. The hearing will listen to the appellant's reason(s) for appeal based on the appeal written submission and the Management Case information. No witnesses will be called although attention may be drawn to written witness statements, which have already been submitted at the disciplinary hearing.

If fresh evidence which could not have been reasonably known at the time of the discipline hearing is introduced prior to, or during the appeal, the matter should be referred back to the Authority who made the original decision for him/her to reconsider this in the light of the fresh evidence. If, subsequently, the Police Staff member still wishes to appeal against any further decision based on the new and additional evidence, or the original decision, where this has not changed, the appeal hearing will be reconvened.

3.11 Gross Misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the Police Staff member and Cleveland Police. In the event that a Police Staff member commits an act of gross misconduct, Cleveland Police will be entitled to terminate the employee's contract of employment summarily without notice or pay in lieu of notice.

Matters that may amount to gross misconduct include, but are not limited to the following:

1. Unauthorised removal (theft) of or malicious damage to, the property of Cleveland Police, its officers or police staff.
2. Fighting and offences involving violence towards others whilst at work (except that an individual is entitled to use such force as is necessary and reasonable to defend him/herself where he/she did not initiate the action).
3. Acts of discrimination or harassment on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or any other unjustifiable grounds.
4. Acts of victimisation or bullying on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or any other unjustifiable grounds.
5. Committing any wilful act or omission which has taken place whilst on duty or off duty, which is likely to weaken the confidence of the public in or bring discredit on Cleveland Police.
6. Drunkenness and/or being under the influence of drugs or distributing drugs on Cleveland Police property whilst on duty.
7. Serious breach of Safety Regulations endangering other people including deliberate damage to or misappropriation of safety equipment. Non-wearing or use of personal protective safety equipment.
8. Offences contrary to the interest of the State (e.g. treason or terrorism).
9. Unauthorised access and/or disclosure of confidential information held by Cleveland Police (IT systems and paper records) which are deemed as breaches of data protection and are not for a policing purpose.
10. Misuse of or inappropriate use/access of technology devices such as computers and mobile telephones (e.g. e-mail, internet, texts) which is deemed not for a policing purpose.
11. Disclosure of information or statements made by Police Staff on Social Media (e.g. face-book), or any other means, which is likely to weaken the confidence of the public or bring discredit on Cleveland Police.
12. Dishonesty including thefts, falsification of work records, time sheets, information or claims, accepting of moneys or other considered as a bribe (See the Code of Conduct for Police Staff).
13. Sexual misconduct.
14. Offences against Public Order where the circumstances were akin to riot or affray, or in which there was open conflict with Police Officers.
15. Attempting to pervert the course of justice.
16. Sleeping on duty (except when expressly permitted).
17. A consistent refusal to comply with a legitimate management instruction.
18. Criminal offences committed outside employment with Cleveland Police, which may render the individual unsuitable for continued employment.
19. Behaviour which is so severe and not in line with either the Cleveland Police Code of Conduct for Police Staff, and/or the Code of Ethics which would

breach the implied contractual relationship of trust and confidence between the employer and the employee.

3.12 Sickness Absence

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

During the Investigatory Stage

- a. 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.
- b. 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 in accordance with paragraphs c to f below. 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.
- c. The investigation will continue by the collection of appropriate evidence and by interviewing witnesses.
- d. 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.
- e. 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.
- f. 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

- a. 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. At the same time, they must be informed of the detail shown at paragraphs b to d below. If the individual refuses to attend the appointment, a judgement will be made on the information available at the time.
- b. If the Police Staff member can not 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.

- c. 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.
- d. 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.

3.13 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. 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.

3.14 Record Keeping

All records relating to both informal and formal disciplinary procedures must be sent to Human Resources to be either destroyed or retained depending on the outcome of an investigation or hearing. Under no circumstances will copy files be kept in departments.

When there is a minor infringement of conduct a Manager may decide the issue can be resolved informally. In such cases guidance, advice, positive instruction or prohibition can be issued as appropriate. This information is confidential and should be recorded in the employee's personal file for a period of 12 months. After this time it will be expunged from their records.

When there is a more serious breach of conduct and a formal warning is issued the following time periods will normally apply:

- First Written Warning – valid for 12 months and removed from personal file;
- Final Written Warning – valid for 18 months and removed from personal file;

Following a disciplinary hearing the Police staff member will be issued with a letter which will set out the nature of the misconduct, including any improvement(s) if

required and stating the likely consequences of further misconduct. The warning will be placed on the individual's personal file and will remain valid for the relevant period.

Records will not be taken into account for disciplinary purposes after the above time periods have been exhausted providing that no further misconduct has taken place during the life of the warning.

If further misconduct occurs during the tenure of a warning, the Police staff member must be written to and reminded that the warning will not expire at the end of the time period unless the investigation and, if appropriate, the hearing to consider the most recent misconduct has concluded.

If the disciplinary proceedings result in dismissal, the records will be held for a period of two years after termination of the individual's employment.

3.15 Other considerations

When carrying out any disciplinary meeting(s), managers should ensure that no member of Police Staff is placed at a disadvantage on account of gender, race, religion or belief, sexual orientation, age, gender reassignment, marital or civil partnership status, pregnancy or maternity or disability. This means that any disciplinary meeting(s) may need to be adjusted to cater to the specific needs of an individual e.g. support from a work colleague during the disciplinary process for an individual as a result of a disability related illness. The nature of any reasonable adjustment(s) made for an individual should be proportionate to the required outcome(s).

3.16 Procedure for conducting a disciplinary investigation

Introduction

Cleveland Police operates an investigation procedure alongside its disciplinary procedure. The purpose of the separate investigation procedure is to allow management impartially to investigate any alleged or suspected misconduct on the part of an employee. The objective will be to establish all the facts of a particular case before a decision is taken as to whether or not there are proper grounds to invoke the disciplinary procedure.

When will the investigation procedure be invoked?

The investigation procedure will normally be used only when a Police Staff member is suspected of committing an act of serious misconduct or a serious breach of any of Cleveland Police's policies, procedures, or rules. It will not be used in cases of minor misconduct, which should instead be dealt with directly and promptly by the individual's line manager.

The investigation procedure should not be used in cases of perceived unsatisfactory job performance as the Capability procedure should be utilised. Likewise if there is an issue relating to poor attendance the Attendance Management procedure should be followed.

The nominated individual will inform the Police Staff member of the complaint against him/her and confirm the name of the person appointed to conduct the disciplinary investigation. This will then be confirmed in writing.

Who will carry out the investigation?

It is Cleveland Police policy that, where the disciplinary procedure is invoked following an investigation, the Authority who carries out the disciplinary procedure will not be the same person as the Authority who conducted the investigation. Consideration will be given as to whether or not to appoint an Independent Investigator (from outside of the Command/Service Unit or in some cases from outside of the organisation) to carry out the investigation. This will depend on whether the suspected act of misconduct could be considered as 'gross misconduct'.

In all cases the Investigator should have no previous involvement in the matter to ensure they are able to conduct an impartial investigation. A flowchart in Appendix 1 will help the organisation decide when to appoint an Independent Investigator and whether the Investigator should be from Professional Standards Department (PSD). In exceptional circumstances it may be appropriate for an external Investigator (outside Cleveland Police) to be appointed.

Timescales

The Investigator is responsible for ensuring that all the necessary steps are taken promptly and without unreasonable delays. Cleveland Police would normally expect that a disciplinary investigation should be completed within one month. In exceptional or complex cases it may take longer and the Investigator should inform the Head of Human Resources or a nominated Deputy, as to why the investigation may take longer to complete.

The investigation procedure

In investigating a Police Staff member's alleged misconduct, the Investigator will:

- Consult with the Human Resources department;
- Examine any relevant written records;
- Analyse any relevant computerised systems data;
- Consult any other managers with whom the Police Staff member has come into contact in order to establish relevant facts;
- Talk privately and in confidence to any Police Staff member who may have evidence relating to the Police Staff member's alleged misconduct or who may have been witness to any relevant incident, and produce an accurate summary of any evidence;
- Seek the consent of any such Police Staff member to use the summary of the evidence so collected as a signed written statement;
- Organise an investigatory interview with the Police Staff member offering them the option to be accompanied by a Union representative or a work colleague;
- Conduct the investigatory interview with the employee, making sure that the employee knows that the purpose of the interview is to establish the facts and that the interview forms part of the organisations disciplinary hearing procedure;

- Take an objective and balanced view of any information that comes to light, and avoid allowing personal views, opinions, likes and dislikes, to influence the assessment of the Police Staff member's conduct.

Investigatory interview with the Police Staff member

The Police Staff member during an investigation will be invited to attend an investigatory interview with the Investigator. The Police Staff member will be advised that they can be accompanied by a trade union representative or a work colleague prior to the investigatory interview.

To aid with effective note taking at both an investigatory interview and also subsequent hearing if applicable, the Police Staff member who is the subject of the disciplinary process may be recorded, unless the member of Police Staff objects to this to enable the Investigator to produce a full transcript of the investigatory interview. If the interview is not recorded the Investigator will produce notes of the interview which will not be verbatim. Copies of either the transcript or the notes will be forwarded to the Police Staff member who is the subject of the investigation who will be asked to indicate that they are/are not an accurate record of the meeting. This should be brought to the attention of the People Services representative.

The right to be accompanied

The Disciplinary policy states that all Police Staff members will be advised that they can be accompanied by either a trade union representative or a work colleague at an investigatory interview. The Police Staff member must be afforded reasonable time to make arrangements to be accompanied and subject to the exigencies of the service, accompanying Police staff members will be released to attend during normal working hours.

Following the Investigation

At the conclusion of the investigation, the Investigator with advice from a Human Resources representative will decide whether or not it is appropriate to advise that the disciplinary procedure be instigated against the Police Staff member. The Investigator will recommend one or more of the following:

- a. no further action
- b. that a disciplinary hearing be held to consider the matter further
- c. support, training, guidance or information be given to the Police Staff member
- d. review of procedure or process

The Police staff member will be informed as soon as possible after the conclusion of the investigation (and no later than 5 working days after the conclusion of the investigation). The Police Staff member will then be informed in writing as to the outcome.

Where it is decided to instigate disciplinary action the Police Staff member will be given full details in writing of the case against him/her and invited to attend a disciplinary hearing.

Witness statements

Where disciplinary proceedings are instigated following an investigation and where evidence about a Police Staff member's alleged misconduct has been obtained from third parties in the form of written statements, either the statements themselves or a summary of their content will be given to the Police Staff member. However, the organisation reserves the right to conceal the identity of any or all parties if there is a legitimate reason to do so, such as where there may be a risk to the safety of others if the identity of the witnesses is disclosed. In those circumstances the organisation will consider providing a summary of the information to the Police Staff member.

3.17 Procedure for conducting a disciplinary hearing

Introduction

Cleveland Police operates a formal disciplinary hearing procedure. The purpose of this procedural guidance is to ensure that both Police staff members and management understand and follow the formal procedures for a disciplinary hearing. This will help to ensure a fair and consistent process is being adhered to and is in line with the Disciplinary Policy and ACAS guidance.

The purpose of the hearing will be to establish the facts and determine, on conclusion of the hearing, whether Cleveland Police has proper grounds to take disciplinary action against a Police Staff member and, if so, the level of such disciplinary action.

The disciplinary hearing procedure

- The person leading the hearing (the Chair) will introduce the hearing, and explain its purpose and how it will be conducted. The purpose of the hearing will be to establish facts and determine on conclusion of the hearing, whether there are proper grounds to take disciplinary action against the Police Staff member and, if so, the level of disciplinary action.
- Throughout the hearing the Chair will be advised on procedure by a Human Resources Manager.
- The parties present at the hearing will introduce themselves and confirm their respective roles in the hearing. The Police staff member will be entitled to be accompanied, if he/she wishes, by a fellow work colleague or a trade union official of his/her choice.
- The Chair will state that the hearing is being conducted as part of the Cleveland Police disciplinary procedure and confirm that a record of the hearing will be made.
- The Chair will confirm with all parties whether any witnesses will be called to give evidence at the hearing, and if so, who they are. The Chair will also confirm if both parties have received all relevant documents.
- The Investigator will set out the Management case, i.e. the Police staff member's alleged or suspected misconduct or other circumstances leading to the possibility of disciplinary action being taken against him/her. All the relevant facts relating to the conduct issues, including specific examples where possible, will be provided to the hearing.

- Where evidence has been obtained from third parties in the form of written statements, either the statements themselves or a summary of their content will be given to the Police Staff member. The organisation reserves the right however, to conceal the identity of the parties who provided this evidence if it thinks it is necessary or appropriate to do so.
- Any witnesses called in support of the Management case will then be individually requested to enter the hearing and they will be asked by the Chair to state their evidence in front of both parties.
- All parties will have an opportunity to question the witness. Once this is completed the witness will be required to leave the hearing.
- The Police staff member or his/her representative will be allowed a full opportunity to question the Investigator on the Management case and to raise any relevant points about any information provided.
- The Chair will also be allowed an opportunity to question the Investigator on the Management case and to raise any points about any information provided.
- The Police staff member will be allowed a full and fair opportunity to state his/her side of events, explain his/her conduct and state any mitigating factors. He/she may do this personally, or the Police Staff member's representative (if he/she has elected to be represented) may do this on his/her behalf.
- Any witnesses that the Police Staff member has arranged to call will be called into the hearing and asked to state their evidence in front of the parties.
- All parties will have an opportunity to question the witness. Once this is completed the witness will be required to leave the hearing.
- The Chair will then have the opportunity to question the Police Staff member on his/her evidence and raise points about any information provided by witnesses. Although the Police Staff member may confer with his/her representative at any time during the hearing on request, the Chair has the right to require the Police Staff member to answer any questions put to him/her personally.
- The Investigator will sum up the key points of the evidence.
- The Employee will sum up their key points of the evidence.
- The Chair will then adjourn the hearing before making a decision.
- When making a decision about whether or not to impose a disciplinary penalty and, if so the level of that penalty the Chair will take account of any mitigating factors put forward by or on behalf of the Police Staff member and also any disciplinary action that was current at the time of the alleged or suspected misconduct.
- The Chair will reconvene the hearing and will inform the Police Staff member whether any disciplinary penalty will be imposed and if so, the level of that

penalty. The Police Staff member will be notified that the decision will be confirmed in writing.

- The Chair will inform the Police Staff member that he/she will have the right to appeal against any disciplinary penalty imposed on him/her.
- The Chair will close the meeting.

At any point during the hearing the Chair may adjourn the proceedings to enable the Police Staff member to confer with their representative or if it appears necessary or desirable to do so, including the purpose of gathering further information.

3.18 Procedure for conducting an appeal

Introduction

As part of the Cleveland disciplinary procedure Police Staff members issued with formal disciplinary action have the right to appeal the warning or dismissal outcome. The purpose of this procedure guidance is to ensure that Police Staff members and management understand and follow the formal proceedings for an appeal. This will help to ensure a fair and consistent process is being adhered to and is in line with both organisational policy and ACAS disciplinary procedures and guidance.

The appeal procedure

- If the Police Staff member wishes to appeal a warning or a dismissal, they must do so to the person stated in the warning or dismissal letter. Appeals against dismissal will be to the appropriate individual outlined in section 3.4.
- Appeals should be made in writing within fourteen calendar days of receipt of the written notification of the disciplinary action taken and must clearly state the grounds on which the appeal is based, for example:
 - The perceived unfairness of the judgement;
 - The severity of the penalty;
 - New evidence coming to light;
 - Procedural irregularities.
- The Police Staff member again has the right to be accompanied at the appeal hearing by either a trade union representative or a work colleague.

Who can hear the appeal?

First written warning

An appropriate Inspector and/or Police Staff equivalent or delegated individual can hear this level of appeal with advice from Human Resources.

Final written warning

An appropriate Head of Command (HOC) / Service Unit Manager (SUM) and/or Police Staff equivalent can hear this level of appeal with advice from Human Resources.

Dismissal

When an appeal is lodged regarding a dismissal an appropriate member of the organisation (see section 3.4) will hear the appeal, with advice from a Human Resources Manager.

Appeal hearing

- The person leading the appeal hearing (the Chair) will introduce the appeal hearing, and explain its purpose and how it will be conducted. The Chair will also explain the level of authority and decision making they have in respect of the potential outcome of the appeal procedure. The Chair will receive advice from a representative from Human Resources.
- The parties present at the appeal hearing will introduce themselves and confirm their respective roles in the hearing. The Police staff member will be entitled to be accompanied, if he/she wishes, by a fellow work colleague or a trade union official of his/her choice.
- If any new evidence is to be introduced prior to or during the appeal it should be referred back to the Manager who made the original decision for him/her to reconsider this in light of the fresh evidence.
- The Chair of the appeal hearing will then ask the Police Staff member to confirm why he/she is appealing ensure that he/she has the opportunity to then state their case and comment on it. No witnesses will be called although attention may be drawn to written witness statements which have already been submitted to the disciplinary hearing.
- The Chair of the Appeal Panel may ask questions of the Police staff member and/or their representative.
- The Police staff member and/or their representative will have the opportunity to sum up their case if they so wish.
- The Chair will then adjourn the appeal hearing before making a decision.
- The Chair will reconvene the appeal hearing and will inform the Police Staff member whether they confirm the original decision appealed against or overturn the original decision and replace it with an appropriate alternative outcome.
- Any decision made will be final and this decision will be confirmed in writing to both parties.

Cleveland Police, in exceptional circumstances, may require the original determining Chair to attend the appeal to explain their determination.

4. Appendices

There are no appendices attached to this document, supporting documents and information are available on the Force Intranet.

5. Compliance and monitoring

All Police Staff disciplinary actions will be logged and monitored by Human Resources to ensure the procedures are been applied consistently, fairly, and in line with timescales outlined in the procedures.

Monitoring of outcomes will be reported via the **People Intelligence Board / at the regular service provision meetings?** (remove - Human Resources performance indicators provided at the Monthly Performance Review (MPR) meeting)

6. Version control

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

The Head of Tasking, Co-ordination and Performance (TCP) will ensure this document is available on the Cleveland 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	████████