



Essex Police, Fire and Crime Commissioner Fire and Rescue Authority

Decision Report

Report reference number: 045-21

Government security classification: Not protectively marked

Title of report:
ECFRS (Essex Country Fire and Rescue Service) – Disciplinary Policy Update

Area of county / stakeholders affected: Service wide

Report by: Colette Black, Director of People Services

Date of report: 30 December 2021

Enquiries to: Hannah Phipps, Head of Employment Policy and Practice

1. Purpose of the report

To seek approval of the updated Disciplinary Policy (attached at Appendix A), following full review and consultation with representative bodies on its content.

2. Recommendations

It is recommended that the Commissioner approves the proposed ECFRS Disciplinary Policy to enable it to be published and implemented.

3. Benefits of the proposal

The Disciplinary Policy has been reviewed to ensure it contains the most up to date information and is fit for purpose.

The reviewed Disciplinary Policy reflects:

- Our commitment to resolving matters informally where possible.
- The established procedure of “Commissioning Managers” and their role in the formal disciplinary process.

- The appropriate levels of manager to investigate disciplinary allegations, and at which stage.
- The ACAS Code of Practice for Disciplinary and Grievance Procedures.
- A fair, open, and transparent process, including hearing managers who are independent of the line management chain to provide increased objectivity in outcomes relating to disciplinary cases.

4. Background and proposal

Formal consultation between the service and representative bodies commenced on 3 August 2020 and concluded on 11 September 2020 in line with the Consultation and Negotiation Framework Agreement and Working Well Together approach. Following the extraordinary meetings of the Joint Negotiation and Consultation Committee (JNCC) on 26 February 2021 and 6 May 2021, and despite every effort being made through meaningful and constructive negotiation, agreement could not be reached on the proposed Disciplinary Policy.

The matter where agreement could not be reached was in relation to Section 3.5 ('Levels of Management') and the use of Green Book equivalents:

Stage	Investigation	Conduct Hearing & Make Decisions
Informal	Line manager (or other manager of equivalent role)	Watch Manager or equivalent 'supervisory' Green Book line manager
Formal Stage One	Watch Manager (or Green Book equivalent) or above	Station Manager or equivalent 'middle manager' Green Book manager, or above
Formal Stage Two	Station Manager (or Green Book equivalent) or above	Group Manager or equivalent 'middle manager' Green book manager, or above
Formal Stage Three	Group Manager (or Green Book equivalent) or above	Area Manager / Assistant Director or 'Strategic Manager' Green Book equivalent or above

The two fundamental points made by the Fire Brigades Union (FBU) were that the proposed policy would 1) breach contractual terms within the Grey Book and ECFRS contracts, and 2) result in procedural unfairness.

A Failure to Agree Hearing took place on the 27 July 2021. The outcome of the hearing prompted a request from the FBU to seek third party assistance. Representatives of the service and the FBU therefore wrote jointly to the National Joint Council (NJC) Joint Secretaries to request third party assistance. A conciliation session took place on 1 December 2021 and, following further engagement in the week commencing 6 December 2021, a mutually agreed way forward was reached. The outcome of conciliation is reflected in the updated policy attached at Appendix A. A signed copy of the conciliation reached is attached at Appendix B.

Training will be provided for all investigation / hearing managers.

5. Alternative options considered and rejected

Option 1: Do nothing

To retain SO Vol 4/36 Disciplinary Procedure dated June 2005.

This approach is not recommended as there are several points in the current disciplinary procedure that require review and / or clarity. The terminology is misleading and does not reflect the ACAS Code of Practice for Disciplinary and Grievance Procedures. It is worth noting that whilst a failure to follow the code does not in itself make an individual or organisation liable to proceedings through the Employment Tribunal (ET), the ET will take the Code into account when considering relevant cases.

The alternative to the commitment from the service would mean that only Grey Book managers would hear Level Three disciplinary cases. This would not encourage our 'One Team' approach.

Option 2: To implement the new Disciplinary Policy in line with the recently reached agreement

The Disciplinary Policy is part of a suite of policies / procedures that require a review to ensure they contain the most up to date information and are fit for purpose.

The new Disciplinary Policy reflects:

- The service's commitment to resolving matters informally where possible.
- The established procedure of "Commissioning Managers" and their role in the formal disciplinary process.
- The appropriate levels of manager to investigate disciplinary allegations, and at which stage.
- The ACAS Code of Practice for Disciplinary and Grievance Procedures.
- A fair, open, and transparent process, including hearing managers who are independent of the line management chain to provide increased objectivity in outcomes relating to disciplinary cases.

6. Strategic priorities

The recommendation contributes to achieving the following strategic priorities, as set out in the Fire and Rescue Plan:

- Promoting a positive culture in the workplace
- Be transparent, open, and accessible
- Make best use of our resources

As well as the following Service Values:

- Value the contribution of all
- Always professional
- Work as one team

7. Operational implications

All representative bodies have been fully consulted with through the Working Well Together process. The operational implications are rooted in cultural improvements – supporting

improved behaviour, and a safer and more supportive workplace. That should bear out in increased productivity and availability.

8. Financial implications

There are no financial implications associated with this decision, however the service would leave itself open to challenge (which could in turn have financial consequences) should it not have robust policies and procedures that would enable its staff to perform their roles and duties.

9. Legal implications

There are no legal implications associated directly with this decision. However, the service would be compromised if it failed to implement a fit for purpose Disciplinary Policy.

10. Staffing implications

The service has a duty to its employees to ensure they are given the necessary tools to enable them to carry out their duties regarding discipline and conduct.

11. Equality and Diversity implications

We have considered whether individuals with protected characteristics will be disadvantaged because of the actions being taken. Due regard has also been given to whether there is impact on each of the following protected groups as defined within the Equality Act 2010:

<i>Race</i>	<i>x</i>	<i>Religion or belief</i>	<i>x</i>
<i>Sex</i>	<i>x</i>	<i>Gender reassignment</i>	<i>x</i>
<i>Age</i>	<i>x</i>	<i>Pregnancy & maternity</i>	<i>x</i>
<i>Disability</i>	<i>x</i>	<i>Marriage and Civil Partnership</i>	<i>x</i>
<i>Sexual orientation</i>	<i>x</i>		

The aim of the policy is to support all ECFRS staff in fulfilling their roles and functions and ensure that colleagues can deal with unacceptable behaviour that impacts others through the procedures.

The policy makes clear that the service will cater for disabilities at any associated meeting or hearing.

12. Risks

This policy supports the risk profile for two risks:

- PVC0003 - There is a risk that our people will not feel that our leaders and managers role model positive behaviours and have effective management and communication skills.
- SRR150019 - There is a risk that, due to the absence of a positive and supportive culture, the service fails to provide a safe and inclusive culture which ensures the well-being of staff and contributes to attracting a diverse workforce.

13. Governance Boards

As set out above, the service has engaged with representative bodies through the consultation process and through JNCC meetings. The Service Leadership Team has been updated by the Director of People with progress against the policy schedule.

14. Background papers and appendices

Background paper - Working Well Together – Report to SLT 10 November 2020

Appendix A – Disciplinary Policy

Appendix B – ECFRS Disciplinary Policy Agreement

Decision Process (045-21)

Step 1A - Chief Fire Officer Comments

(The Chief Fire Officer is asked in their capacity as the Head of Paid Service to comment on the proposal.)

.....I support this recommendation.....



Sign: ...

Date:.....4/1/22.....

Step 1B – Consultation with representative bodies

(The Chief Fire Officer is to set out the consultation that has been undertaken with the representative bodies)

All representative bodies have been consulted with through the Working Well Together policy consultation process. Additionally, the Service and FBU have used the ‘third party assistance’ route with the NJC Joint Secretaries to support us in reaching an agreed way forward.

Step 2 - Statutory Officer Review

The report will be reviewed by the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority’s (“the Commissioner’s”) Monitoring Officer and Chief Finance Officer prior to review and sign off by the Commissioner or their Deputy.

Monitoring Officer

Sign:



Print: P. Brent-Isherwood

Date: 24 March 2022

Chief Finance Officer

Sign:



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Print:Neil Cross.....

Date: 18/1/2022

Step 3 - Publication

Is the report for publication? **YES**

If 'NO,' please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'none' if applicable)

.....None.....

If the report is not for publication, the Monitoring Officer will decide if and how the public can be informed of the decision.

Step 4 – Redaction

If the report is for publication, is redaction required:

- | | | |
|---|-------------------|--|
| 1 | Of Decision Sheet | NO |
| 2 | Of Appendix | BACKGROUND PAPER AND APPENDICES NOT FOR PUBLICATION |

If 'YES,' please provide details of required redaction:

.....
.....

Date redaction carried out:

If redaction is required, the Chief Finance Officer or the Monitoring Officer are to sign off that redaction has been completed.

Sign: Print:

Date signed:

Step 5 - Decision by the Police, Fire and Crime Commissioner or Deputy Police, Fire and Crime Commissioner

I agree the recommendations to this report:

Sign:  (PFCC)

Print: Roger Hirst

Date signed: 25 March 2022