



Policy Title **Police Staff Disciplinary**
CCMT Sponsor **Director of Resources**
Department/Area **Human Resources**
Section/Sector **HR Consultancy Group**

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1.0 Rationale

1.1

This document is based on the Employment Act 2002 and the Employment Act 2002 (Dispute Resolution) Regulations 2004 and takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures in Employment.

1.2

To be fully effective a diverse workforce must operate so that staff are valued and able to fulfil their potential free from unfair and discriminatory practices. Thames Valley Police will ensure that this is reflected in the implementation of this policy.

2.0 Intention

The purpose of this policy is to encourage improvements in individual conduct as well as providing appropriate sanctions for any disciplinary breaches. It is designed to promote fair treatment of individual employees, to ensure the safe and effective operation of the organisation by providing a framework to address any lapses in conduct and encourages individual employees to achieve and maintain an acceptable standard.

3.0 General Principles

3.1

This policy provides a framework for dealing fairly and effectively with Police Staff disciplinary matters.

3.2

The framework includes arrangements and responsibilities for the proper investigation and consideration of allegations of misconduct.

3.3

The disciplinary procedures appended to this document apply to police staff employees, including Police Community Support Officers (PCSOs), of Thames Valley Police only. For the avoidance of doubt, they do not apply to police officers, self-employed contractors, agency workers or volunteers but do include police staff on probation. The procedures have been formulated in consultation with UNISON and have been agreed by the Chief Constable's Management Team.

4.0 Guidance, Procedures & Tactics

4.1

Individuals involved in the discipline and/or appeal process have a responsibility to ensure that their actions support the intent and requirements set out in this policy. All employees covered by the scope of the policy should be aware of the policy and how to access it.

4.2

Human Resources Advisors and the HR Consultancy Group are available to advise managers on the application and use of the policy.

4.3

Details regarding the disciplinary procedures to be followed and examples of potential disciplinary offences can be found in Appendices A-C.

[APPENDIX A – DISCIPLINARY PROCEDURES](#)

[APPENDIX B – GROSS MISCONDUCT OFFENCES](#)

[APPENDIX C – MISCONDUCT OFFENCES](#)

5.0 Challenges & Representations

Challenges and representations made in respect to this policy should be addressed to:

Head of Human Resources,
Thames Valley Police Headquarters (North),
Fountain Court,
Kidlington,
Oxon. OX5 2NX

6.0 Communication

6.1 Links to Police National Legal Database Other

- Equal Opportunities in Employment Policy
- Diversity in Employment Policy

6.2 Implementation Strategy

Individuals will be informed of the new policy through an all-user e-mail at the time of publication. The policy will be made available electronically via the Policy and Procedures intranet site and Human Resources site.

This policy can be made available to the general public via the Internet site.

7.0 Compliance and Certification

7.1 Human Rights Certification

(i) Legal Basis

- Employment Act 2002
- The Employment Act 2002 (Dispute Resolution) Regulations 2004
- ACAS Code of Practice on Disciplinary and Grievance Procedures in Employment.

(ii) Human Rights Articles Engaged

- Article 8 Right to Respect for Private and Family Life
- Article 11 Freedom of Assembly and Association
- Article 14 The Prohibition on Discrimination

Audited by: Alison Clements

Audited on: 1st November 2006

(iii) Prohibition of Discrimination

By engaging any of the aforementioned Articles, there is the potential to engage Article 14 of the European Convention. Article 14 states that the enjoyment of the Rights and Freedoms set forth in the European Convention of Human Rights shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Actions taken as a consequence of this policy will be applied fairly and impartially, having due regard for natural justice and human rights.

7.2 Diversity Impact Assessment

This policy has been assessed for its relevance against the six strands of Diversity and has been rated as "LOW".

7.3 Diversity (Human Resources)

In the application of this policy, the Force will not discriminate against any persons regardless of their gender, sexual orientation, race or ethnic origin, religion, age or disability.

7.4 Management of Police Information (MoPI) Compliance

Information deemed 'for a policing purpose', or any data about an individual that is circulated or received by e-mail; or published/downloaded via the intranet or internet or circulated in any other format must comply with MoPI guidelines.

7.5 Community Engagement Strategy and Standards

This policy does not have the potential to engage any of the Force Community Engagement Standards.

7.6 Data Protection

Personal Data (and sensitive personal data) processed in compliance with this policy will be managed in accordance with the provisions of the Data Protection Act 1998. It is recognised that such information will be of a sensitive nature and procedures will be in place to ensure appropriate disclosures, retention and storage guidance is available.

7.7 Freedom of Information Act

This policy is suitable to be made available to the public and will be published on the Thames Valley Police Freedom of Information Internet Site.

7.8 Protective Markings

This document has been assessed for the appropriate level of marking and is **NOT PROTECTIVELY MARKED**.

All information processed in compliance with this policy will be assessed against the Government Protective Marking Scheme and managed accordingly. In the event of information being disseminated it is the responsibility of the disseminator to ensure that the recipient is aware of their obligations under GPMS and are able to adequately secure the information.

7.9 Health & Safety at Work

This policy does not specifically contain Health and Safety implications. However, a breach of the provisions relating to Health and Safety could result in disciplinary action.

8.0 Monitoring and Review

8.1

This policy relates to **Domain B** of the Police Performance Assessment Framework as this covers the organisational capability and the effective use of resources, supporting Police Officer time available for supporting frontline policing, diversity of the workforce and working hours lost through sickness.

The fair and timely resolution of disciplinary investigations and any subsequent hearings contributes to creating a positive working environment and supports individual and organisational performance. The number and nature of Gross Misconduct cases are monitored and recorded by Human Resources.

8.2

A full policy review will be conducted on a 3 yearly basis or whenever relevant legislation changes, whichever is sooner. The policy will be due for its full review in November 2010.

There is a clear requirement for a structured and regular review of the policy. The policy will be reviewed to take account of the following:

- Changes in legislation
- Court rulings – Domestic, European and Human Rights
- Examples of good practice from other Forces or other organisations
- Changes in Home Office Circulars
- Developments with ACPO Policy Unit

- Representations made by individuals and relevant organisations
- Relevant Equality data

For use by the Policy Management Unit Only

Chief Officer Policy Authorisation

Policy signed off by:

Terri Teasdale

28-04-2008

Director of Resources:

Date:

APPENDICES**APPENDIX A****DISCIPLINARY PROCEDURES**

This Section is designed to provide further advice regarding the procedures to be followed when looking at a potential disciplinary problem.

1.0 Management Advice**1.1**

Nothing in the policy removes or replaces the prerogative and responsibility of a manager to give an employee management advice outside of the disciplinary policy when the employee is believed to have committed a minor infringement of the Thames Valley Police standards of conduct as outlined in the Police Staff Handbook, the objective being to help them improve their conduct.

1.2

The advice may be given verbally with a note being kept of what was discussed and agreed. The employee's conduct will then be monitored by their line manager through the PDR (Performance and Development Review) process over an agreed period with further breaches resulting in the formal disciplinary policy being invoked.

2.0 Investigation**2.1**

Where there has been an allegation of misconduct, an Investigating Officer may be appointed by the respective HR Advisor. Their role will be to investigate thoroughly the facts of the matter, including interviewing the employee who is the subject of the allegation and witnesses as appropriate.

2.2

At the conclusion of the investigation, the Investigating Officer will prepare a report on their findings to the HR Advisor who will decide what action should be taken. The HR Advisor may decide:

- That there is no evidence to justify further action, or
- That the matter can be dealt with appropriately by management advice, or
- That the matter should be considered at a formal disciplinary hearing.

2.3

Where the employee has been suspended or transferred to other duties during the investigation the HR Advisor in conjunction with the Head of Human Resources, or a member of the HR Consultancy Group during his/her absence, will consider whether those arrangements should be varied or continue.

2.4

The HR Advisor should aim for the completion of the investigation process within 4 weeks, with any ensuing disciplinary hearings scheduled within 7 weeks from the beginning of the investigation process. In cases where these timescales are not practicable the reasons for extending should be recorded.

3.0 Suspension**3.1**

The decision to suspend will be taken by the Head of Human Resources or a member of the HR Consultancy Group in his/her absence, in consultation with the respective HR Advisor.

3.2

The Head of Human Resources will take the following into account prior to making a decision to suspend:

- Whether the allegation against the individual could amount to Gross Misconduct and the seriousness of the incident.
- Could the employee be temporarily transferred to a different workplace whilst the investigation is being carried out to avoid the need for suspension?
- Will the employee's continued presence at work adversely affect the investigation process?
- Will the employee's continued attendance at work have an adverse affect on other staff?

3.3

All police staff suspensions will be regularly reviewed at least on a monthly basis by the Head of Human Resources in order to ensure that suspension is still appropriate and the investigation not unduly delayed. Any suspension will be on full contractual pay and should be regarded as a precaution and not a disciplinary sanction. However, staff falling sick during the suspension period will no longer be suspended but be subject of the provisions of the Sickness Management Policy, including payments, for the duration of their illness.

4.0 The Disciplinary Hearing**4.1**

A disciplinary hearing must be held before any formal disciplinary action can be taken.

4.2

In cases where the appropriate sanction would be a written or final written warning (see Section 7.0) the HR Advisor will determine the most appropriate manager to hear the allegations.

4.3

However, where dismissal is a possible outcome the hearing will be before the Director of Resources or the Head of Human Resources. Contact should

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first be made with a member of the HR Consultancy Group who will arrange for the hearing to take place.

4.4

The person hearing the allegations will be advised by a member of the HR Consultancy Group or an HR Advisor.

4.5

Hearings will not normally be tape-recorded but a note-taker may be present to record the proceedings. However, this will not be a verbatim record.

4.6

Subject to the agreement of the employee subject of the hearing, the management representative and the person hearing the allegations, persons in training who have been nominated by the Human Resources Department or Unison will be able to sit in as observers whilst the hearing is taking place.

5.0 Notifying the Employee of the Disciplinary Hearing**5.1**

If the HR Advisor considers that there is a case to answer he/she will set out the allegations, in writing, to the employee and inform them of their intention to set up a disciplinary hearing. This letter must be sent as soon as possible after the decision is taken to result in a hearing.

5.2

The hearing will be held as soon as practicable after this date and will be held at a time and location which is reasonable for the employee to attend. A minimum of **10** working days' advance notice in writing will be given of the disciplinary hearing to give the employee a reasonable opportunity to consider his/her response to the allegations, unless a shorter time scale is agreed with the employee. The letter to the employee must include:

- Details of the allegation(s).
- The date, location and time of the hearing.
- Notification that the employee has the right to be accompanied by a trade union representative or work colleague.
- Details of any witnesses that may be called.
- Identification of who is chairing, advising and presenting the case at the hearing.
- Reference to any attached documentary evidence that will be considered. *
- Explanation that the employee can call witnesses or produce documentary evidence which **must** be submitted at least **5** working days prior to the hearing.
- Confirmation that the employee will be given a **full** opportunity to explain their case at the hearing.
- Be informed if the outcome of the disciplinary hearing could result in their dismissal.

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*Documentary evidence may include antecedents, sickness record, previous discipline, witness statements but is not limited to these examples.

5.3

It is always advisable to send the employee a copy of the disciplinary policy and to ensure that the employee understands the procedure that will be followed at the hearing.

5.4

Submissions outside of these timescales will not be permitted, except in exceptional circumstances at the discretion of the person chairing the disciplinary meeting.

6.0 Procedure to be followed at a Disciplinary Hearing**6.1**

Hearings will be conducted in a manner that ensures that both Thames Valley Police and the employee have an opportunity to explain their cases.

6.2

The person chairing the disciplinary meeting will be assisted by an HR Advisor. He/she will make the necessary introductions, explain the purpose of the hearing, read out the allegations against the employee and the procedure to be followed. Documentary evidence previously circulated to all parties may be referred to at the hearing.

6.3

Witnesses should not be present at the hearing before giving their evidence. Each witness should withdraw after giving evidence and must not communicate with the other witnesses before or after giving their evidence.

6.4 Presentation of the Employer's Case**6.4.1**

The case will be presented by the HR Advisor or their representative, together with the Investigating Officer. He/she will highlight the key arguments of their case, calling/questioning any witnesses in support of this as necessary. The employee or their representative and the person hearing the allegations will also have the opportunity to question each witness in turn.

6.5 Presentation of Employee's Response**6.5.1**

The case will be presented by the employee or their representative. He/she will highlight the key arguments of their defence, calling/questioning any witnesses in support of this as necessary. The employer's representative and the person hearing the allegations will also have the opportunity to question each witness in turn.

6.6 Summing Up

6.6.1

The employer's representative is firstly invited to summarise the main points of his/her case, followed by the employee or their representative. At this stage no new information may be introduced.

6.7 The Decision

6.7.1

The person hearing the allegations will consider the matter in private, together with their Advisor. The decision will take into account whether or not, on the balance of probabilities, the allegations have been substantiated.

6.7.2

If further clarification or information is required in order to reach a decision, both parties will be recalled. The hearing may be adjourned until the information is provided.

6.7.3

The employee will be notified of the decision, in writing, within **5** working days of the hearing.

7.0 Determining Disciplinary Action

7.1 Disciplinary Measures

7.1.1

If the person hearing the allegations believes, on the balance of probabilities, that the alleged misconduct is substantiated, he/she will decide, taking into account all the circumstances, the appropriate disciplinary sanction as follows:

- **Formal Verbal Warning** - for minor breaches of discipline. This will remain live for a period of **6** months with a note of the warning made and kept on the personal file after which it will be destroyed.
- **Written Warning** – for a serious offence, and/or where there has been a failure to improve conduct following a previous warning or for a further and different offence after a formal verbal warning has been given which remains live. A written warning will remain live for a period of **12** months after which it will be destroyed.
- **Final Written Warning** – for a very serious offence which justifies a final written warning or for a very serious offence justifying summary dismissal for gross misconduct but where a lower penalty is appropriate in the circumstances or where there has been a failure to improve conduct and/or a further offence after a written warning has been given. A final written warning will remain live for a period of **2** years after which it should be removed from the personal file and forwarded to the HR Consultancy Group for retention.
- **Dismissal** – for a very serious case of misconduct or a further offence after a final warning has been given and remains live.

7.1.2

Any of the above stages of disciplinary action may be omitted, depending on the seriousness of the misconduct.

7.2 Alternative Disciplinary Measures

7.2.1

Alternative disciplinary measures may be appropriate and would be in place of, or in conjunction with, a formal warning, or as an alternative to dismissal. Where there is an alternative to dismissal it will be accompanied by a final written warning.

7.2.3

Examples of alternative disciplinary measures are (it should be noted that this list is not exhaustive):

- Repayment by deductions from remuneration for any damage done to the property of, or loss sustained by Thames Valley Police or its employees.
- Transfer to another post if one is available or appropriate, taking into account the needs of the organisation.
- Relegation to a lower graded post if one is available.
- Withdrawal of any flexible or variable working hours facility.

7.2.4

In certain circumstances the alternative discipline measure may require the agreement of the employee.

8.0 Appeals

8.1 The right to appeal

8.1.1

An employee may appeal against any formal disciplinary action or alternative disciplinary measure taken against him/her under this procedure within **5** working days of the date upon which they receive written confirmation of the disciplinary decision. The appeal should be made in writing to the Head of Human Resources and must state the grounds upon which the appeal is made.

8.1.2

All appeals will be heard at the earliest possible date and a minimum of **10** working days advance notice in writing will be given of the appeal to give the employee a reasonable opportunity to prepare, unless a shorter timescale is agreed with the employee.

8.1.3

The appeal will take the form of a review, not a full rehearing of the case, the purpose of which will be to determine whether the original decision was reasonable. Evidence presented must enable the person (s) hearing the appeal to assess whether or not the investigation and disciplinary process

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have been thorough and fair, whether it is reasonable to conclude that, on the balance of probabilities, the allegation(s) against the employee are substantiated and that the disciplinary action is appropriate and reasonable taking into account all of the circumstances.

8.1.4

However, although in normal circumstances no witnesses will be called, the person (s) hearing the appeal may determine, in cases where fresh evidence is being presented or clarification needed, that a rehearing or certain witnesses are necessary.

8.1.5

Appeal hearings will not normally be tape-recorded but a note-taker may be present to record the proceedings. However, this will not be a verbatim record.

8.2 Appeal against dismissal**8.2.1**

Appeals against dismissal will be heard by a committee of the Police Authority advised by the Solicitor to the Police Authority, or nominated Solicitor. The HR Consultancy Group will liaise with the Police Authority in order to arrange for the appeal to be held.

8.3 Appeal against all other Disciplinary Measures**8.3.1**

All other appeals will be heard by the Area Commander/Head of Department or a more senior manager nominated by them who, when practicable, has not had any previous involvement with the case. The HR Advisor will determine the most appropriate manager to hear the appeal and arrange for them to be advised by an HR Advisor.

8.4 The Decision**8.4.1**

The appeal may decrease or confirm the disciplinary measure taken at the original disciplinary hearing and the decision is final.

9.0 Right to be Accompanied**9.1**

An employee required to attend any disciplinary or appeal hearing has the right to be accompanied by a trade union representative or a workplace colleague.

10.0 Failure by the Employee to attend the Disciplinary Hearing or Appeal**10.1**

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The employee must take all reasonable steps to attend the hearing or appeal. If the employee can not or fails to attend the hearing or appeal it will normally be rearranged unless there are exceptional circumstances. Should the employee fail to attend, whatever the reason for his/her absence, the re-arranged hearing or appeal can proceed in his/her absence. However, his/her representative will be given the opportunity to present the employee's case on their behalf. Additionally, the employee will be permitted to submit written representations if he/she so wishes.

11.0 Confidentiality**11.1**

All documentation and witness evidence generated as part of the disciplinary process or appeal will be kept confidential and access will be restricted to those involved in the process. However, witnesses, in particular, should be aware that documentation may be disclosed during any legal processes such as Employment Tribunals.

12.0 Support**12.1**

There will always be a certain amount of stress and anxiety for employees who are the subject of disciplinary investigations, or otherwise involved in investigations, hearings and appeals. Employees are encouraged to seek support appropriate to their needs through Corporate Health Services. Concluding the process at the earliest opportunity and the way in which staff engage in the process are important considerations to seek to minimise stress and anxiety.

12.2

In all circumstances the Force will take reasonable steps to ensure that staff are not victimised or harassed as part of their involvement in a disciplinary case in accordance with the provisions of the Diversity in Employment Policy.

13.0 Records**13.1**

Relevant documents in relation to the disciplinary investigation and any subsequent hearing or appeal should be treated as confidential and managed in accordance with the Data Protection Act 1988.

13.2

On completion of the disciplinary process all the paper work should be returned to the respective HR Advisor or the HR Consultancy Group in cases relating to dismissal.

GROSS MISCONDUCT OFFENCES**1.0 Gross Misconduct****1.1**

The following **criminal offences** will be regarded as 'Gross Misconduct' unless there are strong mitigating circumstances. It should be noted that this list is not exhaustive.

- Homicide (including manslaughter).
- Offences contrary to the interest of the State (e.g. treason, terrorism, incitement to disaffection, disclosure of confidential information).
- Any offences contrary to the Theft Act (e.g. theft of money or property).
- Sexual offences involving fear, force or fraud, or committed with persons below the age of legal consent.
- Offences involving the deliberate, premeditated or excessive use of violence.
- Offences against Public Order where the circumstances were akin to riot or affray, or in which there was open conflict with police officers.
- Bribery and corrupt practices.
- Perverting the course of justice.
- Any criminal offence which has a direct bearing on the role the employee performs.
- Any other serious offence which could lead to a breach of trust and confidence in the employment relationship.

1.2

The following **criminal offences** may constitute 'Gross Misconduct' depending upon the circumstances. It should be noted that this list is not exhaustive.

- Illegal possession of firearms or explosives.
- Criminal Damage.
- Supply or possession of dangerous or illegal drugs.
- Conspiracy.
- Offences involving the use of violence where there was no intent to cause serious harm.
- Perjury.
- Traffic offences viewed as serious by the Force eg. driving with excess alcohol.
- Other acts or omissions which may lead to a breach of trust and confidence in the employment relationship.

1.3

The following may be regarded as Gross Misconduct depending upon the circumstances. It should be noted that this list is not exhaustive:

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- Unauthorised removal, misuse, abuse or deliberate damage to of the Authority's property, including intellectual property, or that of other members of Thames Valley Police.
- Assault or fighting during working hours or in connection with employment by the Police Authority.
- Serious acts of insubordination.
- Serious cases of offensive words or conduct during working hours or in connection with employment by the Police Authority whereby other employees are no longer prepared to work with the alleged offender.
- Harassment, violence or threats of violence towards other employees of the Authority or police officers in or outside the workplace.
- Committing any wilful act or omission which is likely to weaken the confidence of the public in, or bring discredit on, Thames Valley Police.
- Failure to observe the Force's Diversity in Employment or Harassment at work.
- Inappropriate use of internet, intranet and/or E-mail facilities/policies.
- Unauthorised use of or disclosure of confidential information subject to the employee's right to make a permitted disclosure under the Public Interest Disclosure Act 1998.
- Serious incapability in the workplace caused by alcohol or substance abuse.
- Deliberate and/or serious breach of Health & Safety Legislation.
- Giving false or misleading information to Thames Valley Police.
- Inappropriate use of the police badge or holding self out as a police officer.
- Fraud or deliberate falsification of records.
- Serious or repeated negligent acts in the performance of duties.
- Persistent failure to follow reasonable instructions.
- Serious disregard for rules or instructions given by Thames Valley Police.
- Unauthorised absence.
- Leaving the workplace without permission or reasonable excuse.

MISCONDUCT OFFENCES**1.0 Misconduct****1.1**

Misconduct which, of its nature, would not lead to instant dismissal ie. that which is not Gross Misconduct, may lead to the following. It should be noted that this list is not exhaustive:

- Lateness for work.
- Unauthorised absence from work.
- Abuse of the conditions relating to sick leave.
- Undertaking secondary employment which conflicts with, or affects detrimentally the Police Authority's interests, or weakens public confidence in the conduct of the Police Authority's business.
- Failure to observe the Force's Internet/E-mails Policy.
- Falsehood and prevarication in connection with employment by the Police Authority.
- Offensive words or behaviour, to other employees, members of the public or any person, during or in connection with the discharge of duties.
- Refusing to carry out the reasonable instructions of an employee or senior police officer, during or in connection with the discharge of duties.
- Refusing to carry out the reasonable instructions of an employee or senior police officer who has a recognised supervisory role in relation to the employee in question.
- By act or omission fails to diligently and efficiently perform the duties specified for the post, whether these be in writing or verbal.
- Using workplace premises as an address for private correspondence, except where this has been authorised for exceptional reasons.
- Failure to comply with general instructions issued to police staff.
- Misuse of Police Authority's property, services or facilities.
- Conduct, language, lack of hygiene or standards of dress which may cause distress or embarrassment to other employees or persons with whom the employee comes into contact in the performance of duties.
- Oppressive conduct towards other employees or abuse of authority.
- Criminal offences committed whilst the employee is off duty, other than those referred to in the section relating to Gross Misconduct will not normally be regarded as misconduct, but it must be borne in mind that, if the penalty imposed by the court adversely affects the employee's capability to perform the job for which appointed, this could constitute grounds for dismissal other than for disciplinary reasons.