



Disciplinary Policy and Procedure

Policy No. 5

Title:	Disciplinary Policy and Procedure
Authored by:	Senior Head of People (SHP)
ELT Approved:	30th Aug 2022
FBU Consultation:	10th May 2022 – 8th Jun 2022
Unison Consultation:	10th May 2022 – 8th Jun 2022
Executive Committee Approved under Scheme of Delegation:	23rd Sep 2022
CFA Approved:	Not Applicable
Policy Register Review Date:	Sep 2025
Implementing Officer:	Head of Human Resources (HHR)

1 POLICY

1.1 Policy Statement

- 1.1.1 Cleveland Fire Authority is committed to supporting staff throughout the course of their employment and has established procedures in place to maintain satisfactory standards regarding the fulfilment of their employment contract, specifically regarding conduct and performance.
- 1.1.2 This Disciplinary Policy and Procedure relates specifically to the management of satisfactory standards of conduct and performance, and mechanisms for achieving improvement where necessary. It provides information relating to the types of behaviour that constitute misconduct and may lead to disciplinary action. The purpose of this Disciplinary Procedure is to set out the steps, which managers should take in order to ensure that there is a fair, unbiased, transparent and consistent manner to handling disciplinary matters. Whilst it is the Authority's aim to address unsatisfactory behaviour in an informal manner in the first instance it is recognised that certain situations will require some form of formal action, and this will depend on the specific circumstances of the particular case.

1.2 Policy Objectives

- 1.2.1 This policy aims to aid the prompt and effective management of standards within the workforce in a fair, transparent and consistent manner by providing a clear and transparent framework for dealing with difficulties that may arise in relation to employees, whilst aiming to achieve improvement and remedy problems at the earliest opportunity. Aligned to the ACAS Code on Disciplinary and Grievance Procedures the policy and procedure is designed to support employees to achieve and maintain the satisfactory standards required by Cleveland Fire Brigade.
- 1.2.1 To support the achievement of its' aims the Authority will:
- act in a reasonable manner
 - ensure that all employees understand what is expected of them in terms of behaviour within, and outside of, the workplace and the consequences of failing to meet these standards
 - raise and deal with issues promptly at the appropriate level and where possible prevent escalation
 - undertake thorough investigation of issues raised
 - inform, engage and involve employees in response to issues raised
 - ensure consistency of the application of the policy and procedure for all employees
 - manage the procedure in accordance with the process set out within this document
 - provide appropriate training, development and support to those involved in the application of this policy and procedure
 - collate and report management information to the Brigade's Executive Leadership Team (ELT) relating to disciplinary action

1.3 Scope

1.3.1 This policy and its procedure apply to all employees who are directly employed by Cleveland Fire Brigade.

1.3.2 For issues related to attendance please refer to the Sickness Absence Management Policy and Procedure.

1.3.3 For issues related to performance (capability) please refer to the Management of Capability Policy and Procedure.

1.4 Definition and General Principles

1.4.1 Disciplinary action may occur as a result of a breach of policies or procedures, or when an employee fails to meet the required standard with regard to conduct or job performance.

1.4.2 Misconduct is when an employee's behaviour, action or omission breaches Cleveland Fire Brigade's rules, policies and/or procedures. Poor or under performance is when an employee's underperformance is due to the employee's attitude, negligence, or recklessness rather than their skill, competence or ability to do the role (Capability).

1.4.3 Misconduct relating to matters involving the employee occurring outside working hours may also result in disciplinary action if it involves an offence that is likely to adversely affect the employee's ability to effectively carry out their duties at work, or to adversely affect the organisation and or its reputation.

1.4.4 There are several reasons as to why an employee may face disciplinary action including, but not limited to:

- Unauthorised absence
- Inappropriate behaviour
- Misuse of the Brigade's property or equipment, including email and internet
- Unsatisfactory performance against the requirements of the job role due to attitude, negligence or recklessness
- Repeated or serious failure to follow instructions

1.4.5 Certain behaviours will be deemed as gross misconduct, and are those relating to a serious breach of contractual terms including, for example;

- Theft
- Fraud
- Physical violence
- Bullying
- Deliberate and serious damage to property
- Serious misuse of the Authority's property or name
- Deliberately accessing pornographic, offensive or obscene material
- Serious insubordination

- Unlawful discrimination or harassment
- Bringing the Brigade into serious disrepute
- Incapacity at work as a result of alcohol or drugs
- Causing loss, damage or injury through serious negligence
- Serious breach of health and safety
- Serious breach of confidence
- Criminal activities –section 4.6 to 4.8

1.4.6 Whilst a criminal charge or conviction does not automatically initiate disciplinary action it is the responsibility of the Line Manager to establish the facts relating to the situation. Some offences are regarded as particularly serious in disciplinary terms and may result in dismissal – following application of the disciplinary procedure – even if the employee does not receive a custodial sentence. These are:

- Any racially aggravated crime
- Any offences of violent crime even if committed off duty
- Burglary, robbery and theft
- Fraud
- Trafficking
- Corruption
- Drugs-related offences
- Any serious offence of criminal damage or arson
- Sexual offences

1.5 Policy Category

This policy is categorised as ‘**Corporate Authority**’ within the Key Document Framework.

2 Organising

2.1 **Cleveland Fire Authority (CFA)** is responsible for:

- approving the Authority’s Disciplinary Policy and Procedure

2.2 **The Chief Fire Officer (CFO)** is responsible for:

- the management of disciplinaries within Cleveland Fire Brigade in line with the Authority’s Scheme of Delegation
- reviewing monitoring reports relating to disciplinary cases
- overseeing all aspects of this policy and procedure

2.3 **The Assistant Chief Fire Officer Strategic Planning & Resources (ACFOSPR)** is responsible for:

- maintaining the framework for the practical application of the policy and procedure in line with the Authority’s Scheme of Delegation.

- 2.4 **The Senior Head of People (SHP)** is responsible for:
- monitoring disciplinaries through the Disciplinary Policy and Procedure
 - monitoring arrangements within their functional area with reference to any Disciplinary Policy and Procedure.
- 2.5 **Head of Human Resources (HHR)** is responsible for:
- providing training and development to those involved in the application of this policy and procedure
 - ensuring that the policy and procedure meets and continues to meet the requirements of employment legislation
 - providing advice and guidance to managers and staff in relation to disciplinary action
 - effectively communicating this policy and procedure to all staff
 - managing, administering and coordinating procedures relating to disciplines
 - maintaining management information relating to disciplines and producing relevant reports to ELT
- 2.6 **Heads of Department/ Line Managers** are responsible for:
- ensuring the fair and consistent application of this policy and procedure
 - informing HR of disciplinary issues and seeking advice on proceeding
 - undertaking training in the management of disciplinary action
 - supporting all staff who are affected by this policy and procedure
- 2.7 **Individuals** are responsible for:
- understanding the standards required to fulfil the relevant job role, and the overarching obligations of the Brigade
 - adhering to the requirements of this policy and procedure
 - adhering to and fully cooperating in the application of the procedure
- 2.8 **Trade Unions** are responsible for:
- supporting the implementation of, and adherence to, this policy and procedure

3 Planning and Implementing

- 3.1 This policy is underpinned and implemented through the Authority's Disciplinary Procedure Appendix 1.
- 3.2 All new staff will be made aware of this policy and procedure during their induction and all documents will be available on Cleveland Fire Brigade's intranet.
- 3.3 Existing staff will be informed of this policy and procedure as per the accepted Policy Framework Procedure.

4 Resource Implications

- 4.1 There are people resources required to coordinate the procedure; most of this work is regarded as a combination of core work of the Human Resource Team and the day-to-day duties of staff with line management responsibility.

5 Equality Impact Assessment (EqIA)

- 5.1 This policy has been assessed in accordance with the Brigade's Equality Impact Assessment Procedure and the findings are contained in the assessment in Appendix 5.

6 Monitoring

- 6.1 The Senior Head of People (SHoP) will monitor activities under this policy and procedure.

7 Audit

- 7.1 This policy will be audited in accordance with the procedure detailed within the Authority's Policy Framework.

8 Review

- 8.1 The ACFOSPR will undertake a review of this policy in 2025 to ensure it is taking account of any new or emerging political, social, technological, legislative, environmental, competitive, citizen or reputational factors.

Procedure

1 Introduction

- 1.1 This is the procedure that underpins and implements Cleveland Fire Authority's Disciplinary Policy.
- 1.2 Disciplinary action can be initiated by the employee's Line Manager. In circumstances when the relevant Line Manager is unavailable, or where there is a conflict of interest, another manager of the same – or higher – level will be appointed to deal with the case. The procedure must be followed in accordance with the sequence detailed below.
- 1.3 An employee facing disciplinary action will be provided with a copy of this policy and procedure when advised, in writing from HR, of the commencement of the procedure.
- 1.4 From the outset of any disciplinary process the individual should be asked if any reasonable adjustments are required to support with a disability, health, wellbeing or cultural requirements of individual needs. These should be explored and implemented where considered reasonable.

2 Background

2.1 Employment Law and Best Practice

Consideration will be given to all aspects of employment law to ensure that the Authority is compliant throughout any element of the application of this policy and procedure.

2.2 Employment Rights Act 1996 (section 80F – 80I) and Employment Act 2002

The above legislation relates to the general principles afforded to individuals with employed status in an organisation.

2.3 Data Protection Act 2018 and EU General Data Protection Regulations

The Authority's records relating to disciplinaries will be kept confidential and in accordance with the above Act and its principles, regulations, and associated guidance. Any documentation related to a disciplinary will be placed on the individual's personal record file and retained for the duration of employment.

2.4 Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (PTW)

The PTW state that employers cannot treat part-time workers less favourably than their full-time equivalents and cannot subject them to any disadvantage (or detriment) because of their part-time status, unless objectively justified.

2.5 The Equality Act 2010

2.5.1 The Equality Act 2010 legally protects people from discrimination in the workplace.

It is unlawful to discriminate against people because of any, or all, of the protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion, sex and sexual orientation).

2.5.2 The Authority will ensure that direct or indirect discrimination does not occur when applying the procedure for managing disciplinary. Direct discrimination is treating someone with a protected characteristic less favourably than others, whilst indirect discrimination involves the application of rules and/or arrangements in place that apply to everyone but may put someone with a protected characteristic at an unfair advantage.

2.5.3 Under the Disability provisions of the Equality Act the Authority may have to make reasonable adjustments to accommodate an employee who has a disability. HR and Occupational Health, in partnership with departments, will work with managers and individuals in this regard.

3 Procedure

3.1 There are two stages within the disciplinary policy and procedure, namely the informal stage and the formal stage. Both stages of the proceedings are detailed below and whilst it is expected that the informal route will precede any formal intervention, in the case of conduct it is not necessary to exhaust each level to achieve the final outcome.

Informal Stage

3.2 Managers are expected to maintain satisfactory standards during routine supervision, and to address any concerns through informal measures in the first instance.

3.3 The correct application of the informal stage of the disciplinary procedure aims to achieve a resolution to the issue identified and to mitigate the need for further, formal intervention.

3.4 The informal stage of the disciplinary procedure may not be appropriate for similar/persistent issues that have previously been raised under the informal route.

3.5 When there are circumstances regarding minor misconduct or maintenance of satisfactory standards, the Line Manager is responsible for addressing the issue promptly and informally with the employee in the first instance.

- 3.6 Evidence of the behaviours listed in Definition and General Principles in the Policy will require manager intervention. In circumstances when the normal supervisory route has not achieved the required outcome the Manager may opt to implement a firmer approach without using the formal procedure. Such interventions should be documented using the form in appendix 3 (documented discussion/note to file form) and kept on record.
- 3.7 The purpose of the intervention is for the Line Manager to raise the issue (in private) and to ensure that the employee is fully aware of expected improvement, in addition to an understanding of the consequences of no improvement. The Line Manager should consider whether additional training or coaching may be required to resolve the issue.
- 3.8 Documented Discussions/ Note to File are for the purpose of recording an incident or event. Employees will be advised by their line manager as to the reason for the documented discussion/note to file and the contents within it. The employee should receive a copy of the Documented Discussion/Note to File and ideally sign the copy and this will be retained on their personnel file. Should the employee not wish to sign the Documented Discussion/Note to File, the manager should record this.
- 3.9 If the employee disagrees with the contents of the documented discussion/note to file, they have the option to produce their own document of events which can be placed in their personnel file along with the documented discussion from the line manager.
- 3.10 If the employee continues to fail to meet the required standards of conduct these records may be referred to as evidence as part of the formal procedure outlined below.
- 3.11 Should it become apparent at any stage during the informal procedure that matters appear to be more serious than originally thought, then informal proceedings should cease immediately, and a more senior manager informed. If the formal procedure is to be invoked, the employee will be advised of their right to representation.
- 3.12 Whilst employees do not have a statutory right to be accompanied at an informal meeting, the employee can be accompanied by an appropriate representative if required as a support mechanism.
- 3.13 An 'appropriate' representative is a colleague (not connected to the disciplinary case), a trade union representative or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany an employee.

Formal Stage

- 3.14 The formal disciplinary proceedings, comprise of:
- notification to the employee
 - investigation to establish the facts
 - Disciplinary Hearing (if applicable)
 - award appropriate sanction (if applicable)
 - right of appeal

3.15 In accordance with best practice principles an employee is entitled to be accompanied by an appropriate representative at each stage of the formal procedure.

3.16 The formal stages of the disciplinary procedure will be dealt with by an appropriate officer, either grey or green book, or elected member as detailed in the Table 1 below:

TABLE 1

Role/ Grade	Investigation			Hearing			Appeal Unless for appeal of dismissal see section 2.29		
				Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
FF A-D	WM Grade F			SM Grade G-H	GM Grade I	AM Grade J	GM Grade I	AM Grade J	ACFO
CM E	WM Grade F			SM Grade G-H	GM Grade I	AM Grade J	GM Grade I	AM Grade J	ACFO
WM F	SM Grade G-H			GM Grade I	GM Grade I	AM Grade J	AM Grade J	AM Grade J	ACFO
SM G-H	GM Grade I			AM Grade J	AM Grade J	AM Grade J	ACFO	ACFO	ACFO
GM I	AM Grade J			ACFO	ACFO	ACFO	CFO	CFO	CFO
AM J	ACFO			ACFO not involved in investigation	ACFO not involved in investigation	CFO	CFO	CFO	Executive Committee of CFA
ACFO	CFO			Executive Committee of CFA	Executive Committee of CFA	Executive Committee of CFA	A&G Committee of CFA	A & G Committee of CFA	A & G Committee of CFA
CFO LAMO TRS	External Designated Independent Person			Executive Committee of Fire Authority	Executive Committee of Fire Authority	Executive Committee of Fire Authority	A & G Committee of CFA	A & G Committee of CFA	A & G Committee of CFA

NB: as CFB has a small number of senior officers and there may be occasions when the above structure is not achievable, in these circumstances the officers will be nominated by the ACFOSPR at the beginning of the process.

Where the manager who would normally deal with the issue cannot be available, or there may be a conflict of interest, another manager at the same or higher level, should be appointed to deal with the case. Where possible the Brigade will endeavour to source personnel who have had no prior involvement in the case.

Suspension

3.17 In some cases, it may be appropriate to suspend an employee whilst an investigation is being conducted, and it is important that this is not misconstrued as disciplinary action. In such circumstances the Line Manager should discuss this option with HR who will provide advice and guidance.

- 3.18 Approval to suspend will need to be sought from the Senior Head of Department in conjunction with HR, the Principal Officer and CFO before any action is taken. The employee must be informed of the reasons for the suspension and advised that they remain employed by the Authority and subject to their contractual obligations, that they will receive full pay and benefits (unless absent from work due to sickness in which case the provisions applicable under sick pay will apply).
- 3.19 Where practically possible, the employee will be informed of the suspension face to face and this would usually be conducted by a Duty Officer and a Human Resources Representative.
- 3.20 Any suspension will be as brief as possible and will be kept under review.
- 3.21 HR will issue correspondence to the employee detailing the terms of suspension and the employee is obliged to adhere to the terms of the arrangements, which may include the following points:
- the reason for the suspension
 - the fact that it is without prejudice, a wholly neutral act and that it does not constitute a disciplinary sanction
 - suspension is on contractual pay
 - the employee must not carry out or purport to carry out any duties on behalf of the Brigade whilst suspended.
 - the employee may not return to the workplace unless authorised by management
 - the employee must be available to management at a time suitable to both manager and staff member throughout the period of suspension. If the employee is not normally contracted to work for the Brigade during a part of this period and has unavoidable commitments during this time this will be taken into consideration when arranging meetings etc.
 - the employee must not discuss the case with any other colleagues other than their representative, investigating officer, HR or occupational health.
 - any breach of the terms of the suspension may be regarded as a disciplinary matter
 - management must ensure that they have the correct contact details to enable communication to occur with the employee by telephone and in writing, either directly or via their representative. The employee must inform their named contact or HR of any changes in their contact details.
- 3.22 A Welfare Officer will be assigned and a Communication Plan agreed using the Communication Plan on Appendix 4.
- 3.23 In the event that a period of annual leave falls within the suspension this will be honoured and will only be revoked if the absence would unduly delay a resolution to the situation i.e. the hearing.
- 3.24 The normal rules on secondary employment apply whilst on suspension. Please refer to the Secondary Employment Procedure on CFB intranet for up-to-date information.

- 3.25 Full pay for employees suspended whilst on the Retained Duty System will be calculated based on their payments as an average from the previous 12-week period.

The Investigation

- 3.26 An investigation must be carried out by the Investigating Manager to establish the facts. The case **will also be assigned a member of HR to provide procedural advice.** The employee must be notified of the investigation as soon as possible by a member of the HR Team. The investigation must be confidential, must be completed efficiently and a written record maintained.
- 3.27 The Investigating Manager must make the investigation a priority piece of work and commence the investigation immediately after the employee has been notified. The investigation should be completed as quickly as possible, whilst ensuring that it is completed thoroughly and fairly. It is expected that in certain cases this may take some time. **The employee should regularly be kept informed in writing of progress and/ or delays with rationale.**
- 3.28 When gathering the facts, the Investigating Manager, **must conduct an interview with the employee which should take place at a mutually convenient location. The employee must be advised that the investigation is commencing and must be provided with reasonable notice of the interview, where possible.** The investigation should be conducted in an objective and impartial manner. **The assigned HR member may be attendance to provide procedural advice.**
- 3.29 **Advice should be sought from HR, this is particularly important in all cases of alleged gross misconduct or if dismissal is a possible outcome.**
- 3.30 The employee has a right to be accompanied to the investigation meeting. Whilst employee's do not have a statutory right to be accompanied to an investigation interview, the Authority believes such an entitlement may be beneficial to the individual.
- 3.31 If accompanied at the investigatory interview, the representative may not answer questions on behalf of the employee but may direct the Investigating Manager and if applicable HR if they consider the questioning is inappropriate or unfair.
- 3.32 Employees are required to co-operate fully and promptly in any investigation. This will include informing the Investigating Manager and/or HR of the names of any relevant witnesses and disclosing any material documents. Declining to attend an investigation interview may result in the investigating manager making their findings and recommendations on the facts available to them at the time.
- 3.33 The absence of an interview, for whatever reason, will not prevent the formal proceedings from going ahead which may include a formal hearing.

3.34 The Investigating Manager must assume impartiality throughout the proceedings and will consider all evidence objectively before making a recommendation – in the format of a report – relating to the outcome of the investigation. The Investigating Manager may reference previous live sanctions where relevant at the point of decision making.

3.35 Notes from the interview will be confirmed in writing to the employee.

3.36 Upon completion of the investigation and production of the investigation report, the Investigating Manager and HR representative will review the case and decide on what action, if any, is required. Possible outcomes of this review are:

- No further action
- Deal with the matter on an informal basis and/or invoke procedures other than disciplinary (e.g. Management of Capability, Substance Abuse, referral to Occupational Health, counselling etc.)
- Refer the matter to a disciplinary hearing and recommend a level

3.37 If a decision is taken to proceed to a Disciplinary Hearing the employee should be informed immediately. The Investigating Manager, with advice from HR, will promptly prepare the evidence pack.

3.38 HR will notify the employee of the progression to a formal hearing and will invite the employee to a hearing in accordance with the timeframes of notification required for the relevant level which are:

- seven days for level one,
- ten days for level two
- twenty-one days for level three.

The timeframes can be varied by mutual agreement between the employee and the Brigade particularly where varying the timeframe would benefit the employee's wellbeing.

The Hearing

3.39 If the outcome of the investigation relates to a recommendation of formal action a Hearing will be arranged and at the Hearing the Investigating Manager with advice where required from the nominated HR will present the facts of the case to the Hearing Manager, who will be advised by a member of HR who has not already been involved in the case.

3.40 The employee must be given appropriate notice relevant to the recommended level from the date of notification unless mutually agreed otherwise, in correspondence issued from HR. The letter will include the following information:

- date, time, and venue of the hearing
- details of the allegation and potential breaches of policy
- the level of the hearing
- possible outcomes of the hearing and if dismissal is applicable the letter should include the potential maximum sanction of dismissal

- copies of evidence to be presented by the Investigating Manager
- details of any witness(es) to be called by the Investigating Manager
- confirmation of the employee's right to be accompanied, to call witness(es) and to prepare a response to the information presented by the Investigating Manager.

3.41 The hearing manager **will be provided** with a copy of the evidence to be presented at the hearing **at the same time as the employee.**

3.42 The Hearing Manager will consider, based on the required **burden** of proof, whether there are "reasonable grounds to believe" that the action has occurred based on the evidence presented.

3.43 The Hearing Manager will consider the appropriate sanction and will give particular consideration to:

- **the seriousness of the act/omissions**
- any precedent as set by similar cases in the past
- ensuring that an individual is not being discriminated against
- **the individual's disciplinary record (the personal file will be made available to the hearing panel). Previous spent sanctions (up to a 5-year period) will only be considered where there is a clear pattern of behaviour demonstrated.**
- the requirement for training, additional support, or adjustments aid improvement
- any special circumstances

3.44 Whilst the Hearing Manager may advise the employee of the outcome of the hearing following the adjournment, the employee will receive formal notification of the decision in writing within **7 days** of the hearing which will include details of how to appeal.

3.45 The Hearing Manager may, in some circumstances, decide that further information/investigation is required prior to the outcome being reached in which case the hearing will be reconvened at a later date and within 7 days where possible.

3.46 If the employee and or their companion are unable to attend the disciplinary hearing, they must inform the Investigating Manager and HR as soon as possible before the scheduled date. The employee should advise of a time when they and/or their companion will be available within 7 days of the original proposed meeting date and provided this can be accommodated the new meeting time will be agreed. Further circumstances regarding availability to attend a hearing will be managed as detailed below:

Nature of Non-Attendance	Action
Employee advises that they are unable to attend on receipt of notification of the Hearing, for reasons such as holiday or availability of representative. If the employee elects to send a representative on their behalf, and if the representative cannot accommodate the date/time of the hearing the employee has a statutory right to suggest an alternative date no more than 7 days later than the original date.	Hearing rearranged once
Employee unable to attend through circumstance outside of their control after confirming acceptance of the meeting, such as illness – and notice is provided.	Hearing rearranged once
Employee fails to attend hearing without notice or good reason.	Hearing rearranged once, within 7 days of original hearing date
Employee fails to attend a rearranged hearing without notice or good reason.	Hearing may proceed, and a decision regarding the outcome

Disciplinary Sanctions

3.47 Where the facts of the case call for a disciplinary sanction other than summary dismissal, one of the following types of action may be considered, depending upon the severity of the case.

Level One

3.48 For use when an informal stage has been pursued but hasn't worked and/ or the issue may warrant a sanction no greater than a written warning. The Hearing Manager will determine the appropriate sanction from the options below:

- no further action
- deal with the matter on an informal basis
- issue a first written warning (6 months)

Level two

3.49 For use when an informal stage has been pursued but hasn't worked; and/or, a level one warning was issued and there has been no improvement within the agreed timeframe, and/or the issue may warrant a sanction no greater than a **final** written warning.

3.50 The Hearing Manager will determine the appropriate sanction from the options below;

- no further action
- deal with the matter on an informal basis
- issue a first written warning (6month)
- issue a final written warning of no longer than 18 months

Level three

3.51 For use where a further misconduct offence is committed within the current period of a final written warning, and/or a level two warning was issued and there has been no improvement within the agreed timeframe; and/or, gross misconduct is alleged, or the alleged offence is sufficiently serious enough that it may warrant dismissal.

3.52 On conclusion of the Level 3 hearing, the Hearing Manager will determine the appropriate sanction from the options below;

- no further action
- deal with the matter on an informal basis
- issue a first written warning (6 months)
- issue a final written warning no longer than 18 months
- dismiss the employee with notice (not applicable in cases of gross misconduct)
- dismiss the employee without notice (summary dismissal)

3.53 As an alternative to dismissal, the following options can be considered;

- a final written warning with possible extension in duration
- demotion (either within the role or no more than one role below)
- Disciplinary transfer (which must not result in a loss of remuneration, and unless the employee agrees otherwise the transfer should be within the same duty system).
- Loss of pay up to a maximum of 13 days.

Summary Dismissal

3.54 In cases of gross misconduct, an employee may be dismissed without notice. Where employment is terminated for gross misconduct; no payment in lieu of notice will be made.

The Appeals Procedure

3.55 An employee has the right to appeal the outcome of any disciplinary action at every level of the procedure and must do so within **7 days** of receiving notification of the decision

3.56 Any sanction, other than dismissal, arising from the original hearing will not be implemented until the period in which an appeal could be made has passed, or until such an appeal has concluded. In cases of a dismissal, save for summary dismissal, the Authority will endeavour to conclude any appeal within the contractual notice period (for which there may be an extension if required).

3.57 There are two types of appeal:

- Appeal against a Sanction - An initial appeal relating to the outcome of the Hearing will be escalated to a more senior member of staff than the original Hearing Manager, who has not had any prior involvement in the case.

- Appeal against a Dismissal - An appeal relating to a dismissal, as per a possible sanction of a Level 3 Hearing, will be escalated to the Fire Authority.

3.58 When making, and dealing with an appeal the following action must be taken by the relevant party:

An appeal must be made in writing to the Hearing Manager and Head of HR and must explain the grounds, which will ordinarily relate to;

- the way in which the procedure was managed
- the issue not proven on the balance of probabilities
- the severity of the sanction in proportion to the offence
- New evidence arising after the hearing that could have an impact on the decision.

The appeal should be as comprehensive as possible to allow a full response from the Hearing Manager. If sufficient detail is not provided the Head of Human Resources will seek further clarification from the employee before the appeal can proceed.

3.59 An Appeal Manager, from the relevant tier of management as indicated in Table 1, will be nominated to hear the appeal (unless related to dismissal in which case it will be escalated to the Fire Authority)

3.60 An Appeal Hearing will be scheduled by a member of HR and the Appeal Manager without unreasonable delay and where possible within 14 days of receipt of the appeal.

3.61 Following the notification of the appeal the employee and the Hearing Manager must submit the following information to the Head of HR;

- A full written statement of case including the grounds upon which the appeal is made
- Copies of any documents that will be used in evidence (employee and Hearing Manager).
- Details of any witness(es) that will be called.

3.62 The Head of HR will subsequently circulate the information to all parties at least 7 days before the appeal hearing. Failure to provide the required information will prohibit receipt of the other party's documentation in advance of the hearing.

3.63 On receipt of the information the Appeal Manager will carry out a review of the process and documentation and decide whether to conduct the hearing as a rehearing (in part or in full) or as a review, and only if there is new evidence or a failure to follow procedure will the need for a rehearing be considered.

The Appeal Hearing

3.64 Prior to, and at, the hearing, the Appeal Manager will review the documentation presented at the original hearing, associated correspondence issued to the employee and all other relevant information.

- 3.65 The employee (or their representative) will present the facts of the case and may call upon witnesses – as notified prior to the hearing – and will subsequently be questioned by the original Hearing Manager and the Appeal Manager, in that order.
- 3.66 The Hearing Manager from the original hearing will present the facts of the case and may call upon witnesses – as notified prior to the hearing– and will subsequently be questioned by the employee (or their representative) and the Appeal Manager, in that order.
- 3.67 The original Hearing Manager and the employee– respectively – will be afforded the opportunity to sum up their case if they so wish.

Outcome of Appeal

- 3.68 A decision regarding the outcome of the appeal based on the documentation provided; the grounds for the appeal and the information provided at the Appeal Hearing will be made. The Appeal Manager must not take any matter not directly relating to the original grounds of appeal into account when coming to a decision.
- 3.69 The outcome of the appeal will be either:
- The case against the employee is upheld (in whole or part); the sanction will remain the same or may be reduced.
 - or**
 - The case against the employee is not upheld and the sanction is rescinded.
- 3.70 As per the ACAS Code of Practice it is not appropriate to increase a sanction as an outcome of an appeal.
- 3.71 Reasons for a sanction being rescinded will be based on:
- New facts, which were not known at the time of the original decision, emerging which change the balance of probabilities in favour of the employee.
 - or**
 - The original decision to be considered as being unfair, based on all of the circumstances of the case.
- 3.72 When an employee is reinstated after a summary dismissal, following appeal, the previous remuneration may be awarded and backdated if applicable.

4. Additional Information

Resignation

- 4.1 If a member of staff submits their resignation whilst they are under investigation or prior to their disciplinary hearing, they are expected to serve a period of notice as set out in their terms and conditions of service. Every effort should be made to conclude the investigation and any disciplinary hearing prior to the employee's last day of service. **Where the**

disciplinary process cannot be concluded prior to the employee's last day of service, the investigation or disciplinary process may continue past the last day of the employee's service. Any such outcome would be reflected in an employment reference.

Mediation

- 4.2 Mediation is a process by which an impartial third party works with people who have a disagreement or dispute to help them repair the relationship and find some common ground to work out an agreement. Formal approaches used as part of disciplinary procedures or investigations can be extremely effective, but for underlying issues mediation can serve as a valuable tool to address the reasons for performance, conduct and/or attendance issues. Further information regarding mediation is available from HR.

Grievances relating to a Disciplinary

- 4.3 If an employee raises a grievance during a disciplinary process (at any level), the disciplinary may be suspended whilst the grievance is managed. If the grievance relates to the manager dealing with the disciplinary case the procedure must be suspended and an alternative manager appointed. If the grievance is directly related to the disciplinary the two procedures may be applied concurrently, following advice being sought from HR.

Failure to attend investigation or disciplinary hearing due to sickness

- 4.4 If an employee is reported as absent due to sickness during the formal or informal process of the disciplinary procedure, it does not mean that the investigation and/or hearing must be delayed. HR should attempt to establish the anticipated length of absence with advice from Occupational Health and may take a decision to arrange an interview/hearing whilst the employee is absent, if considered reasonable to do so. This is particularly in cases where there is no indicative date of return and/ or the impact of the case is impacting on the employee's health and wellbeing.
- 4.5 Where it is considered reasonable to go ahead with an interview or hearing, the investigating manager/hearing manager should make reasonable adjustments as required and the interviewee should be given the following option and provided with a reasonable time to respond:
- attend the interview in person even if not fit for full work
 - submit a detailed written reply to the allegation or, if a witness, a written account of the relevant evidence
 - brief a trade union representative or work companion to attend on their behalf

Criminal Offences

- 4.6 If an employee is arrested, charged with, or convicted of, a criminal offence they must report this to the Line Manager (or in the absence of the Line Manager to the Duty Officer) at the earliest convenience but within 24hrs, providing full details of the circumstances and nature of the offence regardless of whether committed off-duty or whilst at work. The line manager must then inform the Duty Officer and HR. Failure to provide notification of such incidents within the recommended time frame may result in disciplinary action being instigated.

4.7 Employees must notify their line manager of arrests, criminal charges/convictions including, but not restricted to:

- a conviction for any criminal offence, including road traffic and drink- driving offences
- if charged for any criminal offence
- if arrested or refused bail
- receiving a caution
- receiving a penalty notice for disorder
- receiving an anti-social behaviour order (ASBO)

4.8 A former employee who has been dismissed on conviction of a criminal offence and who subsequently has the conviction overturned on appeal, may apply to the Chief Fire Officer to be considered for re-employment. Each application will be assessed on its own merit. The Chief Fire Officer may delegate consideration of the application to a member of the Executive Leadership Team who has no previous involvement with the case.

Disciplinary Action against Trade Union Representatives

4.9 Trade Union representatives are expected to observe the same standards of performance, attendance and conduct as all other employees. However, Trade Union representatives have additional legal protection relating to their duties. If formal disciplinary action is required the Head of HR will inform a senior representative of the relevant Trade Union.

Occupational Health

4.10 At any stage in the disciplinary process the Line Manager, in conjunction with HR, may consider it appropriate to refer the employee to Occupational Health.

Keeping Records

4.11 Records of meeting notes will be taken and will be provided to the employee on request, as well as being shared with HR. Records will include, as a minimum.

- details of the issue being managed
- the employee's response
- details of the investigation completed, including the outcome
- details of actions agreed and taken
- details of an appeal (if applicable) and the outcome
- details of any grievance raised during the disciplinary
- subsequent development
- notes from any formal meetings (in certain circumstances when appropriate to do so, such as to protect a witness, some information can be withheld)
- any other relevant information

Records will be managed in accordance with the Data Protection Policy and Procedure and will be stored by the HR Team.

Training

- 4.12 All staff involved in the management of disciplinary action must have completed relevant training and be familiar with the provisions of the disciplinary procedure.
- 4.13 The Head of HR will ensure that appropriate training is offered to managers on a regular basis and **managers involved in the disciplinary process will complete relevant training.**

Disciplinary Hearing Conduct and Proceedings

The nominated Hearing Manager will conduct the hearing. The case – including the findings of the investigation – will be presented by the Investigating Manager, and the employee, or their nominated representative, will present their case.

The Hearing should be conducted in accordance with the following proceedings:

Disciplinary Hearing Proceedings	
1.	The Hearing Manager will introduce themselves and identify all other persons present (Toolkit to support proceedings will be provided by HR)
2.	The Hearing Manager will outline the proceedings and ensure no reasonable adjustments to the process are required
3.	The Investigating Manager and, if applicable the dedicated HR representative will present the facts (backed up by evidence) and may call any witnesses
4.	The employee and/or their representative may ask any questions in response to the information presented by the Investigating Manager and/or HR
5.	The Hearing Manager/ member of HR team supporting the Hearing Manager may ask any questions in response to the information presented by the Investigating Manager
6.	The employee and/or their representative will present their case (backed up by evidence) and may call any witness(es)
7.	The Investigating Manager and/ or HR may ask any questions in response to the information presented by the employee and/or their representative
8.	The Hearing Manager may ask any questions in response to the information presented by the employee and/or their representative
9.	The Investigating Manager will sum up their case without introducing any new matter
10.	The employee will sum up their case without introducing any new matter
11.	The hearing will be adjourned and all parties, save for the Hearing Manager and the HR representative, will leave the room
12.	The Hearing Manager will consider all of the evidence presented and come to a decision, with support from HR as required.
13.	The hearing will reconvene, and the Hearing Manager will outline their decision. The employee will be informed of their right to appeal and will be advised that confirmation of the decision will be communicated in writing within 7 days from the date of the hearing.

Use of Witnesses

It is the responsibility of the employee to identify and engage a witness(es) for their case, and to ensure that they are willing to appear at the hearing or to provide a statement.

1.	Witnesses will be excluded from the hearing until called by the Hearing Manager, as required by either the Investigating Manager or the employee, and will be called individually
2.	The witness(es) may be questioned by the Hearing Manager, the Investigating Manager and the employee
3.	The witness(es) may be re-examined on any matter referred to in the original examination or in the questioning
4.	On completion of the above stage the witness shall leave the room and should be advised if they are free to leave or likely to be recalled
5.	Witnesses may be called upon in the event of an appeal hearing



Employee: _____

Manager: _____

Subject: _____

Date & Time: _____

People Involved / Present: _____

I advised [INSERT EMPLOYEE'S NAME] that the purpose of this meeting was to discuss [INSERT DETAILS OF CONDUCT]

[illegible]

[INSERT EMPLOYEE'S NAME] said in response that [INSERT DETAILS OF WHAT THE EMPLOYEE SAID/ADVISED/EXPLAINED].

At the end of the meeting I confirmed that whilst no disciplinary action will be taken in this instance, a copy of this documented discussion will be recorded on their file. Any further incidents of this behaviour may result in disciplinary action.

Signed by employee: _____ Date: ____ / ____ / ____

Print name: _____

Signed by manager: _____ Date: ____ / ____ / ____

Print name: _____

Staff Member refused to sign YES/NO

[DETAIL ANY FURTHER ACTIONS REQUIRED, IF ANY, IE
TRAINING/MONTIORING/SUPERVISION]

Actions	Responsibility	Due Date	Completed



Employee name:

Manager:

Date plan completed:

Weekly contact will be made from to to ensure that communication is maintained throughout the investigation.

The weekly contact will include:

- Welfare check in
- Update on investigation and timeline for completion
- Opportunity for employee to raise and discuss any issues
- Any further support required, not identified previously

Contact will be made each(day).. At(time)

Preferred method of communication is:..... (phone call, email, text etc)

Tel no. /Email address

In the event that the manager or employee is unavailable, an alternative agreement should be reached, if appropriate another manager can be appointed to ensure that contact is maintained, and the welfare of the employee is supported.

EQUALITY IMPACT ASSESSMENT – INITIAL SCREENING

EqlAs enable us to consider all the information about a service, policy, practice, or activity from an equalities perspective and then put an action plan in place to achieve the best outcome for our employees and service users. EqlAs analyse how the work that we undertake can impact different groups. This will help us to make better decisions and evidence how we have reached these decisions.

SECTION 1 – INITIAL SCREENING

Directorate:	Strategic Planning & Resources
Department/Section:	Human Resources
Title of EqlA – Name of Service or Policy Conducted on:	Disciplinary Policy and Procedure
Date of Assessment:	16 th March 2022
Assessment carried out by:	Emma Doubooni/ Charity O' Rourke

Is this Policy/Service/Project:

Existing ☒

New/Proposed ☐

Changing ☒

Other ☐

Applicable to:

Our staff ☒

Our Communities ☐

Other ☐

PURPOSE AND OBJECTIVES	
What are the aims of the service / policy?	This policy aims to aid the prompt and effective management of standards within the workforce in a fair, transparent and consistent manner by providing a clear and transparent framework for dealing with difficulties that may arise in relation to employees, whilst aiming to achieve improvement and remedy problems. Aligned to the ACAS Code of Practice on Disciplinary and Grievance Procedures, the policy and procedure is designed to support employees to achieve and maintain the satisfactory standards required by Cleveland Fire Brigade.
Who is responsible for the service / policy? Who is responsible for the assessment?	Policy – ACO SPR Assessment – HR
Who implements the policy? Are external contractors involved?	Head of Human Resources
Are there any related policies or processes that will need to be changed associated to this one?	The Dignity at Work Policy Grievance Policy and Procedure Sickness Absence Management All will be reviewed with any changes made to the Disciplinary Procedure where required and vice versa.
To what extent does the service / policy have an impact on people? Who is affected by it and how?	This policy and procedure is available for all employees to access if required. The impact is on the employee raising a concern, the employee under investigation, the line manager and/ or those involved (witnesses etc) and resources allocated to investigate and hear any concerns.
What analysis has been done to identify if the service / policy is meeting the needs of all of these groups of people?	Review of the cases to which this policy has been utilised. Also, feedback and observations from cases has been taken into account. A debrief of cases will also inform any changes that are required to meet any changing needs. Benchmarking against other FRS's/ NHS/ LGA policies.

ESTABLISHING RELEVANCE

In this section you should review the data and evidence above and consider the actual and potential impact of the policy, service, activity or practice on employees, residents, groups and other service users. Findings should be noted in the table below. You should also consider whether the decision will, or is likely to, influence CFB's ability to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act and other relevant legislation.
- Advance equality of opportunity between different groups of people
- Foster good relations between people who share a protected characteristic and those who do not.

Using the information available, identify the impact of this service / policy in relation to people across the Protected Characteristics:

Protected characteristics groups from the Equality Act 2010	Negative Impact	Neutral Impact	Positive Impact	Explain your answer
Age		X		This policy is applied equally to all staff regardless of age
Disability	X			<p>This policy is applied equally to all staff regardless of disability</p> <p>Depending on the needs of an individual we may need to make reasonable adjustments and adapt our timeframes or how we share information on a case-by-case basis and working in conjunction with the individual.</p> <p>Positive considerations for reasonable adjustments relating to disability. i.e. the presence of a family member at formal hearings in</p>

				exceptional circumstances. Consideration into conditions impacting an individual's behaviour/use of language which in the policy are deemed as misconduct (eg Tourette's). Extended notification for hearings may be required for those, for example, with visual or hearing impairments in order to prepare any evidence or find support (ie interpreters).
Gender Reassignment		X		The policy is applied equally to all staff regardless of gender reassignment
Pregnancy and Maternity		X		The policy is applied equally to all staff regardless of pregnancy and maternity. Positive considerations for reasonable adjustments. However, managers and all involved in the process should be mindful of any pregnancy related illness and how that might impact the individual attending meetings
Race		X		The policy is applied equally to all staff regardless of race Positive considerations for reasonable adjustments. Consideration to be given to language barriers eg, if English is not their first language a translator might be required during the hearing. Reasonable adjustments to be considered for colleagues who need to present their case during hearings for example extra time to gather the evidence or additional support during the process.
Religion and Belief		X		The policy is applied equally to all staff regardless of religion or belief. During the process colleagues should be mindful of religions occasions/festivals.
Gender		X		The policy is applied equally to all staff regardless of gender.

				Managers should consider appropriate language and pronouns of colleagues before meetings begin.
Sexual Orientation		X		The policy is applied equally to all staff regardless of sexual orientation. Managers should consider appropriate language and pronouns of colleagues before meetings begin.
Marriage and civil Partnerships		X		The policy is applied equally to all staff regardless of marriage and civil partnership
Is a full Equality Impact Assessment required? Yes or No If not why?	<p>If you have identified a negative potential impact for group, then you must complete a full Equality Impact Assessment. If you have identified a neutral or positive impact on any groups then no further action is required.</p> <p>Yes - We have identified that with regards to some disabilities (for example a Neurodiverse condition), we may need to make reasonable adjustments and adapt our timeframes or how we share information on a case-by-case basis, working in conjunction with the individual.</p> <p>With regards to race consideration needs to be given to language barriers- information might need to be provided in a different language or an interpreter provided to enable the employee to participate fully within the proceedings.</p>			

MONITORING AND REVIEW

What procedures are in place to monitor the impacts outlined in the analysis?	Human Resources will monitor the application of this policy, monitor the equality data and will have responsibility to ensure issues outlined in the policy are met and that any issues identified with the equality of application are addressed.
How often will this take place?	Annually
Date of next planned review?	May 2025

Proceed to Full EqIA Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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SIGNATURE OF PERSON COMPLETING THIS SCREENING	
Name:	Emma Doubooni
Job Title:	Head of HR
Date:	16/03/22

SIGNATURE OF LINE MANAGER – MINIMUM HEAD OF DEPARTMENT	
Name:	Chris Chisholm
Job Title:	Senior Head of People
Date:	

SIGNATURE OF EQUALITY AND DIVERSITY OFFICER – HR DEPARTMENT	
Name:	Ruth Anderson
Date published to internet	
Date published to fish	

FULL EQUALITY IMPACT ASSESSMENT

EqlAs enable us to consider all the information about a service, policy or strategy from an equalities perspective and then put an action plan in place to achieve the best outcome for our employees and service users. EqlAs analyse how the work that we undertake can impact different groups. This will help us to make better decisions and evidence how we have reached these decisions.

SECTION 2 – FULL IMPACT ASSESSMENT

Directorate:	Strategic Planning & Resources
Department/Section:	Human Resources
Title of EqlA – Name of Service or Policy Conducted on:	Disciplinary Policy and Procedure
Date Of Assessment:	16/03/22
Assessment carried out by:	Emma Doubooni

Is this Policy/Service/Project:

Existing ☒

New/Proposed ☐

Changing ☒

Other ☐

Applicable to:

Our staff ☒

Our Communities ☐

Other ☐

1. In step 1 (initial screening) which groups were identified as being disadvantaged by the policy or service?

Disability

Race

2. Summarise the impacts for each group identified

Disability - We have identified through feedback that with regards to some disabilities (for example a Neurodiverse condition, visual or hearing impairment) that we may need to make reasonable adjustments by adapting our timeframes or how we share information on a case-by-case basis, working in conjunction with the individual.

For example, an individual may need a greater timeframe to consider evidence or may require the recordings of meetings or hearings to allow them the opportunity to consider the discussion.

Race - Consideration to be given to language barriers eg, if English is not their first language a translator might be required during the hearing.

3. What data, research or results of consultation exercises are available to use in your assessment?

We utilised the research and development of our Neurodiversity Guidance to inform our assessment and also feedback from individuals who have been through some of our processes.

Discussion with the Cultural Diversity Staff Network.

4. What consultation has taken place with each group, either externally or internally and what were the consultation outcomes?

If there are any gaps in your previous or planned consultation and research, are there any experts / relevant groups that can be contacted to get further views or evidence on the issues? Please list them and explain how you will obtain their views.

Consultation to develop our Neurodiversity Guidance that informed this assessment was through our Disability Network Group, individuals employed by the Brigade who provided feedback and Daisy chain (Local Charity for Autism).

5. What equality monitoring and review systems will be set up to carry out regular checks on the effects of the policy / service

Regular debriefs on cases

Regular review of data on cases with reference to protected characteristics

Regular review of policy and procedure

Ensure this policy is easily accessible and available in different formats (ie braille, other languages)

SECTION 3 - EQUALITY IMPACT ASSESSMENT ACTION PLAN

Please use this section to develop an Action Plan to implement the key recommendations of the people impact assessment.

Recommendations	Actions Required	Timeframe	Resources required / Costs	Lead Officer Responsible	Relevant Outcome / Performance Indicator
Insert 'reasonable adjustment' information into all letters regarding Disciplinary Investigations	Amend Policy	Immediately	HR Time	Head of HR	
Ensure Policy is available in different formats i.e Braille/ Other languages	Make policy accessible in different formats and different languages				

SIGNATURE OF PERSON COMPLETING THIS SCREENING

Name:	Emma Doubooni
Job Title:	Head of HR
Date:	16/03/22

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