



West Yorkshire  
Fire & Rescue Service

# Discipline Procedure (Green) HRNFG002

## **OFFICIAL**

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**Contents**

1 INTRODUCTION..... 3  
2 PRINCIPLES ..... 3  
3 THE PROCEDURE ..... 3  
4 THIRD FORMAL STAGE - DISMISSAL ..... 4  
5 SUMMARY DISMISSAL ..... 4  
6 APPEALS PROCEDURE ..... 5  
7 EXCEPTIONS ..... 5  
8 SUSPENSION..... 6  
9 Appendix 1..... 7

## 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.
- 1.2 The disciplinary procedure is designed to ensure fair treatment for those whose job performance is below requirements and for 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.
- 1.4 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.

## 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 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 right to be represented by a Union 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.
- 2.5 An employee will have the right of appeal, ***if dismissed by an Area Manager Executive Officers who report directly to a Director. A Director or Deputy Chief Fire Officer will hear and determine such appeals unless he has been involved in any other stage of the proceedings. If this is the case then the Chief Fire Officer will hear the appeal.***
- 2.6 **The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.**

## 3 THE PROCEDURE

- 3.1 At all stages the formal procedure should be affected as speedily as possible.

N.B the Verbal warning stage has been deleted

### 3.2 ***Informal Stage***

***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 supervisor's managers will keep a record of this advice and action but it will not form part of the disciplinary record.***

### **3.3 First Formal Stage - Written Warning**

- 3.3.1 If the employee's conduct or performance continues to be unsatisfactory/unacceptable in relation to the agreed improvement plan made in the first formal stage, or in other more serious cases, the situation will be formally reviewed with him or her by his or her Unit Manager or Station Manager as appropriate.
- 3.3.2 Following this meeting the employee will receive from his or her Unit Head Station Manager 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 the terms of the letter. The letter will clearly state a plan of improvement and deadline dates for achievement, and a copy will be held on the employee's Personal Record File for **6 months**.

**Only Unit Heads or Station Managers can issue Written Warnings.**

### **3.4 Second Formal Stage - Final Written Warning**

- 3.4.1 If the employee's conduct fails to meet the standards established at the first formal stage, or in more serious cases, his/her manager will review the situation with the employee.
- 3.4.2 Following this meeting, the employee will receive a letter from his/her unit manager or equivalent uniformed manager, 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 the terms of the letter. The letter will clearly state a plan of improvement and deadline dates for the achievement of that improvement. If no improvement is forthcoming, steps will be taken to dismiss the employee.
- 3.4.3 In matters where an employee's conduct is in question, e.g. repeated bad behaviour, it would not be necessary for an improvement plan to be put in place, and a final written warning may simply be issued.
- 3.4.4 This warning will be held on the employee's Personal Record File for **18 months**.
- 3.4.5 **Only Unit Heads, Group Managers or managerial levels above may issue Final Written Warnings.**

## **4 THIRD FORMAL STAGE - DISMISSAL**

- 4.1 If the employee's conduct or performance, despite warnings, is still unacceptable, his or her unit manager or uniformed manager will review the situation with the employee. The decision to dismiss an employee can only be taken ***by the Chief Fire Officer, a Director, an Area Manager or Executive Officer.***

## **5 SUMMARY DISMISSAL**

- 5.1 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.

- 5.2 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/Area Manager or Executive Officer** and will include a meeting with the person concerned.
- 5.3 Following the investigation the employee will be asked to attend a meeting with the **Chief Fire Officer, a Director, Area Manager or Executive Officer**. 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 meeting will be confirmed in writing to the employee, and this letter will also confirm details of the appeals procedure.
- 5.4 **The Chief Fire Officer, Directors, Area Managers or Executive Officers may issue Summary Dismissals.**

## 6 APPEALS PROCEDURE

- 6.1 Appeals against disciplinary action involving dismissal, demotion, disciplinary transfer or suspension must be submitted to the Corporate Human Resources Manager within 10 working days of the receipt of the notification of the action.

***A Director or Deputy Chief Fire Officer will hear and determine such appeals unless he has been involved in any other stage of the proceedings. If this is the case then the Chief Fire Officer will hear the appeal.***

- 6.2 ***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 10 working days after the date of the written notification to them of the decision. A higher level of manager will hear the appeal.***

- 6.3 ***Where an employee appeals against disciplinary action taken against them they must put their grounds of appeal in writing. The grounds of appeal will normally be one or more of the following***

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

## 7 EXCEPTIONS

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

## 8 SUSPENSION

8.1 *The Chief Fire Officer, a Director, Area Manager or Executive 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.

## 9 Appendix 1

### DISCIPLINARY PROCEDURE – GREEN BOOK STAFF

Examples of offences that may be construed as Gross Misconduct:

- 1 fraudulent activity for personal gain;
- 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 SAP records/entitlements to pay and/or expenses, leave etc.
- 6 falsifications of documents which are a stated requirement of employment;
- 7 breaches of safety regulations endangering other people, including deliberate damage to, or misappropriation of, safety equipment;
- 8 refusal of a reasonable management instruction;
- 9 serious contravention of the Authority's Dignity and Respect Policy;
- 10 serious misuse of IT Systems;
- 11 disclosure of any information which may bring the Authority into disrepute.

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



Guide to conducting a Disciplinary Hearing

Stage	By Whom	Action
Introduction	Chair Person	<ol style="list-style-type: none"> <li>1. Introduces the panel and the Manager who has prepared the facts. Identifies the representative/fellow worker of the employee.</li> <li>2. Explains the purpose of the note taker – to keep a record and play no part in the proceedings.</li> </ol>
Purpose of Hearing	Chair Person	<ol style="list-style-type: none"> <li>1. Explains the hearing is in accordance with the Disciplinary Procedure to investigate allegations of misconduct against an employee.</li> <li>2. Invites the Human Resources Representative to explain the procedure.</li> </ol>
Procedure	Human Resources Representative	<ol style="list-style-type: none"> <li>1. Explains the procedure as follows:               <ol style="list-style-type: none"> <li>(a) The allegations will be read, if required by the employee.</li> <li>(b) The employee (or representative) will have an opportunity to make a statement in response to the allegations.</li> <li>(c) Witnesses may be called by either side to refute or support the allegations.</li> <li>(d) The panel, employee and Manager may question the witnesses.</li> <li>(e) Once the evidence has been presented the Chairperson will adjourn to consider the findings.</li> <li>(f) If misconduct is evidenced, the Chairperson will consider the employee’s record of service and any mitigation before determining the appropriate penalty.</li> </ol> </li> <li>2. Confirms that the employee understands the procedure.</li> </ol>
Allegations	Chair Person	<ol style="list-style-type: none"> <li>1. Confirms that the employee has received a copy of the allegations and has read and understands the content.</li> <li>2. Reads the allegations, if the employee requires.</li> <li>3. Confirms whether or not the employee will be calling any witnesses and asks for details.</li> <li>4. Confirms that all parties are ready to commence the hearing.</li> </ol>

Employee Statement	Employee (or representative)	<ol style="list-style-type: none"> <li>1. Has the opportunity to make a statement in response to the allegations.</li> <li>2. If the employee does not contest the allegations, consideration should be given as to whether the Manager needs to present the supporting evidence.</li> <li>3. If the employee does not wish to hear the evidence, this decision should be recorded in the notes and the hearing may proceed to 'Findings'.</li> </ol>
Manager's evidence	<p>Manager</p> <p>Witness</p> <p>Chair Person</p>	<ol style="list-style-type: none"> <li>1. The manager who conducted the fact finding presents the evidence to support the allegations as follows:               <ol style="list-style-type: none"> <li>(a) Provides a brief overview of the circumstances.</li> <li>(b) Calls and questions witnesses to support the allegations.</li> <li>(c) Refers to documentary evidence (circulated before the hearing).</li> <li>(d) Answers questions from the panel and employee (or representative).</li> <li>(e) Summarises the evidence.</li> </ol> </li> <li>2. The Chairperson confirms that all the evidence has been presented; that there are no further questions, and asks witnesses to leave the hearing.</li> </ol>
Employee Evidence	Employee (or representative)	<ol style="list-style-type: none"> <li>1. The employee and/or their representative present the evidence to refute the allegations.</li> <li>2. The employee or their representative calls and questions witnesses to support the case.</li> <li>3. The panel and the Manager may question the witnesses.</li> <li>4. The employee must answer questions directed to him/her from the panel or the Manager. The representative is not entitled to answer on their behalf.</li> </ol>
Clarification of outstanding issues	Chair Person	<ol style="list-style-type: none"> <li>1. If necessary, may recall witnesses to the hearing.</li> <li>2. May adjourn the hearing to take advice from the Human Resources Representative.</li> <li>3. Will give the employee an opportunity to clarify any points.</li> <li>4. Confirms that all parties are satisfied they have had a full and fair hearing.</li> </ol>

Findings	Chair Person	<ol style="list-style-type: none"> <li>1. Adjourns the hearing to consider the evidence and determine whether there is misconduct.</li> <li>2. The Human Resources Representative will advise as appropriate.</li> <li>3. Reconvenes the hearing and advises the employee of the decision.</li> <li>4. If there is misconduct, asks the Human Resources Representative for the record of service.</li> </ol>
Record of Service	Human Resources Representative	<ol style="list-style-type: none"> <li>1. Gives details of the length of service, previous misconduct, and any relevant information from the personal file.</li> </ol>
Mitigation	Employee (or representative)	<ol style="list-style-type: none"> <li>1. Has the opportunity to make a statement or offer any further evidence.</li> </ol>
Penalty	Chair Person	<ol style="list-style-type: none"> <li>1. Adjourns the hearing to consider an appropriate penalty.</li> <li>2. The Human Resources Representative will advise on the penalties available as appropriate.</li> <li>3. Reconvenes the hearing and advises the employee of the penalty.</li> <li>4. Advises that the decision and penalty will be confirmed in writing.</li> <li>5. Advises of the right of appeal.</li> </ol>
Final Actions	Chair Person	<ol style="list-style-type: none"> <li>1. Ensures that all management witnesses are advised of the outcome of the hearing as soon as practicable.</li> <li>2. Writes to the employee to advise of the decision and penalties.</li> </ol>