



DORSET & WILTSHIRE FIRE AND RESCUE SERVICE

EPR 2 - Discipline

To be used in conjunction with the [People Policy Statement](#)

Employee Performance & Rewards (EPR)

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1. Purpose & Definition

- 1.1. This procedure has been developed in line with the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions of Service (Grey Book), the NJC for Local Government Services National Agreement on Pay and Conditions of Service (Green Book) and the [ACAS guide to discipline and grievances at work](#).
- 1.2. The Chief Fire Officer (CFO) has responsibility for all disciplinary issues within the Service, with delegated responsibility to an HR Case Manager.
- 1.3. This procedure is in place to support and encourage members of staff to achieve and maintain expected standards of conduct and behaviour.
- 1.4. It is designed to establish the facts relating to any alleged issue, without undue delay, and to deal consistently with all disciplinary issues. Disciplinary action will not be taken until the allegation/issue has been investigated.
- 1.5. The guiding principle of this procedure is that, in every case except dismissal, the primary aim is to bring about an improvement in the way that you and the Service performs and serves the public. Each case is treated on its merits based on the particular circumstances involved.
- 1.6. This procedure applies to all members of staff under a contract of employment, (excluding those on probation, except in cases of gross misconduct), if conduct or behaviour, suggests that disciplinary action may be necessary. Examples of behaviour/ conduct where this procedure will be initiated are detailed in the supporting document on [Disciplinary Rules of Conduct](#).
- 1.7. For staff on probation, the [Probation Procedure](#) will be used to ensure they meet and maintain the requirements in relation to conduct and behaviour aligned to the Services Code of Ethics. Where the required standards are not reached, employment may be terminated.
- 1.8. Disciplinary Proceedings for members of the Strategic Leadership Team are aligned on this disciplinary procedure. Any investigation into allegations of

misconduct will be conducted by an independent person at Director level. The CFO, in conjunction with the Monitoring Officer, will appoint an appropriate investigator. Where necessary this may be an external person of an appropriate seniority. If the allegations are against the DCFO or CFO, the matter will be referred to the Monitoring Officer or their Deputy.

- 1.9. Suspension, Investigation, Hearing and Appeal arrangements for DWFRS Directors including the DCFO and CFO are set out in the Scheme of Delegation.
- 1.10. The Service reserves the right to modify the principles of this procedure where circumstances require to enable a pragmatic approach to case management. Any such circumstances will be discussed and agreed with representative bodies and communicated to affected individuals.

2. General Principles of the Disciplinary Procedure

2.1. General Principles

- 2.1.1. Dorset & Wiltshire Fire and Rescue Service (DWFRS) is committed to making sure all our staff are valued and treated with dignity and respect while at work. We are committed to creating a culture of positive working relationships that encourage mutual trust and co-operation. The Service's ethical principles and behavioural expectations are detailed in the Service's Code of Ethics and Code of Conduct.
- 2.1.2. On issues of incapability at work, brought on by misuse of alcohol or drugs, refer to Drug and Alcohol Procedure in the first instance.
- 2.1.3. Concerns regarding work performance and/or competence should be dealt with in the first instance under the [EPR 4 – Managing Performance](#) procedure.
- 2.1.4. The formal disciplinary procedure may be implemented at any stage if alleged misconduct warrants such action. No formal disciplinary action will be taken against an individual until the issue has been investigated.
- 2.1.5. If any information of a serious nature comes to light, such as issues which may involve the Police, the Local Authority Designated Officer (LADO), criminal activity or information which requires specialist advice, the individual's line manager must divulge this information to an HR Case Manager and seek guidance before speaking to the member of staff about the incident. The HR Case Manager may involve the relevant authorities and the Service Safeguarding lead at any time during the process if it is deemed necessary.
- 2.1.6. All disciplinary decisions are made on the balance of probabilities. This means the alleged offence is more likely to have occurred than not. The test is not one of proving allegations beyond all reasonable doubt. All decisions will fall within the range of reasonable responses which a reasonable employer might take.
- 2.1.7. At every stage of this procedure, the principles of natural justice will apply. This ensures consistency, compliance with the law and fairness for members of staff and line managers.
- 2.1.8. As a member of staff, you have a right to:
 - know the allegation(s) against you

- respond to the allegations/give an explanation/mitigation
- be treated fairly and consistently
- have a fair hearing and be advised of the reasons for decisions reached
- appeal against any formal disciplinary sanction imposed.

- 2.1.9. There is no right of appeal for any corrective measures taken by the line manager at an informal stage or against local management action recommended as an outcome of a disciplinary investigation or discipline hearing.
- 2.1.10. Managers and staff should raise and deal with issues promptly and should not unreasonably delay meetings, decisions, or confirmation of those decisions. This applies particularly where both parties are restricted by timeframes as required by tribunal proceedings.
- 2.1.11. It is recognised that for all members of staff involved in a disciplinary process it can be a difficult time; therefore, support is offered at every stage. Staff involved in the disciplinary process, including the individual under investigation and any complainants and witnesses, are provided with a copy of the Services Health and Wellbeing procedure which sets out the support available and will be assigned a Welfare Officer.
- 2.1.12. Contact Officers are allocated to support a member of staff who is suspended under this procedure. Further [Guidance for Contact Officers](#) is available.

2.2. Confidentiality and Data Protection

- 2.2.1. Confidentiality must be maintained at all stages throughout the disciplinary process by all parties. All papers and other information relating to disciplinary issues must be treated in the strictest confidence and with the utmost security.
- 2.2.2. Where any person involved in this procedure purposefully fails to maintain reasonable confidentiality or seeks to unduly influence any party in the disciplinary process, such action will be interpreted as harassment, particularly if this results in victimisation, and they will be subject to disciplinary action. Any such action will be considered as Gross Misconduct and may result in disciplinary action, not excluding dismissal.
- 2.2.3. Normally, other members of staff within a department will not be informed that a disciplinary issue is being dealt with unless there is an effect on day to day working relationships.
- 2.2.4. If an individual is suspended from work, it may be necessary to inform members of staff within the department where their absence from work will impact on the day to day running of the department and/or on working relationships. For staff at Head of Department level and above this may mean informing team managers of the individual's absence but will not include further details.
- 2.2.5. Data on disciplinary cases is published via the culture dashboard, and annually in a format that does not allow individuals to be identified.
- 2.2.6. The Information Commissioner's Office (ICO) Employment Practices Code gives guidance on data protection surrounding employment and in relation to this procedure about employment records. In line with this guidance, DWFRS will ensure it conforms to this Code of Practice.

2.3. **Sickness Absence During Investigation**

- 2.3.1. If an individual is suspended from work and reports sick during this period, the suspension will be temporarily lifted for pay purposes only and payment made is in accordance with the rules for the sick pay scheme in [EPR 10 – Sick Pay](#) procedure. All other terms of the suspension will remain in place.
- 2.3.2. In all cases of sickness absence, advice will be sought from Occupational Health to ascertain an individual's fitness to participate in the discipline process.

2.4. **Attendance at Meetings/Hearings**

- 2.4.1. All parties must make every effort to attend meetings/hearings (investigation/disciplinary hearings/appeal).
- 2.4.2. It is in the interests of all parties to ensure matters are investigated promptly and whilst every effort will be made to arrange meetings/hearings on a working day, meetings/hearings can be arranged on non-working day, but no payment will be made for this.
- 2.4.3. If you fail to attend a meeting/hearing for reasons outside of your control, it may be postponed and re-arranged.
- 2.4.4. If you advise you are unfit to attend a meeting/hearing for medical reasons, you will be referred to Occupational Health to determine your fitness to attend. Occupational Health will advise whether there are any reasonable adjustments that could be made to assist you in attending the meeting/hearing. If, in the opinion of Occupational Health, it would assist to have the opinion of your GP or other treating physician, Occupational Health will seek your consent to obtain this.
- 2.4.5. Where Occupational Health advise that you are fit to attend a meeting/hearing and you wish to challenge this advice, you are required to provide any contrary medical evidence that you wish to be considered as soon as possible.
- 2.4.6. Where contrary/conflicting medical advice is received, this is then referred back to Occupational Health for a medical opinion and guidance on proceeding with a hearing.
- 2.4.7. Where, following an Occupational Health referral, you withhold consent for the release of the medical opinion of the Service Doctor, it will be assumed that you are fit to attend a meeting/hearing.
- 2.4.8. If you refuse to engage with Occupational Health, attend a meeting or a hearing, or advise us that you are not fit to attend, the meeting/hearing can be held without you present. You are permitted to submit documents for consideration at the meeting/hearing.
- 2.4.9. A disciplinary hearing guidance document detailing the [Discipline Hearings Procedure](#) will be sent to a member of staff required to attend a disciplinary hearing.

2.5. Return to Work Following a Period of Suspension/Absence

- 2.5.1. For operational staff, line managers will determine, in accordance with the Operational Licence and in liaison with the Training Centre, the requirements for re-familiarisation and re-assessment of core competencies. They will liaise with the Health and Wellbeing Team regarding the requirement for an Occupational Health assessment and/or fitness assessment. This will depend on the length of absence from the workplace.
- 2.5.2. For corporate and fire control staff, line managers will determine the re-familiarisation requirements. This may include re-familiarisation of role, systems, procedures and responsibilities. Line managers can use checklists contained within [Staff Induction](#) and/or [Probation](#).
- 2.5.3. Where appropriate, Managers should refer to [Attendance Management](#) for return-to-work processes where sickness absence has occurred during the investigation/disciplinary process.

2.6. Time Limits

- 2.6.1. The number of days referred to in this procedure are based on calendar days including weekends and bank holidays.
- 2.6.2. A disciplinary investigation is dealt with as a matter of priority and completed as soon as practicable.
- 2.6.3. A case review will take place every two weeks to ensure that the case is on track.
- 2.6.4. Regular updates will be provided to all parties involved in a case.
- 2.6.5. All time limits for notice applicable to the various stages of the Disciplinary Procedure are set out in the [Scheme of Delegation](#) and [Disciplinary Hearing Procedure](#), and can be varied in exceptional circumstances by mutual agreement. However, the underlying principle is the disciplinary process is dealt with as an issue of priority and continual delaying of time limits is not in the interests of any party.

2.7. Counter Claims

- 2.7.1. If during a disciplinary process, an individual raises a bullying and harassment concern that is directly related to the case, the HR Case Manager will consider whether the disciplinary process should be placed on hold until a management enquiry has taken place, or whether a management enquiry can run concurrently with the discipline investigation. The decision to put on an investigation on hold will consider the impact(s) on all parties and consider timescales and likely delays.
- 2.7.2. A different Investigating Officer will be assigned to deal with the bullying and harassment case. It may be necessary for the bullying and harassment management enquiry to be concluded prior to the conclusion of the discipline investigation.
- 2.7.3. If during a disciplinary process a formal grievance is raised that is directly related to the case, an HR Case Manager will consider suspending the disciplinary

procedure for a short period until the grievance is dealt with or run the grievance resolution process in parallel with the disciplinary process. Depending on the nature of the grievance it may be appropriate to nominate another manager to deal with the grievance.

- 2.7.4. If a grievance or bullying and harassment concern is raised during the disciplinary process that is unrelated to the case, the two procedures will run in parallel.

2.8. **Complainants and Witnesses**

- 2.8.1. As a complainant or witness you may be required to attend more than one investigation meeting, and you may also be called to give evidence at a disciplinary hearing.
- 2.8.2. It is considered a reasonable request for complainants and witnesses to attend meetings/hearings (investigation/ disciplinary hearings/appeal) as required
- 2.8.3. Whilst every effort will be made to arrange meetings or attendance at hearings on a working day. Meetings/hearings can be arranged on non-working day, but no payment will be made for this.
- 2.8.4. Investigation meetings with the complainant in a case will be held face-to-face at an agreed location. Witnesses may also be required to attend face-face but as an alternative, a teams meeting may be held remotely at the discretion of the Investigating Officer.
- 2.8.5. All complainants and Witnesses will have the option to have a dedicated Welfare Contact Officer assigned to them for the duration of any investigation and subsequent hearing. Please refer to [Welfare Contact Officer Guidance](#) document for more information.

2.9. **Accompanying Witnesses during Investigative Interviews**

- 2.9.1. Whilst not a statutory right, witnesses being interviewed may request the attendance of a Trades Union Official or serving member of DWFRS staff to accompany them during an investigative interview. This needs to be approved and agreed by the Case Manager and must delay the process. The role of the Trades Union Official or member of DWFRS staff is not to answer questions on behalf of the witness, but to help facilitate the investigation by offering support to the witness.
- 2.9.2. Fellow staff or Trades Union Officials do not have to accept a request to accompany a member of staff, and they should not be pressured to do so.

2.10. **Resignation or Retirement during Disciplinary Proceedings**

- 2.10.1. If a member of staff tenders their resignation or retirement during a disciplinary investigation and the investigation is not concluded prior to the resignation or retirement taking effect, the Investigating Officer will be asked to conclude the investigation and draw conclusions based on the facts gathered to date. This will include whether the allegations against the member of staff are upheld and a recommendation for any further action. The individual will be offered the opportunity to participate in the investigation either through attending an interview or providing a written submission.

- 2.10.2. If the recommendation of the Investigating Officer is to proceed to a formal disciplinary hearing, a Presiding Officer will be appointed in accordance with the [Scheme of Delegation](#) and efforts will be made to arrange a hearing during the period of notice. The member of staff will be advised of the arrangements for the hearing and will be given the opportunity to attend. They retain the right to be represented at this meeting by either a trades union official or work colleague. If the member of staff declines to attend the hearing, the Presiding Officer will carry out a desk top review of the case to reach a conclusion based on the information available.
- 2.10.3. Any sanction will not directly apply to the member of staff as this will be preceded by the retirement or resignation, but the outcome of the hearing/desk top review will be recorded by the Service. If the member of staff elected not to attend the hearing, they will be advised in writing of the outcome.
- 2.10.4. Any subsequent employment reference will include confirmation that an individual was subject to disciplinary proceedings for misconduct/gross misconduct at the point of resignation/retirement.
- 2.11. **Resignation or Retirement following a Disciplinary Investigation**
- 2.11.1. If a member of staff tenders their resignation or retirement following an investigation but prior to a formal hearing, the hearing will proceed following the principles set out in paragraphs 2.10.2 and 2.10.3 above.
- 2.12. **Other Issues**
- 2.12.1. A serving member of staff or Trades Union Official who has agreed to accompany a colleague is entitled to take a reasonable amount of paid time off to fulfil that responsibility.
- 2.12.2. As far as is possible DWFRS will work with the Trades Union Official or member staff accompanying the individual being investigated so that the date and time of any Investigative Meeting or Disciplinary Hearing is mutually agreeable. Alternative dates and times can be suggested provided they are reasonable and are not more than five working days after the original date. Please note, this does not apply in the case of accompanying witnesses.
- 2.13. **Trades Union Officials**
- 2.13.1. Although normal disciplinary standards apply to your conduct as a member of staff, no disciplinary action will be taken against a member of staff who is an accredited representative of a Trades Union, until the circumstances of the case have been discussed with an HR Case Manager. The HR Case Manager will contact a senior Trades Union official or permanent Union Official of the Trades Union concerned as appropriate. It is, however, still possible to suspend the individual from their duties.
- 2.14. **Warnings – Exceptional Circumstances (Protection of Children and Vulnerable Adults)**
- 2.14.1. Warnings relating to child protection and/or vulnerable adult issues will remain in force for as long as a member of staff is employed by DWFRS.

- 2.14.2. DWFRS has an obligation to comply with the legislation/regulations relating to the Protection of Children Act (POCA) and Protection of Vulnerable Adults Act (POVA). If you are investigated or suspended for alleged offences under these regulations, DWFRS has an obligation to report the incident to the regulating body at both investigation and conclusion stages. You will be notified in writing if this relates to you by the HR Case Manager or DWFRS Safeguarding Lead.

3. General Duties, Rights and Responsibilities

3.1. Rights and Responsibilities as a Member of Staff

- 3.1.1. All members of staff must make sure they have a full understanding of this procedure. A copy of this procedure is available on CONNECT via the Policies & Procedures database. Staff applying the procedure will be trained to do so.

3.2. Support

- 3.2.1. You and/or your representation should request additional support if this is required. For example, the provision of a support worker with knowledge of a member of staff's disability, a support worker to assist with a neurodiverse condition or practical support for wheelchair/mobility access. If the need arises the Case Manager will determine the reasonableness of the additional support requested.
- 3.2.2. You must notify the Case Manager if you or your representative requires any additional support during the process as soon as possible.
- 3.2.3. A Contact Officer will be nominated to support you for the duration of the investigation if you are suspended under this procedure. Refer to Role of Contact Officer guidance for further information.
- 3.2.4. The role of the Contact Officer is to provide a link between you and the Service for the duration of the investigation and to direct any queries and/or concerns you may have to the appropriate person.
- 3.2.5. A Welfare Officer will be assigned to support you with any welfare concerns and to ensure continued support throughout the disciplinary proceedings.

3.3. Accompaniment

- 3.3.1. You have a statutory right to be accompanied at all formal investigation meetings and Disciplinary Hearings. You can be accompanied by:
- a fellow serving member of staff (they must be working and not absent from work)
 - an official employed by a trade union recognised by DWFRS
 - a workplace trades union representative, if they have been certified in writing by their union as having had experience.
- 3.3.2. This right applies if a request has been made to be accompanied by a work colleague/representative. DWFRS considers each request individually to assess whether it is accepted as reasonable.
- 3.3.3. If you wish to make a request to be accompanied you need to provide DWFRS with the name of the work colleague/representative, and the capacity in which

they will be accompanying you. You also need to allow sufficient time for DWFRS to make the necessary arrangements to allow the work colleague/representative to attend the meeting.

- 3.3.4. Your work colleague/representative will be provided with details of the allegations against you.
- 3.3.5. If your work colleague/representative is not available to attend the meeting, you may request for the meeting to be postponed provided that the alternative time is reasonable and not more than five working days after the original meeting date.
- 3.3.6. There is no statutory right for you to defer further, although where practicable, reasonable efforts will be made to accommodate such requests. If the delay is regarded as being unreasonable, it is at the discretion of an HR Case Manager to proceed without representation, who will document the rationale for the decision.
- 3.3.7. You are encouraged to consider practicalities when selecting your work colleague/representative. For example, you may choose a work colleague/representative who is willing and available on site, rather than somebody at a geographically remote location.
- 3.3.8. If you make a reasonable request to be accompanied your work colleague/representative can attend and is permitted to address the disciplinary hearing to:
 - respond on your behalf to any views expressed at the meeting
 - confer with you during the meeting.
- 3.3.9. The work colleague/representative does not have the right to answer questions on your behalf.
- 3.3.10. You cannot be accompanied by anyone who is directly involved in the case i.e. as a witness.
- 3.3.11. At no stage in this procedure will persons acting in a professional capacity, such as a solicitor, take part in disciplinary proceedings except in very exceptional circumstances. If you wish to make such a request, you must do so through the Case Manager. This also applies to the appeal meeting process.

3.4. **The Requirement to Undertake an Investigation**

- 3.4.1. An HR Case Manager has overall responsibility for the management of investigation processes and for ensuring the fair and balanced use of this procedure.
- 3.4.2. An initial assessment for Disciplinary will be undertaken by the relevant Group Manager or equivalent Corporate Manager.
- 3.4.3. A further assessment will be undertaken by the HR Case Manager.
- 3.4.4. Area Managers and Corporate Heads of Department are responsible for supporting the HR Case Manager with the appointment of an Investigating Officer to investigate issues raised under the Disciplinary Procedure within five working days. The rationale for the appointment of the Investigating Officer role

will include the level of seniority required, impartiality and training/experience of the appointed Officer. No 'formal' stage will be assigned (1, 2 or 3) to the case at this stage, except in cases of suspension which will always be considered as Gross Misconduct (Stage 3) in the first instance.

- 3.4.5. On completion of the investigation, an HR Case Manager, in consultation with the Investigating Officer, is responsible for deciding the next steps in this procedure.
- 3.4.6. The Investigating Officer will act as the Presenting Officer at Discipline Hearings.

3.5. **Suspension from Work**

- 3.5.1. Prior to the suspension of a member of staff, a Risk Assessment will be undertaken by an Area Manager or Head of Department and HR Case Manager to determine whether suspension is warranted.
- 3.5.2. Outside of normal office hours, issues that are likely or considered to be a staff conduct matter or potential discipline should be reported to the Duty Group Manager in the first instance who will liaise with the Duty Area Manager to determine next steps including undertaking a Risk Assessment for suspension.
- 3.5.3. You may be suspended by the Manager identified in the Scheme of Delegation, for the following reasons:
 - To enable an investigation to be undertaken where gross misconduct is alleged.
 - Where there are grounds to doubt the ability of the member of staff continuing to work pending criminal investigations or prosecution
 - Where the individual is placed on remand
 - Where specific circumstances dictate that suspension would be appropriate in that case, for example:
 - To avoid intimidation of witnesses
 - Where working relationships have broken down
 - To protect a victim of alleged harassment
 - Preservation of evidence.
 - Any circumstances where the accused member of staff continuing at work is a risk to his/herself, other staff, witnesses or DWFRS.
- 3.5.4. If you are suspended you are informed of the reasons for the suspension, that suspension is not a disciplinary sanction and that you will be asked to attend an investigative meeting and/or Disciplinary Meeting.
- 3.5.5. It is also appropriate at this stage to discuss any conditions which will apply during the period of suspension, for example, contact arrangements and access restrictions to premises and systems.
- 3.5.6. The notice of suspension will always be issued in person and confirmed in writing to the individual along with any relevant supporting documents.
- 3.5.7. You will remain on full pay for the period of your suspension.

- 3.5.8. During the period of suspension, you are not to enter any DWFRS premises unless directed or expressly permitted to do so by a Service Director/Senior Manager, or a manager of DWFRS acting on their behalf in agreement with the HR Case Manager.
- 3.5.9. You must not seek to inappropriately influence anyone who may be involved in the disciplinary process, particularly those who may act as witnesses.
- 3.5.10. You will be required to surrender any DWFRS property. This will include but not be limited to keys, mobile phones and/or any other telecommunications equipment, pagers, vehicles and ICT equipment. Service issued kit and uniform may be retained.
- 3.5.11. Your access to ICT systems will be temporarily withdrawn during the period of suspension.
- 3.5.12. You will not be permitted to contact any member of the Service during the period of suspension except for the designated Welfare Contact Officer and HR Case Manager.
- 3.5.13. If you are absent for work due to sickness, the suspension is temporarily lifted (for pay purposes only) and you will be paid in accordance with the rules of the sick pay scheme. However, the restrictions relating to access to DWFRS property and systems will remain in force. The suspension will be reinstated on cessation of sick leave.
- 3.5.14. For firefighters working the on-call duty system, your pay is calculated based on your retained payments averaged over the previous 52-week period.
- 3.5.15. In cases of suspension due to allegations involving child protection or vulnerable adult issues, it is the duty of DWFRS to report such suspensions to the relevant authority. The HR Case Manager will liaise with the DWFRS Safeguarding Lead to report such issues.
- 3.5.16. In view of the above arrangements, it is important that the relevant Head of the Department is notified immediately of any case where suspension has been applied.
- 3.5.17. Risk Assessments will remain under regular review as part of the case management process.
- 3.5.18. Support will be provided during any period of suspension through a dedicated Welfare Contact Officer. Please refer to Welfare Contact Officer guidance for more information.
- 3.5.19. All suspensions are reportable to HMICFRS monthly.

3.6. **Lifting of Suspension**

- 3.6.1. Suspension may be lifted as part of the regular review of the risk assessment if it is considered that sufficient controls are in place to enable the individual to return to the workplace while the disciplinary investigation continues.
- 3.6.2. At the conclusion of any formal investigation into alleged misconduct, where it is found that there is no case to answer, the suspension will be lifted, and you will

be notified in writing. Where the investigation concludes in a discipline hearing, the suspension will remain in place until the outcome of this hearing is known.

3.7. **Formal Investigative Meetings**

- 3.7.1. You may be accompanied by a member of DWFRS staff (work colleague) or Trades Union official (representative) at all formal investigative meetings.
- 3.7.2. The role of the person accompanying you is to ensure that the investigation meeting is conducted fairly and to help make sure you understand the questions being put to you. They are not there to speak on your behalf or of the witnesses being interviewed.

3.8. **Formal Disciplinary Hearings**

- 3.8.1. You have a statutory right to be accompanied by a member of DWFRS staff (work colleague) or Trades Union official (representative) at all Disciplinary Hearing stages of this procedure. Persons acting in a professional capacity, for example a solicitor, may not take part in disciplinary proceedings except in very exceptional circumstances. If you wish to make such a request, contact the HR Case Manager; however, there is no obligation on the Service to agree. This also applies to the appeal meeting process.
 - 3.8.2. You may request for your work colleague or representative to address the formal disciplinary hearing to:
 - present your case
 - sum up your case
 - respond on your behalf to support any view expressed at the meeting.
 - 3.8.3. The work colleague/representative can also confer with you during the disciplinary meeting and participate as fully as possible in the meeting, including asking witnesses questions.
 - 3.8.4. The work colleague/representative does not have the right to answer questions on your behalf, or to address the Disciplinary Hearing without your express permission or prevent DWFRS from explaining their case.
 - 3.8.5. You must make every effort to attend the Disciplinary Hearing. If you fail to attend without reasonable mitigation, the Service reserves the right hear the case in your absence. In these circumstances, you may elect to send a representative to read a pre-prepared statement from you. The representative does not have the right to answer questions on your behalf, to address the Disciplinary Hearing, or to prevent DWFRS from explaining their case.
 - 3.8.6. All formal hearings will be held in person unless reasonable adjustments, confirmed by Occupational Health dictate otherwise.
- ### 3.9. **Notification of Criminal Proceedings**
- 3.9.1. A member of staff is responsible for reporting to their Line Manager immediately, any of the following occasions where they are:
 - notified and/or cautioned by the Police that you are under investigation for a criminal act (including road traffic offences, such as points on your licence)

- arrested in connection with a criminal act
 - required to attend a formal meeting with the Police to be cautioned as an alternative to appearing in court (or in receipt of a caution at the time of the offence) as a result of pleading guilty to an offence
 - in receipt of a summons to appear before a Court of Law for an alleged offence
 - have agreed to voluntarily attend an interview with the Police.
- 3.9.2. Failure to notify the Line Manager of any of the above without reasonable mitigation will result in disciplinary action being taken against a member of staff.
- 3.9.3. The Line Manager must immediately notify an HR Case Manager, or in the absence of an HR Case Manager a Duty Area Manager during out of hours.
- 3.9.4. Failure by the Line Manager to notify an HR Case Manager or Duty Area Manager without reasonable mitigation will result in disciplinary action being taken against the Line Manager.
- 3.9.5. A risk assessment for suspension will be undertaken in all cases to ascertain the risk to the individual, their colleagues, the wider Service, and the community.
- 3.9.6. Once initial notification is given the member of staff is required to provide the Service with supplementary details of the proceedings. The following details must be provided in writing of the:
- nature of charges/caution or investigation
 - a copy of any arrest documentation and/or subsequent charge sheet
 - a copy of any notice of intended prosecution
 - a copy of any fixed penalty notice
 - details of any bail restrictions
 - a copy of any court summons, including confirmation of the date, time and venue of any court hearing
 - whether they were on or off duty, or available for work when the alleged offence(s) took place.
- 3.9.7. The Service will, in normal circumstances, wait for the outcome of any criminal proceedings before deciding whether disciplinary action is taken. Any discipline action arising from criminal proceedings will consider the facts and circumstances of the case. For the avoidance of doubt a proper and reasonable investigation of the facts and circumstances is undertaken before any disciplinary action is implemented. Any disciplinary action also considers any representations made by the member of staff (or their representative on their behalf) in response to the allegations. The member of staff has a right of appeal against the any decision resulting from disciplinary action in line with this procedure.
- 3.9.8. A representative from the Service will attend any court proceedings.
- 3.9.9. The Line Manager, or any other person employed by the Service, must not provide a reference for, or attend police interviews and/or court proceedings with

the accused member of staff without first seeking permission from the HR Case Manager.

- 3.9.10. The member of staff will not be automatically dismissed from work solely because they are absent as a result of being remanded in custody as part of an ongoing criminal investigation.
- 3.9.11. If the member of staff is given a custodial sentence, their employment will be terminated (summary dismissal) due to frustration of contract.
- 3.9.12. The Service reserves the right to proceed or continue to progress a case independently of criminal proceedings.
- 3.9.13. If the Service has reasonable belief your conduct may constitute a criminal offence, the matter will be reported to the Police.
- 3.9.14. Any reports of criminal proceedings are held securely by HR Professional Standards in line with the document retention schedule.

3.10. **Responsibilities for Line Managers**

3.10.1. **Notification of Criminal Proceedings**

- 3.10.2. If a member of staff informs you that they have been arrested, are under investigation, are being charged with, or convicted of, a criminal offence you must:
 - request written confirmation detailing the nature of the arrest, charges/caution or investigation together with any arrest documentation, charge sheet, bail restrictions and court summons
 - immediately inform either an HR Case Manager or a Duty Area Manager (out of hours or in the absence of an HR Case Manager).
- 3.10.3. Line Managers who are informed of criminal proceedings and do not take appropriate action to report this will have disciplinary action taken against them.
- 3.10.4. If you become aware that a member of staff has failed to inform the Service that they are subject to criminal proceedings or have been arrested, charged with, or convicted of, a criminal offence, you must inform an HR Case Manager who will decide what further action is required.

3.11. **Responsibilities for Area Managers/Heads of Department**

- 3.11.1. If a member of staff informs you, they are being charged with, or convicted of a criminal offence you must:
 - make an HR Case Manager aware
 - ensure you receive written confirmation detailing the nature of the arrest, charges/caution or investigation together with any arrest documentation, charge sheet, bail restrictions and court summons
 - undertake a risk assessment for suspension to assess whether the offence, or alleged offence, is one which makes the member of staff unsuitable for their role.

- 3.11.2. If you become aware that a member of staff has failed to inform the Service that they are or have been arrested, the subject of criminal proceedings, charged with, or convicted of, a criminal offence, you must liaise with an HR Case Manager who will decide what further action is required.

3.12. Responsibilities for HR Case Manager

3.12.1. Notification of Criminal Proceedings

- 3.12.2. If a member of staff informs you, they are being charged with, or convicted of, a criminal offence you must:

- ensure you receive written confirmation detailing the nature of the arrest, charges/caution or investigation together with any arrest documentation, charge sheet, bail restrictions and court summons
- undertake a risk assessment for suspension with the relevant Head of Department to assess whether the offence, or alleged offence, is one which makes the member of staff unsuitable for their role
- manage any disciplinary cases arising from a notification of criminal proceedings.

3.12.3. An HR Case Manager is also responsible for:

- the appointment of an investigating officer and advising whether an external Investigating Officer is appointed if this is considered appropriate
- providing advice and guidance in the application of the procedure in each individual case and at each formal stage to always ensure fairness and consistency
- advising if any matter warrants informal or formal investigative action. Recommendations may include the use of the [HR043 - Performance Improvement Plan](#) within [EPR 4 – Managing Performance](#) as an alternative to disciplinary action.
- advising at what stage of the procedure actions should be initiated (for example, formal disciplinary proceedings)
- Holding pre-hearing briefs with the Investigating Officer (Presenting Officer) and Presiding Officer
- allocating HR representation to support a Presiding Officer at disciplinary hearings and appeal meetings
- notifying the appropriate managers at all stages of the disciplinary process.

3.13. Responsibilities for HR Professional Standards Coordinator

3.13.1. The Professional Standards Coordinator will:

- oversee administrative arrangements for all disciplinary cases
- provide administrative support at all stages of the disciplinary process
- monitor and record all disciplinary cases
- maintain an accurate timeline for all disciplinary cases, to include the recording of any delays

- make sure hearings are arranged with the timescales as set out in the Scheme of Delegation and monitor compliance through relevant KPIs
- arrange post case review meetings for all disciplinary cases for the HR Case Manager and invite relevant participants, including trades union representatives
- provide data and statistics for the Head of People (Operations) as required and in line with relevant reporting requirements and make data available on CONNECT and via dashboards
- maintain a competency framework for Investigating and Presiding Officers and liaise with the HR Case Manager to ensure ongoing training and development opportunities are arranged
- arrange for structured training (including refresher training) to be provided to Managers and Investigating Officers as required on all aspects of the disciplinary process
- arrange bi-annual meetings for the Head of People (Operations), HR Case Managers, Managers and Trades Union representatives to discuss and review organisational learning and improvement.

3.14. Responsibilities for HR People Partners

3.14.1. HR People Partners will:

- ensure that matters of misconduct are reported in a timely manner to the HR Case Manager
- provide support to individuals involved in the disciplinary process in their respective operational area/corporate department(s)
- provide HR support to a Presiding Officer at Disciplinary hearings and appeals
- liaise with the HR Case Manager to decide whether an individual may be accompanied by a Trades Union official or a current member of DWFRS at an informal stage meeting (usually conducted on a one-to-one basis).

4. Procedures - The Stages of the Disciplinary Procedure

4.1. Formal Stages

- 4.1.1. During the Formal Stages, an Investigating Officer is appointed to assess the facts of a case. This appointment will consider the level of seniority required, impartiality and training/experience of the appointed Officer. No 'formal' stage is assigned (1, 2 or 3) to the case at this stage.
- 4.1.2. On receipt of the Investigation Report, where a Disciplinary Hearing is recommended, the HR Case Manager reviews and decides in conjunction with the Investigating Officer which formal stage the Disciplinary Hearing will be heard.

4.2. First Formal Stage

- 4.2.1. Managers identified in the [Scheme of Delegation](#) and appointed by the HR Case Manager conduct the first formal stage of the Disciplinary Procedure, which may result in a first written warning or an alternative sanction in place of, or supplementary to, a first written warning. Please refer to [Disciplinary Outcomes](#).

- 4.2.2. A Disciplinary Hearing (Stage 1) is held at which the appointed manager, known as the Presiding Officer, will make a decision based on the balance of probabilities. All decisions will fall within the band of reasonable responses which a reasonable employer might make.
- 4.2.3. The Presiding Officer is supported by an HR representative at this hearing.
- 4.2.4. You have a statutory right to be accompanied by a DWFRS colleague or recognised Trade Union Official and present your case in response to the issues. It is an individual's responsibility to identify and engage with who accompanies them to the hearing. Individuals are encouraged to arrange accompaniment at the hearing to ensure they have appropriate support.
- 4.2.5. You have a statutory right to appeal against the sanction and will be given details of the Appeals Procedure.
- 4.3. **Second Formal Stage**
- 4.3.1. Managers identified in the [Scheme of Delegation](#) and appointed by an HR Case Manager conduct the Second Formal Stage of the Disciplinary Procedure, which may result in a final written warning or an alternative sanction in place of, or supplementary to, a final written warning Please refer to [Disciplinary Outcomes](#).
- 4.3.2. Where the offence is sufficiently serious, action may be initiated at this stage in the first instance.
- 4.3.3. A Disciplinary Hearing (Stage 2) is held at which the relevant Manager makes a decision based on the balance of probabilities. All decisions fall within the band of reasonable responses which a reasonable employer might take.
- 4.3.4. The Presiding Officer is supported by an HR representative at this hearing.
- 4.3.5. You have a statutory right to be accompanied by a DWFRS colleague or recognised Trade Union Official and present your case in response to the issues. It is an individual's responsibility to identify and engage with who accompanies them to the hearing. Individuals are encouraged to arrange accompaniment at the hearing to ensure they have appropriate support.
- 4.3.6. Where there is a failure to improve performance or change behaviour in the timescale set at the first formal stage, you may be required to attend a further hearing at Stage 2 and may be issued with a further sanction up to a final written warning.
- 4.3.7. You have the statutory right to appeal against the sanction and are given details of the Appeals Procedure.
- 4.4. **Third Formal Stage**
- 4.4.1. Managers identified in the [Scheme of Delegation](#) conduct the third and final formal stage of the Disciplinary Procedure which may result in a dismissal or an alternative sanction/sanctions in place of dismissal. Please refer to [Disciplinary Outcomes](#).

- 4.4.2. A Disciplinary Hearing (Stage 3) is held at which the Presiding Officer will make a decision based on the balance of probabilities. All decisions fall within the band of reasonable responses which a reasonable employer might take
- 4.4.3. The Presiding Officer is supported by an HR representative at this hearing.
- 4.4.4. You have a statutory right to be accompanied by a DWFRS colleague or recognised Trade Union Official and present your case in response to the issues. It is an individual's responsibility to identify and engage with who accompanies them to the hearing. Individuals are encouraged to arrange accompaniment at the hearing to ensure they have appropriate support.
- 4.4.5. Where there is a failure to improve performance or change behaviour in the timescale set at the second formal stage, you may be required to attend a further hearing at Stage 3 and may be issued with a further sanction up to dismissal. When a final written warning has been given and there are no improvements or where further misconduct occurs it may be considered appropriate to dismiss you with notice. Statutory notice is given in accordance with the Employment Rights Act 1996.
- 4.4.6. Where gross misconduct is proven on the balance of probability, you can be summarily dismissed without notice.
- 4.4.7. You have the statutory right to appeal against dismissal and are given details of the Appeals Procedure.

4.5. **The Investigation Process**

- 4.5.1. Prior to the investigation process, a Discipline Assessment Form is completed. This will determine whether a formal investigation is required, the allegations, and whether a risk assessment for suspension should be undertaken.
- 4.5.2. If required, a [risk assessment \(HR041\)](#) for suspension is completed to identify control measures that may be required during the investigation, which may include suspension from work.
- 4.5.3. Where there is an allegation of bullying and harassment, an HR Case Manager determines whether a management enquiry will be carried out using the [Bullying and Harassment procedure](#) or whether a formal investigation using the Discipline procedure is required.
- 4.5.4. Where a management enquiry has taken place as a result of an allegation of bullying and harassment, the complainant is informed when the enquiry has been completed and advised of next steps, including whether or not disciplinary action (at Stage 1, 2 or 3) will be progressed.
- 4.5.5. The investigating officer will:
- collect and document facts and take statements/records of interviews from you or other individuals where they have either been a source of the issue or have been involved in or witnessed the allegations.
 - explain the roles of those present and inform all parties of the purpose of the investigative meeting.

- emphasise this is not a Disciplinary Hearing but make it clear that notes of the discussion may be used to decide any disciplinary action and may be used at a Disciplinary Hearing.
- stress the importance of confidentiality throughout proceedings.

4.6. Action on Completion of Investigation

4.6.1. Upon completion of the investigation, the Investigating Officer submits a report to the HR Case Manager setting out their conclusions and recommendations, and the HR Case Manager then determines the next step in this process, which could be:

- no further action is required
- issue is dealt with informally at line manager level
- continue with the Disciplinary process.

4.6.2. You are informed in writing of the decision.

4.6.3. If the decision is made to continue with the Disciplinary Procedure, this is conducted in accordance with the [Scheme of Delegation](#) or as decided by the HR Case Manager and Investigating Officer. You will be written to and:

- advised of the allegations and reasons for the Disciplinary Hearing
- advised whether the allegations could potentially be regarded as gross misconduct and, where this is the case, that the meeting could result in your dismissal
- receive copies of any evidential documents relevant to the case, including any witness statements/records of interviews where applicable. Witness anonymity may need to be protected, but only in exceptional circumstances and at the discretion of the HR Case Manager
- advised of your right to be accompanied by a Trades Union official or member of DWFRS staff at the meeting
- advised who will be the Presiding Officer at the Disciplinary Hearing
- advised where and when the meeting will take place
- provided with a list of witnesses being called on behalf of the Service
- provided with a copy of this procedure and all supporting documents
- signposted to appropriate support measures.

4.7. Disciplinary Hearing

4.7.1. At the Disciplinary Hearing, the Presenting Officer will set out their investigation findings, demonstrating that a reasonable investigation has been carried out. The member of staff under investigation will have the opportunity to challenge the case and provide mitigation.

4.7.2. The member of staff under investigation has a statutory right to be accompanied at the hearing as set out in [3.3 Accompaniment](#).

4.7.3. The hearing will be presided over by a manager appointed in accordance with the Scheme of Delegation, supported by an HR representative.

4.8. **In person witnesses**

- 4.8.1. There is no statutory entitlement for a member of staff under investigation to call witnesses to a disciplinary hearing; however, they are given a reasonable opportunity to call relevant witnesses and must give advance notice to the HR Case Manager of their intention to do so. The individual should set out the reason they have called a witness. The request will not be unreasonably refused, but the HR Case Manager can refuse this request and set out the reasons for this refusal.
- 4.8.2. All witnesses will receive a formal notice to attend. This notice will include details of the allegations against the member of staff.
- 4.8.3. Any witnesses attending in person should have been witness to events and be able to provide a testimony relevant to proceedings. The Service reserves the right to refuse the attendance of a witness where it is considered that their testimony is not relevant.
- 4.8.4. The Presiding Officer may also call witnesses where it is deemed that their testimony is relevant to proceedings and will support in reaching a fair and proportionate outcome. As an alternative to calling witnesses, the Presiding Officer may request a written witness impact statement.

4.9. **Character witnesses**

- 4.9.1. Statements from character witnesses should be provided in writing no later than five days before the scheduled hearing.
- 4.9.2. A maximum of three-character references can be provided. In the event that a character witness is approached but is unable to provide statement, you will be permitted to approach an alternative.
- 4.9.3. All character witnesses will receive a formal request which will include details of the allegations against the member of staff.

4.10. **Cases involving Multiple Witnesses**

- 4.10.1. Where hearings require the attendance of multiple witnesses, this will be managed by HR Professional Standards to ensure that adequate facilities are available to avoid any conferring between parties which may influence or impact on proceedings.
- 4.10.2. All witnesses will be expected to maintain strict confidentiality throughout any proceedings.

4.11. **Recording of Disciplinary Issues**

- 4.11.1. It is important that written records are made during the disciplinary process. These records will include:
- the allegation against you
 - your defence
 - the findings and actions taken (including any local management action)
 - the reason for actions taken

- whether an Appeal was lodged
- the outcome of the Appeal
- follow up action as applicable.

4.11.2. At the conclusion of all disciplinary cases, all papers relating to the case must be sent to the HR Professional Standards Coordinator.

4.11.3. Only sanctions awarded to you are recorded on the HR Management system and are removed once the sanction is spent. All other papers are securely filed and retained within HR in accordance with the retention schedule. No papers are retained by managers or witnesses to the case.

4.12. **Audio Recordings**

4.12.1. In addition to written records, DWFRS will make an audio recording of discussions held to have a verbatim record of these discussions. Should a case proceed to a formal hearing, these recordings are transcribed. The individual being investigated may request a copy of this recording or transcript at any point. The audio will not be used as evidence during the investigation or at a disciplinary hearing, unless in the event of a dispute over information presented.

4.12.2. Covert recording at meetings and hearings is not permitted. If you wish to make a recording on a personal recording device, you must seek agreement from the investigating officer or presiding officer of the hearing before the meeting commences. Any such recordings must be treated in confidence and information must not be shared.

4.12.3. All information, including audio recordings, relating to the case are disposed of in accordance with DWFRS's retention schedule.

4.13. **Protecting Information**

4.13.1. In some circumstances it may be appropriate to redact transcripts of complainants or witnesses where anonymity has been requested and agreed, or where information contained within the transcript is not considered to be relevant to the case but is sensitive in nature.

4.13.2. Any redactions will be requested by the Investigating Officer and agreed by the Case Manager.

4.13.3. Where redactions have been made, an accompanying note will be included for transparency.

4.14. **Special Cases**

4.14.1. In special cases records are kept indefinitely where they involve:

- bullying
- harassment
- discriminatory behaviour
- incidents involving child protection
- incidents involving vulnerable adults.

- significant criminal charges

4.15. **Disciplinary Outcomes**

4.15.1. **Formal Warnings**

- 4.15.1.1. After the expiry of the specified period, formal warnings are disregarded. Spent warnings are not referred to when responding to external reference requests except in cases where there may be issues of child protection or the protection of vulnerable adults.
- 4.15.1.2. There may be occasions where your conduct is satisfactory throughout the period that the warning is in force, only to lapse thereafter. Where there is evidence of pattern of behaviour, your previous disciplinary record can be considered when deciding what sanction should be awarded and/or how long any current warning should last at the point that it is issued. If a period of longer than the timescale originally stated is decided, then this will be specified in the outcome letter.
- 4.15.1.3. There may be occasions where other sanctions may be imposed either in place of, or supplementary to, the issue of warnings or dismissal. Individuals subject to proceedings will be notified of the possible outcomes in advance of the hearing.
- 4.15.1.4. During a promotion process, HR are consulted to ascertain whether any applicant is subject to any management process or if a live disciplinary sanction is in place and whether this should preclude you from applying. This is decided on a case-by-case basis. It may be agreed that you can apply for promotion with a live disciplinary sanction in place, but you may not be offered a promotion opportunity, if successful, until the sanction has expired.
- 4.15.1.5. If you are absent from work due to sickness at the time of the formal warning being issued, the sanction will not come into effect until you have returned to work.
- 4.15.1.6. If you are absent from work due to sickness immediately after the issue of a formal warning, the sanction period will pause for the duration of any absence and will restart on your return to work.

4.16. **First and Final Written Warning**

- 4.16.1. A written warning can be given to you in line with the [Scheme of Delegation](#).
- 4.16.2. Normally a first written warning remains in force for a period of up to six months from the date of the letter.
- 4.16.3. A final written warning normally remains in force for a period of between 12-18 months from the date of the letter.
- 4.16.4. The length of time a first or final written warning can remain in force can be extended by a Presiding Officer in circumstances where this is considered appropriate.
- 4.16.5. The first and final written warnings provide details and an explanation of the decision and set out the following:
 - Name of member of staff receiving the warning

- Nature of the misconduct
- The date of issue and duration of the written warning
- That no improvement in conduct will potentially mean further formal action being taken (for example, a first written warning may lead to a final written warning, and a final written warning may lead to dismissal)
- The advice given to the member of staff concerning their right of appeal
- Signpost of support mechanisms available to member of staff.

4.16.6. The warning letter is signed by the Presiding Officer of the hearing.

4.16.7. A record of any sanction issued is placed on the HR Management System HRMiS. Once spent, details of the sanction and all other documents and papers are securely filed and retained by HR Professional Standards separate from the member of staff's Personal Record File (PRF).

4.16.8. The individual will receive written confirmation that the sanction is spent.

4.17. **Dismissal**

4.17.1. If you have received a final written warning, further misconduct may result in dismissal.

4.17.2. You should only be dismissed if, despite warnings, your conduct does not improve to the required level within a specified time period.

4.17.3. Dismissal must be reasonable and consider all the circumstances of the case.

4.17.4. You may be dismissed for a first offence where this is found to be gross misconduct as set out in the Rules of Conduct.

4.17.5. Unless you are being dismissed for reasons of gross misconduct, you should receive the appropriate period of notice or payment in lieu of notice.

4.17.6. In cases of gross misconduct, it is appropriate to consider dismissal without notice. This is referred to as a summary dismissal.

4.17.7. Any dismissal sanction is confirmed in writing, including the procedure and time limits for appeal.

4.18. **Sanctions and Alternative Penalties**

4.18.1. Any sanction may only be given to you in line with the [Scheme of Delegation](#).

4.18.2. The sanctions below can be imposed either in place of, or supplementary to, the issue of a final written warning or be as an alternative sanction to dismissal:

- A warning.
- Demotion (by one Grade/Rank; a demotion of more than one Grade/Rank can only be done with your agreement). Demotion can only be considered where a vacancy at the lower grade exists.
- Disciplinary transfer (which should involve no loss of remuneration and, unless you agree otherwise, should be within the same duty system/working

arrangements). A disciplinary transfer can only be considered where a vacancy exists.

- Loss of pay up to a maximum of 10% of the average monthly gross pay.
- Review of flexible working arrangements.

4.18.3. Generally, although not exclusively demotion to another role at a lower rank/grade would be considered in addition to the issue of a final written warning, as an alternative to dismissal.

4.18.4. Upon completion of the disciplinary process, it is good practice to consider whether the matter has any wider implications for the organisation/team. A Post Case Review is undertaken by the HR Case Manager and managers involved in the case to identify any implications, along with any lessons learnt.

4.19. **Sharing Information**

4.19.1. Information regarding cases and the outcomes of these is published periodically by the Service. Information shared will usually be anonymised to protect the identity of individuals. In exceptional circumstances the Service may elect to include an individual's identity. In such cases a legitimate interest assessment would be undertaken.

4.19.2. In all cases, the complainant (if applicable) will be advised of the outcome. This will be accompanied by a confidentiality agreement which restricts the complainant from discussing the outcome with any other person

4.19.3. All cases are discussed at a strategic level at the Strategic Case Review Board which is held fortnightly.

4.19.4. Anonymised information relating to cases of gross misconduct is shared monthly with HMICFRS

4.20. **Appeals**

4.20.1. Following the decision of the Presiding Officer to issue a disciplinary sanction against you, you may appeal in writing no later than seven days after you have been verbally informed of the decision. The appeal must be sent to the Head of People Operations setting out the reasons for the appeal.

4.20.2. You can appeal for any of the following reasons, although this list is not exhaustive:

- There was a procedural defect at the original meeting such that the meeting was unfair.
- The issue is not proven on the balance of probabilities.
- The disciplinary sanction was too severe.
- New evidence has come to light since the meeting which has an impact on the decision.
- There is a dispute about evidence given by one or more witnesses at the original meeting. (In this case it may be necessary to rehear or review the witness evidence at the Appeal).

- 4.20.3. Your written appeal must include the basis for your appeal, i.e. if you are appealing based on a defect in procedure, you must clearly set out this defect. You may be asked to provide further information if the grounds of your appeal are not clear.
- 4.20.4. Appeals are heard by an Appeal Panel, as set out in the [Scheme of Delegation](#). This is your only right of appeal internally.
- 4.20.5. The Presiding Officer of the Appeal will have available all the documents presented in the original disciplinary hearing. They will also have a transcript of the hearing, the letter confirming the outcome of the hearing, the letter of appeal and all other relevant information.
- 4.21. **Appeal Procedure**
- 4.21.1. At the Appeal Meeting you and/or your representative will explain your grounds for appeal and present any relevant evidence.
- 4.21.2. At this same meeting, the Presiding Officer of the original Disciplinary Hearing will present the management case and rationale for the original decision.
- 4.21.3. Relevant witnesses may be brought by either side and be questioned by all parties.
- 4.22. **Appeal Decision**
- 4.22.1. The outcome of an appeal is either:
- the case against you is upheld (in whole or part); the sanction is then the same or a lesser penalty
 - the case against you is not upheld, in which case the disciplinary sanction is removed.
- 4.22.2. In cases where you have been summarily dismissed for gross misconduct, and the appeal decision is not upheld, you will be reinstated, and your pay backdated.
- 4.22.3. In cases of dismissal with notice, every effort will be made to conclude the Appeal process within the notice period. Where it has not been possible to conclude the Appeal process within the notice period, notice may be extended for a reasonable period with a view to concluding the Appeal process within the extended period. If the dismissal is not upheld on appeal, you are reinstated.
- 4.22.4. In cases of sanctions other than dismissal, the sanctions should not be implemented until any Appeal process has been concluded.
- 4.22.5. Where possible, the outcome of an appeal will be notified to you on the same day as the Appeal Meeting. However, in more complex cases, and cases being heard at Stage 3, the Chair of the Appeal Panel reserves the right to confirm the outcome in writing at a later date to allow for sufficient consideration to be given to an outcome.

4.23. Outcome Notifications

- 4.23.1. In all cases, the outcome of an Investigation, Hearing and Appeal will be notified to the relevant Line Manager/Station Manager, and HR Business Partner.
- 4.23.2. Complainants will be provided with confirmation that a case has concluded and will be provided with the findings of the Investigation Officer and/or Presiding Officer. This will not include details of any sanction awarded. This confirmation will be copied to the complainants Line Manager/Station Manager and HRBP.
- 4.23.3. Witness to cases will be provided with confirmation that a case has concluded. This will not include details of any sanction awarded. Where there are actions arising for a witness, these will be detailed in the letter. This will be copies to the witnesses Line Manager/Station Manager and HRBP.
- 4.23.4. In cases of dismissal, the following will also be notified:
 - ICT
 - Estates
 - Payroll.

4.24. Post Case Support

- 4.24.1. Support will continue to be provided to members of staff involved in formal proceedings following the conclusion of a case. This support can include by is not limited to:
 - a meeting with the Presiding Officer of a hearing or appeal to discuss the rationale behind the decisions made (it should be noted that this is not an opportunity to revisit or change those decisions)
 - welfare support, including access to service counselling and other welfare provisions as set out in the Health and Wellbeing Procedure
 - for members of staff who are dismissed, ongoing support can be sought from the Firefighters Charity.

5. DWFRS Financial Regulations

- 5.1. You are reminded that under DWFRS Financial Regulations, whenever any issue arises which involves irregularity concerning cash, stores or other DWFRS property or any suspected irregularity in the exercise of functions of DWFRS you should notify your Head of Department and the Head of Financial Services. They then notify the HR Case Manager who takes the necessary steps by way of investigation and report.

6. Monitoring & Assurance

- 6.1. HR Professional Standards record all discipline cases within the Service. They are monitored to highlight the:
 - type
 - frequency
 - outcome

- trends
- any issues with discrimination.

- 6.2. All cases are monitored in terms of equality, diversity and inclusion, to identify trends, and to maintain compliance with current legislation good practice.
- 6.3. All data is held in accordance with data protection legislation and our retention schedule and is only accessible to a small number of appropriate key staff.
- 6.4. Regular post case review meetings are with HR Case Managers and managers/key staff involved in cases to evaluate and determine learning points.
- 6.5. Statistics will be published annually.
- 6.6. Bi-annual Case Reviews are held with key stakeholders
- 6.7. The Strategic Oversight Board meetings fortnightly to review cases
- 6.8. A monthly data return is submitted to HMIFRS.

7. Document Reference

7.1. Glossary of terms used in this Procedure:

ACAS	Advisory, Conciliation and Arbitration Service
Capability	A member of staff's ability or qualification to do their job. Most often referred to in discipline cases where there is a lack of capability.
Conduct	A member of staff's behaviour in the workplace.
Disciplinary action	Formal action against a member of staff, for example, issuing a first written warning for misconduct or dismissing someone for gross misconduct.
Green Book	National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service
Grey Book	National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions of Service
Grievance	A problem or concern that a member of staff has about their work, working conditions or relationships with colleagues.
Gross Misconduct	Acts which are so serious as to justify possible dismissal, for examples see Discipline Rules of Conduct.
Investigating Officer	Officer appointed to investigate disciplinary matters.
Natural justice	Basic, fundamental principles of fair treatment. These principles include the duty to give someone a fair hearing. The duty to ensure that the matter is decided by someone who is impartial and they duty to allow an appeal against a decision.

EPR 2 – Discipline Procedure

Sanction	A punishment imposed on a member of staff as a result of unsatisfactory performance or misconduct. Sanctions may include dismissal or actions short of dismissal such as loss of pay or demotion.
Summary dismissal	Dismissal without notice, usually only justifiable for gross misconduct. Summary is not necessarily the same as instant and incidents of gross misconduct should be investigated as part of a formal procedure.
Trades Unions	This refers to recognised Trades Unions and locally recognised representative bodies as determined by individual Fire and Rescue Services.

7.2. Forms

[HR041 – Risk Assessment for Disciplinary Suspension](#) & [HR041\(a\) - Review of Risk Assessment for Disciplinary Suspension](#)

[HR043 – Performance Improvement Plan](#)

7.3. Supporting Information

[Disciplinary Rules of Conduct](#)

[Discipline Hearing Procedure](#)

[Disciplinary Scheme of Delegation](#)

[Role of Contact Officer](#)

[Welfare Contact Officer Guidance](#)

[Role of Suspending Officer](#)

[Guidance for Investigating Officers](#)

[ACAS guide to discipline and grievances at work](#)

[Information Commissioner's Office \(ICO\) Employment Practices Code](#)

[DWFRS's Code of Ethics](#)

7.4. Relevant Documents

[ED 1 – Probation](#)

[ED 5 – Staff Induction](#)

[EPR 1 – Grievance Procedure](#)

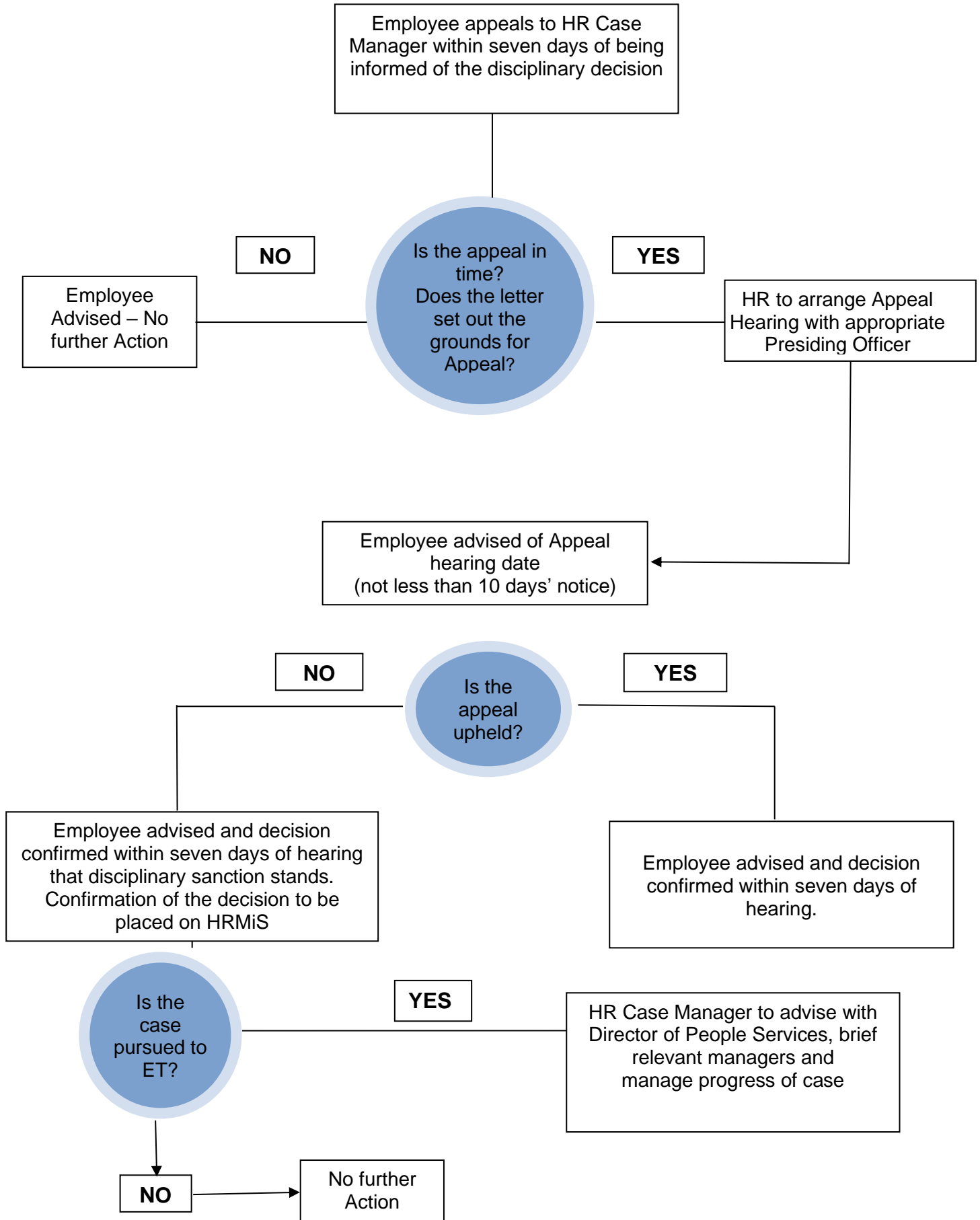
[EPR 4 – Managing Performance](#)

[EPR 10 – Sick Pay](#)

[HW 1 – Bullying & Harassment](#)

[HW 8 – Attendance Management](#)

Flowchart - Appeals



8. Document Management

Policy Statement Reference: People			
Owner:	Review Date:	Author:	Status:
Sadie Price	31/12/2028	Sadie Price	Published

8.1. Version Control:

Version:	Page & Par Ref:	Date:	Changes Made:	Authorised By:
V15.0	Entire Document	28/01/2025	<ul style="list-style-type: none"> Review of full document. Wording strengthened around notification of criminal proceedings. Updates to team references. Inclusion of sharing information. The following pieces of Supporting Information have been updated: <ul style="list-style-type: none"> EPR 2SI - Disciplinary Scheme of Delegation EPR 2SI - Guidance for Investigating Officers EPR 2SI - Role of Contact Officer EPR 2SI - Role of Suspending Officer EPR 2SI - Rules of Conduct EPR 2SI - Discipline Hearing Procedure EPR 2SI - Welfare Contact Officer Guidance. New piece of Supporting Information added: Welfare Contact Officer Guidance New Form Included within HR041 container: HR041(a) - 	Sadie Price

EPR 2 – Discipline Procedure

Version:	Page & Par Ref:	Date:	Changes Made:	Authorised By:
			Review of Risk Assessment for Disciplinary Suspension <ul style="list-style-type: none"> • Work ongoing with IG for a Stage 2 Impact Assessment (IA). • No other changes made at this time. 	
V14.0	Entire Document	21/09/23	Section added with information about procedure for Directors included. Clarification on calculation of days used (calendar days) Clarification re attendance at hearings when consent for OH medical is withheld. Section added re resignation or retirement during investigation process General updates throughout entire document	Carol Swan / Sadie Price
V13.0	Entire Document	15/02/2022	Update Work Assessment & Monitoring Form HR043 changed to Performance Improvement Plan Update HR Delivery to Employee Relations Update links to Discipline Hearing Procedure & general formatting of entire document	Stacey Holton Jo Di Francesco
V12.0	Entire Document Entire Document	22/10/2021	Updated with Core Code of Ethics to replace RESPECT Framework Updated procedural changes following post case reviews:	Sadie Price

EPR 2 – Discipline Procedure

Version:	Page & Par Ref:	Date:	Changes Made:	Authorised By:
	Pg 12, Para 3.10 Pg 19, Para 4.9 Pg 24, Para 4.20.5		Update to Modified Procedure. Update to Multiple Witnesses Updated to reflect right to reconvene.	
V11.0	First and last pages	06/04/2020	Updated links within Relevant Document section to point from BrigadeHQ3 to pandp.dwfire.org.uk . No other changes made.	Tonya Saben
V10.0	Entire Document	31/12/2019	Procedure updated with consultation feedback including those from representative bodies	Carol Swan
V9.1TCV	Entire document	04/11/2019	Plain English suggestions	Tonya Saben
V9.1	Entire document review	31/10/2019	Terminology changed: Senior Point of Contact (SPOC) and replaced with HR Case Managers and Group Managers (during out of hours). Area Managers and Corporate Heads of Department to identify and support the appointment of a trained Investigating Officer (previously the role of the SPOC) Timescales included - Appointment of investigating officer to be appointed within five days Mid case reviews updated to every 28 days instead of every six weeks Responsibilities for HR Delivery Coordinator clarified Responsibilities for HRBPs clarified	Carol Swan

EPR 2 – Discipline Procedure

Version:	Page & Par Ref:	Date:	Changes Made:	Authorised By:
			Clarification of when Contact Officer is appointed Appeal process simplified Grammatical changes throughout	
V9.0	Pages 1 & 27	18/06/2018	Updated policy reference in accordance to new framework	Tonya Saben
V8.0	Page 19 / para 4.14.6 Page 21 / para 4.9.3 Page 27 / flowchart	30/04/2018	Updated reference to the sanction as this is now placed on the HRMiS not the PRF.	Felicity Williams
V7.0	Page 2/ para 2.2 Page 15/para 4.1.1 Page 16/para 4.4.5	22/01/2018	Incorporated reference of RESPECT framework and hyperlink to be added when new framework available	Felicity Williams
V 6.0	Page 9 / para 3.6 Page 19/ Para 4.12 Page 21 / Para 4.17 Page 24 / Para 6.1	14/11/2016	Incorporated supporting documents into the procedure: Suspension from work, Disciplinary outcomes, Appeals procedure, and glossary. Removed the end of case form and document tracking form from P&P site for HR to issue accordingly.	Felicity Williams
V 5.0	Page 20	08/09/2016	Deleted the flowchart temporarily whilst under review	Felicity Williams
V4.0	Entire Document	16/08/2016	Changes to terminology and responsibilities as discussed with Carol Swan and HRBP's, and added hyperlinks to forms and supporting information	Felicity Williams
V3.0	Page 19 / 6.2	01/08/2016	Completed link to supporting information Risk Assessment for Disciplinary Suspension	Tonya Saben per request by Felicity Williams
V2.0	Page 1 Page 1 / 3	03/06/2016	Added link to EPR policy. Added individual responsibility links within as they were not listed within V1.0	Tonya Saben

EPR 2 – Discipline Procedure

Version:	Page & Par Ref:	Date:	Changes Made:	Authorised By:
	Page 19 / 6 Page 20 / 6.5		Added section 6.1. Completed links where available.	
V.1.0	Final published document	06/04/2016	Updates made following meetings with representative bodies.	Carol Swan

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