



STAFFORDSHIRE
POLICE

Police Staff Misconduct

A People and Organisational Development Policy

April 2024

P&OD | HR - essentials

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Misconduct Policy

1. Introduction

- 1.1 At Staffordshire Police, we trust that colleagues always want to meet the high standards of conduct and professional behaviour expected of our workforce. But where a colleague's conduct falls below our expectations, the force will address the issue with them in a fair and supportive way.
- 1.2 We aim to provide a fair, open and proportionate method of dealing with allegations of misconduct. Our approach will ensure that improvement will always be an integral dimension of any outcome and that organisational learning opportunities are taken to maintain Police legitimacy.
- 1.3 This Policy should be read along with the Misconduct Procedure, which sets out the steps the force will take to deal with any issues of misconduct.
- 1.4 We understand that people make mistakes and that there can be opportunities to learn from errors made at work. Where this is the case and if the issue is to do with performance rather than conduct, the Capability Process will be followed instead.

2. Purpose

- 2.1 This policy supports the People Strategy in making Staffordshire Police a great place to work. By creating a culture where colleagues are authentic, responsible and trusted we will build on the values outlined within the Code of Ethics and the Standards of Professional Behaviour and ensure that unsatisfactory behaviour is dealt with promptly.
- 2.2 This policy explains our approach to allegations of misconduct and is designed to help and encourage police staff colleagues and their managers achieve and maintain acceptable standards of conduct.
- 2.3 It is the intention of this policy to ensure that police staff colleagues are treated fairly and consistently when subject to the same allegations as police officer colleagues.
- 2.4 This policy does not apply to dismissals due to redundancy or the non-renewal of fixed term contracts on their expiry.

- 2.5 This policy is not contractual and it may be updated at any time.

3. Eligibility

- 3.1 This policy applies to all Police Staff employees and Volunteers including those employed by the Police, Fire and Crime Commissioner (PFCC) for Staffordshire and those within their probationary period.
- 3.2 The modified procedure for police staff within their probationary period will be known as a probation review meeting. A fair process will be adopted to ensure that colleagues are able to respond to allegations of misconduct.
- 3.3 This policy does not apply to self-employed contractors and agency workers, Police Officers or Special Constables.

4. Definitions

- 4.1 The PSC Standards of Professional Behaviour apply to all police staff colleagues who fall within the eligibility criteria of this policy and associated procedure.
- 4.2 If the conduct of a colleague falls below these standards then this will be investigated by a line manager. The investigation will determine whether the alleged behaviour would constitute; Practice Requiring Improvement, Misconduct or Gross Misconduct.
- 4.3 Where an investigation finds that there is a case to answer regarding a breach of the PSC Standards of Professional Behaviour, the colleague will be notified of this and will be informed of the next steps in the proceedings. Where this is for conduct amounting to Misconduct or Gross Misconduct, the colleague will also be made aware of the possible outcomes at the hearing.
- 4.4 **Practice Requiring Improvement** is under-performance or conduct not amounting to misconduct or gross misconduct, which falls short of the standards as set out in the Police Staff Council Standards of Professional Behaviour.
- 4.5 **Misconduct** is a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action up to a Final Written Warning.

- 4.6 The Misconduct Procedure lists examples of what the force would normally regard as misconduct and the possible outcomes available to the chair of the misconduct hearing.
- 4.7 **Gross Misconduct** is a breach of the Standards of Professional Behaviour so serious that dismissal may be justified.
- 4.8 Where colleagues are dismissed as an outcome of a Misconduct Hearing, this will usually mean that it is without notice and without pay. This is known as a summary dismissal.
- 4.9 The Misconduct Procedure lists examples of what the force would normally regard as gross misconduct and the possible outcomes available to the chair of the misconduct hearing.

5. Informal Action

- 5.1 Wherever possible the force will try to resolve problems in the workplace informally. Where it is identified that a colleague's conduct requires improvement, this should be raised with them as soon as possible so that the behaviour stops. During this meeting, the manager will take informal action to explain their concerns and advise of the improvements that are necessary. A record should be made of the conversations and both parties retain a copy for their records. The Origin HR System will be updated to show that informal action has been given and this will remain live for 6 months.

6. Practice Requiring Improvement

6.1 Reflective Practice Review Process

- 6.1.1 The force adopts the Reflective Practice Review Process, not as a misconduct outcome, but as a process for handling matters which, if proven, would amount to Practice Requiring Improvement.
- 6.1.2 The force Reflective Practice Review Process has a clear focus on reflection, learning from mistakes and focussing on actions and personal development to improve and prevent the issues happening again.
- 6.1.3 A manager may find that Reflective Practice may be appropriate when, after assessment or misconduct investigation, the under-performance or conduct of

a colleague does not amount to misconduct or gross misconduct, but falls short of the standards as set out in the PSC Standards of Professional Behaviour.

- 6.1.4 **Where the conduct does not improve, or it is a serious matter and it is deemed inappropriate to resolve matters through the informal or the Reflective Practice Review Process, we may move into the formal Misconduct Proceedings.**

7. Suspension

- 7.1 The force may decide that, in order to investigate matters of misconduct, the colleague must be placed on a period of suspension from duty.
- 7.2 Suspension is a neutral act, and is intended to cause the least disruption to the force whilst an investigation takes place. Colleagues who are subject to suspension will be advised of the reasons behind the decision. The force will ensure that the period of time a colleague is suspended is as short as possible.
- 7.3 Suspension will only take place where the force deem it is absolutely necessary to protect the colleague and/or the force. Situations where suspension may be necessary may include, but are not limited to:
- When the investigation cannot start because the colleague is not fit for work e.g. is under the influence of drink or drugs
 - When being at work may impact on the ability to undertake a full and fair investigation
 - Where the allegations are linked to bullying or harassment
 - Where there is an allegation of theft, other financial irregularities or dishonesty
- 7.4 Where a colleague is suspended from duty they are required to stay away from all force premises and not make any contact with their colleagues (unless we authorise this in writing or they need access to information in order to respond to allegations).
- 7.5 Where a colleague wishes to contact somebody specifically to ask them to be a witness, or to accompany them to a meeting under this policy, then they are permitted to do so without asking permission.

- 7.6 Suspension will be on full pay.
- 7.7 The force may require the colleague to attend meetings as part of the misconduct proceedings, whilst suspended. If a colleague does not attend without prior notice and good reason, we will treat this as unauthorised absence and their suspension pay will be deducted as a result.
- 7.8 Where pre-approved annual leave or time off falls during a period of suspension, this will be taken and will be deducted from your entitlement as normal.
- 7.9 Any carry forward of annual leave entitlement will be in line with the normal provisions as outlined in the force Leave Policy.

8. Complaints and Criminal Matters

- 8.1 The Professional Standards Department will maintain ownership cases where a colleague is subject to a complaint or investigation into alleged criminal matters or corruption.
- 8.2 All associated employment conduct matters will be managed in accordance with this policy.
- 8.3 The force does not have to wait for the outcome of any prosecution before deciding what, if any, action to take. Where colleagues have been advised not to attend a misconduct meeting or to discuss a pending criminal matter, the force may make a decision based on the evidence available.
- 8.4 An investigation will be carried out, including those where criminal conduct is suspected, as soon as possible regardless of the progress of legal proceedings.

9. Misconduct Proceedings

- 9.1 Before commencing the formal process, the manager will always make sure that the colleague is spoken to and made aware of the allegations pertaining to misconduct or gross misconduct. The colleagues will be notified that an investigation will be undertaken. This will be done in consultation with a HR Representative and will be confirmed to the colleague in writing.
- 9.2 All matters of alleged misconduct and gross misconduct will be fully investigated. Further information about this process can be found in the investigations section of the Misconduct Procedure.

- 9.3 Colleagues who are under investigation for allegations of misconduct will have full support from the Occupational Health Team and a Trade Union.
- 9.4 A Misconduct Hearing will take place where there is a case to answer in respect of misconduct, gross misconduct or where the colleague has a live misconduct warning and there is a case to answer for a further act of Misconduct.
- 9.5 Gross Misconduct outcomes will also apply to those matters where a colleague has a live final written warning and has potentially committed a further act of misconduct that warrants misconduct proceedings or the misconduct allegations are so serious that dismissal from the force would be justified.

10. Right to be accompanied

- 10.1 If a member of a trade union, colleagues can seek advice and guidance from them, regardless as whether they will be in attendance at the meeting.
- 10.2 Whilst there is no specific right to be accompanied by a trade union representative or colleague at an informal meeting, such as an investigation meeting, colleagues who are under investigation for allegations of misconduct will be able to be accompanied to any meeting that they are required to attend as part of this policy.
- 10.3 Further information about workplace representation can be found within the Misconduct Procedure.

11. Recording of Meetings

- 11.1 The force does not allow for any meeting held under this policy to be recorded by colleagues (or their representative) facing allegations of misconduct. The force will ensure that detailed notes are taken and that copies are provided after the meeting. In turn, the force will not record the meeting without the colleague's knowledge.
- 11.2 Where a colleague expresses concern about the misconduct meeting, hearing or the managers leading the proceedings, the colleague should disclose this to the HR Representative so that the concerns can be addressed.

12. Offences Constituting Misconduct

12.1 Misconduct is broadly defined as a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action up to a Final Written Warning.

- Failure to comply with a reasonable instruction, order, policy, rule or contractual requirement.
- Failure to carry out job responsibilities or a reckless disregard for job responsibilities (as opposed to inability to carry out such duties, which would normally constitute a capability issue);
- Unauthorised absence.
- Whilst reportedly sick, working or indulging in activities which are inconsistent with the reason for absence or are not conducive to recovery.
- Minor loss or damage to force property, assets or funds.
- Obscene language or other offensive behaviour.
- Misuse of force property, or excessive personal use of the telephone or IT systems.
- Smoking in non-smoking areas.
- Negligence (other than gross negligence); and
- Behaviour which is in contravention of the Modern Policing strategy or does not adhere to force values and Code of Ethics.

12.2 The list above is not exhaustive, but illustrates examples of behaviour which is considered to be misconduct and may render a colleague liable to misconduct action. The nature of such action will depend on the seriousness of the behaviour.

13. Offences Constituting Gross Misconduct

13.1 The following are examples of gross misconduct that may lead to summary dismissal, i.e. dismissal without notice.

- Sexual misconduct
- Theft or fraud.
- Physical violence or bullying.
- Deliberate and serious damage to property.
- Serious misuse of force property or name.
- Deliberately accessing and/or circulating pornographic, offensive or obscene material.

- Unlawful discrimination or harassment.
- Bringing the force into serious disrepute.
- Serious incapacity at work brought on by misuse of alcohol or illegal drugs.
- Causing loss, damage or injury through serious negligence.
- A serious breach of force policy/procedures, including health and safety rules.
- A serious breach of confidence/trust.

13.2 This list is not exhaustive and there may be other offences of a similar gravity resulting in a serious breach of the Standards of Professional Behaviour and contractual terms that could constitute gross misconduct.

14. Roles and Responsibilities

14.1 The following represents the agreed levels of responsibility in respect of this policy and accompanying procedure. Upon conclusion of an investigation, the deciding manager will review the case and confirm whether there is a case to answer at a formal hearing.

	Investigation	Deciding Manager	Hearing	Appeal
Misconduct	Line manager	2nd Line Manager	Head of Dept	Command Lead
Gross Misconduct	Line manager	Command Lead	Assistant Chief Officer	Executive Officer
Suspension	DCC or Head of People and OD			

14.2 A HR Representative will advise at all stages of the procedure.

15. Misconduct Outcomes

15.1 Depending on the outcome of the misconduct hearing, the panel will decide to issue one of the available misconduct warnings, depending on how serious the matter is and whether the colleague has any live misconduct warnings.

- 15.2 Any future misconduct following a final written warning whilst that warning is 'live' may result in dismissal.
- 15.3 The culmination of multiple misconduct warnings may constitute gross misconduct and lead to the ultimate sanction of dismissal.
- 15.4 The force may be prepared to explore other actions short of dismissal. This may include redeployment to another role, or the extension of a final written warning period up to a maximum of 2 years to review how colleagues respond.

16. Vetting Implications

- 16.1 It is a requirement of all police staff to obtain and maintain satisfactory vetting clearance throughout their service with the Force.
- 16.2 Following the conclusion of a misconduct hearing where a member of staff is not dismissed but has been issued with a written warning or a final written warning, a review of vetting clearance will be carried out. The review includes a consideration of the applicant's suitability to maintain the level of clearance held and to continue in the post they occupy.
- 16.3 Where clearance is downgraded or granted with restrictions, redeployment may have to be considered.
- 16.4 If clearance is refused and subject to any vetting appeal being made, the Force may terminate the employee's contract with notice.

17. Appeal Process

- 17.1 Colleagues will have the right to appeal against any misconduct decision taken. Colleagues wishing to appeal will need to do so within seven calendar days of receiving the outcome letter.
- 17.2 **The grounds for appeal are as follows:**
- The finding and/or outcome imposed was unreasonable
 - There is evidence that could not reasonably have been considered at the time of the misconduct proceedings which could have materially affected the finding or decision on outcome.

- There was a serious breach of procedures or other unfairness which could have materially affected the finding or decision on outcome.

- 17.3 Following receipt of the written notice of appeal a senior manager or Executive Officer will be assigned to hear the appeal. The Chair of the appeal will inform the colleague of the arrangements for the appeal and who will be in attendance as HR advisor. The appeal meeting will be held within ten working days of receipt of the written notice of appeal.
- 17.4 The colleague may object to any persons appointed to conduct the appeal. Any objection must be provided in writing within three working days of receiving the appeal arrangements. A HR Representative will confirm whether the objection to panel members is accepted and will confirm alternative arrangements where applicable.
- 17.5 The Chair of the original misconduct proceedings will be present during the appeal to outline the rationale for the original decision.
- 17.6 There is no provision for the colleague bringing the appeal to call witnesses unless they have new evidence to bring to light or demonstrable evidence of procedural defectiveness.
- 17.7 Colleagues will have the right to be accompanied by a trade union or workplace representative.
- 17.8 The chair of the appeal meeting may confirm or reverse the decisions that the colleague appealed against. Further guidance on the options available to the chair can be found in the Misconduct Procedure.
- 17.9 The appeal is not a repeat of the misconduct proceedings and is held to examine the particular part(s) of the misconduct case under question.
- 17.10 The final decision made on appeal will be communicated to the colleague in writing no later than seven working days of the conclusion of the appeal meeting.

18. Barred and Advisory List

Barred List

- 18.1 All police staff colleagues who are dismissed from the force after a misconduct investigation and hearing under this policy, will be placed onto the barred list held by the College of Policing.
- 18.2 The barred list will prevent colleagues from gaining employment in policing for 5 years.
- 18.3 Police Staff will not be entered onto a public list.
- 18.4 Individuals who have been on the barred list for a period of 5 year, may apply for a review of their barred status to the college.

Advisory list

- 18.5 The police advisory list is a list of all police staff colleagues who have resigned or retired from the policing during an investigation or who leave before an allegation comes to light.
- 18.6 At the conclusion of the misconduct investigation, the force will take steps to make a misconduct finding and conclude matters and so as to update the advisory list.
- 18.7 Individuals on the advisory list will be able to apply for a review of their status after 5 years in all cases and the College will make this decision based on whether it is appropriate to remove the individual.

19. Serving Special Constables

- 19.1 In the event of a colleague who is also a Special Constable being subject to an allegation of misconduct, consideration will be given to when the complaint or alleged incident occurred and in which capacity the colleague was working.
- 19.2 Before any action is taken, a HR Representative will discuss with the Professional Standards Department, as to agree an appropriate way forward. If the alleged incident occurred during regular employment, this policy and accompanying misconduct procedure will be followed.

- 19.3 If a sanction is applied by the Professional Standards Department or under the auspices of this policy, a HR Representative will discuss with the Head of PSD to ascertain if there are any implications for their service as a Special Constable.

20. Grievance Resolution and Complaints

- 20.1 Where a colleague raises a request for Resolution during the misconduct proceedings that is unrelated to the misconduct matter, the Misconduct Proceedings will continue and an independent manager will deal with the resolution request separately.
- 20.2 Where the two matters are connected, the force will pause the proceedings whilst the resolution is dealt with by an independent person.
- 20.3 The force acknowledges that misconduct processes can be difficult and stressful and would encourage colleagues to seek support from Occupational Health should they need to.

21. Medical Conditions

- 21.1 Where a colleague states that their conduct at work is being caused by a medical condition or disability, they should inform their line manager to obtain the support needed. This may include an Occupational Health referral to obtain and assessment so that the force can obtain information about the conditions and how it may affect the conduct at work.

22. Confidentiality

- 22.1 The force will deal with all misconduct matters sensitively and with respect for the privacy of the colleagues involved.
- 22.2 Any parties' privy to the investigation or misconduct matters must be treated as confidential.
- 2123 Colleagues will normally be informed of the names of any witnesses who are relevant to the misconduct matter. However, it may be that in some cases, the force decide that a witness's identity must be kept confidential.

23. Suggest and edit

- 23.1 The Force welcomes the opportunity for colleagues to have their say, and constructive dialogue and challenge is welcomed. We value your feedback, so

if you would like to suggest an edit to this policy please contact the Employee Relations Team at [REDACTED]

24. Code of Ethics

- 24.1 The College of Policing's Code of Ethics sets out the principles and standards of professional behaviour expected from police professionals. It applies to every Colleague who works in policing, whether a warranted officer, member of police staff, volunteer or someone contracted to work in a police force.
- 24.2 When referring to any of the Forces policies and procedures there is an expectation that actions taken or processes followed are underpinned by the Code of Ethics, where employees will 'do the right thing in the right way; basing decisions and actions on the policing principles within the Code.
- 24.3 The Force recognises the contribution of its employees and is committed to creating a fully inclusive working environment. This will be achieved by valuing the difference that a diverse workforce can bring.

25. Equality impact

- 25.1 This policy has been assessed for equality impact. This policy is applicable to every police staff colleague of Staffordshire Police.
- 25.2 In applying this policy, we will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to background, trade union membership, or any other personal characteristic.

26. Retention, Review and Disposal

- 26.1 The Head of People and OD maintains ownership of this policy and all associated documents. This policy is a 'living document' subject to regular review, reflecting best practice and legislative changes, locally and nationally.

- 26.2 The organisation processes the personal data collected where applications for flexible working are made, in accordance with its GDPR policy. In particular, data collected as part of this policy is held securely, accessed by, and disclosed to, colleagues only for the purpose of responding to and recording applications for flexible working. Inappropriate access or disclosure of employee's data constitutes a data breach and should be reported to an appropriate manager. It may also constitute a disciplinary offence which will be dealt with under the Misconduct Policy.

27. Legislative Compliance

- 27.1 This policy complies with the requirements of the following employment legislations:

- The Part-time Workers (prevention of less favourable treatment) Regulations 2000
- Working Time Regulations 1999
- The Equality Act (2010)
- The Employment Relations Act 1999

28. Consultation

- 28.1 Recognised Trade Unions and Staff Associations will be involved in any changes to this policy in line with Force consultation and negotiation arrangements.
- 28.2 Any amendments will be set out within the version control section of the document.

Summary of Changes

Version	Date	Author	Description of change
1.0	26/03	██████	Policy created.
2.0	01/04	██████	Amends as per █████ and █████ comments.
3.0	20./05	██████	Amends as per █████ comments
8.0	27.05.21	██████████	Formatting
9.0	July 23	People & OD	Inclusion of Vetting Implications as per College of Policing Statutory Vetting Code of Practice (inserted at Section 16)
10.0	Apr 24	People & OD	Re-format & inclusion of notifying DPO in cases of data breach or misuse of systems

Reviews and Distribution

Name	Department	Role	Date
██████████	Exec	DOPR	14/05/2021
██████	UNISON	Branch	21/05/2021
██████████	UNISON	Branch	21/05/2021
██████████	Federation		

██████	Federation		
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Associated Documents

Document Name	Document Reference
Police Staff Misconduct Procedure	
Capability Procedure	
Supporting Attendance Absence	
Resolution Procedure	

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