



Human Resources

Title: **Disciplinary Procedure**

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Roles, Responsibilities and Review

The **Head of HR and Administration** is responsible for ensuring this Order is implemented across the Brigade.

The **HR Officers** will be responsible for the day-to-day operation of the Order.

The **HR Officers** will review this Order when new legislation arises or as and when organisational needs require.

Brigade Order: Human Resources

Disciplinary Procedure

Purpose

Shropshire Fire and Rescue Service (SFRS) aims to ensure that there is a prompt, fair and consistent approach to the enforcement of standards throughout the organisation. This policy and procedure are applicable to all SFRS employees and is designed to help and encourage all employees to achieve and maintain standards of conduct.

Issues relating to performance will be dealt with under SFRS policy on capability. However, where poor performance resulting from, for example, negligence, lack of application or attitudinal problems has been established, this will be dealt with under disciplinary procedure.

The overall aim of the procedure is to minimise the likelihood of a recurrence in behaviour that falls below expectations and to set and reinforce organisational standards and values. This may include dismissal. Each case shall be treated on its merits in light of the particular circumstances.

It is important that when dealing with any issues that fall under this policy, managers ensure that they follow the attitudes, professional behaviors and conduct as outlined in the Employee Code of Conduct and Workplace Charter. This is to ensure that any decisions are made in a fair, impartial, and ethical manner and do not detract from Service policies.

Principles

The basis of this procedure is that the principle of Natural Justice applies and is clearly seen to apply at every stage. The principles of Natural Justice that apply are that:

- a person knows the nature of the allegation against them.
- the person is given the opportunity to state their case.
- the disciplinary manager/appeal manager/panel acts in good faith.
- a person has the right of appeal against any formal sanction.

- the procedure should be in line with the Acas Code of Practice and Grey Book terms and conditions.

Privacy and confidentiality shall be observed in all actions taken under this policy and associated procedures. A breach of confidentiality may give rise to disciplinary action under this procedure.

Minor breaches of conduct should be dealt with in an informal way and expected standards of conduct should be maintained through the normal day to day relationship between managers and employees.

No disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place.

In accordance with the Employment Relations Act 1996 employees at all stages will have the right to be accompanied by a colleague, or trade union official i.e., during the investigation, disciplinary, hearing or appeal. It is the responsibility of the employee to arrange his/her own accompanying person.

The employee will be given the opportunity to state their case before any decision is made.

Disciplinary action previously taken against other employees for similar conduct will usually be taken into account but should not be treated as precedent. The information will be supplied to the Hearing Manager by the HR Department. Each case will be considered on its own merits.

An employee will not be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty will potentially be summary dismissal i.e., dismissal without notice or pay in lieu of notice.

The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

In poor performance cases, where the reason is not within the employee's control, e.g., health, training, or the changing nature of the job, the appropriate SFRS policies will be used. However, where poor performance resulting from, for example, negligence, lack of application or attitudinal problems has been established, this will be dealt with under the disciplinary procedure. Further, where an employee's absence record has been investigated and the absences are deemed to be of a casual nature (unpredictable recurring short spells, often of one or 2 days, and without certified underlying medical cause), they will be dealt with under the disciplinary procedure.

At all stages, managers must take professional advice from an HR Officer prior to making any decisions on conclusion of investigations and hearings.

Disciplinary action against a Trade Union representative should be dealt with in the normal way. Where allegations of misconduct are made, a full-time officer of the Trade Union will be informed, subject to obtaining the employee's agreement to this.

The timescales listed in this Order will be adhered to wherever possible. However, where there are good reasons, e.g., the need for further investigation or the lack of available witnesses or accompanying person, each party can request that the other agree to an extension or reduction of the permitted timescale.

The Service reserves the right to seek assistance from external facilitators at any stage in the disciplinary procedure, in the interests of seeking a satisfactory outcome for all concerned, for example in cases of fraud, bribery and corruption, or disciplinary action related to Executive Officers.

The Service reserves the right to speed up the decision making process and therefore may choose to follow a truncated version of the procedure.

Informal Action

Discipline is a function of line management and cases of minor misconduct or unsatisfactory minor matters and attendance can usually be most effectively dealt with informally through discussions with the Line Manager without having to invoke the disciplinary procedure.

The Line Manager will speak to the employee about their conduct, attendance or issue causing concern. This discussion will be recorded in writing and maintained as a “Note for File” (NFF) on the Employee Personal Record (EPR).

Although this NFF will not form part of the disciplinary record it will be retained on the EPR and should detail the expected outcomes or improvements in the employee’s behaviour and the process by which they will be achieved.

If informal action does not bring about the required improvement, or the matter is considered to be too serious to be classed as minor, the formal procedure will be used.

Formal procedures

When a manager becomes aware that a breach in conduct may have occurred that is potentially too serious to be managed through the informal route, they should seek advice from HR or their line manager on how to proceed. If it is identified at this point that there is a potential for the alleged breach of conduct to constitute gross misconduct the Head of HR and Administration (if available) and the Duty Area Manager should be informed.

The formal procedure consists of a number of steps which must be strictly observed by all parties. Failure to do so may invalidate the proceedings. These steps include:

- Investigation
- Suspension (if applicable)
- Disciplinary hearing
- Sanctions (if appropriate)
- Appeal

Arrangements will be made to cater for any disability that the employee and/or their colleague or representative may have.

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At any stage in the disciplinary process the Line Manager/Investigating Officer following discussion with HR, may consider it appropriate to refer the employee to Occupational Health as a possible alternative to disciplinary action.

At all stages of the process, a neutral party will be present as a note-taker to minute the meeting, which will then be shared with all parties present at the end of the meeting. The employee and/or their accompanying person may also take their own notes. If the employee does not agree with the minutes of the meeting, they must send an annotated version, showing the changes, to the HR Department. If the amendments are agreed, the minutes will be amended and agreed as the record. If the amendments are not agreed, then both versions will be kept on record. Both versions of the notes can be referred to at any later date.

Shropshire Fire and Rescue Service will permit meetings to be recorded. However, this is only in cases where it has been mutually agreed prior to the meeting with all parties on the grounds of reasonable adjustments. This is to ensure the following:

- There can be no breach of confidentiality, either by the Service or employee.
- There can be no breach of GDPR Rules, by either the Service or employee.
- There is no possibility that the record of the meeting will be lost due to system failure.

Investigation

SFRS is committed to ensure that all potential disciplinary matters are fully investigated.

The lowest level of management who can **initiate action** at the first formal stage is Watch Manager or above or the equivalent support staff level of Line Manager (the employee’s immediate Line Manager) or above.

The Line Manager will normally undertake the investigation with the support of the HR department; however, the role of Investigating Officer (IO) may be allocated to another officer where the potential for conflict of interest exists or where the gravity or complexity of the alleged offence requires a more experienced or expert IO. The investigation may include carrying out interviews with the employee concerned and third parties such as witnesses, colleagues and managers; as well as analysing written records and information and obtaining any technical expertise required. All information communicated in connection with an investigation or disciplinary meetings should be treated as confidential. Witnesses will be informed that any minutes taken from the investigatory meetings will be disclosable to the affected employee.

An investigation should be carried out promptly to establish the facts and upon conclusion of the investigation, a report will be produced. This will normally be done as quickly as reasonably practicable and the employee will be kept informed of the estimated completion date of the investigation.

Only in exceptional circumstances will the identity of witnesses be kept confidential.

Where an employee is required to attend an investigatory interview, they will be advised of the purpose of the interview in advance and it will be made clear that this is not a disciplinary meeting.

The employee must be informed that they may be accompanied at an investigatory interview but arrangements for this must not frustrate the investigation. Please see section on Right to be Accompanied.

Following completion of an investigation, the Investigating Officer will compile a report and send it to the HR Officer leading on the case and the relevant Principal Officer. The decision will be made as to whether:

- No further action is taken.
- Refer the matter back to the Line Manager to deal with informally.
- Proceed to a Stage 1 Hearing.
- Refer to a Stage 2 or 3 Hearing.

Where a disciplinary meeting is found to be the appropriate next step, it should be arranged for as soon as reasonably practicable and not less than 7 days' notice (unless with the agreement of all parties) shall be provided in writing to the employee.

Where the employee is the subject of a criminal investigation, this will not necessarily prevent a disciplinary meeting taking place, provided it does not prejudice any Police enquiries or possible prosecution. Where an employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending current matter, a decision may be taken based on the available evidence.

If, following investigation, no formal disciplinary action is to be taken, then no correspondence relating to the investigation will be held on the employee's personal record unless it is relevant to support an informal resolution, and this occurs with the employee's agreement. Documentation will be retained in the HR department during the relevant appeal/legal process timescale.

Right to be Accompanied

At all formal stages of this procedure the employee has the right to be accompanied by a trade union representative or a work colleague. It is the responsibility of the employee to arrange their own representation. Work colleagues or trade union representatives do not have to accept a request to accompany an employee and they should not be pressurised to do so.

If employees are choosing a colleague, they should bear in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest.

It is good practice to allow employees the opportunity to be accompanied at the investigation stage, although this should not frustrate the process.

Employees in their probationary period may request to be accompanied by a trade union representative or work colleague at a meeting where their continued employment is to be discussed.

Employees have the right to postpone a formal meeting for up to seven days if their representative or work colleague is unavailable to accompany them at the meeting. However, where this might cause undue delay, the employee will be requested to seek someone else to accompany them.

Trade union representatives who act as companions at Stage 3 disciplinary hearings must ensure that they are reasonably certified by the trade union as having experience of, or having received training, in these activities

Before the meeting takes place, the employee will advise the Service of the name of the colleague or trade union representative that will be accompanying them, and any requirements related to disability.

The work colleague/union representative should be allowed to address the meeting in order to:

- Put forward the employee's case.
- Sum up the employee's case.
- Respond on the employee's behalf to any view expressed at the meeting.

The work colleague/union representative will also be allowed to confer with the employee during the meeting and participate as fully as possible in the meeting, including asking questions directed through the Chair of the hearing to the investigating officer, witnesses or employee in relation to the case. They have no right to answer questions on behalf of the employee, nor do they have the right to address the meeting if the employee does not wish them to or prevent the Service from explaining their case.

An employee or trade union representative who has agreed to accompany a colleague employed by the Service is entitled to take a reasonable amount of paid time off to fulfil that responsibility. This should cover the meeting and allow time for them to familiarise themselves with the case and confer with the employee before and after the hearing. A request for reasonable time off by a trade union representative to accompany an employee employed by another Fire Authority in the same region shall be given due consideration.

Suspension

In disciplinary cases, the emphasis will always be on acting in a timely manner to achieve a fair resolution. In some cases, it may be helpful or necessary to suspend an employee from the workplace while an investigation or preparation for a disciplinary hearing takes place or to transfer the employee to another location.

The Duty Principal Officer will have the authority to suspend following discussion with the Head of HR and Administration.

For employees at Area Manager level and above, the authority to suspend lies with the Chief Fire Officer (CFO) or, in their absence, the Deputy Chief Fire Officer (DCFO). In the case of the CFO, the decision to suspend will be made by the Fire Authority.

An employee may be suspended if the allegations involve gross misconduct, or where a continued presence in the workplace may prejudice an investigation or harm the interest of the employee or others. To make a determination as to whether or not to suspend, the following criteria should be considered

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- Where a working relationship has severely broken down to the point that there is a genuine risk to other employees, property, or their delivery of the service or where the working relationship has become untenable.
- When the employee under investigation could tamper with evidence, influence witnesses, and/or sway the investigation into the allegation.
- Where there is a risk to other employees, property, or members of the public.
- Where the employee is the subject of criminal proceedings which may affect whether they can do their job

Careful consideration should be given to options other than suspension whilst the investigation is ongoing. These can include:

- Moving the employee to a different department or premises
- Allowing the employee to work from home.
- Changes to the employees working hours.
- Placing the employee on a period of modified duties.
- Requiring the employee to work under supervision.
- Transferring the employee to a different role within the Service. The role should be of similar status to the normal role, with the same terms and conditions of employment.

Any changes to an employee's ways of working are temporary and should be reviewed whilst the investigation is ongoing. There is no assumption of guilt associated to any temporary changes. These temporary changes will not become custom and practice and at the conclusion of the process the employee will return to their original role and its terms and conditions.

Only if all other options are not practical may suspension become necessary.

Other considerations could include whether it is necessary to:

- Escort the employee from the workplace.
- Remove the employee's access to the building and/or ICT access.
- Removal of any assets, such as Service equipment, uniform, or credit cards

Suspension is not a disciplinary penalty in itself and does not involve any prejudgement of the matter.

The organisation will explain its reasons for suspending an employee in writing along with the employee's entitlements during suspension and the conditions of their suspension. Suspension should be as brief as possible but allowing a thorough investigation.

During any period of suspension, the employee shall not attend his or her place of work other than for the purpose of attending disciplinary proceedings, including investigatory interviews. Nor shall the employee discuss this matter with any other employees, suppliers or customers of the Service, except the employee's accompanying person, without the consent of SFRS. If SFRS become aware that a discussion has taken place concerning the investigation, then further disciplinary action may take place. The employee should, however, ensure that they are contactable and respond to telephone calls/messages during normal working time when suspended.

During the period of suspension, the nominated Welfare Officer will make regular contact with the employee. Consideration should be given as to who is most appropriate to act as a Welfare Officer, for example the Welfare Officer must have a level of independence from the investigation and confidentiality must be maintained at all times. The Welfare Officer will be informed of their role, and supported throughout, by the nominated HR Officer.

A period of suspension should only be imposed after careful consideration and should be kept under regular review throughout the investigation. The individual will be informed by letter of the outcome of the review.

The period of suspension should be on full basic pay i.e., normal pay. Should the employee commence sick leave during a period of suspension, their pay will be in accordance with the rules of the sick pay scheme. Normal pay for staff on the Retained Duty system will be calculated on the average of the 12 weeks' pay immediately prior to the first day of suspension.

Failure of an individual to respond to, and to comply with the requirements set out in their suspension may following a review, result in a stoppage of pay.

Leave already arranged that falls during a period of suspension will be taken and permission to take further leave may be sought.

Disciplinary hearing

Where practicable, the date, time and location for a disciplinary hearing will be agreed with the employee and/or their representative.

In any case, the minimum amount of notice for such a meeting, which will be provided in writing including details of the allegations and all supporting documents, will be not less than:

- 7 days for the first formal stage
- 10 days for the second stage
- 21 days for the third stage

These timescales may be shortened with the agreement of SFRS, the employee and if relevant the Trade Union where practicable.

The written notification should contain sufficient information about the alleged misconduct/gross misconduct to enable the employee to prepare prior to the meeting taking place. Copies of all documentation being referred to at the hearing should be forwarded to the employee, along with details of any witnesses the Service will be calling.

In exceptional circumstances the name of a witness may not be disclosed in order to protect their identity. In these cases, the employee will be provided with as much information as possible whilst maintaining confidentiality.

The employee should also be advised of their right to be accompanied by a work colleague or trade union representative, the possible consequences of the hearing, and also offer the opportunity for the employee to call upon any relevant witnesses.

The employee should advise their manager, preferably in writing as soon as possible if they/their representative are unable to attend the disciplinary hearing, along with the reason why. In exceptional circumstances an employee's representative may attend on their behalf.

In accordance with the Employee Relations Act 1999, where an employee indicates that they cannot attend at the specified time, an alternative date will be offered and will be within 7 days of the original date of the meeting. A decision may be taken in the employee's absence should they fail to attend a rearranged meeting without good reason.

The meeting will include an explanation of the process to the employee. Evidence regarding the case against the employee will be presented to the Hearing Manager who will be advised by the Head of HR and Administration or a HR Officer. A note taker will also be present. The employee will be given every opportunity to state their case and respond to any allegations made.

The employee and the employer may ask questions, present evidence/information, and call witnesses as appropriate. The representative has no right to answer questions on the employee's behalf, or to address the hearing if the employee does not wish it, or to prevent the employer from explaining their case. The Hearing Manager will then adjourn the hearing to consider the evidence presented and decide the outcome. The employee will usually be verbally informed of the outcome after the adjournment.

The outcome of the hearing will be notified to the employee in writing within 14 days.

The manager hearing the evidence should be equal to or at a higher level within the Service to the person presenting the allegations and all disciplinary meetings will be conducted by those at an appropriate level in the organisation as shown in the table at Appendix A.

In exceptional circumstances or where senior managers are being investigated, investigation hearings and appeal hearings may be conducted by people external to SFRS.

Formal Stages

The Service reserves the right to speed up the decision making process and therefore may choose to follow a truncated version of the procedure.

The table below shows the different stages of the process, the minimum notice periods required and the potential outcomes. It must be noted that, if the matter is sufficiently serious, action may be initiated at Stage 2 or 3.

Formal Stage	Minimum Notice Required	Potential Outcome (not limited to)
<p>First Formal Stage</p> <p>Conducted at Station Manager level or above (or equivalent support staff level)</p>	7 days'	<p>Written Warning – live for 6 months.</p> <p>Referral to Stage 2</p>
<p>Second Formal Stage</p> <p>Conducted at Group Manager level or above (or equivalent support staff level)</p>	10 days'	<p>Written Warning – live for 6 months.</p> <p>Final Written Warning – live for 18 months.</p> <p>Referral to Stage 3</p>
<p>Third Formal Stage</p> <p>Conducted at Area Manager level or above (or equivalent support staff level)</p>	21 days'	<p>Written Warning – live for 6 months.</p> <p>Final Written Warning – live for 18 months.</p> <p>Demotion (no more than one grade/role; a demotion in excess of this can only be done with the agreement of the employee)</p> <p>Disciplinary transfer (which should involve no loss of remuneration and unless the employee agrees otherwise, should be within the same duty system). Travel expenses will not be reimbursed.</p> <p>Loss of pay up to a maximum of 13 days.</p> <p>Dismissal</p>

Written warnings will be kept on an employee's personal record but struck through and disregarded for disciplinary processes once the relevant time period has passed, subject to the employee's satisfactory conduct, attendance, and performance.

The Hearing Manager will give their decision verbally to the employee and then confirm it in writing in an outcome letter. Confirmation of the outcome of a disciplinary hearing must be made within 14 days of the date of the hearing.

The discipline process aims to change poor performance or behaviour and an individual's involvement in discipline will not necessarily remove their eligibility for CPD. However, CPD payments will not be made to an employee who has received a formal sanction as a result of misconduct. Misconduct in the context of CPD is a failure to evidence the criteria of commitment to SFRS core values.

If a decision to terminate employment is taken, the employee will be provided with written reasons for dismissal, the date on which their employment will terminate (in accordance with the employee's notice entitlement) and their right of appeal.

Employees have the right to appeal against any formal sanction and must be given details of the appeals process.

Disciplinary Hearings and Sickness Absence

The Service will take into account absences due to ill health, however employees will be expected to cooperate as much as they are able in both investigatory stages and disciplinary process.

Where an employee is unable to attend a meeting due to ill health, where the sickness absence is prolonged or uncertain, advice will be sought from Occupational Health as to the employee's fitness to attend any meetings under this procedure.

Gross Misconduct

Where there are allegations of gross misconduct, action may only be taken following consultation and guidance from the Head of HR and Administration, an HR Officer, the Duty Area Manager or above.

Acts which constitute gross misconduct are those resulting in a serious breach of contractual terms and thus an employee will be potentially liable for summary dismissal. It is important to establish the facts before taking action.

Examples of offences constituting gross misconduct include (but are not limited to):

- Theft, fraud, bribery (giving and receiving)
- Unauthorised entry to computer records or deliberate falsification of records
- A serious breach of the Service's rules on email and internet usage
- Fighting or assault
- Deliberate or reckless damage to Service property
- An inability to perform job duties through being under the influence of alcohol or drugs

- A Serious breach of the Service’s safety roles or a single error due to negligence which causes, or could have caused, significant loss, damage, or injury to the Service, it’s employees or customers.
- Conviction of a criminal offence that makes the employee unsuitable or unable to carry out their duties.
- A serious act of insubordination, such as deliberate refusal to carry out proper instructions.
- Acts of bullying, harassment, or discrimination.
- A serious breach of confidentiality
- Bringing the Authority into disrepute and/or damaging the reputation of the Authority

If, on completion of the investigation and full disciplinary procedure, the Service is satisfied that gross misconduct has occurred, the result will normally be summary dismissal, i.e., dismissal without notice or pay in lieu of notice.

Witnesses

Witnesses called on behalf of the Service are required to attend wherever reasonably practicable. Witnesses called by the employee are attending at the employee’s request and do not have to accept a request to act as a witness and should not be pressurised to do so.

If a witness is unable to attend the hearing, they must notify the HR Department as soon as possible.

If it is not practicable for a witness to attend the hearing it will be the decision of the Hearing Manager whether or not to proceed in their absence.

Witnesses are required to answer all questions themselves. It is not permitted for any other person to speak on their behalf.

Sanctions

Where a manager decides that a disciplinary sanction is warranted, they should give consideration to the employee's disciplinary and general employment record, the explanation of the employee and actions taken in similar cases within SFRS.

A letter confirming the outcome of the meeting and explaining the right of the appeal will be sent to the employee and placed on the employee's personal record (EPR) for the appropriate period, after which it will be considered spent for disciplinary purposes but will be struck through and retained on the EPR as part of the employment history.

Where no sanction is issued, this will be confirmed to the employee in writing. A copy of the notes of the disciplinary meeting will also be sent to the employee. No correspondence relating to the matter will be kept on the employee personal record, however information required for audit purposes e.g., date, nature and outcome, will be retained in the HR Department for audit purposes.

An implication of the sanction could be that the individual’s eligibility to receive CPD payments in the subsequent qualifying period be removed. CPD payments will not be made to an employee who has received a formal sanction as a result of misconduct.

Misconduct, in the context of CPD is a failure to evidence the criteria of commitment to SFRS core values.

Appeals

Natural justice requires that all employees have the right of appeal against any sanction imposed under this procedure.

Notification of the intention to appeal against any disciplinary action taken against them must be submitted in writing to the Head of HR and Administration within 7 days of the date of receipt of the letter informing them of the decision of the disciplinary meeting.

Appeal must be made in writing, clearly stating the grounds of the appeal. These 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
- There is a dispute about evidence given at the original hearing.
- New evidence has come to light since the hearing which will have an impact on the decision.

The appeal letter must clearly state:

- Why the outcome was wrong or unfair
- What was defective in the procedure (if relevant)
- What the desired outcome of the appeal would be

Appeal Hearing

The Appeal Hearing Manager should be someone who has not previously been involved in the case and be more senior to the original Hearing Manager.

However, there may be occasions where this is not possible. The Service will make all reasonable efforts to ensure best practice is followed and reserve the right to bring in an external party to carry out the appeal.

The HR Department will write to the employee confirming the date, time and place of the hearing, including the right to representation by a Trade Union representative or work colleague.

The employee has the right to attend an Appeal Hearing with appropriate representation. The employee should note that the hearing is not intended to repeat the detailed investigation that was undertaken, but to focus on the detail provided within the grounds of appeal. For information on the right to representation please see section Right to Representation.

The employee must take all reasonable steps to attend the appeal hearing.

The Appeal Hearing is an opportunity for the employee to:

- Explain why they believe the outcome is wrong or unfair
- Explain where they felt the procedure was unfair, and ask questions around the areas of policy perceived as being unfair
- Present any new evidence (this should be sent to the Head of HR and Administration within a reasonable time prior to the Appeal Hearing taking place)
- Listen to the Hearing Manager's views on the issues raised

At the Appeal Hearing the employee will be given full opportunity to state the grounds on which the appeal is made. The Appeal Hearing covers only those elements raised by the employee in their grounds for appeal.

In the Appeal Hearing, the Hearing Manager will:

- Introduce everyone present including their roles in the hearing
- Explain the purpose of the hearing and how it will be conducted
- Clarify the grounds of appeal
- Look at any new evidence provided
- Provide a summary at the end of the hearing

The Hearing Manager who made the original decision will have the opportunity to explain their decision. The Appeal Hearing Manager may exercise discretion as to whether or not the two parties will be present together or separately during the proceedings.

The Appeal Hearing Manager will then consider if:

- The original outcome was fair
- Whether they need to change the original outcome
- Whether a new investigation is needed before making a final decision.

A new investigation may be required in cases where the Appeal hearing Manager needs to:

- Find or look at new evidence
- Re-check any evidence previously looked at
- Talk to witnesses spoken to in the original investigation
- Talk to any new witnesses identified

The Appeal Hearing Manager should then write a confidential report which will be shared with the employee.

The Appeal Hearing Manager will write to the employee as soon as possible with the outcome of their appeal, clearly explaining the reasons for their decision.

The decision of the Appeal Hearing Manager is final and no further appeals can be made.

The Appeal Hearing Manager has the authority to maintain, quash, or reduce a disciplinary sanction in accordance with the sanctions specified in the Service's Disciplinary Policy.

All appeals against dismissal will be reviewed by the Chief Fire Officer and the Fire Authorities independent person. The decision of the Chief Fire Officer is final and there is no further right of appeal.

Appeal Outcome

In the case of sanctions other than dismissal, the sanctions will not be implemented until any appeals process has concluded.

In cases of gross misconduct, dismissal will be summary following the disciplinary meeting. If the employee is reinstated on appeal, pay will be reinstated and backdated.

In other cases of dismissal, the sanctions will be given contractual notice of dismissal following the hearing and every effort will be made to conclude the appeal process within the notice period. Where this is not possible, notice may be extended with a view to concluding the appeal within the notice period. If the dismissal is not upheld on appeal, then the employee will be reinstated.

Where an appeal against dismissal is not upheld, the effective date of termination shall be the date on which the employee was originally dismissed.

Conclusion of the Disciplinary Case

Upon conclusion of the disciplinary case, the Hearing Manager is required to produce a report outlining any lessons to be learned or recommendations that are to be followed up on conclusion of the process. In some cases, it may be necessary to call a meeting with all relevant parties to discuss the outcome and any changes required moving forward.

It is the Hearing Manager’s responsibility to put timescales on any recommendations and to check their completion.

Disciplinary issues arising from Complaints

The Complaints process is separate from the Disciplinary process. Although there may be some overlap between the information gathered by the Complaints Investigating Officer and Disciplinary Investigation Officer, it is important that the full disciplinary process is adhered to.

Where a complaint is investigated and there are disciplinary issues that need to be addressed, an appropriate Officer will be assigned to investigate it under the Disciplinary Policy. A HR Officer will also be assigned to give advice and guidance throughout the investigation process.

Where the Disciplinary Investigating Officer needs to use statements contained in the complaint report, they must ensure that the Complaint Investigating Officer has reinforced to the complainant, and any witnesses, that the information provided may have to be disclosed during any further processes. In these instances, consent should be obtained from relevant parties. This must be recorded in the Complaint Report.

General Issues

Where a grievance is raised during a disciplinary procedure

During the course of a disciplinary process, an employee has the right to raise a grievance that is relevant to the case (and only where the grievance directly relates to the disciplinary issues). The Manager should consider suspending the disciplinary procedure for a short period while the grievance is dealt with. Depending on the nature of the grievance, another Manager may be brought in to deal with the disciplinary procedure if appropriate.

The grievance procedure should not be used for appeals against disciplinary decisions as this is the purpose of the disciplinary appeals process.

Disciplinary action against Trade Union Representatives

Where disciplinary action against a trade union representative is being considered, the case should be discussed, with consent of the employee, with a senior trade union representative or permanent union official.

Privacy Notice under the Data Protection Act 2018

Privacy Notice under the Data Protection Act 2018 (General Data Protection Regulations). Shropshire Fire and Rescue Service collects Personal Identifiable Information to enable it to process job application and employment issues to monitor against statutory requirements e.g. Equality Act 2010. Information is processed under GDPR Article 6(b) and GDPR 2018 Article 9(b).

For further details on our privacy arrangements please view the privacy page on the FS website page.

[Link to GDPR Portal Site](#)

Minimum level of management at which action can be taken

Stage	Investigation		Conduct Meeting/Take Action		Conduct Appeal		Advice
	Grey Book	Other Staff	Grey Book	Other Staff	Grey Book	Other Staff	
Informal	Crew/Watch/ Station Manager	Line Manager	Crew/Watch/ Station Manager	Line Manager	NA	NA	HR Officer
Formal Stage 1	Watch Manager	Line Manager	Station Manager	Manager <u>(more senior than the manager who dealt with the previous stage)</u>	Group Manager	A manager more senior than that which heard the case	HR Officer
Formal Stage 2	Station Manager	Line Manager	Group Manager	Manager <u>(more senior than the manager who dealt with the previous stage)</u>	Area Manager	A manager more senior than that which heard the case	HHRA/ HR Officer
Formal Stage 3	Group Manager	Line Manager	Area/Brigade Manager	Area/Brigade Manager/Department Head	Service Manager or in cases of dismissal the CFO	Service Manager or in cases of dismissal the CFO	HHRA/ HR Officer

Checklist for Managers - the Disciplinary Hearing

Before

- Ensure that you are familiar with the disciplinary procedure.
- Seek advice and guidance from HR.
- Consider, if appropriate, the suspension of the employee(s) on full pay if this is a case of suspected gross misconduct.
- Carry out a thorough investigation and gather facts.
- Maintain confidentiality.
- Consider any relevant precedents.
- Inform the employee in writing of the time, date, location and type of hearing, the nature of the allegations and the right to be accompanied. Provide copies of evidence, such as witness statements, and relevant documents, prior to the hearing.
- If the employee is disabled or English is not their first language, check whether any special arrangements will be needed at any time during the procedure, e.g., access facilities, a reader or interpreter.
- Invite all the relevant parties, i.e., colleague/Trade Union representative and witnesses. (NB: it is the individual's responsibility to arrange the attendance of a Trade Union representative and witnesses if required).
- Arrange a suitable venue for the hearing, i.e., a quiet place free from interruptions, and allow sufficient time.
- Ensure the hearing will be properly constituted according to the procedure with individuals acted in accordance with their delegated level of authority.
- Request HR presence at hearing.
- Book note taker and provide them with any relevant documentation.

During

- Convene the disciplinary hearing and make the necessary introductions.
- Explain the purpose of the hearing.
- Ensure that comprehensive notes are taken, and all relevant points noted.
- Investigating manager to present the allegations and the evidence.

- Request that supporting witnesses give their statements and are prepared to answer questions from both parties.
- Listen to the employee and/or the accompanying person when they give their side of the matter and allow them to call supporting witnesses.
- Seek clarification of the key issues.
- Give the employee and/or accompanying person the opportunity to reiterate any aspects that they wish to emphasise.
- Adjourn the hearing to allow consideration of the points raised and any mitigating factors (or to allow further investigation).
- Consider action taken in similar cases.
- Consider and decide action to be taken.
- Reconvene and inform the employee of the decision and the reason for it, and if this decision will or will not support a future application for CPD Highlight the change in behaviour needed, if appropriate, and the consequences of a failure to improve in the future.
- Specify a review date if there is to be one.
- Inform the employee of the appeals procedure.

Afterwards

- Confirm the decision in writing to the employee and ensure that the notes of the interview are written up. Provide a copy to the employee and place copies of all the relevant documents on the personal file. Complete the disciplinary recording.
- Hearing Manager to ensure all action points are actioned.
- Monitor or review.

Halt the proceedings at any point where it is apparent that:

- The use of other more appropriate procedures such as counselling or the capability policy and procedure should be used.
- There is no case to be answered by the employee.

Checklist for the Note Taker: taking notes of Disciplinary Hearings

The following checklist should assist you in ensuring that your written notes fully meet the need to:

- Provide sufficient information to whoever is responsible for issuing the confirmation letter to the employee (if this is necessary).
- Provide a useful justification and record of the action taken at this stage should the situation deteriorate further (possibly resulting in an unfair dismissal claim being heard at an employment tribunal).

The notes should be in narrative format and should include:

- The date, venue and start time of the hearing.
- An account of those attending the hearing and their roles.
- Right to be accompanied; declined or present.
- Details of the allegations stated to the employee and of the supporting evidence, e.g. witness statements in writing.
- A record of any adjournments and approximate timings.
- Consideration of the employee's previous record (after a decision has been reached).
- The decision on whether disciplinary action was appropriate or not, and the type of action taken, with the appropriate timescale.
- The review date and a clear statement of intent if improvement does not occur.
- Reference to the right to appeal and the finish time of the interview.
- Handwritten notes will be kept for reference if needed.
- Following the meeting the notes will be typed up and sent to the interviewee to sign to verify their content and return to the HR Department.

Checklist for the Investigating Officer

Before the meeting takes place, the Investigating Officer should:

- Establish and plan the initial questions that will be asked of the individual.
- Ensure that an appropriate time and place has been booked for the meeting.
- Ensure that the employee has been written to, inviting them to the meeting and detailing their right to accompaniment.

At the start of the meeting, the Investigating Officer should explain:

- Who is present and their roles at the meeting.
- The role of the Investigating Officer.
- The purpose of the meeting.
- The need for confidentiality during the investigation process and consequences of breaching confidentiality.
- The need to disclose any discussions regarding the matter under investigation that may have already taken place.
- How the contractual duty of mutual trust and confidence works, and the fact that should there be grounds for believing that the individual has provided deliberately false, incorrect or incomplete information, this may be regarded as a serious breach of contract.
- How the contractual duty of cooperation works, i.e., a failure to fully cooperate in the investigation may be regarded as a serious breach of contract.
- That the individual's statement will be used in an investigation report and subsequently disclosed.
- Who will see the information.