



Policing Governance in Wales Policies and Procedures

Discipline Procedure

Procedure Summary

The aim of this procedure is to clearly set out the disciplinary procedure operated within the four Welsh local policing bodies. The disciplinary procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.

“Local Policing Body” is a new term introduced by the Police Reform and Social Responsibility Act. At present the local policing bodies in Wales are Police Authorities. It is the Government’s intention that they will be replaced in November 2012 by directly elected Police and Crime Commissioners.

This procedure has been adopted by the Four Police Authorities in Wales, but when the staff of the Police Authorities transfer to the Office of the Police & Crime Commissioner, the procedure will continue to apply unless and until amended by the Police & Crime Commissioners following consultation with staff. The policy applies to staff employed by local policing bodies in Wales under the direction of the Chief Executives, with the exception of the Chief Executives and Chief Finance Officer where a separate procedure will apply.

Date Ratified:

Review Date:

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1. Introduction

- 1.1 The four local policing bodies in Wales recognise that a Discipline procedure is necessary to maintain standards and provide fairness and consistency in the treatment of individuals. This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.
- 1.2 The aim of the disciplinary procedure is to ensure that disciplinary action is applied fairly, consistently and without undue delay. It is not first and foremost a punitive process but one designed to improve conduct and performance.
- 1.3 All employees should ensure that they follow the Standards of Professional Behaviour for Police Staff, which are contained in appendix A. In addition employees in designated 'politically restricted posts' (PoRPs) should ensure they adhere to the associated guidance summarised in Appendix B.
- 1.4 Appendix C highlights those matters which are likely to be considered to amount to misconduct or gross misconduct at a disciplinary hearing, and in the case of gross misconduct could result in summary dismissal i.e. dismissal without notice.

2. Scope of procedure

- 2.1 This procedure applies to all employees employed by local policing bodies in Wales, who are under the direction of the Chief Executive. It also applies to the Chief Executive with variances in procedure as described in section 21.
- 2.2 As outlined in the Standards of professional Behaviour, the standards are obviously required within working hours, but there may be occasions when behaviour out of the work environment could have a detrimental impact on the image of the local policing body and / or could affect a member of staff's relations with other members of staff and disciplinary action may be required.
- 2.3 Where appropriate, employees involved in a discipline procedure will be offered counselling and/or access to a Welfare Officer.
- 2.4 Local policing body staff must ensure that they are fully familiar with this procedure, the associated policies outlined in section 22, and the appendices of this procedure.

3. Definitions

- 3.1 For the purpose of this procedure the following definitions have been applied:

3.2	Staff	For the purposes of this policy 'staff' refers to employees of the local policing body under the direction of the Chief Executive
3.3	Gross Misconduct	Gross misconduct is generally seen as misconduct serious enough to destroy the employment contract between the employer and the employee and make any further working relationship and trust impossible. Gross misconduct is normally restricted to serious offences. Examples of such are attached as appendix C to this Procedure, but this list does not form any part of the Procedure.

4. Legal Requirements

4.1 This procedure complies with the statutory and other requirements set out within the following documents or legislation:

- (1) Employment Right Acts 1996
- (2) Employment Act 2002
- (3) Human Rights Act 1998
- (4) Equalities Act 2010
- (5) Police Reform Act 2002
- (6) Bribery Act 2010
- (7) Police Staff Council Joint Circular 54 (2008) or individual contractual terms for police staff in policing bodies that are not members of the Police Staff Council.
- (8) Advisory, Conciliation and Arbitration Service (ACAS) code of practice on Disciplinary Practice and Procedure in Employment.
- (9) IPCC statutory guidance to the police service and police authorities on the handling of complaints

5. General Principles

5.1 There are a number of general principles which apply to this procedure i.e.;

- (1) No formal disciplinary action will be taken without a full and proper investigation and hearing.
- (2) At all stages of the formal disciplinary procedure employees must be informed of their right to be represented by a Trade Union Representative or work colleague.
- (3) No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.
- (4) The procedure may be implemented at any stage dependent upon the seriousness of the allegations.
- (5) Employees will have the right of appeal against any disciplinary penalty imposed under the procedure.
- (6) Assistance and advice can be sought from another Local Policing Body or the joint human Resources Department before entering the formal procedure, who will ensure that the case is managed fairly and decision making is consistent.
- (7) Formal disciplinary action will only be undertaken by the appropriate Manager

6. Informal action (day to day supervision)

6.1 It is part of the normal supervisory process that employees have brought to their attention the required standards of work where these are perceived to be unacceptable and failings are identified.

6.2 The employee must be seen and be told of the issue and have the opportunity to respond. The supervisor will, in the light of the circumstances, decide whether it is appropriate to issue an informal warning of the consequences of failure to meet the standards of work or conduct required. A note of that warning must be made and retained. This may be referred

to in the future if the employee fails to meet the required standard(s). It is important to provide the employee with clear instructions on the standards required.

- 6.3 Informal meetings must not escalate into disciplinary hearings.
- 6.4 In cases where informal action proves unsuccessful or the allegation is serious, making the informal approach inappropriate, then formal action should be taken.
- 6.5 Matters relating to attendance should first be considered through the Local Policing Body's attendance management policy and procedure. Matters relating to capability should be undertaken through the Local Policing Body's Capability Procedures.

7. Formal action

- 7.1 Where formal action is deemed appropriate, a structured process should be adopted.

8. Investigation of Potential Misconduct / Gross Misconduct

- 8.1 The local policing body may take disciplinary action against any employee where there are reasonable grounds to believe that he or she has acted contrary to the expected standards of behaviour.
- 8.2 Where a matter arises which is suspected to amount to misconduct under the staff Code of Conduct, the matter will be reported by to the Chief Executive and he or she will decide who is best placed to investigate the matter. Any investigatory process should be proportionate and conducted fairly. On occasions where the investigation is a result of a complaint from a member of the public the subsequent actions and decisions will adhere to the processes outlined in the Independent Police Complaints Commission (IPCC) statutory guidance to the police service and police authorities on the handling of complaints
- 8.3 Where any alleged or suspected misconduct relates to the Chief Executive the matter will be reported to the Designated Deputy. They will refer the matter to the Commissioner for a decision as to who is best placed to undertake any investigation. Alternatively, an individual may wish to take such a matter directly to the Commissioner.
- 8.4 The decisions to investigate, and determine who is best placed to investigate will be informed by a severity assessment. If the severity assessment indicates that the alleged breach may amount to misconduct, gross misconduct or a potentially criminal act the Chief Executive or designated Deputy may consult with the Head of the force's Professional Standards Department at the outset to receive professional advice on the most appropriate form of investigation to undertake.
- 8.5 If it is determined that the most appropriate means of investigation is a local investigation undertaken within the local policing body, terms of reference will be agreed between the Chief Executive or Designated Deputy and the individual tasked with undertaking the investigation. As part of any investigation into alleged misconduct the employee whom the allegation is against may be interviewed by their line manager. The employee will be informed of the nature of the allegation(s) in writing prior to the interview and pre-interview disclosure will be provided (if any documentation exists at this stage). This interview will not be a disciplinary interview or hearing but will be for the purpose of fact finding and in making a decision as to whether disciplinary action may need to be considered. A trade union representative or willing work colleague (who may be under the direction and control of the Chief Constable or Chief Executive), may accompany the employee if the employee wishes for this. Contemporaneous notes of the interview will be taken.

8.6 The line manager, on completion of his/her investigation, shall prepare an Investigation Report, with supporting appendices which may comprise of witness statements collated (which may be in an anonymised format if the witness so requests) and/or supporting documentation collated during the interview and set out in the report to the Chief Executive whether they reasonably believe there is a case of misconduct to answer. In the event that the Investigation Report recommends the instigation of the disciplinary procedures, the Chief Executive will inform the employee in writing of the outcome of the investigation and invite the employee to attend a Disciplinary Hearing. The letter inviting the member of staff to attend a Disciplinary Hearing will set out:

- a) A description of the allegations of misconduct;
- b) The date, time and venue of the Disciplinary Hearing;
- c) The name of the person who will chair the Disciplinary Hearing. This would normally be the Chief Executive or designated deputy. In the event that both had a conflict of interest, consideration would be given to approaching a Chief Executive from another local policing body.
- d) The name of the person who will attend to take minutes/notes;
- e) A reminder that the member of staff has a statutory right to be accompanied at the Disciplinary Hearing by either a Trade Union representative or a willing work colleague who may be under the direction and control of the Chief Constable or Chief Executive;
- f) What the potential outcomes/disciplinary sanctions could be if there was reasonable belief following consideration of all of the evidence/representations that the member of staff committed the act of misconduct, etc.

4. Suspension or Redeployment

4.1 The Chief Executive, or in his/her absence his or her designated may suspend a member of staff on full pay in the following cases:

- a) where it is reasonably believed that a serious offence of misconduct may have been committed which may result in dismissal at a subsequent disciplinary hearing;
- b) where in the reasonable view of the Chief Executive or designated Deputy this will allow a more objective examination of the circumstances; or
- c) where it is reasonably believed that a criminal offence may have been committed. In this instance the Chief Executive or Designated Deputy should consult with the Chief Constable and Professional Standards Department.

8.7 Where there is an allegation of misconduct (which does not or is not likely to fall within the category of gross misconduct) suspension may be reasonable. Suspension is not a disciplinary sanction and will be for not longer than is reasonably necessary. Any decision taken in relation to suspension should be necessary and proportionate.

9. Accredited Trade Union Representatives

9.1 No disciplinary action shall be taken against an employee who is an accredited trade union representative without firstly informing a full time official of the trade union concerned. The consent of the employee concerned should be obtained before any discussions take place. In the event that the member of staff objects to such discussions then the matter will proceed in the ordinary manner as set out in the procedure.

10. Conduct of hearing

10.1 The Disciplinary Hearing will be before the Chief Executive or in particular cases such as absence or conflict of interest, consideration will be given to the hearing being chaired by another appropriate person e.g. a Designated Deputy within the local policing body or a Chief Officer from another local policing body. The person conducting a Disciplinary Hearing will be assisted by a Human Resources Adviser and/or a Legal Adviser.

11. Arranging the hearing

11.1 The person who will be chairing the Disciplinary Hearing should consider whether there are any issues which arise under section 14 of this procedure (anonymised statements) and act accordingly.

11.2 The letter instructing an employee to attend a formal Disciplinary Hearing shall:

- (a) give a minimum of seven days notice of the date, time and place of the Disciplinary hearing (unless an earlier date has been mutually agreed);
- (b) name the person who will conduct the Disciplinary hearing and also the name of the person who will be present to take notes/minutes of the Disciplinary hearing to ensure a fair and accurate record;
- (c) set out the matters/allegations to be considered at the Disciplinary hearing which may be considered to amount to misconduct;
- (d) inform the member of staff that they have a statutory right to be accompanied by a Trade Union representative or a willing work colleague;
- (e) inform the member of staff that either side may ask witnesses to attend the Disciplinary Hearing to give further evidence/be cross-examined in relation to their witness statement;
- (f) offer the confidential counselling services of a Welfare Officer;
- (g) enclose a copy of this Disciplinary Policy;
- (h) ask if any specific arrangements need to be made to ensure the member of staff's attendance at the Disciplinary hearing, i.e. reasonable adjustments;
- (i) set out what the potential outcome may be.

11.3 The Disciplinary Hearing will be conducted as set out in Appendix D.

12. Adjournment of hearing

12.1 An employee must take reasonable steps to attend a Disciplinary Hearing and only in exceptional circumstances will a Disciplinary Hearing be rearranged. An employee who cannot attend a Disciplinary Hearing should inform the person who will be chairing the Disciplinary Hearing as soon as possible if an unforeseen circumstance arises which may prevent them from attending a Disciplinary Hearing and the reasons for this.

12.2 If the employee fails to attend through circumstances outside their control and unforeseeable at the time the meeting was arranged (e.g. illness), the person chairing the Disciplinary Hearing will arrange another Disciplinary Hearing.

12.3 If the person holding the Disciplinary Hearing reasonably believes that there are no exceptional circumstances for rearranging the Disciplinary Hearing and/or that the employee has not taken every reasonable step to attend, or has unreasonably failed to attend a rearranged Disciplinary Hearing, he or she may decide to hold the Disciplinary Hearing in the member of staff's absence.

- 12.4 If the employee is unable to attend the rearranged Disciplinary hearing, it may proceed in his or her absence, but with his or her representative being provided with an opportunity to present the employee's case on his or her behalf either verbally or in writing. Any such representations to be made by the employee, or by his or her representative, must be in writing and will be considered by the person chairing the Disciplinary Hearing.
- 12.5 If an employee's representative / companion cannot attend the Disciplinary Hearing on a proposed date, another date will be arranged not less than 7 days after the date originally proposed. This 7 day time limit may be extended by mutual agreement or if reasonable to do so.

13. Sickness absence or unauthorised absences

- 13.1 Sickness absence will not normally be dealt with as an issue of conduct (i.e. under a disciplinary procedure) unless there is clear evidence of malingering or fraud or persistent unreasonable failure to comply with action plans set. Unauthorised absences may be treated as disciplinary offences depending on the circumstances.
- 13.2 Where an employee cannot attend a Disciplinary hearing due to ill-health, he or she will be required to produce a note from his or her doctor stating that this is the case. The Disciplinary hearing will then be rearranged for another date or the employee will be asked to put their written representations in writing to be considered at a Disciplinary Hearing in their absence.
- 13.3 If the employee is still unable to attend any rearranged Disciplinary Hearing, the person holding the Disciplinary Hearing will exercise his or her discretion as to whether to proceed with the Disciplinary hearing in the employee's absence. The person chairing the Disciplinary Hearing may request a medical report on the fitness of the employee from the Force Medical Adviser to assist their deliberations. Any reasonable fee incurred by the employee in providing such a sick note/letter from the GP/consultant or other medical professional, will be reimbursed by the local policing body.

14. Anonymised Statements

- 14.1 Where an anonymised statement is to be used as part of the disciplinary process the person chairing the Disciplinary Hearing should be satisfied prior to the Disciplinary hearing, and prior to its disclosure to the employee who is the subject of the Disciplinary procedures, that the statement is given in good faith.
- 14.2 The person chairing the Disciplinary Hearing should:
- (a) Consider possible reasons for fabrication.
 - (b) Seek corroboration.
 - (c) Consider whether the witness should be called to give evidence at the Disciplinary Hearing.
 - (d) Realise that it may be necessary to adjourn to ask further questions of any witnesses.
- 14.3 Where a witness has asked for their statement to be anonymised, in exceptional circumstances, for reasons of confidentiality and in the local policing body duty of care to a witness, this may be redacted. However, under normal circumstances, if any evidence is to be relied upon by the Chair of the Disciplinary Hearing, then it is only fair and reasonable that the employee has sight of all and any evidence which is to be taken into account and to have an opportunity to make representations in relation to it.

15. Grievances

- 15.1 If, in the course of the disciplinary process a grievance is raised by the employee, the person chairing the Disciplinary Hearing may give consideration to suspending the disciplinary process for a short period of time while the grievance is dealt with, in line with the grievance procedure of the local policing body.
- 15.2 Alternatively, and if the grievance is inextricably linked with the disciplinary matter to be considered, the person chairing the Disciplinary Hearing may also deal simultaneously with the grievance. Alternatively, depending upon the nature of the grievance, another Chief Officer or manager may be appointed to hear the grievance/disciplinary hearing. If the employee has a grievance about the outcome of a Disciplinary hearing or about the manner in which the Disciplinary Hearing was conducted this would need to be dealt with under the Disciplinary Appeal process.

16. Disciplinary Sanctions

- 16.1 The following formal disciplinary sanctions may be imposed by the person chairing a Disciplinary Hearing:
- (i) A first written warning (which will remain valid on an employee's file for 6 months)
 - (ii) A second written warning (which will remain valid on an employee's file for 12 months)
 - (iii) A final written warning (after an accumulation of misconduct offences) – which will remain valid on an employee's file for 24 months
 - (iv) Some other contractual penalty
 - (v) Dismissal;
 - (vi) Or any other sanction which may be deemed appropriate
- 16.2 Any current or previous disciplinary warnings may be taken into account by the person chairing the Disciplinary Hearing if considered reasonable in the circumstances to do so. The person chairing the Disciplinary Hearing will set out the disciplinary decision in writing which will also remind the employee of his/her right of appeal against the decision.
- 16.3 Summary dismissal without notice is appropriate only in cases of gross misconduct, or repeated acts of misconduct which, if taken together, the local policing body considers such action amounts to gross misconduct.
- 16.4 Except for gross misconduct, dismissal will not usually be appropriate for a first breach of discipline. A letter confirming the outcome of the Disciplinary hearing will be sent by the Chief Executive or the designated deputy.

17. Appeals against Formal Written Warnings other than against Dismissal

- 17.1 An employee has the right of appeal against any formal warning which may be issued. The member of staff's intention to appeal and grounds of appeal must be set out in writing to the local policing body Chief Executive or designated deputy if the warning has been issued against the Chief Executive within 14 days of receipt of the disciplinary decision letter. Any Disciplinary appeal against written or final warnings will be heard by the Commissioner, and will not include people who were part of the Disciplinary Hearing.
- 17.2 The decision on Appeal will be final. Whilst sanctions cannot be increased on Appeal, the person holding the Appeal may reasonably consider that, based upon the evidence available, a different sanction could have/should have been imposed (this could be a reduction in the

sanction or a different sanction altogether), and may reflect this in the Appeal decision accordingly.

18. Appeals against Dismissal

18.1 Appeals against dismissal shall be dealt with as below:

- (a) The employee's right of appeal hereunder, should be exercised within fourteen days of receipt of the dismissal letter.
- (b) The employee's intention to appeal should be set out in writing addressed to the local policing body Chief Executive, or the designated deputy in cases involving the Chief Executive and setting out the grounds for appeal.
- (c) An Appeals Hearing by the Commissioner will be convened to hear the Appeal. The employee is entitled to be accompanied by a Trade Union representative or a work colleague at an Appeal Hearing.
- (d) In the case of an appeal against dismissal being upheld, and it is decided that the employee should be reinstated or a lesser sanction is to be imposed, the employee will be reimbursed his/her pay to the date on which the summary dismissal took effect. Continuous service will not be affected.

18.2 Appeals shall be conducted by the Commissioner the agreed appeal procedures.

19. Removal of Disciplinary Record

19.1 All disciplinary warnings shall remain valid as follows;

- (i) A first written warning: six months
- (ii) A second written warning: twelve months
- (iii) A final written warning: twenty-four months

19.2 Warnings may reasonably be referred to by any person holding a Disciplinary Hearing. They will then be removed from the file by the Chief Executive but may still be taken into account even if such warnings are spent, if reasonable to do so, in any future disciplinary hearing(s).

20. Monitoring

20.1 This Policy will be reviewed by October 2013

20.2 Monitoring of all disciplinary action will take place to ensure the fair and consistent application of this Policy.

20.3 Anonymised monitoring information will be presented on an annual basis to the relevant local policing body forum, including any equality monitoring data.

21. VARIANCES FOR CHIEF EXECUTIVE AND CHIEF FINANCE OFFICER

- 21.1 It is recognised that the legal duties of the Chief Executive and Chief Finance Officer may at times bring them into conflict with the Local Policing Body. This and the fact that the Local Policing Body is the line manager of the Chief Executive makes it difficult to apply the above procedure while also ensuring an appropriate degree of protection and fairness.
- 21.2 The following procedure for Chief Executives and Chief Finance Officers is therefore modelled on the procedure for statutory officers of local authorities. In all other respects the general procedure applies.
- 21.3 No disciplinary action (other than action to which paragraph 21.11 applies) in respect of the Chief Executive or Chief Finance Officer of the local policing body may be taken other than in accordance with a recommendation in a report made by a designated independent person.
- 21.4 Where it appears that an allegation of misconduct which may lead to disciplinary action has been made in respect of the Chief Executive and/or the Treasurer ("the relevant officer") or the dismissal of the relevant officer is being considered, a panel of independent members must be appointed ("an independent panel").
- 21.5 The independent panel must:
- (a) consist of a minimum of 3 members from the Authority's Standards Committee;
 - (b) within 1 month of its appointment, consider the allegation of misconduct or proposal for dismissal and decide whether it should be further investigated or progressed.
- 21.6 For the purpose of considering an allegation of misconduct, the independent panel:
- (a) may make such enquiries of the relevant officer or any other person as it considers appropriate;
 - (b) may request the relevant officer or any other person to provide it with such information, explanation and/or documents as it considers necessary within a specified and reasonable time limit; and
 - (c) must consider any written or oral representations made by or on behalf of the relevant officer and may receive written or oral representations from any other person.
- 21.7 Where it appears to the independent panel that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person").
- 21.8 The designated independent person –(a) must be a chief executive or chief financial officer of another police authority body or an equivalent officer of a local authority;
- (b) should, wherever possible, be selected by agreement between the independent panel and the relevant officer or, where there is no such agreement, must be such person as is nominated for the purpose by the independent panel.
 - (c) must be appointed within 1 month of the date on which the requirement to appoint a designated independent person arose.
- 21.9 The designated independent person–

(a) may direct–

(i) that any suspension of the relevant officer (under paragraph 1.10) be terminated;

(ii) that any suspension is to continue after the expiry of the period referred to in paragraph 1.10 below;

(iii) that the terms of any suspension be varied in accordance with the direction; or

(iv) that no steps by way of disciplinary action, further disciplinary action against or dismissal of the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, be taken or given effect before a report is made under sub-paragraph (e);

(b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Police Authority or its police force, or which the police authority or its police force has power to authorise the designated independent person to inspect;

(c) may require any member or member of staff of the Police Authority to answer questions concerning the conduct of the relevant officer;

(d) may request any officer or employee under the direction and control of the Chief Constable police force to answer questions concerning the conduct of the relevant officer

(e) must make a report to the independent panel –

(i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer;

(ii) stating an opinion on the relevant considerations applicable to any dismissal of the relevant officer that is being considered or likely to be brought about; and

(iii) recommending any action which appears appropriate for the Police Authority to take in respect of the relevant officer, and

(f) must no later than the time at which the report is made under this sub-paragraph, send a copy of the report to the relevant officer.

21.10 Subject to paragraph 21.11, the relevant officer and relevant local policing body must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.

21.11 Where there is no agreement under paragraph 21.10, the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

21.12 The independent panel must:

(a) within 1 month of receipt of a report prepared under paragraph (21.9)(e)) consider that report together with any representations made by the relevant officer;

(b) within 1 month of considering any proposal for dismissal of the relevant officer prepare a report for the Police Authority and must, in either case, within 10 working days of doing so present its report to the Police Authority making such recommendations as it deems appropriate.

21.13 The Police Authority may suspend a relevant officer for the purposes of considering and investigating an allegation under the procedures set out above. Any such suspension can only be authorised where that suspension:

(a) is necessary for the purpose of investigating the alleged misconduct;

(b) is on full pay; and

(c) terminates no later than the expiry of two months beginning on the day on which the suspension takes effect or for such time as directed by the designated independent person under paragraph 21.13.

21.14 Reference to Police Authority will refer to any subsequent local policing body in place from time to time.

22. Further information and related policies and procedures

22.1 The local policing body disciplinary policy may be invoked if a breach or alleged breach of the following policies and/or procedures is identified which may require intervention by the local policing body of a disciplinary nature:

(1) Confidential reporting (whistleblowing)

(2) Anti-fraud and corruption

Appendix A - Standards of Professional Behaviour

Introduction

Public confidence in the police depends on staff demonstrating the highest level of personal professional standards of behaviour. The standards set out below reflect the expectations that the police service and the public have of how staff should behave. They are not intended to describe every situation but rather to set a framework which everyone can easily understand. They enable everybody to know what type of conduct by a member of staff is acceptable and what is unacceptable. The standards should be read and applied having regard to this guidance.

The standards of professional behaviour also reflect relevant principles enshrined in the European Convention on Human Rights and the Council of Europe Code of Police Ethics. They apply to all staff and to those subject to suspension.

The standards set out below do not restrict staff's discretion; rather they define the parameters of conduct within which that discretion should be exercised. A breach of these standards may damage confidence in the police service and could lead to disciplinary action, which in serious cases may result in dismissal.

The public have the right to expect the police service to protect them by upholding the law and providing a professional police service. Staff have the right to a working environment free of harassment, inequality or discrimination from others within the service and members of the public. The police service will proactively support such a working environment.

Appendix A - Standards of Professional Behaviour

OVERVIEW

Honesty and Integrity

Staff are honest, act with integrity and do not compromise or abuse their position.

Authority, Respect and Courtesy

Staff act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

Staff do not abuse their powers or authority and respect the rights of all individuals.

Equality and Diversity

Staff act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

Use of Restraint

Staff only use restraint as part of their roles and responsibilities to the extent that it is necessary, proportionate and reasonable in all the circumstances.

Instructions

Staff only give and carry out reasonable instructions.

Staff follow all reasonable instructions and abide by force policies.

Work and Responsibilities

Staff are diligent in the exercise of their work and responsibilities

Confidentiality

Staff treat information with respect and access or disclose it only in the proper course of their work.

Fitness for Work

Staff, when at work are fit to carry out their duties.

Discreditable Conduct

Staff behave in a manner which does not discredit the organisation or undermine public confidence in the police service.

Staff report any conviction or caution against them for a criminal offence.

Challenging and Reporting Improper Conduct

Staff whilst at work report, challenge or take action against the conduct of colleagues which have fallen below the standards of professional behaviour expected.

Appendix A - Standards of Professional Behaviour

Guidance on the Standards of Professional Behaviour

Those entrusted to supervise and manage others are role models for delivering a professional, impartial and effective policing service. They have a particular responsibility to maintain standards of professional behaviour by demonstrating strong leadership and by dealing with conduct which has fallen below these standards in an appropriate way, such as by management action or the formal disciplinary process. Above all else managers should lead by example.

In carrying out their work in accordance with these standards, staff have the right to receive the full support of the police service. It is recognised that the ability of staff to carry out their work to the highest professional standards depends on the provision of appropriate training, status, pay and reward, equipment and management support.

The police service has a responsibility to keep staff informed of changes to terms and conditions of employment, laws/legislation, local policies, and procedures also to provide training and familiarisation when such changes necessitate. Staff have a duty to keep themselves up to date on the basis of the information provided by the employer, as far as it relates to them personally.

Where these Standards of Professional Behaviour are being applied in any decision or disciplinary process, they shall be applied in a reasonable, transparent, objective and proportionate manner. Due regard shall be paid to the nature and circumstances of the individuals conduct, including whether his or her actions or omissions were reasonable at the time of the conduct under scrutiny.

This guidance gives examples to help staff interpret the standards expected in a consistent way. They are not intended to be an exclusive, prescriptive or exhaustive list.

Where the disciplinary procedure is being used, it is important to identify the actual behaviour that is alleged to have fallen below the standard expected of an individual, with clear particulars and evidence describing that behaviour.

It should be remembered that other procedures exist to deal with poor performance and issues of capability.

Appendix A - Standards of Professional Behaviour

Honesty and Integrity

Staff are honest, act with integrity and do not compromise or abuse their position.

Staff act with integrity and are open and truthful in their dealings with the public and their colleagues, so that confidence in the police service is secured and maintained.

Staff do not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document kept or made in connection with any police activity.

Staff never accept any gift or gratuity that could compromise their impartiality. During the course of their work staff may be offered hospitality (e.g. refreshments) and this may be acceptable as part of their role. However, staff always consider carefully the motivation of the person offering a gift or gratuity of any type and the risk of becoming improperly beholden to a person or organisation.

It is not anticipated that inexpensive gifts would compromise the integrity of a member of staff, such as those from conferences (e.g. promotional products) or discounts aimed at the entire force (e.g. advertised discounts through police publications). However, all other gifts and gratuities must be declared in accordance with local force policy where authorisation may be required from a manager, Chief Officer or local policing body to accept a gift or hospitality. If an individual is in any doubt then they should consult with their manager.

Staff never use their position or force identification card to gain an unauthorised advantage (financial or otherwise) that could give rise to the impression that the individual is abusing his or her position. An identification card is only for identification or to express authority.

Authority, Respect and Courtesy

Staff act with self-control and tolerance, treating members of the public and colleagues with dignity, respect and courtesy.

Staff do not abuse their powers or authority and respect the rights of all individuals.

In carrying out their roles, staff should never abuse their authority or the powers entrusted to them. They have been given specific powers and responsibilities due to the complex and difficult situations they deal with. The public have the right to expect that such powers are used professionally, impartially and with integrity, irrespective of an individual's status.

Staff do not harass or bully colleagues or members of the public. Staff do not, under any circumstances inflict, instigate or tolerate any act of inhuman or degrading treatment. Staff, recognise that some individuals who come into contact with the police, such as victims, witnesses or suspects, may be vulnerable and therefore may require additional support and assistance.

Staff use appropriate language and behaviour in their dealings with their colleagues and the public. They do not deliberately use any language or behave in a way that is offensive or is likely to cause offence.

Appendix A - Standards of Professional Behaviour

Equality and Diversity

Staff act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

Staff respect all individuals and their traditions, beliefs and lifestyles provided that such are compatible with the rule of law. In particular, staff do not discriminate unlawfully or unfairly when exercising any of their roles, discretion or authority.

Staff pay due regard to the need to eliminate unlawful discrimination and promote equality of opportunity and good relations between persons of different groups.

Supervisors and managers have a particular responsibility to support the promotion of equality and by their actions to set a positive example.

Use of Restraint

Staff only use restraint as part of their roles and responsibilities to the extent that it is necessary, proportionate and reasonable in all the circumstances.

Staff in specific designated roles may need to use restraint in carrying out their work.

It is for the individual to justify his or her use of force but when assessing whether this was necessary, proportionate and reasonable, all of the circumstances should be taken into account and especially the situation which the individual faced at the time. Staff use restraint only if other means remain ineffective or without any realistic prospect of achieving the intended result.

As far as it is reasonable in the circumstances staff act in accordance with their training in the use of restraint, i.e. by applying the management/conflict resolution model to decide what restraint may be necessary, proportionate and reasonable. Section 3 of the Criminal Law Act 1967 makes it clear that force may only be used when it is reasonable in the circumstances.

Staff respect everyone's right to life and do not, under any circumstances, inflict, instigate or tolerate any act of torture, inhuman or degrading treatment or punishment.

Instructions

Staff only give and carry out reasonable instructions.

Staff follow all reasonable instructions and abide by force policies.

Staff do not give or carry out instructions which an individual would conclude were unreasonable.

Two factors should be considered when assessing if it was reasonable not to follow an instruction. First of all, was the instruction reasonable having regard to all the circumstances and secondly, did the individual have a good and sufficient reason not to comply having regard to all the circumstances and possible consequences.

Staff, to the best of their ability, support their colleagues in their work.

Staff abide by terms and conditions of employment.

Work and Responsibilities

Staff are diligent in the exercise of their work and responsibilities.

Staff do not knowingly neglect their work or responsibilities.

When deciding if an individual has neglected his or her work or responsibilities, all of the circumstances should be taken into account. Staff have discretion and may have to prioritise the

Appendix A - Standards of Professional Behaviour

demands on their time and resources. This may involve leaving a task to do a different one, which in their judgement is more important. This is accepted and in many cases essential for good working.

Staff ensure that accurate records are kept of the exercise of their work and powers as required by relevant legislation, force policies and procedures.

In carrying out their work, staff have a responsibility to exercise reasonable care to prevent injury, loss of life or loss or damage to the property of others (including police property).

Confidentiality

Staff treat information with respect and access or disclose it only in the proper course of their work.

The police service shares information with other agencies and the public as part of its legitimate policing business. Staff never access or disclose any information that is not in the proper course of police work. Staff who are unsure if they should access or disclose information always consult with their manager or department that deals with data protection or freedom of information before accessing or disclosing it.

Staff do not provide information to third parties who are not entitled to it. This includes for example, requests from family or friends, approaches by private investigators and unauthorised disclosure to the media. Certain disclosures may be covered by the Public Interest Disclosure Act.

Fitness for Work

Staff, when at work are fit to carry out their duties

Staff do not make themselves unfit or impaired for work as a result of drinking alcohol, using a substance for non-medical purposes or intentionally misusing a prescription drug.

Staff with a drink or drugs misuse problem will be supported if they demonstrate an intention to address the problem and take steps to overcome it. However, the use of illegal drugs will not be condoned.

Staff who are aware of any health concerns that may impair their ability to perform their work should seek guidance from the occupational health department or line manager and if appropriate reasonable adjustments can be made.

Staff who are unexpectedly called to attend for work should be able to say that they are not fit to perform the required work as a result of having consumed alcohol without risk of bringing discredit on themselves or the police service or being subject to any disciplinary procedure.

Staff, when absent from work on account of sickness, do not knowingly engage in activities which could impair their return to work. Staff will engage with the force medical officer or other member of the occupational health team if required.

Appendix A - Standards of Professional Behaviour

Discreditable Conduct

Staff behave in a manner which does not discredit the police service or undermine public confidence in the police service.

Staff report any caution or conviction against them for a criminal offence.

Discredit can be brought on the organisation by an act itself or because public confidence in the police is undermined. In general, it should be the actual underlying conduct of the individual that is considered under the disciplinary procedure. However where a member of staff has been convicted of a criminal offence that alone may lead to disciplinary action irrespective of the nature of the conduct itself. In all cases it must be clearly articulated and evidenced how the conduct or conviction has discredited the organisation.

In the interests of fairness, consistency and reasonableness the test is not solely about media coverage and perception but has regard to all the circumstances and evidence.

Staff do not purchase or consume alcohol when performing their duties, unless specifically authorised to do so or it becomes necessary for the proper discharge of a particular organisation function.

Staff when at work whether in uniform or not, display a positive image of the organisation in the standard of their appearance which is appropriate to their individual role.

Staff attend punctually when rostered for work or other commitments (e.g. attendance at court).

Challenging and Reporting Improper Conduct

Staff report, challenge or take action against the conduct of colleagues which have fallen below the standards of professional behaviour expected.

Staff are expected to uphold the standards of professional behaviour in the organisation by taking appropriate action if they come across the conduct of a colleague which has fallen below these standards. They never ignore such conduct.

Staff who in the circumstances feel they cannot challenge a colleague directly, for example if they are in a more junior role and are not confident, report their concerns, preferably to a line manager. If they do not feel able to approach a line manager with their concerns, they may report the matter through the force's confidential reporting mechanism, or to the local policing body, Independent Police Complaints Commission (IPCC) or under the Public Interest Disclosure Act.

Staff will be supported by the organisation if they report conduct by an individual which has fallen below the standards expected unless such a report is found to be malicious or otherwise made in bad faith.

It is accepted that the circumstances may make immediate action difficult but managers are expected to challenge or take action as soon as possible.

It is accepted however that it will not always be necessary to report an individual's conduct if the matter has been dealt with appropriately by a manager in the organisation.

Police Staff Council, September 2008

Appendix B - Politically Restricted Posts (PoRPs)

The main provisions regarding PoRPs are set out in Part I of the LGHA 1989. Further details are set out in the Local Government (Political Restrictions) Regulations 1990 (LGO(PR)R 1990) [SI 851].

The effect of including an employee on the list of 'politically restricted posts' is to prevent that individual from having any active political role either in or outside the workplace.

Politically restricted employees will automatically be disqualified from standing for or holding elected office, and these restrictions are incorporated as terms in the employee's contract of employment under s.3 LGO(PR)R 1990.

Employees in PoRPs are also restricted from:

- canvassing on behalf of a political party or a person who is or seeks to be a candidate (Reg 3, Sched Part I, para 5 LGO(PR)R 1990)
- speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party (Reg 3, Sched Pt II, LGO(PR)R 1990)

The cumulative effect of these restrictions is to limit the holders of 'PoRPs' to bare membership of political parties, with no active participation within the party permitted.

Source: Local Government Employers

Appendix C – Examples of behaviour or actions which may be construed as misconduct or gross misconduct

The list is neither exclusive nor exhaustive, and in addition there may be other offences of a similar gravity which would constitute gross misconduct.

This list of examples is not part of the agreed procedure but it is agreed that employees be informed of the sort of action which is construed as gross misconduct and could lead to dismissal.

Gross Misconduct

Gross misconduct is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and the employer, and justifies management in no longer accepting the continued presence of the employee at the place of work.

Examples of gross misconduct may include:

1. Any act of dishonesty.
2. Unauthorised absence from place of work, and failure to comply with the sickness absence procedures; e.g. knowingly giving false information about sickness.
3. Conduct likely to damage the reputation of the local policing body
4. Gross incompetence.
5. Serious neglect of duties or a serious breach of your conditions of employment.
6. Providing false information orally, or by the falsification of records or documents.
7. Breach of trust e.g. unauthorised disclosure of confidential information.
8. Fighting or physical assault.
9. Sexual misconduct and / or conduct at work likely to offend decency.
10. Falsification of qualifications that are a stated requirement of employment or which result in financial gain e.g. on an application form.
11. Deliberate damage to or misuse of local policing body property or equipment.
12. Incapability through alcohol, non-prescribed drugs or other substances.
13. A serious act of insubordination.
14. Offences against the Official Secrets Act.
15. Serious breaches of Health and Safety rules.
16. Bullying and / or harassment.
17. Discriminatory behaviour and breaches of Equal Opportunities Policy.
18. Unauthorised alteration, mutilation, destruction and retention of local policing body records or documents.
19. The commission of any criminal offence other than minor driving offences.
20. Unauthorised entry into the Force's computer systems, breaches of instructions contained in the Data Protection Policy.

Appendix C – Examples of behaviour or actions which may be construed as misconduct or gross misconduct

21. Unjustifiable downloading and / or storage and / or transmission of pornographic images or other offensive or obscene materials from websites or via e-mail.
22. Misuse of the internet, i.e. for personal use.

The list of disciplinary rules which follow is neither exclusive nor to be regarded as an exhaustive list; Acts of misconduct not falling within one or more of the rules may also give rise to disciplinary action. Subject to this, some examples of breaches of Disciplinary Rules which can lead to disciplinary action are:

Misconduct

1. Failure to comply with a work rule, reasonable order, instruction or contractual requirement.
2. Failure to comply with a health or safety requirement.
3. Any act that may result in an action against the employer by a third party for negligence or from breach of the duty of care.
4. Incompetence.
5. Negligence.
6. Improper, disorderly or unacceptable conduct at, during or when arriving for work.
7. Persistent late attendance and/or persistent inadequate time keeping.
8. Insubordination.
9. Abusive language.
10. Misuse of equipment, supplies and facilities provided by the local policing body or Police Force.
11. Loss, damage to, or misuse of local policing body or Police Force property, assets or funds through wilfulness, negligence or carelessness.
12. Failure to report or record any matter which it is the employee's duty to report or record e.g. failure to disclose a pecuniary interest.

Acts of misconduct will have varying levels of seriousness that should be reflected in the level of disciplinary action to be taken. It should be noted that the disciplinary procedure may be implemented at any stage if the alleged misconduct warrants such action, and the local policing body will exercise its discretion to proceed directly to any stage of the disciplinary process.

Appendix D - Outline Procedure to be Followed at a Disciplinary Hearing

- (1) The person conducting the hearing will call on the Management representative presenting the case to state the facts of the matter giving rise to the hearing in the presence of the employee and his or her representative. Witnesses may be called if necessary.
- (2) The employee or his representative and the person conducting the hearing shall be given the opportunity to ask questions of the Management representative and any witnesses.
- (3) The employee or his or her representative shall be given an opportunity to make a response to the person conducting the hearing, in the presence of the Management representative and may call witnesses to give evidence.
- (4) The Management representative and the person conducting the hearing shall be given the opportunity to ask questions of the employee and his or her witnesses.
- (5) If as a result of the evidence given either by the witnesses, the employee or the Management representative, it seems desirable in the opinion of the person conducting the hearing, that more evidence should be obtained or more witnesses called, this shall be done. The process of obtaining evidence shall be continued until the officer conducting the hearing is satisfied that he or she fully understands both the management and the employee's case. Provided that all evidence shall be given in the presence of both the employee (and his or her representative) and the Management representative.
- (6) At the conclusion of obtaining and hearing the evidence, both Management and thereafter the employee shall summarise their position.
- (7) The Management representative, the employee and his or her representative shall then withdraw.
- (8) The person conducting the hearing will deliberate in private, only recalling the parties to clarify points of uncertainty on evidence already given. If recall is necessary, both parties shall return to the hearing. The person conducting the hearing may ask the adviser to retire with him or her or seek the adviser's advice during deliberations.
- (9) The person conducting the hearing will give his or her decision to the parties personally. Thereafter the person conducting the hearing shall be provided with the disciplinary records of the employee (where relevant) and shall hear representations from the employee and / or representative as to the sanction to be imposed. The person conducting the hearing shall then deliberate upon the same and thereafter specify the sanction he or she is imposing and any rights of appeal. The decision on the facts and on sanction will be that of the person conducting the hearing alone and he or she may only seek the advice of the adviser on law or procedure.
- (10) The disciplinary hearing may be adjourned from time to time.
- (11) The person conducting the disciplinary hearing may modify the above procedure whenever he shall consider it appropriate in the interest of justice and fairness to all persons attending the disciplinary hearing.