

WEST YORKSHIRE FIRE AND RESCUE SERVICE UNIFORMED STAFF DISCIPLINE GUIDANCE FOR MANAGERS

1 Introduction

- 1.1 In any organisation, it is essential that certain standards and performance must be maintained to protect the smooth running of that organisation and the well being of its employees. This procedure applies in cases of conduct, unsatisfactory work performance and poor attendance.
- 1.2 The disciplinary procedure is designed to ensure fair treatment for those whose job performance is below requirements and those involved in alleged breaches of discipline.
- 1.3 Depending on the seriousness of the case, the disciplinary procedure may be entered into at any of the stages outlined below. Except for instances of gross misconduct, dismissal will not be the first step.

2 Principles

- 2.1 No disciplinary action will be taken against an employee until the case has been properly investigated.
- 2.2 At appropriate stages in the procedure the employee will be advised, in writing, of the complaint against him/her and will be given the opportunity to state his or her case before any decision is made.
- 2.3 At all relevant hearings or meetings the employee will have the statutory right to be accompanied by an employee representative or work colleague during the disciplinary interview.
- 2.4 No employee will be dismissed for the first breach of discipline except in cases of gross misconduct when the penalty may be dismissal without notice or payment in lieu of notice. (See Appendix 1)
- 2.5 An employee will have the right of appeal following the award of any disciplinary sanction.
- 2.6 **The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.**

The Procedure

3 Levels of Management

- 3.1 The lowest levels of management, which can undertake disciplinary investigation and action, following appropriate training, are as follows:

	Investigation	Conduct Hearing/take action
Formal Stage 1	Watch Manager/Line Manager	Station Manager
Formal Stage 2	Station Manager/Unit Manager	Group Manager
Formal Stage 3	Group Manager/Unit Manager	Area Manager or non uniformed equivalent/Director

3.2 Where a 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 the procedure has reached the second formal stage or higher, the hearing should be conducted by a manager who is not the investigating manager but is at the same or higher level. The investigating manager would normally present the management case at the second or third formal stages.

4 Informal stage

4.1 In general, particular shortcomings on the part of the employee in meeting job requirements or standards will be initially brought to his or her attention by the immediate supervisor in informal conversations accompanied by the offer of assistance towards achieving improvement. This is part of the normal supervisory process but it should be noted that supervisors/managers will keep a record of this advice and action, which will be kept by the manager, but it will not form part of the disciplinary record.

5 First formal stage

5.1 Should an employee's conduct or performance continue to be unsatisfactory/unacceptable or fail to improve after an informal approach (see 4 above), the situation will be formally reviewed with his or her line manager, who will investigate the matter and if necessary a hearing will be convened at which the relevant line manager will make a decision. The Watch Manager/Supervisor will keep a written record of this meeting, which will be sent to The Employment Services Manager and kept on the individual's Personal Record File but disregarded for disciplinary purposes after **6 months**. A copy will be given to the employee concerned.

6 Second formal stage

6.1 If the employee's conduct or performance continue to be unsatisfactory/unacceptable in relation to the agreed improvement plan made at the first formal stage, or where an offence is sufficiently serious, the situation will be formally reviewed with him or her by the appropriate Station Manager/Unit Head who will investigate the matter and if necessary convene a hearing at which the relevant line manager will make a decision.

- 6.2 Following this hearing, the employee will receive from the **Group Manager, or equivalent non-uniformed Manger**, a letter recording the nature and outcome of the disciplinary meeting. The employee will be asked to sign a copy of the warning letter to confirm understanding of its terms. The letter will clearly state a plan of improvement, deadline dates for achievement and the fact that the letter constitutes a final warning. A copy will be sent to the Employment Services Manager and held on the employee's Personal Record File but disregarded for disciplinary purposes after **18months**.

7 Third Formal Stage

- 7.1 Where an employee's conduct or performance fails to improve or where the offence is sufficiently serious, following an investigation and hearing an employee may be dismissed by an Area Manager or non uniformed equivalent, Director or The Chief Fire Officer.
- 7.2 Alternatively where there has been a failure to improve as required or, in exceptional cases at the first offence following an investigation and hearing a decision may be made by the their Area Manager, a Director, the Chief Fire Officer to award a sanction less than dismissal or in serious cases as an alternative to dismissal. These sanctions are:
- A warning
 - Demotion (either within role or no more than one role; a demotion of more than one role can only be done with the agreement of the employee).
 - Disciplinary transfer (which should involve no loss of remuneration and unless the employee agrees otherwise should be within the same duty system).
 - Loss of pay up to a maximum of thirteen days. (uniformed staff only)

8 Gross Misconduct

- 8.1 In cases of gross misconduct, summary dismissal may be the only reasonable course of action for the organisation. Examples of actions, which may be classed as gross misconduct, are attached as Appendix 1.
- 8.2 When gross misconduct is suspected, the employee may be suspended, on full pay, for an initial period of **five working days** to allow for an investigation of the case. If appropriate this period may be extended by the Director with responsibility for the matter. The investigation will be conducted by a senior manager nominated by the responsible Director and will include a meeting with the person concerned.
- 8.3 Following the investigation the employee will be asked to attend a hearing with the responsible Area Manager or non-uniformed equivalent. If the investigation has upheld the case of gross misconduct, the employee may be summarily dismissed without notice or pay in lieu. The decision of the above hearing will be confirmed in writing to the employee and this letter will also confirm details of the appeals procedure.

8.4 Area Managers or their non-uniformed equivalents, may issue summary dismissals in consultation with the relevant Director.

9 Appeals Procedure

9.1 Employees who have had disciplinary action taken against them will be given the opportunity to appeal. Employees will be allowed to appeal no later than **seven working days** after they have been informed of the decision. If employees wish to appeal they must contact Employment Services to register their intention to appeal and a date will be arranged for that appeal to be heard. The appeal will be heard by a higher level of manager.

9.2 Appeals against disciplinary action involving dismissal, demotion, disciplinary transfer or suspension must be submitted to the Director of Human Resources, within **ten working days** of the receipt of the notification of the action. The Chief Fire Officer or a Director, not involved in the case, will hear and determine such appeals. In cases where the Chief Fire Officer has dismissed an employee the appeal will be heard by Elected Members.

9.3 The grounds for appeal will normally be one or more of the following

- There was a defect in the procedure
- The issue is not proven on the balance of probabilities
- The disciplinary action was too severe
- New evidence has come to light since the hearing which will have an impact on the decision

9.4 When lodging an appeal the employee must indicate the grounds on which the appeal is being made.

9.5 The appeal hearing will be conducted in the same way as the discipline hearing.

10 Exceptions

10.1 No formal disciplinary action other than a verbal warning will be taken against elected staff representatives until the circumstances of the case have been discussed with a senior or full time trade union official of the union concerned.

11 Suspension

11.1 An Area Manager/Director or non uniformed equivalent, or the Chief Fire Officer may decide to suspend an employee from duty pending a formal disciplinary hearing either:

- To enable investigations to be made where the possibility of serious disciplinary action arises, or

- Where there are grounds for doubt as to the advisability of the employee continuing work pending criminal investigations or prosecution

Suspension in these circumstances will attract full pay. For those employees who on the retained duty system pay will be calculated on the basis of their retained payments averaged over a twelve-week period.

Appendix 1

Disciplinary Procedure

Examples of offences that may be construed as Gross Misconduct:

1. Unauthorised removal of the Authority's property.
2. Deliberate damage to the Authority's property
3. Stealing from the Authority, its Members or members of staff or public.
4. Physical assault.
5. Knowingly wrongful claims to or falsification of timesheets/entitlements to pay and/or expenses/leave etc.
6. Falsification of qualifications, which are a stated requirement of employment or which result in financial gain.
7. Breaches of safety regulations endangering other people, including deliberate damage to or misappropriation of safety equipment.
8. Defiance of proper orders.
9. Serious contravention of the Authority's Equalities and Fairness Policy.

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

