



Cheshire Police Authority

Disciplinary Procedure

Introduction

This procedure is to be used where informal action has not achieved the desired improvement in performance/conduct or where the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor.

This procedure shall apply to all staff directly employed by the Police Authority and will apply to all cases where dismissal may be contemplated. This would cover issues such as: -

- Capability
- Conduct, and
- Non-confirmation of probationary period

The procedure will also apply where disciplinary action is considered necessary, but the results may not necessarily reach dismissal stage.

Roles & Responsibilities

Minor conduct or performance issues should always be dealt with by managers on an on-going basis rather than letting issues escalate so formal action is needed. This procedure should only be used where that normal process has been ineffective or where there is a breach of discipline that it too serious to be classed as minor.

In order for performance issues to be handled effectively it is important that they are completed in a timely manner and that investigations are carried out as soon as may be reasonably practical in order to ascertain the facts

1. THE PROCEDURE

For the sake of this procedure, where the issue relates to a member of staff (except the Chief Executive), the investigating manager will be the Chief Executive. In cases of action against the Chief Executive, the initial investigating officer will be the Chairman of the Authority (or someone appointed by him). Advice and support of Chief Officers within the Constabulary may be sought by the Chief Executive and/or the Chairman in implementing this procedure.

Initial determination

When a potential conduct or performance matter arises, prior to a formal investigation commencing an initial determination of the facts should be made. This needs to be completed as soon as is practicably possible in order to prevent any delay in the process.

In the case of potential gross misconduct the individual should be suspended on full pay.

It is the responsibility of the Chief Executive to complete this initial determination as soon as possible and in all circumstances this should take no longer than two weeks. In all cases extenuating circumstances, including sickness, should be taken into consideration during this initial review.

If it is determined that continued disciplinary action is appropriate, the member of staff should be informed that an investigation will be carried out. They should be informed of the nature of the allegations or the facts of the case. This can be completed verbally in the first instance but as with all other correspondence relating to this process must be confirmed in writing.

Where an investigatory meeting is held solely to establish the facts of the case, it should be made clear to the member of staff involved that this is not a disciplinary meeting. The member of staff should be advised that they may need to contribute to the case by providing an account of the case or other information relevant to the situation.

Having established the facts, the Chief Executive should decide whether to drop the matter, deal with it informally or arrange for it to be handled formally. If it is to be dealt with formally then stage 1 of the formal process should be instigated (see formal action section below).

Informal Action

Cases of minor misconduct or unsatisfactory performance are usually best dealt with informally. There will, however, be situations where matters are more serious or where an informal approach has been tried but isn't working.

All avenues of informal action should be exhausted prior to formal action being taken. It should not be the case that a member of staff is subject to formal disciplinary action because issues have been allowed to build up without them being previously addressed by the Chief Executive.

In cases where informal action is being taken, the Chief Executive should arrange for an informal meeting to take place to try and solve the matter through informal discussions. Staff may wish to be accompanied at the informal meeting by a trade union representative or work colleague.

At the meeting the Chief Executive should clearly explain the level of conduct or performance that is expected and explain how the member of staff has fallen short of this. The member of staff should be given the opportunity to discuss the issues and discuss any mitigating circumstances.

Managers are required to keep an on-going record of the action that has taken place with an individual, whether this is details of meetings that have been held or actions plans that have been instigated. This is so reference can be made to this action where it becomes clear that informal action is not bringing about the necessary improvement in conduct or capability.

Whilst there is no set guideline on the timescales that should be followed in relation to informal action it is important that managers set realistic deadlines for improvement.

If an action plan is devised then a copy should be held by both the Chief Executive and the member of staff so both parties are clear of standard the improvement that is expected. All informal records should be kept.

If informal action does not bring about an improvement or the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, the member of staff should be provided with a clear signal of dissatisfaction by taking formal action.

Formal Action

It is important that staff are provided with a clear explanation as to the reasons why their case is being dealt with under this process especially where cases may have previously have been dealt with by other means.

Where informal action has not achieved the desired improvement in performance/conduct or where the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, formal action must be taken.

The 3 stages that must be followed when managing performance issues are included in the following section but follow the basic process of: -

- Informing the member of staff
- Holding a meeting
- Allowing the member of staff to appeal

In all cases of formal action it is the Chief Executive's responsibility to co-ordinate the necessary stages of this procedure, including the completion of any investigations that may be required.

This procedure covers a range of instances where a member of staff may be subject to formal disciplinary action. The process of completing the 3 stage procedure is the same for all instances, there are alternative options available when deciding what sanctions may be imposed.

The following table provides examples of the differing types of actions that may be available for each instance where the formal process may be instigated.

Reason for disciplinary action	Example of action that could be taken
Capability	<ul style="list-style-type: none"> • Action Planning • Re-deployment • Provision of additional training • Reasonable adjustment • Retirement • Warning (written/final written) • Demotion • Dismissal
Conduct	<ul style="list-style-type: none"> • Action Planning • Warning (written/final written) • Re-deployment • Demotion • Dismissal
Non-confirmation of probation	<ul style="list-style-type: none"> • Action Planning • Extension (3 months) • Dismissal

The information contained in this table is not exhaustive and other options may be available.

It is normally good practice to give staff at least one chance to improve their conduct or performance before they are issued with a final written warning. However, if a member of staff's misconduct or unsatisfactory performance – or its continuance – is sufficiently serious, then it may be appropriate to move directly to a final written warning.

Non Confirmation of Probationary Period

A newly appointed member of staff is required to successfully complete a 6 month probationary period if employment is to be made permanent.

As part of the scope of this, if the Authority is considering the non-confirmation of an employees probationary period then this will be covered by the standard 3 stage process which requires the Authority to:

- Inform the member of staff
- Hold a meeting
- Allow the member of staff to appeal

FORMAL PROCESS

Inform the Member of Staff

If it becomes apparent that formal disciplinary action is required the first stage in the process is to write to the member of staff. This letter should outline what it is they are alleged to have done and also outline the issues that are to be investigated and invite them to attend a disciplinary meeting. The letter should detail:

- The nature of what it is they are alleged to have done and the reasons why this is not acceptable.
- That an investigation, or further investigation, will need to be completed into the issue and that they will be asked to provide an account of the circumstances surrounding the allegations
- An invitation to a meeting at which the issues will be discussed
- Their right to be accompanied by at the meeting by a trade union representative or work colleague
- The documents or evidence that will be produced at the meeting
- Their right to call witnesses

Where possible, the timing and location of the meeting should be agreed with the member of staff, however this may not always be possible. It should be ensured however that there is sufficient time between the written notification being sent out and the date of the meeting so the member of staff can prepare their own response. The meeting should normally be arranged within 2 weeks of the notification other than in extenuating circumstances.

In all cases it will be the responsibility of the Chief Executive to arrange this meeting and ensuring that all members of staff who are required to attend have been sent the correct notification in sufficient time. A copy of all correspondence must be retained.

Completing the formal investigation

The process of completing the investigation will already have started during the initial determination into the disciplinary issue but this may now need to be taken further.

Once the member of staff has been informed that they are to attend a disciplinary meeting then it is the line managers' responsibility to ensure that the formal investigation has been completed. This part of the process is key in ensuring that all the facts of the case have been established.

If any documents or evidence are to be used as part of the disciplinary meeting, then it is important, where possible, that the member of staff is given the opportunity to view them prior to the meeting. Consideration should be given to this when arranging the disciplinary meeting with the member of staff involved as it should be ensured that they are given as much notice as is reasonably possible to read them.

Disciplinary Meeting

As part of the formal disciplinary process, the member of staff must be given the opportunity to formally hear the details of the conduct or performance issues that have been made against them and to make a formal response at a formal disciplinary meeting. This should be held before action is taken, except in cases where the disciplinary action consists of suspension.

In the case of disciplinary action against staff (except the Chief Executive), the initial investigation and hearing will be undertaken by the Chief Executive.

In the case of disciplinary action against the Chief Executive, the initial investigation and hearing will be undertaken by the Chairman (or someone appointed by him).

Format of the meeting

At the end of the disciplinary meeting the individual chairing should inform the member of staff of the outcome of the meeting. When deciding on the action to be taken there are a number of alternatives depending on the reason for the disciplinary action. The outcome of the meeting should then be confirmed in writing to the member of staff.

The right to be represented

The member of staff involved in any part of the disciplinary process has the right to be represented at any of the meetings. Throughout on-going correspondence with the member of staff, either verbally or formally in writing, members of staff should

be made aware of this entitlement and advised that it is in their interests to be accompanied.

This representative can either be a work colleague or trade union representative. If the member of staff is disabled, then consideration should be given to whether it may be reasonable to allow them to be represented by someone other than a work colleague or trade union representative because of their disability, e.g. signer or carer.

Rearranging Meetings

If a member of staff cannot attend a formal disciplinary meeting then they should inform the Chief Executive in advance wherever possible. If the member of staff can not attend due to circumstances which were outside of their control and unforeseeable at the time the meeting was arranged (e.g. illness) then the Chief Executive should arrange another meeting.

A disciplinary decision can be taken in the member of staff's absence if they fail to attend the re-arranged meeting without good reason.

If a member of staff's representative cannot attend a hearing on the proposed date then another meeting can be arranged as long as it is not more than five working days after the date originally proposed. This does not apply to investigatory meetings.

RIGHT OF APPEAL

All members of staff who have had disciplinary action taken against them are given the opportunity to appeal. In the case of all staff, with the exception of the Chief Executive, the appeal will be to a Panel of three Members (Chairman, Vice-Chairman and Chairman of Staff Committee). In the case of the Chief Executive, the appeal will be to the full Authority.

Notice of the intention to appeal should be made in writing to the Chief Executive (or Chairman in case of Chief Executive) within 10 working days after being informed of the outcome of the disciplinary meeting. At the time of lodging the appeal it is requested that the member of staff sets out the specific basis on which their appeal is being lodged.

The Chief Executive will be responsible for arranging the time and location of the meeting and informing the member of staff of these details as soon as reasonably possible. If an appeals meeting is to be held then the results of the meeting should be confirmed in writing to the member of staff as soon as possible.

Gross Misconduct

Gross misconduct is very serious misconduct on the part of an individual, resulting in serious damage to person, property, or business reputation; or showing a complete disregard for the terms of the employment contract, or resulting in the employer's loss of trust and confidence in the employee

If the Chief Executive considers that the member of staff is potentially guilty of gross misconduct, and so potentially liable for dismissal, it is important that a full investigation is completed as quickly as possible before taking any formal action.

In any case of potential gross misconduct the individual should be suspended on full pay. Any decision to suspend a member of staff should be done so in consultation with the Constabulary's Director of Human Resources.

The suspension should be kept under review during the course of the investigation and the employee informed immediately of any changes.

In cases of gross misconduct, the member of staff is still subject to the 3 stage process and should be given the opportunity to attend a meeting to discuss the allegations that have been made against them.

The member of staff will be informed of the need for suspension verbally by the Chief Executive and confirmation of the action taken should be sent to them as soon as possible after this event.

The letter confirming suspension should:

- Confirm the reason for the suspension
- Inform the member of staff that the suspension will be kept under review on a regular basis
- Emphasise that the suspension does not include any prejudgement into the outcome of the case
- Inform the member of staff that they should not attend any police premises

In addition to this the member of staff should also be asked to return any ID cards and steps taken to remove any IT access. The Chief Executive is responsible for ensuring that HR records are appropriately updated to explain the action that has been taken against the employee.

Fitness For Discipline

It is recognised that whilst police staff are under investigation through either a misconduct or performance investigation they may develop symptoms that warrant medical intervention.

Given the potentially stressful nature of these procedures it is recommended that serious consideration be given to providing additional welfare and occupational health support for these members of staff, particularly those who may be suspended for protracted periods whilst the investigations are undertaken.

Whilst members of staff must be treated with the utmost care during these situations it is also important that the investigations are allowed to continue in a just and timely manner.

Members of staff who are deemed by their GP or psychiatrist to be either unfit for interview or unfit to attend a misconduct/disciplinary hearing will have to obtain independent confirmation of this. If the member of staff is considered fit as a result of this then by definition they will be fit for interview.

Disciplinary meetings can still be held and decisions taken without the attendance of the employee as long as all steps have been taken to try and accommodate the employee.

Disciplinary records

It is important to keep a written record during a disciplinary process. Records should include: -

- The complaint against the member of staff
- The member of staff's defence
- Finding made and actions taken
- The reasons the actions were taken
- Whether an appeal was lodged
- The outcome of the appeal
- Any grievances raised during the disciplinary procedure
- Subsequent developments

It is the responsibility of the Chief Executive to ensure that copies of all records and documentation to be used as part of the disciplinary process, including the minutes of any such meetings are sent to the member of staff.

Retention of Disciplinary record

It is important, and in the interests of the member of staff and the Authority, to keep a full written record during the disciplinary process. Records should be treated as sensitive and remain on file for referral in other disciplinary issues in line with the retention schedule detailed below: -

- Action Plans – To remain on the file for 6 months (unless there is any further disciplinary issues)

- Written warning – To remain on the file for 12 months
- Final Warning – To remain on the file for 12 months

Disciplinary records will be expunged in terms with these guidelines. However they will remain on the personal file after they have officially expired as a matter of record. This is in line with the Data Protection Act 1998.