

 West Mercia POLICE		POLICY
Security Classification	OFFICIAL	
Disclosable under Freedom of Information Act 2000	Yes	

POLICY TITLE	Misconduct (Police Staff)
REFERENCE NUMBER	WMP050
Version	2.0

POLICY OWNERSHIP	
DIRECTORATE	BUSINESS SERVICES
BUSINESS AREA	PEOPLE & ORGANISATIONAL DEVELOPMENT

INITIAL IMPLEMENTATION DATE	April 2020
NEXT REVIEW DATE:	February 2026
RISK RATING	LOW
EQUALITY ANALYSIS	LOW

West Mercia Police welcome comments and suggestions from the public and staff about the contents and implementation of this policy.
Please e-mail policiesandprocedures@westmercia.police.uk

1.0 POLICY OUTLINE

A misconduct policy is the means by which rules are observed and standards are maintained. The policy and procedure are primarily to help and encourage employees to improve their conduct rather than to impose punishment. It enables managers to deal with shortcomings in conduct to help the employee to become effective again.

This Policy sets out the West Mercia Police and the Offices' of the Police & Crime Commissioner (OPCC) approach to managing members of Police staff/ employees whose:

- conduct falls below the acceptable standard as detailed within the College of Policing 'Code of Ethics' (The Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession) [Code of Ethics](#)

This Policy complies with employment legislation and guidance within 'The ACAS Code of Practice'.

2.0 PURPOSE OF POLICY

The purpose of the Policy is to ensure a fair, consistent and timely means of managing and maintaining standards of conduct for permanent and temporary police staff employees of West Mercia Police and OPCC.

This Policy does not cover contractors, casual workers, police staff volunteers or workers employed by an agency.

The Policy will apply to all activities carried out in the course of the individual's employment within West Mercia Police and OPCC. This includes work related or work connected social events and training courses held outside normal working hours and/or away from Force premises. The policy will also apply where unsatisfactory conduct occurs when the individual is not at work i.e.

- action may be taken where such conduct might cause embarrassment to, or which may undermine public confidence in the Chief Constable, OPCC or police service.
- be prejudicial to the effective performance of the individual's duties
- adversely affect working relationships with colleagues and/or members of the public.

3.0 DEFINITIONS

Appropriate Authority means the Chief Officer of the police force concerned, or as delegated – provided this is not delegated below Chief Inspector level/police staff equivalent.

Practice Requiring Improvement (PRI) means underperformance or conduct not amounting to misconduct or gross misconduct, which falls short of the standards as set out in the Police Staff Council Standards of Professional Behaviour.

3.1 Categories

3.1.1 Conduct

Conduct is the manner in which an individual behaves. West Mercia Police and OPCC expect all Police Staff to maintain their conduct to the standard detailed within the College of Policing 'Code of Ethics' (The Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession). [Code of Ethics](#)

A conduct matter is defined in the Police Reform Act 2002 as: any matter about which there is not or has not been a complaint, where is an indication (whether from the circumstances or otherwise) that a person serving with the police may have:

- committed a criminal offence; or
- behaved in a manner which would justify the bringing of misconduct proceedings.

Misconduct is a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action.'

Gross Misconduct is a breach of the 'Standards of Professional Behaviour so serious that dismissal may be justified..

Examples of Misconduct & Gross Misconduct are provided in [Appendix 1](#).

3.2 Principles Of The Policy

- The misconduct procedure should apply to all police staff and underpin the Police Staff Council (PSC) Standards of Professional Behaviour which set out the high standards of behaviour that the police force and the public expect of police staff.
- The policy aims to provide a fair, open and proportionate method of dealing with alleged misconduct.
- The policy and procedure is intended to encourage a culture of learning and development for individuals and/or the organisation.
- Improvement will always be an integral dimension of any outcome (even in the case where an individual has been dismissed there can be learning opportunities for the force).

- West Mercia and UNISON are committed to ensuring that this policy and procedure is applied fairly to everyone.
- It is important that managers understand their responsibility to respond to, deal promptly and effectively with, unsatisfactory behaviour and complaints about police staff conduct from members of the public and/or colleagues. It is a key responsibility of all managers to understand and apply this policy and procedure in a fair, proportionate and timely manner.
- West Mercia will support any manager who has exercised their judgement reasonably, fairly and objectively and has adhered to the guidance provided.

3.2.1 Confidentiality and record keeping

- Written records will include details of the alleged unsatisfactory conduct, the response from the individual, any findings and actions taken.
- Any information shared as part of the investigation process will be managed appropriately to minimise any risk to the organisation and the dignity of the individual.
- In certain circumstances the outcome of a misconduct case may be reported within the force and/or externally.
- Formal action sanctions will be discounted for the purposes of further disciplinary action on expiry of the specified period, provided that the individual's conduct has been satisfactory during that period. Misconduct records will be held in accordance with appropriate Retention schedules and may be shared with other parties, in line with legislation and common law Police Disclosure.
- The use of recording equipment by employees will not be permitted during Misconduct meetings or hearings. Recording equipment may be used by West Mercia Police or OPCC during formal meetings and hearings including where required as a reasonable adjustment.

4.0 IMPLICATIONS of the POLICY

4.1 Risks

The effective operation of this policy will minimise the risk of successful action against West Mercia Police and OPCC under equality and employment legislation at Employment Tribunal.

4.2 Legal considerations

The most important provisions governing discipline at work are found within the Employment Act 2008 but other pieces of legislation cross refer to discipline issues i.e. Employment Rights Act 1996 as amended, Employment Rights Dispute Resolution Act 1998, Employment Relations Act 1999, Employment Rights Act 2004. By following the ACAS code of practice on disciplinary procedures the organisation will ensure it complies with all legislation.

In addition, legislation in relation to complaints and misconduct for Police staff is

- IOPCC Statutory guidance 2020
- The Police (Complaints and Misconduct) Regulation 2020
- The Police Reform Act 2002
- The Police and Social Responsibility Act 2011
- The Police Barred and Police Advisory Regulations 2017.

4.3 Training

Management coaching may be required via staff in People & OD.

5.0 CONSULTATION

<i>Business Lead/ Chief Officer Consulted</i>	<i>Date Consulted</i>
Rachael Neale	December 2022

Consultation has been undertaken by way of discussion with UNISON representatives of West Mercia Police.

The policy has been circulated to members of the Critical Friends group (Federation, Unison, Legal Services, Risk Management, Health & Safety and Equality & Diversity and staff network groups) for consultation and feedback.

6.0 DOCUMENT HISTORY

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

Date	Author / Reviewer	Amendment(s) & Rationale	Approval Adoption /
		Previously approved at JNCC meeting as WMP049 Disciplinary Policy v1.0	JNCC 21/03/2019

Dec 2022	Julie Darby	Amendments based on the Police Staff Council Handbook: Guidance on Police Staff Misconduct Procedures 2020, this replaces WMP049 Disciplinary Policy v1.0	JNCC Exec Board Feb 2023
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7.0 PROCEDURE

Definitions of Misconduct & Gross Misconduct - [Appendix 1](#)
 Misconduct Procedure - [Appendix 2](#)
[Suspension Procedure](#).
[Probationary Guidance](#)

8.0 ASSESSMENT AND ANALYSIS

A 'Health and Safety, Risk and Equalities Assessment' has been conducted. The key issues identified included:

- The possible increase in welfare needs particularly for those going through misconduct procedures.

Controls are recommended as follows:

- Welfare support may be offered through an appointed Line Manager
- Reasonable adjustments would be considered for those with the protected characteristic of Disability.

9.0 MONITORING / EVALUATION

The Monitoring and review of this policy is the responsibility of the policy owner

10.0 DATA PROTECTION IMPACT ASSESSMENT

- Is a DPIA required? –, awaiting Audit, Risk and Compliance on 21/12/2022

Appendix 1 Examples of Misconduct and Gross Misconduct

MISCONDUCT

The College of Policing, '**Code of Ethics**' details the Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession.

Full details of the '**Code of Ethics**' can be accessed here [Code of Ethics](#)

In summary the **Standards of Professional Behaviour** cover the areas of

- **Honesty and integrity**
- **Authority, respect and courtesy**
- **Equality and diversity**
- **Use of Force**
- **Orders and instructions**
- **Duties and responsibilities**
- **Confidentiality**
- **Fitness for work**
- **Conduct**
- **Challenging and reporting improper conduct.**

Misconduct may occur when conduct falls below the acceptable standard of professional behaviour i.e. when there is a breach of the Code of Ethics.

The following are examples of the type of behaviour which may result in a breach of one, or more, of the **Standards of professional behaviour** (dependant on the circumstances). The list is not exhaustive and may include other acts of Misconduct not listed here. Equally, the type of behaviour listed below may, in certain circumstances, constitute Gross Misconduct.

Examples of Misconduct:

- Breach of Policies and Procedures in place.
- Frequent and/or persistent absence from work without reasonable cause.
- Failure to follow the procedures for sickness absence reporting
- Poor timekeeping, late attendance and excessive breaks
- Poor performance, where capability procedures are not appropriate (e.g. deliberate failure to work satisfactorily and engage with management)
- Insubordination/refusal to carry out reasonable instructions
- Abusive or offensive words or behaviour to other colleagues or members of the public (including through Social Media channels)
- Breach of the Dress and Appearance Policy and Procedure
- Breach of H & S legislation
- Unauthorised private activities during working hours without permission
- Unauthorised private use of West Mercia Police property or equipment
- Speeding offences committed whilst driving on duty resulting in the issue of a fixed penalty or summons

- Detrimental comments regarding either West Mercia Police or the OPCC which may undermine public confidence in the Chief Constable/OPCC or the police service (including through Social Media channels)

GROSS MISCONDUCT

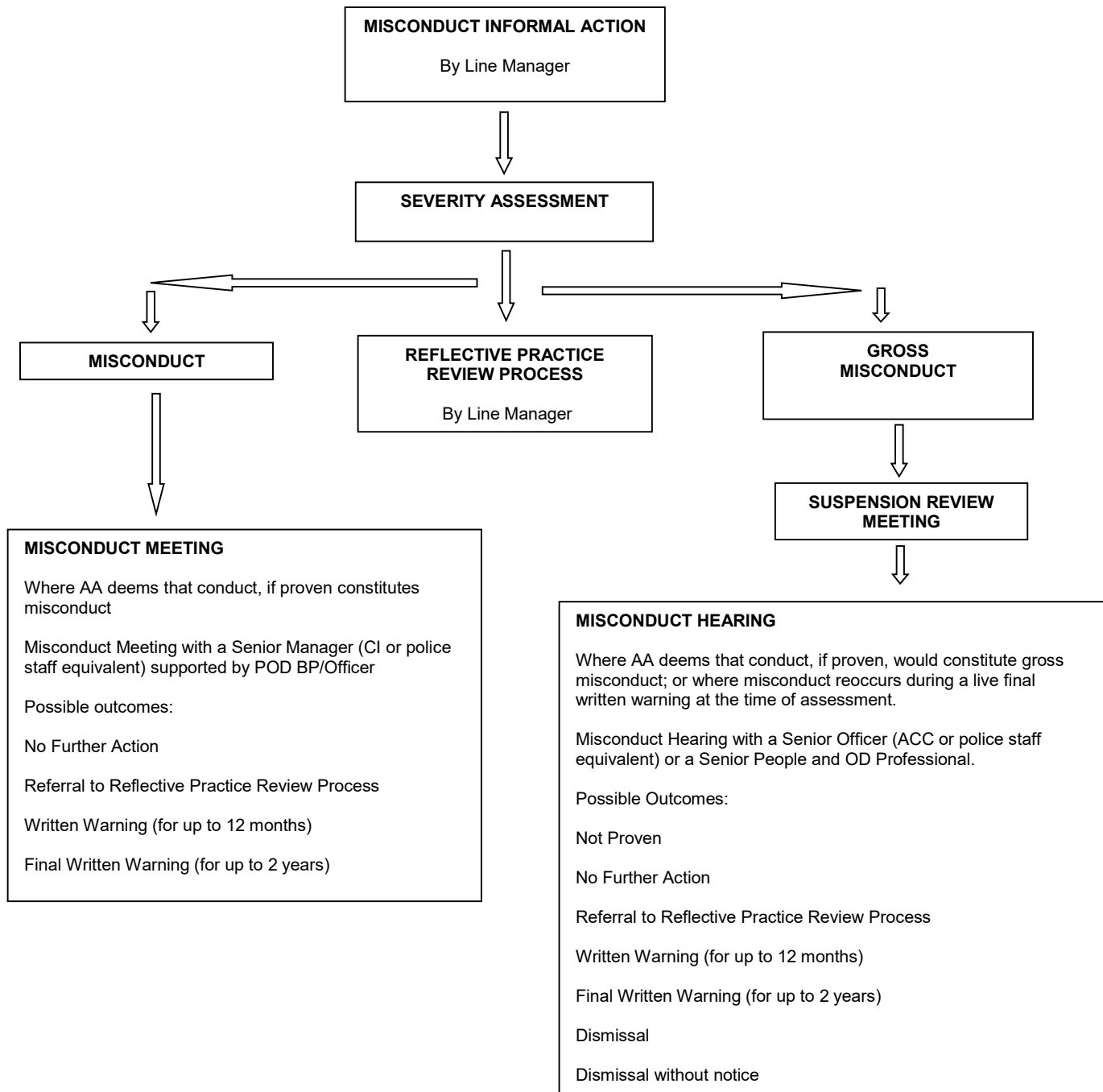
Gross Misconduct is a breach of the Standards of Professional Behaviour so serious that dismissal may be justified.

The following are examples of the type of conduct which is in serious breach of one or more of the **Standards of professional behaviour** (dependant on the circumstances) and may be regarded a gross misconduct. This list is not exhaustive and, in certain circumstances may include other conduct not listed here.

Examples of Gross Misconduct:

- Theft and other offences of dishonesty including the falsification of expense claims, flexitime records and other documents
- Fighting, as the aggressor, or assault on another person.
- A serious breach of a colleagues dignity and respect (including through Social Media channels)
- Harassment and/or bullying
- Malicious and deliberate damage to a colleagues or Force property
- Neglect or deliberate action constituting a serious breach of Health and Safety regulations.
- Reporting for work under the influence of alcohol or illegal drugs.
- Unauthorised disclosure of confidential information
- Unauthorised and/or improper use of the Force's equipment, vehicles, property or funds.
- Breaches of the internet, email and Force IT systems e.g. unauthorised access of a computer system
- Corrupt practice or other conduct which would bring West Mercia Police into serious disrepute
- Serious breaches of Force Policies and procedures.
- Serious breach of H & S legislation

Appendix 2: Misconduct Procedure

**NOTE**

- If misconduct is alleged the appropriate stage of the process will be entered dependent on the seriousness of the matter and whether a previous sanction issued is still 'live'.
- No disciplinary action will be taken against any police staff member until all available facts and supporting information have been considered.
- A right of appeal will be offered at each stage. Details of the appeal process are contained within the guidance documents