

Conduct Policy Statement

Core Principles

Our core approach to conduct in the OPCC is underpinned by high standards around personal accountability for performance *and* behaviour. In practice this means that we trust our people to do what they believe is best – giving you, personal freedom and power to do your best work to generate self-discipline and personal responsibility.

However, there are some important exceptions to our ‘pro’ personal freedom approach. We are 100% strict on ethical, honesty and safety issues. Harassment of colleagues or bringing the Office of the Police & Crime Commissioner into disrepute are zero tolerance issues for us. This policy is not intended to describe every situation where an ethical/honesty/safety boundary is broken – but instead is about setting out a clear framework that is focussed on upholding our culture. As such it is underpinned by the ‘Police Staff Council Standards of Professional Behaviour’ and follows the principles of the ACAS Code of Practice on Misconduct and Grievance procedures. These can be read/ accessed [here](#).

This policy applies to all OPCC staff. You are responsible for upholding our standards - so please make sure you understand what is expected of you.

Overview

Our approach to managing conduct in the workplace is based on being fair, proportionate and learning from every situation – even situations that may lead to the dismissal of an individual. Misconduct relates to breaching the required standards of behaviour in the workplace (e.g. *won’t do/ shouldn’t do*). This procedure does not apply where there are unsatisfactory performance/ capability issues (e.g. *can’t do*).

Managing Conduct at Work

This guidance provides you with a clear overview of what happens when dealing with a potential misconduct issue. We will always deal with matters in a proportionate way – but if the issue is serious/ significant/ severe please understand that the process may lead to dismissal.

Good to Knows

- **Your responsibilities:** We expect you to make every effort to attend meetings arranged in line with this process. We recognise it may be a difficult time for you, but we believe that things are always better when we keep talking with each other

- **Trade Union representation/ Work Companion:** You have the right to consult with/ seek advice/ confer and be accompanied by a trade union representative or a work companion at all stages of this process. Our only expectation is that there is no 'conflict of interest' with your representative/ companion and the issue being investigated.
- Your representative/ companion can:
 - Address any formal misconduct meeting/hearing to both state and sum up your case
 - Provide any relevant documents to the investigator/panel
 - Respond on your behalf to any views expressed at the misconduct meeting/hearing.
 - Ask questions of any witness(es) during a misconduct meeting/hearing,
 - Make representations to the Appropriate Authority concerning any aspect of this process.

Please understand that in any interview/meeting/hearing it remains your responsibility to speak/ respond when you are asked a question – not your representative/ companion. Where the person accompanying you is unable to attend on a proposed date, we require you to suggest an alternative *and* reasonable date and time. The process will not be unreasonably delayed to accommodate representation

- **Duty of Care:** As your employer we have a common law duty of care towards you and other members of the team. Therefore, if we make a reasonable request – you have a duty to obey such a request in all the circumstances
- **Performance and reward:** We recognise and reward good performance, so if there are concerns about your conduct, we may take some other actions. As an example - this may mean that we put a temporary 'pause' on any salary increments until things are back on track
- **Adult conversations:** If there are genuine concerns that your conduct has been of such a serious/ severe nature that it constitutes potential gross misconduct, we will have a conversation with you about the next steps. In practice this means you may be suspended from work and we may move to the final formal stage immediately
- **Sickness absence:** If you are ill at any point during the process, your line manager will talk to you about making a referral to Occupational Health. Where you are unable to attend a meeting/ hearing on a proposed date, we will re-arrange an alternative *and* reasonable date and time within 5-days. The process will not be unreasonably delayed beyond this
- **IOPC/ Criminal Investigation:** our approach is that action for misconduct will take place prior to or parallel with any criminal proceedings. No referral to disciplinary proceedings will take place if it is considered that a decision will prejudice the criminal proceedings

- **Personalised approach:** Our approach to conduct is to treat everyone as an individual, and take decisions and appropriate action based on the particular circumstances of each case. This means that you may be treated *differently* to another person – but we will always treat you *fairly* based on your individual situation.

Informal Approach

‘Check-in’ conversations

Check-in conversations are at the heart of our approach to ‘how we work’ around here - and these conversations will typically cover things about you, your performance/ conduct and your outputs. We encourage ‘check-ins’ to be a two-way conversation, with a blend of support and challenge from both parties. Check-in conversations happen all the time and apply to all aspects of conduct.

In-depth Conversation

It may be appropriate, depending on the circumstances and the nature of your behaviour/ conduct, for your manager to talk to you about things during a ‘in-depth’ conversation. This approach is about clarifying the expected standards in more detail and exploring/ agreeing how things need to be improved – e.g. ‘words of advice’. You and your manager should make notes about the discussion and the agreed way forwards for future reference purposes as follows:

- Clarifying where the behaviour/ conduct fell short of the required standards
- Identifying expectations for further conduct
- Establishing an improvement plan – if appropriate
- Addressing underlying causes of the conduct through training, coaching, advice and support.

If your manager feels that the matter cannot be dealt with in this way, they will make an assessment to proceed with the formal process.

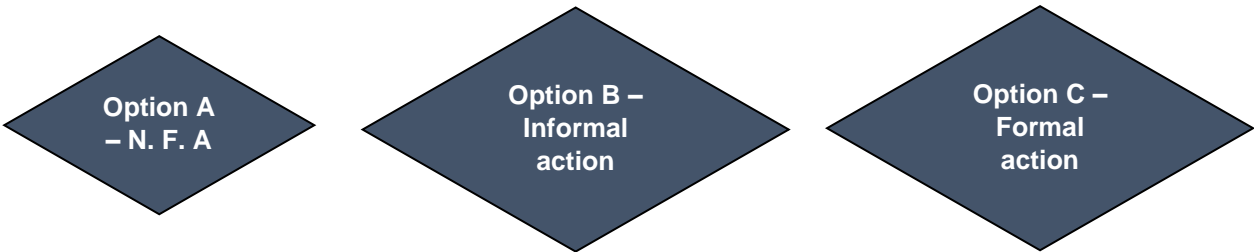
Formal Misconduct Process

When any behaviour/ conduct issues have not improved through the informal approach and/ or the behaviour/ conduct issues are of a sufficiently serious nature your manager will move the process into a formal [Misconduct Procedure](#). A more detailed breakdown of the Misconduct Procedure is available in Appendix 1.

The stages of the Misconduct Procedure are detailed below in a simple flow-chart below.

Misconduct Flowchart

Assessment of Allegation: Allegation/complaint is made and received. OPCC manager decides appropriate level of investigation

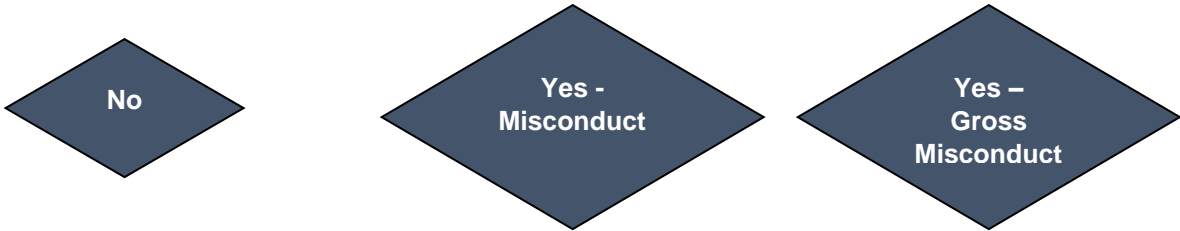


Confirm expected standards and that informal assessment will continue via usual routes e.g. Check-In conversations/ In-depth conversations. Provide written Management Instructions

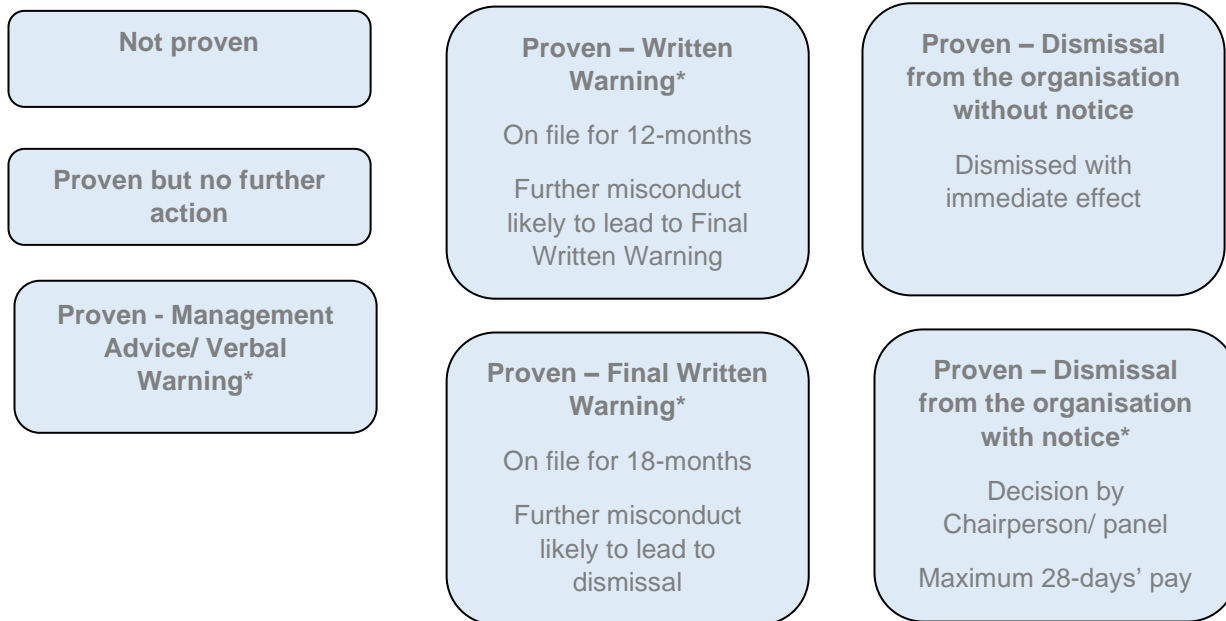
Appoint Investigating manager.
Q: Is the misconduct so serious that it may be gross misconduct?
If so, seek HR advice re: suspension at this stage



Formal Misconduct Investigation: Appropriate investigation given the nature and gravity of the allegations to Gather evidence to establish the facts/ circumstances of the alleged misconduct or gross misconduct
Q: Is there a case to answer?



Formal Misconduct Hearing: Investigating manager presents the case/ evidence to the Chairperson of the Hearing. Individual is given the opportunity to respond and offer evidence. Meeting is adjourned and the Chairperson/ panel consider the evidence. Chairperson reconvenes the hearing and confirms the decision/ outcome.



Independent Review/ Formal Appeal: Employee has the right of appeal to the PCC. The appeal will be heard by a the Chief Executive, OPCC.

***Please note:** Individuals that are subject to the misconduct process will not be eligible for redeployment and therefore, if appropriate, any alternative roles are without protection of pay and allowances etc. and subject to a satisfactory probationary period.

Equality Act 2010	
<p>The Act creates a statutory requirement for all Functions and Policies (Including Procedural Instructions) to be analysed for their effect on equality, diversity and human rights, with due regard to the <u>General Equality Duty</u>. In principle, this document has been assessed for discrimination, which cannot be justified, among other diverse groups</p>	
This statement of agreed policy is sponsored by:	Chief Executive OPCC
This policy and its Equality Analysis were last reviewed on:	
The date for the next review of this policy and Equality Analysis is:	

Appendix 1: Misconduct Procedure

Assessment of Allegation

When an allegation/complaint is made and received, an appropriate manager will make a decision about the appropriate level of investigation required. In practice this means one of three things:

Option A: Decision taken that 'no action' is required

Option B: Decision taken that the matter can be dealt with informally as detailed above

Option C: Decision taken that a formal approach is needed and the Formal Misconduct Process starts.

Once the allegation(s) has been assessed as potential misconduct or gross misconduct, an appropriate manager will explain to you:

- that there is an investigation into a potential breach of the Standards of Professional Behaviour
- the details of the investigating manager
- the conduct that is the subject of the investigation and how the conduct is alleged to have fallen below the Standards of Professional Behaviour
- our assessment of the potential misconduct e.g. is it misconduct or gross misconduct? And potential actions that we will take as a result of this assessment e.g. formal hearing
- your right to seek advice from your trade union or a workplace companion.

This should normally be done in-person, and followed up in writing. However, if this is not possible you will receive the notification in writing. You can also request the terms of reference for the investigation in relation to the investigation relating to your conduct (subject to their being no prejudice to that or any other investigation)

Suspension

Sometimes, after careful consideration of all the facts, it may be necessary for an investigation to take place when you are not at work, and so you will be suspended from work on full pay and allowances. Suspension is not a presumption of guilt, and the decision will not be taken lightly.

Things we will consider before making the decision to suspend include:

- Can we arrange temporary redeployment for you to alternative duties or an alternative location?
- Could your attendance at work potentially prejudice an effective investigation?
- Is the allegation of such a serious nature that the public interest and other relevant considerations, means that you should be suspended?

You will be notified of the reasons for temporary redeployment or suspension in-person and will be given the opportunity to have a trade union representative or workplace companion present. You will receive written notification of the arrangements within 3-working days of being told about the decision, including confirmation that:

- you will receive full pay entitlement including any allowances applicable at the time
- you must remain available for interview. If you do wish to take your annual leave entitlement – you must obtain prior permission
- that suspension is not a presumption of guilt and should not be seen as misconduct action against you
- you can make representations during the suspension if you believe that the relevant circumstances have changed directly or via your trade union representative/ workplace companion

Appointed Liaison/ Welfare Contact

If you are placed on temporary redeployment or suspended from work, you will have an appointed liaison/welfare contact. Their role is to check-in with you during the suspension as a duty of care and contact relevant people if you require anything. They are not able to advise you about the allegations/ misconduct hearing itself.

Investigation Interview

If appropriate, you will be invited, to attend an investigation interview to discuss the allegations and conduct issues/ concerns. The letter will confirm:

- date and time of the meeting (giving you at least 10-days' notice)
- details of the allegations/ concerns
- your right to be represented/ accompanied.

The interview will usually be recorded, or a record will be taken that you will have the opportunity to comment on and agree as being an accurate record.

It also may **not** be necessary to interview you as part of this process, e.g. for low level misconduct. In this example, the investigating manager will instead ask you to supply a written account within 10-working days of request.

Conclusion of Investigation – Decision to Proceed

When the Investigating manager has concluded a satisfactory investigation, they will review the evidence, with support from a HR professional. They will then determine if there is a case to answer and whether to progress to a hearing for misconduct/ gross misconduct. The options are:

- **No case to answer** – no further action or refer the matter to the command for management action,
- **Case to answer for misconduct** – either refer the case to a formal misconduct hearing or back to the line manager for management action
- **Case to answer for gross misconduct** – refer case to a formal misconduct hearing.

If the decision is made to proceed to a hearing for misconduct/ gross misconduct, you will receive a letter outlining:

- Details of the alleged conduct and how it amounts to misconduct or gross misconduct
- date and time of the misconduct hearing (providing at least 10 days' notice)
- confirmation of the Chairperson/ panel who will be hearing the evidence
- evidence that the investigating manager intends to refer to at the hearing
- an invitation for you to disclose any documentation - including an outline of your response to the allegations; whether you accept/ do not accept that your conduct fell below the required standards; and any evidence/ witness details (if any) - that you wish to be considered at the hearing no later than 14 days prior to the hearing
- confirmation of the potential level of sanctions (including dismissal)
- Confirmation of your right to be represented by a trade union representative or workplace companion.

If you or your trade union representative/ workplace companion are not available to attend the misconduct hearing, you can propose an alternative date and time which must be reasonable and within 5 working days of the specified date. If you cannot or are unable to attend, the Chairperson/ panel will consider the grounds and (if considered reasonable), may allow you to participate by other means (conference call etc).

Please note that if the misconduct was raised as a complaint, then any decision to hold a misconduct hearing could be subject to an appeal by the complainant.

Formal Misconduct Hearing

At the hearing, the investigating manager will present the case and the evidence they have collated during the investigation.

You will then be given the opportunity to respond and offer evidence in support of your position. If you do not attend, your trade union representative/ workplace companion can represent you. If they fail to attend without good cause, then the case may still proceed and be concluded in their absence.

The hearing will then be adjourned for consideration of the information provided, and then the Chairperson will recall people back to the hearing for the formal decision. The Chairperson/ panel will determine the most appropriate outcome as follows:

- **Case not proven**
- **No further action**
- **Management Advice or Verbal Warning:** to remain on personal file for 6 months from date warning given
- **Written warning:** remains live on personal file for 12 months from date warning given. Any further misconduct in that period is likely to lead to at least a final written warning
- **Final written warning:** remains live on personal file for 18 months from date final warning given. Any further misconduct in that period may result in dismissal
- **Dismissal with notice:** period of notice is determined by the panel (subject to a minimum of 28 days)
- **Dismissal without notice/ Summary Dismissal:** dismissal from OPCC with immediate effect.

The Chairperson will provide written notice of the finding(s) of the panel, any disciplinary outcome imposed and the right to appeal against the finding and/or outcome within 3 working days.

If you raise a grievance during the proceedings, and the grievance and proceedings are related, it will still be appropriate to deal with both issues concurrently, unless there are exceptional circumstances. In this case the proceedings can be temporarily suspended in order to deal with the grievance.

Independent Review/Right of Appeal

You have the right to appeal the findings and/ or the outcome from a misconduct process on the following grounds:

- the finding(s) and/ or outcome was unreasonable.
- there is evidence that could not *reasonably* have been considered at the hearing, which could have affected the findings/ decision/ outcome(s)
- There was a serious breach of procedures or other unfairness that could have affected the findings/ decision/ outcome(s).

Any appeals should be made in writing to the Police & Crime Commissioner, and a suitable Chairperson will be appointed. The person conducting the appeal, will decide if you have justifiable grounds to appeal, prior to the hearing being held, and will inform you of their decision in writing if they believe that the grounds to appeal are not met. Please note that if the conduct was admitted, the appeal can only be about the outcome.

