

OFFICIAL

 <b>Warwickshire POLICE</b>	<b>GUIDANCE</b>
Security Classification	<b>OFFICIAL</b>
Disclosable under Freedom of Information Act 2000	Yes

<b>GUIDANCE TITLE</b>	<b>Misconduct (POLICE STAFF)</b>
REFERENCE NUMBER	<b>WP130</b>
Version	<b>1.1</b>

<b>OWNERSHIP</b>	
DIRECTORATE	ENABLING SERVICES
BUSINESS AREA	PEOPLE SERVICES

INITIAL IMPLEMENTATION DATE	<b>16/03/2023</b>
NEXT REVIEW DATE:	<b>16/03/2026</b>

**Contents**

1.0 INTRODUCTION..... 3

2.0 REFLECTIVE PRACTICE REVIEW PROCESS..... 3

3.0 FORMAL PROCEDURE..... 3

4.0 INVESTIGATION..... 5

5.0 INVESTIGATION INTERVIEW / WRITTEN RESPONSE..... 7

6.0 INVESTIGATION REPORT ..... 9

7.0 TYPES OF MISCONDUCT PROCEEDINGS ..... 10

8.0 MISCONDUCT MEETING / HEARING..... 10

9.0 ADJOURNMENTS DURING DISCIPLINARY MEETINGS/HEARINGS ..... 13

10.0 OUTCOME OF MEETINGS/HEARINGS..... 14

11.0 OUTCOMES AVAILABLE AT MISCONDUCT MEETING ..... 15

12.0 OUTCOMES AVAILABLE AT MISCONDUCT HEARING ..... 15

13.0 APPEALS ..... 15

14.0 SUSPENSION..... 17

15.0 ASSOCIATED ISSUES DURING MISCONDUCT PROCESS ..... 18

17.0 RESIGNATION DURING FORMAL PROCEEDINGS ..... 18

18.0 USE OF RECORDING EQUIPMENT BY WARWICKSHIRE POLICE..... 19

19.0 USE OF RECORDING EQUIPMENT BY AN INDIVIDUAL, ALLEGED OF  
MISCONDUCT, OR THEIR REPRESENTATIVE..... 19

20.0 CONFIDENTIALITY AND RECORD KEEPING..... 20

21.0 SANCTIONS AND THE RETENTION OF DISCIPLINE RECORDS..... 21

22.0 DOCUMENT HISTORY..... 21

## 1.0 INTRODUCTION

- 1.1 The Chapman Review of police disciplinary arrangements led to the new regulated disciplinary and Unsatisfactory Performance and Capability arrangements for police officers which are set out in the Police (Conduct) Regulations 2020 and the Police (Performance) Regulations 2020.
- 1.2 The Chapman report recognised that it would be desirable, where possible, for the disciplinary procedures for police officers and police staff to be compatible in order to drive consistency nationally.
- 1.3 Warwickshire Police considers it important that police officers and police staff receive equal treatment when subject of an investigation into an allegation of misconduct. Some cases already involve police officers and police staff being investigated for matters arising from the same incident and therefore having procedures that are as compatible as possible is clearly desirable.
- 1.4 This document provides guidance to ensure that police staff are managed appropriately in instances of misconduct/gross misconduct.

## 2.0 REFLECTIVE PRACTICE REVIEW PROCESS

- 2.1 In February 2020, new Police Regulations were introduced in order to deliver a more efficient system for dealing with police misconduct. In order to encourage a greater emphasis on learning from mistakes, the bar for misconduct was raised and the 'Reflective Practice Review Process' was introduced to deal with 'Practice Requiring Improvement' which is defined as:
  - 2.2 *"Underperformance or conduct not amounting to misconduct or gross misconduct, which falls short of the expectation of the public and the police service as set out in the policing code of ethics" Police (Conduct) Regulations 2020*
  - 2.3 "Misconduct" is defined in the new Regulations as:
    - 2.4 *"A breach of the professional standards of behaviour so serious as to justify disciplinary action".*
  - 2.5 For guidance on the [Reflective Practice Review process](#), please see the intranet.

## 3.0 FORMAL PROCEDURE

- 3.1 Where an allegation is made against an individual, an Appropriate Authority from PSD will review the matter in the first instance in order to determine whether the conduct should be categorised as "recordable conduct" for the purposes of the Schedule 3 to the Police Reform Act 2002. Recordable conduct should only be dealt with by PSD and initial severity assessments will be made by PSD investigators following consultation with the Appropriate Authority. A

## OFFICIAL

record will be created on the Centurion system regardless of whether the conduct is considered recordable or otherwise.

- 3.2 Where the matter is not categorised as recordable conduct, the Appropriate Authority from PSD will make a severity assessment, which will determine whether the conduct (if proved or admitted) would amount to misconduct (a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action) or gross misconduct (a breach of the Standards of Professional Behaviour so serious that dismissal may be justified), or would amount to neither misconduct nor gross misconduct. If the matter does not amount to misconduct or gross misconduct, the Appropriate Authority from PSD should determine whether the matter amounts to a performance issue suitable to be dealt with by the Reflective Practice Review Process or the capability policy.
- 3.3 In all case, the Appropriate Authority from PSD will Consult with an HR Business Partner to discuss relevant employment legislation, and ensure HR procedures and processes have been followed.
- 3.4 The purpose of assessing whether a matter is potentially misconduct or gross misconduct is to:
  - 3.4.1 Allow the individual subject to the misconduct procedure to have an early indication of the possible outcome if the allegation is proven or admitted
  - 3.4.2 Give an indication of how the matter should be handled (for example, locally or by the force Professional Standards Department or HR department).
  - 3.4.3 Allow the matter to be dealt with in a proportionate, efficient and timely manner.
- 3.5 Where it is determined that the conduct, if proved, would constitute **misconduct** or **gross misconduct** (as defined in paragraph 3.2) then it must be investigated as per section 4.
- 3.6 The assessment will also determine whether, if the matter was referred to misconduct proceedings, those proceedings would be likely to be a misconduct meeting (for cases of misconduct) or a misconduct hearing (for cases of gross misconduct or if the individual has a live final written warning at the time of the assessment and there is a further allegation of misconduct).
- 3.7 If the initial assessment has been made incorrectly or if new evidence emerges, then a fresh assessment can be made. The matter may be moved up to a level of gross misconduct or down to a level of misconduct. In the interests of fairness to the individual, where a further severity assessment is made which alters the original assessment, then the individual will be informed and will be provided with the reasons for the change in the assessment.

## OFFICIAL

- 3.8 The same principle applies where the initial assessment suggests that the matter is one of misconduct or gross misconduct, but subsequent investigation reveals that it is not, and may be, for example, one of unsatisfactory performance. In such cases the individual will be informed that the matter is no longer being considered as a matter of misconduct.
- 3.9 Where there are possible or outstanding criminal proceedings against the individual, these will potentially delay the misconduct investigation. The presumption is that action for misconduct will possibly be taken prior to, or in parallel with, any criminal proceedings. Where potential prejudice to any criminal proceedings is identified, the misconduct matter will still be investigated and a report submitted to the Appropriate Authority who will decide whether there is a case to answer in respect of misconduct or gross misconduct. If a decision is made that the matter amounts to misconduct or gross misconduct, no referral to disciplinary proceedings will take place if this would prejudice the criminal proceedings. In order to ascertain whether disciplinary proceedings will prejudice any criminal proceedings, the Appropriate Authority will liaise with the Crown Prosecution Service (CPS) to obtain authority to proceed with a misconduct meeting or hearing. A case meeting will then be arranged between PSD, line management, HR and legal services to discuss and agree whether to proceed

### **4.0 INVESTIGATION**

- 4.1 All cases of misconduct or gross misconduct will be investigated by PSD investigators.
- 4.2 Prior to commencing an investigation, PSD will contact the individual's line manager to notify them of the investigation and to ask them to appoint a suitable Welfare Contact, to provide support to the individual who is subject to a misconduct investigation.
- 4.3 The investigator will notify the individual of the progress of the investigation at least every four weeks commencing from the date of service of the notice of investigation.
- 4.4 Where an investigation is not completed within a 12 month period beginning on the day the allegation first came to the attention of the appropriate authority; the appropriate authority must provide the following information in writing to the Police and Crime Commissioner. This should describe the progress of the investigation, the planned steps to progress the investigation and bring it to a conclusion and an estimate of when the investigation will be concluded.
- 4.5 A further report should be submitted after each subsequent period of six months.
- 4.5.1 This requirement does not apply in a case where it appears to the appropriate authority that to do so might prejudice the investigation or any other investigation (including a criminal investigation).

OFFICIAL

- 4.5.2 Subject to the harm test, a copy of the information provided to the Police and Crime Commissioner must be sent to the individual.
- 4.6 Individuals have a responsibility to give appropriate co-operation during investigations, inquiries and formal proceedings, participating openly and professionally
- 4.7 If a matter has been assessed as either misconduct or gross misconduct, then the Appropriate Authority will appoint a person to investigate the matter. The investigator should be a person who has the appropriate level of knowledge, skills and experience to plan and manage the investigation.
- 4.8 A misconduct investigation shall be proportionate to the nature and gravity of the allegations.
- 4.9 The purpose of the investigation is to:
- Gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct.
  - Assist the Appropriate Authority to establish whether there is a case to answer
  - in respect of misconduct or gross misconduct or whether there is no case to answer
  - Identify any learning for the individual or organisation as a whole.
- 4.10 The investigator will, as soon as reasonably practicable after being appointed, give the individual written notice of the allegation which will set out the following information:

(A standard notice template is attached at Appendix 2)

- Inform the individual that there is to be an investigation of their potential breach of the PSC Standards of Professional Behaviour and inform the individual of the name of the investigator who will investigate the matter
- Describe the conduct that is the subject of the investigation and how the conduct is alleged to have fallen below the PSC Standards of Professional Behaviour
- Inform the individual of the force's assessment of whether the conduct alleged, if proved, would amount to misconduct or gross misconduct
- Inform the individual of whether, if the case were to be referred to misconduct proceedings, those proceedings would be a misconduct meeting or misconduct hearing
- Inform the individual that if the likely form of any misconduct proceedings changes the individual will be notified of this together with the reasons for that change
- Inform the individual of their right to seek advice from their trade union or a workplace companion who the individual may choose to act as their representative.

## OFFICIAL

- Inform the individual of how they can make a written response and the timescales for doing so.
- 4.11 The investigator should ensure that the individual, subject to investigation shall, as soon as practicable, be provided with this written notification unless to do so would prejudice the investigation or any other investigation (including a criminal one). Any decision not to inform the individual will be recorded and kept under regular review in order to avoid unreasonable delay in notifying the individual.
- 4.12 The notice should clearly describe in unambiguous language the particulars of the conduct that it is alleged fell below the standards expected of the individual.
- 4.13 The terms of reference for the investigation should, subject to there being no prejudice to that or any other investigation, be supplied to the individual and to their trade union representative or workplace companion on request, and they should be informed if the terms of reference change.
- 4.14 The written notification may be provided to a manager (including by email) to give to the individual. The notice should ordinarily be given to the individual in person. In cases where this is not possible the notice should be sent by recorded delivery to their last known address. The responsibility for ensuring the notice is served rests with the investigator.
- 4.15 If at any time after the service of the notice, the Appropriate Authority revises the assessment of the conduct or the level of the misconduct proceedings, then as soon as practicable the individual shall be given a further written notice.
- 4.16 Prejudice Test - potential examples of 'prejudice' are:
- Where there is more than one individual under investigation and providing full terms would prejudice / taint the other investigation,
  - Where there are witnesses to be spoken to or urgent actions to be taken and it would prejudice the investigation if the individual knew of these in advance,
  - Where there are covert / sensitive tactics being employed.

### **5.0 INVESTIGATION INTERVIEW / WRITTEN RESPONSE**

- 5.1 It will not always be necessary to conduct a formal interview with the police staff member subject of the investigation. In some cases, possibly involving misconduct cases, it may be more appropriate, proportionate and timely to request a written account from the individual. The written response together with any supporting documentation should be provided by the individual to the Appropriate Authority within 10 working days, commencing the first working day following service of the formal notice of the investigation.

Where an interview with the individual is necessary, the investigator and the individual should agree a date and time for the interview. The trade union

## OFFICIAL

representative or workplace companion should also be consulted and allowed to make representations about the date and time of the interview. If no agreement can be reached then the investigator may specify a time and date, giving at least 10 working days advance notice of the time and date. If the individual or their trade union representative or workplace companion is not available on the specified date then the interview can be postponed to a time proposed by the individual provided it is reasonable and within five working days of the specified date. Interviews may be audio recorded if appropriate and agreed (for example in complex cases), or a written record taken of the interview which the individual will have the opportunity to comment on and agree as being an accurate record of the interview.

- 5.2 The individual shall be given a written notice, by the investigator, at least 10 working days in advance of the date, time and place of the interview which the individual must attend. The interview cannot take place where the individual has not received the terms of reference for their investigation, or the written notice which states that no terms will be given. The individual shall also be advised of the right to be accompanied by a trade union representative or workplace companion and if so accompanied it shall be pointed out that this person may not answer any questions asked of the individual during the interview.
- 5.3 The investigator will, at least 10 working days in advance of the interview, provide the individual with such information as the investigator considers appropriate in the circumstances of the case to enable the individual to prepare for the interview. This should normally be full disclosure.
- 5.4 Documentary evidence shall be subject to the harm test and will not be supplied to the individual if the investigator considers that preventing disclosure is necessary:
- To prevent the premature or inappropriate disclosure of information that is relevant to, or may be used in any criminal proceedings
  - In the interests of national security
  - For the prevention or detection of crime or the apprehension or prosecution of offenders
  - For the prevention or detection of misconduct by other police officers or police staff or their apprehension for such matters
  - Necessary and proportionate for the protection of the welfare and safety of any informant or witness, or
  - Otherwise in the public interest.

It is, however, best practice in these investigations to have an approach to disclosure of evidence that, subject to the harm test or prejudice test, is full and open, providing the individual the opportunity to consider the evidence and provide a full and meaningful response at interview.



## 6.0 INVESTIGATION REPORT

6.1 The misconduct investigation shall only be deemed as completed when the Appropriate Authority is satisfied that all the issues have been fully addressed and the investigator's report conforms to the required standard. To achieve this standard the report should:

- Provide an accurate and objective summary of the evidence
- Attach or refer to any relevant documents, and
- Indicate the investigator's opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

(A standard investigation report template is attached at Appendix 3)

Where the investigator's opinion is that there is no case to answer, the investigator should indicate their opinion as to whether the matter should be referred to be dealt with under the capability procedures or the Reflective Practice Review Process.

6.2 When the Appropriate Authority is satisfied that the investigation is complete it will determine whether the individual has a case to answer. Where it is determined that there is no case to answer under misconduct or gross misconduct, the Appropriate Authority will refer the case back to the HR Business Partner who will determine whether to:

- Take no further action
- Refer the matter to be dealt with under the Reflective Practice Review Process, or,
- Refer the matter to be dealt with under the force capability procedures.

6.3 Where it is determined that there is a case to answer in respect of misconduct then the matter will be referred to a misconduct meeting. Where it is determined that there is a case to answer in respect of gross misconduct then the case shall be referred to a misconduct hearing.

6.4 Upon receiving the investigator's report, the Appropriate Authority shall as soon as reasonably practicable inform the individual of its determination. Where no determination has been made within 15 working days of the completion of the investigation then the Appropriate Authority will notify the individual together with reasons why a determination has not been made.

6.5 Upon making a determination that the matter is to be referred to misconduct proceedings the Appropriate Authority shall as soon as reasonably practicable provide the individual with a written notice with the following information:

- Notification of the referral to a misconduct meeting or hearing

## OFFICIAL

- Details of the alleged conduct and how it amounts to misconduct or gross misconduct
- The name of the person(s) appointed to conduct the misconduct meeting or hearing and the adviser to it (if applicable)
- A copy of any statement the individual may have made to the investigator
- Subject to the harm test – a copy of the investigation report or parts thereof (together with any documents attached to or referred to in that report as related to the individual)
- Any other relevant document gathered during the course of the investigation
- Advised of the right to be represented by a trade union representative or workplace companion.

The Appropriate Authority will also provide the HR Business Partner with a copy of the written notice.

### 7.0 TYPES OF MISCONDUCT PROCEEDINGS

7.1 There are two types of misconduct proceedings:

- A ***Misconduct Meeting*** for instances where there is a case to answer in respect of misconduct and where the maximum outcome would be a final written warning.
- A ***Misconduct Hearing*** for instances where there is a case to answer in respect of gross misconduct or where the individual has a live final written warning and there is a case to answer in respect of a further act of misconduct. The maximum outcome at this hearing would be dismissal from the police force without notice.

### 8.0 MISCONDUCT MEETING / HEARING

8.1 A **misconduct meeting** will be conducted by:

8.1.1 A senior manager (if this is a police officer it must be a substantive Chief Inspector or above) with an understanding of police staff employment matters who has had no previous involvement in the case.

8.2 A HR representative, who has not had previous involvement in the case, may attend to advise on procedural matters only.

8.3 A **misconduct hearing** should be conducted by a minimum of two, but not exceeding, three people who have not had any previous involvement in the case:

- The chair should be an officer of Superintendent rank or police staff equivalent.

## OFFICIAL

- The other members of the panel should consist of either a police officer of Chief Inspector rank or above, or a senior police staff manager.
  - A representative from HR will also attend to advise on procedural matters.
- 8.4 Following service of the notice of referral to a meeting / hearing the individual may object to the person(s) appointed to conduct the meeting / hearing or any person named who will advise at the meeting / hearing. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the referral notice, setting out the grounds for objection. The Appropriate Authority will notify the individual whether it upholds or rejects the objections. If the objections are upheld the person(s) to whom the individual objects will be replaced and the individual will be advised of the replacement person(s).
- 8.5 The individual may object to the replacement person(s) appointed to conduct the meeting / hearing or any person named who will advise at the meeting / hearing. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the referral notice, setting out the grounds for objection. If the objections are upheld the replacement person(s) to whom the individual objects will be replaced. The individual will be advised of the intended replacement.
- 8.6 Within 15 working days commencing the first working day following service of the referral to a meeting / hearing, the individual may provide the following:
- Written notice of whether or not they accept that their conduct amounts to misconduct or gross misconduct as the case may be
  - Where the individual accepts that their conduct amounts to misconduct or gross misconduct as the case may be, any written submission they wish to make in mitigation
  - Where the individual does not accept that their conduct amounts to misconduct or gross misconduct as the case may be, or they dispute part of the case against them, written notice of:
    - the allegation they dispute and their account of the relevant events; and
    - any arguments on points of law which they wish to be considered.
    - A copy of any document to be relied upon during the misconduct proceedings.
- 8.7 Generally speaking a meeting / hearing will be conducted without witnesses. Where there are proposed witnesses, the individual and the investigator will submit details of proposed witnesses to the Appropriate Authority who will supply the list to the person(s) conducting the meeting / hearing. The list will include brief details of the evidence the witnesses are able to provide and their name and address, where appropriate. The Chair of the meeting will decide

## OFFICIAL

whether it is necessary in the interests of justice to call a witness to give oral evidence at the meeting/hearing. Witnesses should only be called in order to resolve a disputed fact.

- 8.8 Where a relevant witness is required to attend, and if that person is a police officer they will be ordered to attend, all other relevant witnesses required to attend will be given written notice that their attendance at the meeting / hearing is necessary.
- 8.9 A misconduct meeting will take place no later than 20 working days commencing with the first working day following response to the service of the notice of referral to the misconduct meeting or the expiry of the 15 working day time limit for a response if no response is forthcoming.
- 8.10 A misconduct hearing will take place no later than 30 working days commencing with the first working day following response to the service of the notice of referral to the misconduct hearing or the expiry of the 15 working day time limit for a response if no response is forthcoming. This period may be extended by the person(s) conducting the meeting / hearing if they consider it necessary in the interests of justice.
- 8.11 If reasonably practicable the date and time of the meeting / hearing should be agreed with the individual. At least 10 working days' notice must be given of any meeting / hearing. If no agreement can be reached then the person(s) conducting the meeting / hearing will set a date and time. Once the date and time has been agreed or set by the person(s) conducting the meeting / hearing the Appropriate Authority shall provide the individual with a written notice giving details of the date and time of the meeting / hearing at least 10 working days in advance of any such meeting / hearing.
- 8.12 If the individual or their trade union representative or workplace companion is unable to attend the meeting / hearing then the individual can propose an alternative date and time which must be reasonable and within five working days of the previously specified date. In such circumstances and if reasonable, the meeting / hearing should be held on the proposed alternative date and the Appropriate Authority will provide an amended notice to the individual.
- 8.13 The individual and the person(s) conducting the meeting / hearing will be supplied with the same documents at least 10 working days in advance of the meeting / hearing. Prior to the meeting / hearing, the person(s) conducting the proceedings must fully appraise themselves of all the evidential and procedural issues set out in the documentation. The documents supplied by the Appropriate Authority are:
- Written notice of the referral
  - The conduct that is the subject of the case and how that conduct is alleged to amount to misconduct or gross misconduct as the case may be

## OFFICIAL

- A copy of any statement they may have made to the investigator during the course of the investigation and
- Subject to the harm test, a copy of the investigator's report or such parts of that report as relate to them (together with any document attached to or referred to in that report as relates to them) and any other relevant document gathered during the course of the investigation
- Documents provided by the individual in response to the notice of referral to a meeting / hearing
- Where the individual does not accept that their conduct amounts to misconduct or gross misconduct or where they dispute any part of the case, any other documents that in the opinion of the appropriate authority should be considered at the misconduct proceedings.

The HR representative sitting on the panel will be provided with a copy of the Investigators Report as provided to the individual and persons conducting the meeting/hearing.

- 8.14 Once the date and time of the meeting / hearing has been agreed or specified, the individual shall attend the meeting / hearing. If the individual is unable to attend and the person(s) conducting the meeting / hearing considers the grounds to be reasonable, the individual may be allowed to participate in the meeting / hearing by other means (for example by a conference telephone call) or the meeting / hearing may be postponed.
- 8.15 If the individual fails to attend the meeting / hearing they may still be represented by a trade union representative or workplace companion. Where the individual fails to attend the meeting / hearing without good cause then the case may still proceed and be concluded in their absence. When making a determination to proceed without the presence of the individual the person(s) conducting the meeting / hearing shall take into consideration the nature of the allegation, the individual's misconduct record and any medical opinion on whether the person is fit to attend the meeting / hearing.
- 8.16 Where an individual raises a grievance during the misconduct proceedings the proceedings may (if appropriate) be temporarily suspended in order to deal with the grievance. Where the grievance and misconduct proceedings are related, it may be appropriate to deal with both issues concurrently. The misconduct procedures should be capable of dealing with issues relating to those proceedings. For example, if the grievance related to the person(s) appointed to hear the matter at a meeting / hearing then the provision will exist to object to that person and therefore the reason for the grievance will have been resolved.
- 8.17 A record will be made of the meeting / hearing and this may include by means of audio digital recording.

## **9.0 ADJOURNMENTS DURING DISCIPLINARY MEETINGS/HEARINGS**

- 9.1 During the Disciplinary meeting/hearing, either party may request an adjournment. The Chair of the meeting/hearing should consider the most

## OFFICIAL

appropriate area for either the individual and their representative, or the 'panel' to adjourn to. It is advisable for the 'panel' to move to an alternative room.

- 9.2 An adjournment may be used by an individual to raise queries with their representatives away from 'panel' members or to have a welfare break during the proceedings. Alternatively the 'panel' may request an adjournment for either a break or to consider information discussed during the meeting/hearing. An adjournment may be required if further investigation is identified during the meeting/hearing.
- 9.3 An adjournment will take place to enable the case to be fully considered and consider what outcome is appropriate.

### **10.0 OUTCOME OF MEETINGS/HEARINGS**

- 10.1 The person(s) conducting the meeting / hearing will
- Discuss and agree on the facts of the case and any confirmed breaches of the Standards of Professional Behaviour.
  - Consider the severity of the breaches i.e. whether they amount to misconduct, gross misconduct or a shortfall in performance
  - Take into account any previous written warnings that were live at the time of the initial assessment of the conduct in question, any aggravating or mitigating factors, the harm caused by any breaches of the SOPB, the culpability of the individual and have regard to the individual's record of service, including any previous live misconduct outcomes.
  - Determine the most appropriate outcome/sanction based on their deliberations.
- 10.2 The person(s) conducting the proceedings is also entitled to take account of any early admission of the conduct on behalf of the individual and attach whatever weight to this as they consider appropriate in the circumstances of the case.
- 10.3 In addition, the individual and their trade union representative or workplace companion should be given the opportunity to make representations on the question of the most appropriate outcome of the case.
- 10.4 The person(s) conducting the proceedings shall provide a written notice of the finding and outcome to the individual as soon as practicable after the conclusion of the meeting / hearing and in any case within three working days. The written notice shall set out the finding of the person(s) conducting the meeting / hearing, any disciplinary outcome imposed and the right to appeal against the finding and / or outcome.
- 10.5 A previous written warning is 'live' for the purposes of misconduct proceedings if it had not expired on the date upon which the report of the alleged misconduct or gross misconduct is assessed and not the date upon which the actual misconduct meeting or misconduct hearing is held.

## **11.0 OUTCOMES AVAILABLE AT MISCONDUCT MEETING**

- 11.1 Where the person(s) conducting the meeting finds that the conduct does not amount to misconduct, they may direct the matter to be referred to the Reflective Practice Review Process or take no further action. Where they find that conduct amounts to misconduct they may impose the following sanctions:
- Referral to Line Manager for informal management of conduct i.e. management action or reflective practice review.
  - Written warning
  - Extend the duration of a written warning in place
  - Final written warning
- 11.2 Where, on the date of the severity assessment, the individual had a written warning in force, a written warning should not be given.
- 11.3 Written warnings shall remain live on the personal file of the individual for a period of up to 12 months from the date the warning is given. This means that following a written warning, any finding of misconduct in the next 12 months is likely to lead to a final written warning.
- 11.4 Final written warnings will remain live on file for a period of 1 year from the date the final written warning is given. This may be extended, by the person considering the question of disciplinary action, to a maximum period of 2 years in exceptional circumstances. Any future misconduct following a final written warning whilst that warning is 'live' may result in dismissal.

## **12.0 OUTCOMES AVAILABLE AT MISCONDUCT HEARING**

- Not proven
- No further action
- Reflective Practice Review Process
- Written warning
- Final written warning
- Transfer to another post/location in conjunction with Final Written Warning
- Dismissal with notice
- Summary Dismissal without notice

Where the person(s) conducting the hearing finds that the conduct does not amount to misconduct or gross misconduct, they may direct the matter to be referred to the Reflective Practice Review Process or take no further action.

## **13.0 APPEALS**

- 13.1 An appeal against the finding and / or the outcome from a misconduct meeting/hearing will be heard by a police officer or police staff manager who in the opinion of the Appropriate Authority is considered to be of a higher rank or

OFFICIAL

grade than the person who conducted the misconduct meeting/hearing and who has had no previous involvement in the investigation of the case or in the misconduct meeting/hearing.

- 13.2 In addition, a HR representative totally unconnected with the case may also be present to advise the person conducting the appeal on procedural matters only.
- 13.3 If the misconduct was admitted, the individual may only appeal against the outcome. If the misconduct was denied, the individual may appeal against both the finding and / or the outcome.
- 13.4 The individual must give written notice, stating the grounds of their appeal to the Appropriate Authority before the end of seven working days commencing the first working day following service of the notice of outcome (unless this period is extended by the Appropriate Authority in exceptional circumstances).
- 13.5 The grounds for appeal are as follows:
  - The finding and / or outcome was unreasonable
  - There is evidence that could not reasonably have been considered at the misconduct meeting/hearing which could have materially affected the finding or decision on outcome
  - That there was a serious breach of procedures or other unfairness which could have materially affected the finding or decision on outcome.
- 13.6 Following receipt of the notice of appeal, the Appropriate Authority shall as soon as practicable give the individual written notice of the appeal meeting and the person appointed to hear the appeal and the person appointed to act as advisor (if applicable). The individual may object to the person appointed to conduct the appeal meeting or the person named to act as advisor. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the notice of appeal meeting. The Appropriate Authority will notify the individual whether they uphold or reject the objections. If the objections are upheld the person(s) to whom the individual objects will be replaced.
- 13.7 Where the person(s) appointed to conduct an appeal meeting is replaced, the individual may object to the person(s) appointed to conduct the appeal meeting or any person named who will advise at the appeal meeting. Any objection must be provided in writing and submitted to the Appropriate Authority within three working days commencing the first working day following service of the referral notice, setting out the grounds for objection. The Appropriate Authority will notify the individual whether it upholds or rejects the objections. If the objections are upheld the person(s) to whom the individual objects will be replaced. No further objections will be permitted.
- 13.8 The person determining the appeal will be provided with the following documents:



## OFFICIAL

- The notice of appeal from the individual setting out the grounds of appeal
  - The record of the original misconduct meeting
  - The documents that were given to the person who held the original misconduct meeting
  - Any evidence that the individual wishes to submit in support of their appeal that was not considered at the misconduct meeting
- 13.9 The person appointed to deal with the appeal will hold an appeal meeting within 10 working days of the receipt of the appeal by the individual. The individual has the right to be represented by a trade union representative or workplace companion at the appeal meeting. If the individual fails to attend the meeting without good cause then the person conducting the appeal may proceed in their absence.
- 13.10 If the individual and / or trade union representative or workplace companion is not available at the date or time specified by the persons conducting the appeal, the individual may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of five working days beginning with the first working day after that proposed by the persons conducting the appeal, the appeal should be postponed to that time.
- 13.11 The person conducting the appeal may consider:
- Whether the finding of the original misconduct meeting was unreasonable having regard to all the evidence considered or if the finding could now be in doubt due to evidence which has emerged since the meeting
  - Any outcome imposed by the misconduct meeting which may be considered as too severe having regard to all the circumstances of the case
  - Whether the finding or outcome could be unsafe due to procedural unfairness and prejudice to the individual (although the persons conducting the appeal must also take into account whether the unfairness or prejudice could have materially influenced the outcome).
- 13.12 The person determining the appeal may confirm or reverse the decision appealed against.
- 13.13 An appeal is not a repeat of the misconduct meeting. It is to examine a particular part(s) of the misconduct case which is under question and which may affect the finding or the outcome.
- 13.14 The individual shall be notified in writing by or on behalf of the person conducting the appeal meeting, giving details of the determination of the appeal within three working days of the conclusion of the appeal meeting.

## 14.0 SUSPENSION

14.1 An individual may be suspended from work pending completion of a misconduct investigation and any subsequent meeting/hearing. Please refer to the Suspension Policy for further information.

## **15.0 ASSOCIATED ISSUES DURING MISCONDUCT PROCESS**

### **11.5 Handling multiple complex processes during a misconduct process**

Where there are multiple processes (e.g. grievance, misconduct, tribunal processes, vetting) and the matter is becoming complex, an early assessment meeting should be arranged involving vetting, Professional Standards, line management and HR to determine the appropriate strategy to manage the processes. Where there are overlaps between the different processes, the requirements of each process need to be followed according to the particular policy and established timescales in place.

A senior manager should be appointed (to remain with the case irrespective of any post changes) to co-ordinate activity and direct others to carry out actions in a timely manner. They would also be responsible to ensure that assessment meetings are held on a regular basis.

### **16.0 Sick Leave during Formal Misconduct Process**

When an individual is on sick leave during the investigation and/or the meeting or hearing, the manager must take into consideration the nature of the illness and likely prognosis.

Where possible the manager, supported by HR and Occupational Health should explore with the individual, their GP and if appropriate the Force Medical Advisor, to establish whether the individual is well enough to attend the disciplinary investigation meetings or disciplinary meeting/hearing (with reasonable adjustments if necessary) or how long it will be before they will be well enough to attend

Alternative arrangements, e.g. different location for meetings, may be considered to support the individual to attend meetings (if they are considered fit enough to attend with adjustments).

If the illness is likely to be long term and the disciplinary matter is pressing, and no adjustments can be made to support the individual to be fit to attend relevant meetings, then proceedings may continue. In these cases, the individual should be asked (in writing) to nominate a representative to attend the meeting on their behalf and/or provide a written representation or evidence.

If the disciplinary matter is for a minor matter, or the illness is anticipated to be short term, it may be considered appropriate to postpone the meeting.

### **17.0 Resignation during formal proceedings**

## OFFICIAL

- 17.1 If an individual offers their resignation during the investigatory stages, this should be forwarded to the relevant HR Business Partner for consideration with the appropriate Senior Management.
- 17.2 If an individual offers their resignation either during a Stage 3 hearing or immediately prior to a Stage 3 hearing, consideration should be given to the AA sending a report to the College of Policing for the individual's inclusion on the Advisory List in line with The Police Barred and Police Advisory Regulations. A copy of the report should be provided to the individual.
- 17.3 If it has been deemed appropriate by the AA to place the individual on the Advisory List, the Stage 3 hearing should proceed (in the individual's absence if required). In the event the outcome is dismissal, a report should be sent to the College of Policing for the individual's inclusion on the Barred List in line with The Police Barred and Police Advisory Regulations 2017. A copy of the report should be copied to the individual along with the outcome letter.

### **18.0 Use of Recording Equipment by Warwickshire Police**

- 18.1 Recording Equipment may be used by management chairing meetings/hearings at their discretion. It should be explained to the individual, alleged of misconduct, why recording equipment is being used and offer the individual a copy of the recording.
- 18.2 If the individual strongly objects to the recording of the disciplinary meeting/hearing then consideration should be given as to the reasons and the appropriateness to continue with the recording. However, it should be highlighted to the individual that it is for their best interests to keep an accurate record of the meeting to support full consideration during the adjournment and obtain an accurate record for all parties.
- 18.3 PSD will provide recording equipment as required.

### **19.0 Use of Recording Equipment by an individual, alleged of misconduct, or their representative.**

- 19.1 Individuals, alleged of misconduct, or their representatives, will not be authorised to use recording equipment during the disciplinary meeting/hearing. If they request to do so they should be reminded of the Misconduct Policy.
- 19.2 If a manager suspects that an individual may decide to covertly record the meeting/hearing they should remind the individual of the Misconduct Policy at the commencement of the meeting/hearing.

**20.0 Confidentiality and Record Keeping**

- 20.1 The matter of confidentiality should be carefully considered throughout all stages of the Misconduct procedure.#
- 20.2 To support confidentiality, involvement at each stage should be kept to as small a number of people as possible. This should not however, detract from conducting a full investigation and misconduct process, but the investigation should be proportionate to the misconduct allegations and not create any unnecessary publishing of the matter.

## OFFICIAL

- 20.3 Any information which is shared as part of the investigation process should be managed appropriately to minimise any risk to the organisation and the dignity of the individual. Therefore, Investigators should be mindful of the questions asked and information shared with those involved in the investigation process e.g. witnesses.
- 20.4 The results/outcome of a misconduct meeting or hearing MAY be released/published, in line with the Warwickshire Police 'Professional Standards investigations or criminal action against Police Staff – Releasing of information (internal and external)' procedure. Discipline records are held in accordance with Warwickshire Police Retention schedules and may be shared with other parties in line with legislation and common law Police Disclosure.
- 20.5 If Line Management have any queries relating to the sharing of misconduct information they should seek advice and guidance from their HR Officer as information should remain confidential to those involved in the meeting/hearing or recording process unless it falls within the above criteria. (For example: If an individual is subject to misconduct procedures, as a result of a grievance outcome, the information fed back to the individual raising the grievance should be managed carefully to ensure Data Protection legislation is not breached).
- 20.6 Formal meetings/hearings should be noted and a 'panel' member (or note taker) should be nominated to make a written record of the discussions during the meeting/hearing, (unless a recording machine is used). The key points to record should include the unsatisfactory conduct alleged, the response from the individual, any findings and actions taken. These should then be summarised to the individual within the letter following the meeting/hearing and it is good practice to provide a copy of the notes (or the tape) to the individual. If an individual disputes the contents of the notes and they cannot be 'mutually' agreed then a note of the individual's concerns should be kept attached to the notes.

### **21.0 Sanctions and the Retention of Discipline Records**

- 21.1 Where a Sanction has been issued a 'timescale' should be attached to that Sanction.
- 21.2 The Sanction will be discounted for the purposes of further disciplinary action on expiry of the specified 'timescale/period' provided that the individuals conduct has been satisfactory during that period.
- 21.3 However, Discipline records will be held in accordance with Warwickshire Police Retention schedules and therefore may be shared with other parties, after the 'timescale' has elapsed. For example, misconduct records may be disclosed to other Forces due to vetting disclosures or to the Crown Prosecution Service (under the CPS Disclosure Guidance)

### **22.0 DOCUMENT HISTORY**

OFFICIAL

The history and rationale for change to guidance will be recorded using the below chart:

<b>Date</b>	<b>Author / Reviewer</b>	<b>Amendment(s) &amp; Rationale</b>	<b>Date of Approval / Adoption</b>
August 2022	Rhiain Foster	Introduction of Police Staff Council misconduct guidance	

**APPENDIX 1**  
**'GUIDE' MISCONDUCT MEETING/HEARING STRUCTURE**

**CHAIR:**

- Introduce those present
- Confirm the right to representation
- Confirm the status of the Meeting/Hearing
- Confirm notes will be taken during the Meeting/Hearing and shared with the individual following the Meeting/Hearing
- Set out the allegations under consideration
- Confirm that reasonable requests for adjournments will be considered
- Outline the format of the Meeting/Hearing

**MEETING/HEARING  
FORMAT**

**PRESENTING THE CASE**

**INVESTIGATING/PRESENTING OFFICER (if appropriate)**

- Outline the case (complex cases may be broken down into sections)
- Call relevant witnesses (N.B. it is not usual to call witnesses but where either party has specifically requested that one or more witnesses are called, this will be considered by the chair and may or may not be agreed)

**MEMBER OF STAFF/REPRESENTATIVE**

- Opportunity to question Investigating/Presenting Officer
- Opportunity to question any witnesses (if in attendance)

**CHAIR & PANEL MEMBERS**

- Opportunity to question the Investigating/Presenting Officer



**RESPONSE FROM MEMBER OF STAFF**

**MEMBER OF STAFF/REPRESENTATIVE**

- Present the case in response
- Call relevant witnesses (if appropriate/necessary)

**INVESTIGATING/PRESENTING OFFICER (if appropriate)**

- Opportunity to raise questions to witnesses
- Opportunity to question the member of staff

**CHAIR & PANEL MEMBERS**

- Opportunity to question the member of staff



**ADJOURNMENT**

**INVESTIGATING/PRESENTING OFFICER** (if appropriate) to leave/end the meeting

**MEMBER OF STAFF/REPRESENTATIVE** to leave the office and be provided with a suitable area to adjourn to.

**CHAIR/PANEL** to make a decision on the merits of the case (i.e. was the case proved on the balance of probabilities) and if appropriate, consider a suitable action or sanction.



**DELIVER OUTCOME**

**CHAIR/PANEL** to reconvene meeting with member of Staff/Representative.

- Verbally inform the member of staff of the decision
- Confirm written confirmation will be sent following meeting
- Confirm Right of Appeal will be included within written confirmation



OFFICIAL



**APPENDIX 2 – NOTICE OF INVESTIGATION (POLICE STAFF ONLY)**

**Notice of alleged breach of the Standards of Professional Behaviour**

Name: \_\_\_\_\_ Collar Number: \_\_\_\_\_

Name of complainant (If appropriate): \_\_\_\_\_

Case reference number: \_\_\_\_\_

This is to notify you that an allegation has been made that your individual conduct may have breached the Standards of Professional Behaviour and that there will be an investigation into the circumstances. The details of your conduct that it is alleged may have breached the Standards of Professional Behaviour can be found below. (See notes overleaf).

**The allegation has been assessed based on the information available at this time and if proven or admitted would amount to:**

**Misconduct**

**Gross Misconduct**

**This may result in your attendance at a:**

**Misconduct Meeting**

**Misconduct Hearing**

*(continue on separate sheet as necessary)*

OFFICIAL

Name of person investigating	
Contact details (Address / Tel / E-mail)	
Signature of person investigating	
Date	

I acknowledge that I have received a copy of this document and my attention has been drawn to the accompanying notes.

Signature of individual concerned: \_\_\_\_\_

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

I authorise a copy of this notice be forwarded to my Trade Union.

Yes  No

Signature of individual concerned: \_\_\_\_\_

If the notice is not given to the individual by the person investigating, please append the name and signature of the person giving the notice below: -

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

**EXPLANATORY NOTES**

1. This notice has been issued to inform you at the earliest possible stage that an allegation has been made that you may have breached the Standards of Professional Behaviour and that there is to be an investigation into your individual conduct in accordance with the force misconduct procedures.
2. The fact that you have been given this notice does not necessarily imply that misconduct proceedings will be taken against you but is given to safeguard your interests. It is given in order that you have the opportunity to secure any documentation or other material or make any notes that may assist you in responding to the allegation(s).
3. You have the right to seek advice from your trade union or a workplace companion and be advised, represented, and accompanied to any interview, meeting or hearing by a trade union representative or workplace companion who is not otherwise involved in the matter.
4. If following service of this notice the assessment of conduct or the determination of the likely form of any misconduct proceedings taken is revised then as soon as practicable you will be given a further written notice together with reasons for that change.
5. Prior to being interviewed or asked to provide a written response you will be provided with sufficient information and time to prepare for the interview / prepare your response. The information provided should always include full details of the allegations made against you, including the relevant date(s) and place(s) of the alleged misconduct. You should normally be provided with all relevant evidence obtained.
6. At the conclusion of the investigation, if it is decided that there is no case to answer then upon request you shall, subject to a harm test, be provided with a copy of the investigator's report or such parts of that report as relate to you.
7. Where the case is referred to a misconduct meeting or hearing you will be given written notice of the referral, a copy of any statement made by you to the investigator, a copy, subject to a harm test, of the investigator's report or such parts of that report as relate to you and any other relevant document gathered in the course of the investigation.
8. You should understand that any decision as to whether there is a case to answer that you may have breached the Standards of Professional Behaviour and whether the matter should be referred to a misconduct meeting or hearing will be based on an objective assessment of all the evidence provided during the course of the investigation. If the case is referred to a misconduct meeting or hearing, then any decision on findings of fact will be determined on the standard of proof required in civil cases, which is the balance of probabilities.
9. Outcomes available in misconduct proceedings:

**OUTCOMES AVAILABLE AT MISCONDUCT MEETING**

## OFFICIAL

Where the person(s) conducting the meeting finds that the conduct does not amount to misconduct, they may direct the matter to be referred to the Reflective Practice Review Process or take no further action. Where they find that conduct amounts to misconduct they may impose the following sanctions:

- Referral to Line Manager for informal management of conduct i.e. management action or reflective practice review.
- Written warning
- Extend the duration of a written warning in place
- Final written warning

### **OUTCOMES AVAILABLE AT MISCONDUCT HEARING**

- Not proven
- No further action
- Reflective Practice Review Process
- Written warning
- Final written warning
- Transfer to another post/location in conjunction with Final Written Warning
- Dismissal with notice
- Summary Dismissal without notice

OFFICIAL



**APPENDIX 3 'GUIDE' INVESTIGATION REPORT FORMAT**

**INVESTIGATION REPORT**  
**ALLEGED MISCONDUCT/GROSS MISCONDUCT\***

**NAME OF INDIVIDUAL UNDER INVESTIGATION**  
**JOB TITLE**  
**DEPARTMENT**

**INVESTIGATION CONDUCTED BY (NAME)**

**REPORT**

**ALLEGATION** – Detail the allegation

**BACKGROUND** – Provide appropriate background information e.g. current role and previous applicable roles, previous work history e.g. informal action or formal action applicable.

**CIRCUMSTANCES** (which led to the investigation) – Clarify how the matter arose and issues/events which may have led up to the identification of the issue

**SUMMARY OF FORMAL INVESTIGATION** – Summarise the accounts from witness statements and the outcome of the Investigative meeting with the individual concerned. Include any mitigation provided.

**FINDINGS** – Summarise the key issues/outcome resulting from the investigation

**RECOMMENDATION** – Based on the information gathered during the investigation, and on the balance of probabilities, confirm whether, in the investigators opinion, the case should be closed, dealt with informally or progressed to formal misconduct procedures.

## **APPENDIX 4 – COMMUNICATION PRINCIPLES DURING POLICE STAFF MISCONDUCT PROCEEDINGS**

### **Main communication principles during police staff misconduct proceedings:**

- Warwickshire Police will be open and transparent around disciplinary matters while adhering to relevant legislation and policies
- The specific circumstances of each case will be considered when developing the communications plan – there may be issues around criminal proceedings to manage, and may be considerations around welfare and safeguarding.

### **Misconduct Hearings**

- The Professional Standards Department will publish the outcome of police staff misconduct hearings on the force website. These will always be anonymised.
- All information released over and above the notice published on the PSD section of the website (e.g. all user emails, intranet articles, media statements) will be approved by the Head of Professional Standards or an appropriate deputy.

The below content outlines what information will be released by the force in relation to Misconduct Hearings over and above the required website notification.

### **Finding of Gross Misconduct police staff – dismissal**

#### Internal

A Postmaster / all users email communication will be issued to the workforce. This will also be published on the intranet carousel and attributed to the Head of PSD unless a decision is taken to use another senior officer. This communication will detail:

- The date of the hearing and who it was heard by
- The broad details of the member of police staff, their role / location of work – being very careful not to directly identify the individual in any way.
- Outline details of the misconduct committed and brief background to the investigation, ie. how it was initiated.
- Details of the hearing outcome and sanctions imposed
- Note that the outcome is subject to the normal appeals process
- Any key messages or workforce reminders

#### External

A news release will be published on the force website and attributed to the Head of PSD unless a decision is taken to use another senior officer. This will not be issued on social media.

This communication will:

- Give the date of the hearing and who it was heard by

## OFFICIAL

- Include non identifying details of the staff member – role / location of work
- Give details of the misconduct committed and brief background to the investigation
- Give details of the hearing outcome and sanctions imposed
- Include a line to explain that the outcome is subject to an appeals process
- Include key organisational messages about management of such misconduct matters
- Direct the public, via a link, to where all misconduct proceeding outcomes are published on the website

Misconduct Hearings are subject to appeal procedures. Therefore, no additional comments or information will be provided to the media. Requests for interviews will be declined except in exceptional circumstances.

No pictures of the member of staff will be released or identifying factors.

The news release will be timed with a 30 day expiry and will automatically be removed from the force websites at that point.

### **Gross Misconduct - final written warning; written warning; management action**

As above, but the internal channel for the information will be an intranet news article, rather than an all user email to ensure proportionality of communication.

### **Gross misconduct not proven**

In cases where gross misconduct is not proven and there is no action taken, Warwickshire Police will not proactively issue any internal or external communications – unless previous publicity means it would be necessary and appropriate to do so to ensure fairness and clarification as to the outcome.

### **Misconduct Hearings – additional information**

When a public complaint is made against a Warwickshire Police member of staff, information about resulting investigations will only be released on an 'if asked' basis.

If a member of the media asks about a possible complaint, Corporate Communications will first find out if a formal complaint has been made.

If not, the response will state that no complaint has been received, and may include a generic line about complaints procedure and reassurance about how seriously they are taken.

If a complaint has been received, the response can:

- not name the member of staff involved
- include role or details that lead to the identification of the individual
- include brief details of the situation or incident leading to the complaint
- include brief details of next steps (e.g. who is investigating)

Details of any suspensions or restrictions will only be confirmed on an 'if asked' basis. Information released will not identify individuals.

## OFFICIAL

At the conclusion of the investigation where there has been publicity, the findings should be proactively released, including when a complaint is not upheld. This will ensure that the outcome is reported to provide clarity and closure following the earlier coverage, and public reassurance around the conduct of officers.

### **Misconduct Meetings (maximum outcome is a written warning)**

Misconduct Meetings are held in private.

During an investigation, misconduct matters (which can arise from a complaint or through conduct matters) will be dealt with on an 'if asked' basis, although information may be released proactively where the situation is already generating media enquiries or where information could lessen community tension. It should be noted that Misconduct Meetings are managed locally and not by PSD.

If any statement is to be released in response to a media enquiry, it should:

- confirm an investigation is taking place
- not identify the member of staff
- summarise the nature of the allegations
- state who is investigating

As is the case now, at the conclusion of the Meeting, factual information about the outcome will be published on the PSD section of the force website. This will not identify the member of staff involved.

If the media approach with the name of a member of staff involved in a Misconduct Meeting, Corporate Communications will neither confirm or deny, and will respond on the basis of information provided about the nature of the misconduct (e.g. we may comment if they have knowledge of the incident, but not if they just have a name to put to us with no information about the case).

### **Arrest for criminal offences**

Criminal investigations usually take precedence over misconduct proceedings.

If a member of staff is arrested, details will be issued in accordance with our procedures for detailing any arrest. The rationale for whether the force chooses to proactively communicate this arrest will be the same as per any member of the public and may be issued proactively internally and externally if: the crime is of a serious nature, ie. rape, murder (ie where conviction attracts a custodial sentence) and is therefore of particular public interest; there is a need for public reassurance; the arrest follows a high profile investigation; the subject is a chief officer. This will need to be considered on a case-by-case basis.

The COP APP states that forces should confirm the reasons for and circumstances of arrests involving staff if asked by the media. Confirmation should also be given around any suspensions or restrictions.

An arrested person **will not be identified** before charge, except for in exceptional circumstances. General details which will be released on arrest are: age, general role, section in which they work (non-identifying). Details released should not identify the person.



## OFFICIAL

If a journalist is already in possession of a name we will neither confirm nor deny the name of an arrested person.

The IOPC media protocol states that staff will not normally be named during any ongoing IOPC investigation, unless: they are first named by a third party working on their behalf; the investigation is unambiguously considering the conduct of a specific senior officer and announcing the detail effectively identifies them; an appropriate authority makes representations to the IOPC to identify the person (e.g. to avoid speculation). Police staff will usually be named in news releases if they are charged or summonsed to answer a criminal offence, as is the case when members of the public are charged or summonsed.

Any decision to name before charge will be taken by a Chief Officer in consultation with the CPS and Corporate Communications function. The rationale for making this decision will be recorded.

The APP guidance states that if staff are charged or summonsed for a criminal offence committed **on duty** their details should be proactively released. If the charges relate to **off-duty** activities, details should be proactively released if those alleged activities involve serious criminality (sexual offences; serious assaults; fraud or corruption), or matters that could seriously damage the reputation of the police service or call its integrity into question.

Where information is to be proactively released, it should include:

- Name
- Age
- Occupation (inc rank)
- Which court they are appearing at
- Date of court hearing
- In accordance with APP guidance, we will not release the home address of staff and will instead give the station or work location at which they are based. Addresses may still be given in court.
- Details of any suspension / restriction

Where charges relate to relatively minor matters committed **off-duty**, information should be released on an 'if asked' basis. This will include identifying the individual if the media have information about the alleged offences.

Other considerations the SIO and Corporate Communications should take into account when deciding whether or not to proactively issue information include the rank/grade of the individual, any issues around their particular role in the organisation – e.g. traffic offences by a traffic officer.

Media statements will make it clear that disciplinary matters will be considered after the conclusion of the court proceedings.

At the conclusion of the court proceedings, Corporate Communications will issue statements internally and externally. These will confirm conviction or not and details of sentence. Other materials may be provided to the media (e.g. stills of evidence, CCTV footage) to highlight the investigative work. Consideration will be given to release of an image of the individual. Where

## OFFICIAL

the media request an image and this is refused, the decision must be justified. Statements will be attributed to the appropriate Assistant Chief Constable where the case relates to serious criminal charges (sexual offences; serious assaults; fraud or corruption), and to the Head of Professional Standards where the charges relate to lesser offences.

Statements will be issued contemporaneously to court proceedings. The news release will be timed with a 30 day expiry and be removed from the force websites by Corporate Communications.

### **IOPC involvement in investigation of a member of staff**

If such circumstances occur, the IOPC / NPCC Protocol will be followed, which is detailed in the NPCC Guidance.

The IOPC media protocol states that “police officers (of all ranks) and staff will not normally be named during an on-going investigation unless they are first named by a third party acting on their behalf OR the investigation is unambiguously considering the conduct of a specific senior officer (eg Chief Constable) and announcing the investigation effectively confirms the individual’s identity OR having been notified of the announcement of the investigation, the appropriate authority makes representations to the IOPC to confirm an individual’s name (for example to avoid speculation).

Officers may be named at the conclusion of an investigation, in line with IOPC naming policy. Police officers and staff will usually be named in press statements if they are charged or summonsed to answer a criminal offence, as is the case when members of the public are charged or summonsed. It should be noted that we currently do not name members of the public who are summonsed – that is treated as an arrest.

OFFICIAL

ASI/2018/30

OFFICIAL