Service Policy: PODPOL11 Conduct and Capability Policy

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Amendment History:

Version	Date	Author	Reasons for Change
1.0	01/04/2015	[redacted]	New Policy
1.1	April 2016	[redacted]	Annual Review
1.2	April 2017	[redacted]	Annual Review
1.3	April 2018	[redacted]	Annual Review
1.4	April 2019	[redacted]	Annual Review
1.5	March 2020	[redacted]	Annual Review
1.6	March 2023	[redacted]	Annual Review
1.7	February 2024	[redacted]	Annual Review.
1.8	July 2025	[redacted]	Annual Review

Equalities Impact Assessment:

Initial	Full	Date	Reviewed by	Comments
	X	2023	ED&I Team	Located on Portal

Civil Contingencies Impact Assessment:

Date	Reviewed by	Comments

Related Documents:

Doc. Type	Ref No.	Title	Location
Policy	PROPOL06	Values Based Appraisal	Portal: Policies
SI	SI	Probation	Portal: Service Instructions
SI	SI	Firefighter Health and Fitness	Portal: Service Instructions
SI	SI	Absence and Attendance	Portal: Service Instructions
SI	SI	Capability	Portal: Service Instructions
SI	SI	Conduct	Portal: Service Instructions
SI	SI	Other Duties	Portal :Service Instructions
Fire Standard		Code of Ethics	Portal
Fire Standard		Leading and Developing People	Portal
Fire Standard		Leading the Service	Portal

Distribution List:

Name	Position	Department

Sign-Off List:

Name	Position

Target Audience:

All MFRS	Principal Officers	Senior Officers	Operational Crews	Fire Safety	Community Fire Safety	Support Staff
X						

Ownership:

FOI exemption required?	Yes		URL	
	No	X	Reason	

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Legislation:

Title	Employment Rights Act 1996
	Equality Act 2010

Contact:

Department	Email	Telephone ext.
POD	[redacted]	[redacted]

PODPOL11 Conduct and Capability Policy

1. Policy Introduction and Background:

Merseyside Fire & Rescue Authority (MFRA) recognises the importance that its people, and their performance has on the continued success of the Service, as a result, it places great importance on an employee's ability to undertake their role in a manner which meets the needs and expectations of the Authority.

The aim of this policy is to ensure fair treatment for all employees in the organisation with regards to their conduct and/or capability.

The introduction and application of this Policy and its associated Service Instructions will ensure that all employees understand and are supported to achieve and maintain the standards of conduct and capability expected by the Authority.

The associated processes will also provide a transparent framework for dealing with any alleged failure to observe or attain the required standards.

Formal disciplinary and capability procedures that can be demonstrated to be fair, transparent, and consistently applied, promote good employee and employment relations which improve performance and contribute to the mission of creating and maintaining Safer Stronger Communities and Safe Effective Firefighters.

The documents have been prepared to reflect and improve on the statutory provisions and ACAS Code of Practice and National and Local Government Conditions of Service.

They have the status of collective agreements with the representative bodies and as such are deemed as contractual.

2. Policy Explanation:

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The guiding principle(s) of the Conduct and Capability Policy is to obtain improvement in the conduct, performance and/or attendance of the Authority's employees whilst seeking to address any problems which are causing or contributing to poor conduct, poor performance or poor attendance. All actions are intended to be corrective not punitive.

The associated procedures will ensure that all employees regardless of grade understand the processes to follow, the scope of the procedures; the rights of the employee and employer, the requirement to undertake an appropriate investigation; the stages of the procedures; the support available to secure improvement; corrective actions that can be applied; and the appeal mechanism.

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Conduct Definition - "Won't"

Conduct can be defined as a deliberate behaviour or action and indicates that the employee has a choice in what they do. It refers to a breach of standards or expectations which the employee chooses not to meet, for example, timekeeping or not wearing Personal Protective Equipment (PPE). In the Service it is mainly regulated with policies, procedures and through the adherence to service instructions.

Capability Definition – "Can't"

Capability is defined in the Employment Rights Act 1996 S.98 (3) (a) as "assessed by reference to skill, aptitude, health or any other physical or mental quality". It therefore covers performance, ability and attendance. One of the key features of a lack of capability is that, unlike a conduct issue, it may be outside of the individual's direct control.

Conduct or capability

It can be difficult to determine initially whether an issue is one of conduct or capability. For example, an employee may have poor attendance. In one case a person may want to attend work but is medically unfit to do so, as a result this is a capability issue. Alternatively, an employee may choose not to attend work although they could or they may manage the trigger system, and this would be a conduct issue. Both cases would be handled very differently.

In all cases an informal route is preferable to deal with an issue at the earliest opportunity. Often a quiet word, explanation or re-iteration of standards and expectations, or conversations about additional support can be sufficient to resolve the issue. However, there are occasions where an informal approach is not appropriate and formal action may need to be considered.

Where some form of formal action is needed, whatever action is reasonable is dependent on all the particular facts of that case. Each case needs consideration on its own merits and it is important to deal with issues fairly.

Employer Responsibilities

- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Employers and employees should act consistently.
- Employers should carry out any necessary investigations, to establish the facts of the case.
- Employers should inform employees of the basis of the problem and give the employee an opportunity to explain their position in response before any decisions are made.
- Employers should allow employees to be accompanied at any formal disciplinary hearings and capability meetings.
- Employers should allow an employee to appeal against any formal decision made.
- Where an issue relates to ill health the employee will, of course, be treated with particular sensitivity and correspondence with employees will refer to medical (in) capability rather than to poor performance.

There will be cases where the relevant procedure for conduct or capability has been implemented, appropriate supportive steps put in place, reasonable adjustments made or warnings regarding required improvements issued, but have unfortunately proved unsuccessful. In such cases the standards or expectations of the organisation have not been met.

Following a transparent and reasonable process utilising the principles of natural justice, steps may be taken to terminate the individual's employment for reasons of conduct or capability whichever is appropriate.

Responsibilities of All Employees

- To comply with the Authority Ground Rules and Values.
- To comply with explicit legal and contractual duties for example, those laid out in the Health and Safety at Work Act or in their Terms and Conditions
- To undertake reasonable request and obligations in their roles (part of the implicit contract)
- To follow Service instructions and work routines and to make themselves aware of service policies and procedures

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- To comply with their job descriptions or role map which provide examples of a performance measure expected by the Authority

Participate actively in appraisals to agree objectives to provide specific measurable achievable and reviewed targets.

3. Policy Implementation:

The Conduct and Capability Policy will be implemented through the application of the following procedures and instructions

- Conduct Service Instruction
- Capability Service Instruction
- Values Based Appraisal Service Instruction
- Probation Service Instruction
- Firefighter Health and Fitness Service Instruction
- Absence and Attendance Service Instruction
- Medical Discharge Procedure
- National Conditions of Service

All policies can be found on the Website

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