

Suspension Protocol



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Introduction

1. There may be instances where suspension from work with pay is necessary while investigations are carried out. For example, in potential gross misconduct cases, health and safety concerns or where there are risks to an employee's or the Authority's property, service users or responsibilities to other parties.
2. Suspension may also be considered where there are **reasonable** grounds for believing that evidence has been tampered with, destroyed or witnesses pressurised during the investigation process or prior to the disciplinary hearing.
3. Suspended employees should be advised that this is not considered as a disciplinary action.
4. It is in the interests of all parties to progress the investigation and disciplinary hearing (if appropriate) as quickly as possible.
5. Any suspension must be kept under review. (NB: in some cases, account will have to be taken of the requirements of professional codes and standards governing child and vulnerable adults). You must consult with your HR Advisor before a decision to suspend is made.

Scope

6. This scheme applies to all employees of Carmarthenshire County Council excluding staff employed by locally managed schools where the Governing body will determine the policy.

Grounds for suspension

7. Before deciding to suspend a member of staff, consideration will be given to the following factors:
 - a. Seriousness of the allegations relating to the individual
 - b. The need to preserve the integrity of the investigation
 - c. The best interests of the individual against whom the allegation is made.
 - d. The best interests of the Authority, other employees, members of the public or service users
 - e. Consistency with former similar allegations
8. Following these considerations the line manager must then decide whether a transfer to another area of work or team would be appropriate as an alternative to suspension.

9. Prior to taking a decision to suspend an employee who is a trade union representative. The line manager must seek advice from a HR Advisor.
10. Prior to any suspension being implemented, the line manager must consult their Head of Service and seek advice from a HR Advisor. (Please refer to line manager's checklist at Appendix 1)

Implementing the suspension

11. The following procedure must be followed when a decision to suspend has been agreed, the line manager must:

meet the employee and inform him/her of the reason for suspension;

clearly explain the allegation, but not enter into any other conversations;

explain what happens next (refer to the relevant policy and procedure)

advise the employee that:

- they are not permitted to enter the workplace or any of the Authority's premises specified by the line manager during the period of the suspension (the line manager will need to decide at the time of the suspension whether entering Authority premises other than the place of work will impact on the investigation and name these in the terms of the suspension) or service users homes without prior arrangement with the Investigating Officer;
- if they wish to contact work colleagues they must first obtain permission of the Investigating Officer. The Investigating Officer will need to be satisfied that there are reasonable grounds for the request and that the contact will not interfere with any related investigation. Failure to comply with this process could result in further disciplinary action being taken;
- the suspension is a neutral act and the purpose is to remove him/her from the workplace, either for his/her own protection or in the interests of service users/members of the public and other staff, in order that an investigation can be carried out;

- The employee must be available during their normal working hours for the Investigating Officer to interview him/her. Therefore the employee should not leave the area or go abroad on holiday whilst they are suspended from duty without prior authorisation from the Investigating Officer;
 - A Liaison Officer (usually a work colleague) will be asked to be the employee's main point of contact during the suspension (see para 15)
 - Finally, but most importantly the employee should be advised that should they wish to seek support from occupational health a referral can be arranged via the Liaison Officer who will be identified shortly or the line Manager.
12. Once the suspension meeting has been concluded the line manager will assist him/her to gather personal belongings and accompany the employee from the premises.

Confirmation in writing

13. The line manager must confirm the details of the suspension in writing to the employee no later than 3 working days following the suspension. A copy of this letter should be sent to the HR Advisor and will be retained on the employee's personnel file (See Appendix 2 – Employee Guidance, which accompanies the letter. Advice should be sought from a HR Advisor regarding the wording of the letter);
14. If the employee is a trade union member the line manager will send a copy of the suspension letter to the local branch office, unless the employee advises otherwise, in writing. In addition, if the employee is a trade union representative a member of the HR team must inform the full time trade union official of the allegation(s) via the local branch;

Liaison Officer

15. The line manager is responsible for identifying a Liaison Officer for the suspended employee to provide impartial support and maintain regular contact with the suspended employee. The Liaison Officer will not be involved in the investigation and should keep a record of the visits and contacts during the suspension.

Timetable for suspension

16. The Investigating Officer is responsible for planning and preparing for the investigation in line with the Investigation Policy.

17. The Investigating Officer will review the suspension decision and the terms of the suspension after key stages of the investigation and will write to the employee at agreed points during the investigation to confirm the progress of the investigation.

18. In some circumstances where the Police, adult/child protection or internal/external audit are simultaneously conducting an investigation it may not be possible to progress a management investigation until evidence has been presented to the courts. However, the employee should still be kept notified of the Authority's actions during this period.

Suspension with pay

19. All employees who are suspended will be paid normal contractual pay and an explanation of how this is calculated will be confirmed in the suspension letter.

Sickness absence during suspension

20. If an employee is sick during the period of suspension the normal notification requirements of the Authority's Sickness Absence Management Policy will apply. The period of sickness absence will be recorded and sick pay provisions will apply.

Maternity leave during suspension

22. If an employee commences maternity leave during the period of suspension the normal notification requirements of the Authority's Maternity Policy will apply

Annual leave

23. Annual leave will continue to be accrued while on suspension during the annual leave year. Suspended employees should continue to request annual leave in accordance with their Departmental procedure while suspended as this entitlement will not be carried forward to the following leave year.

Medical suspension

24. The line manager must ensure that in cases where there is doubt over the fitness of an employee to work that advice is sought from an Occupational Health Advisor and HR Advisor before a decision to suspend is made, and in line with the Sickness Absence Management Policy.

25. Before returning to work following medical suspension the employee will be referred to the Occupational Health Unit. The employee is expected to co-operate fully with any request to attend for any health assessments.

ENSURING EQUALITY OF OPPORTUNITY

All employees are required to adopt a positive, open and fair approach and ensure the Authority's Equality and Diversity Policy is adhered to and applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, disability, religion and belief or non-belief, age, sex, gender reassignment, gender identity and gender expression, sexual orientation, pregnancy or maternity, marital or civil partnership status.

In addition, the Welsh Language Standards ask us to 'ensure that the Welsh language is treated no less favorably than the English language' and this principle should be adopted in the application of this policy and procedure.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly

If you require this publication in an alternative format please contact People Management on Ext 6184 or email PMBusinessSupportUnit@carmarthenshire.gov.uk

Suspension Checklist for Managers

Step 1: Allegation/complaint received

Consider:

Seriousness of the allegations relating to the individual-

- ✓ Is there a possibility that the allegation would amount to gross misconduct in accordance with the Disciplinary Policy and Procedure?

The need to preserve the integrity of the investigation-

- ✓ Is there a risk that possible evidence could be accessed/amended or contaminated?

The best interests of the individual against whom the allegation is made-

- ✓ Is there a risk that in their current position the individual would be subjected to further allegations?

The best interests of the Authority, other employees, members of the public or service users-

- ✓ Is there a risk of that the complaint/incident being alleged could continue. Is there a recommendation by adult/child protection officers? Is there police/audit involvement?

Consistency with former similar allegations-

- ✓ Seek advice from a HR Advisor to ensure that as an Authority we are applying a consistent approach.

Step 2: Transfer

Following these considerations the Manager must then decide whether a transfer to another area of work or team would be appropriate. In doing so the Manager should consider:

- ✓ That the employee will not be in regular contact with any witnesses/complainants in the new location.
- ✓ That the Role is achievable at the proposed location

- ✓ That any temporary restrictions on duties imposed are realistic.
- ✓ That the Employee has access to the necessary support.

In order to implement a change such as this it will inevitably be necessary for the manager to liaise with other teams in order to achieve this. This should be managed sensitively and confidentially.

A Liaison Officer should still be appointed where a transfer has taken place.

Step 3: Suspension

- ✓ HR Advisor has been informed
- ✓ Head of Service has been informed
- ✓ Employee is informed. This will normally be undertaken by the Line Manager or nominated officer if the Manager is not available. Due to the nature of the suspension meeting being called without notice the employee would not normally have the opportunity to arrange representation of the following:
 - Explain an allegation/complaint has been received and explain what this is in relation to,(complainants/ service users identities will need to be protected during this explanation). If this is also being investigated in accordance with ISA regulations or by the Police you will need to advise the employee of this, unless the Police have requested otherwise. Also explain that the investigation is taking place in accordance with the Authority's Disciplinary Procedures.
 - If you are unable to outline the complaint in detail at due to Police/Safeguarding investigation please advise this.
 - Explain to the employee that they will be suspended on full pay and that this is not intended as a punishment, but as a measure to protect the parties involved.
 - Please advise the employee that this matter is confidential and not to approach any other employees regarding the allegation.
 - Advise they will be contacted in writing no later than 3 working days following the meeting with details of the terms of suspension.
 - Advise the employee they will shortly be given access to a liaison officer who will be their point of contact with the Authority
 - Please assist the employee to collect any of their personal belongings, ensuring that they leave the premises.
- ✓ Identify an appropriate liaison officer make sure they are aware they will be contacted.
- ✓ Follow up the suspension with a letter, sent recorded in a windowless envelope marked Private and Confidential.
- ✓ Identify an investigating Officer

Employee Conduct - Guidance for Employees Who Have Been Suspended

When it is decided to suspend a member of staff it can be a traumatic experience for all those involved. This guidance information has been prepared to ensure that an employee who has been suspended fully understands:

1. Events relating to the suspension as laid down in the Carmarthenshire County Council Disciplinary Procedure;
2. What the employment status and rights of the employee are during suspension;
3. What is expected of the employee by their manager during the period of suspension;
4. What assistance the employee may wish to seek during their period of suspension.

1. Events relating to the suspension.

The following is an extract from Carmarthenshire County Council's Disciplinary Procedure:

“Suspension from work with pay should be considered only as a last resort and the suspended employee advised that this is not considered disciplinary action and how pay will be calculated during this period. It is in the interests of all parties to progress the investigation and disciplinary hearing (if appropriate) as quickly as possible. Any suspension should be kept under review and the employee informed of the progress of the investigation at regular intervals. (Please note: in some cases, account will have to be taken of the requirements of professional Codes and Standards governing child and vulnerable adult abuse). The People Management and Performance HR Team must be consulted before a decision to suspend is made.”

2. Employment Status and Rights during Suspension.

Q. How will I be informed that I have been suspended?

A. The circumstances which have prompted the decision to suspend and whether or not you are at work at the time that the decision is taken is likely to affect the way in which you are informed. However, suspension will always be confirmed in writing and the reason for suspension will be given as far as is possible. Normally you will be notified by your line manager (or other nominated manager):

- verbally if it is practical or possible for you to be informed in this way; or
- by telephone if it is not possible for your manager to meet with you in person; or
- by letter if it is not possible to meet with you or contact you by telephone.

In both the first two instances the decision will be confirmed to you in writing.

Q. Will I be paid if I have been suspended?

A. You will normally continue to receive contractual pay during your suspension. However, if you are certified as unfit to attend for work, owing to ill-health or you are on maternity leave, your payments will be made in accordance with your conditions of service.

Q. Will continuous service be affected by suspension?

A. Suspension does not affect your employment rights. For the purposes of calculating continuous service in relation to benefits such as sickness, maternity, redundancy, pensions etc. the period of suspension counts as normal employment.

3. What is expected of the employee during their period of suspension?

Q. Do I have to stay at home during my normal working hours in case I am called back to work?

A. You are required to make yourself available to your employer at reasonable notice (e.g. for a meeting or interview). Normally this would mean you should be prepared to report to work on the day following the request for you to report to work. However, you could be asked to return on the same day as the request is made, which would not be unreasonable if the request was made early in the day for an afternoon meeting and a representative was also available.

Q. What happens if I wish to make a trip away from home during the period of suspension?

A. Annual leave arrangements still apply during suspension therefore if you wish to make a trip away from home, which would make you unavailable to attend work as described above, you will need to book this as annual leave. Given that suspension is not a disciplinary penalty, annual leave which has been arranged prior to

suspension will be honoured other than in exceptional circumstances, where the matter will be discussed with you. You will need to clear any request in advance, including confirming pre-arranged leave, with your nominated Liaison Officer. Requests for leave will be looked at sympathetically. Your nominated Liaison Officer will need to consider the likelihood of your being required to attend work during the time requested.

Q. Am I allowed access to my workplace and colleagues during suspension?

A. The Authority does not wish to impede you in preparing your case. If you wish to visit your workplace during the suspension period you must first obtain the permission of your line manager or other nominated manager. S/he will need to be satisfied that there are reasonable grounds for your request and that your visit will not interfere with any related investigation.

The Authority, obviously, cannot prevent you from meeting with colleagues outside normal working hours. However, any breaches to the confidentiality of the investigation will be dealt with in accordance with the Disciplinary Policy. Should Disciplinary action be taken you will not be prevented from preparing your case and any contact that you may require in order to do this will need to be approved via your nominated liaison officer beforehand.

4. Assistance An Employee Can Seek During Their Period of Suspension.

Q. How can I collect evidence to answer allegations arising from an investigation if I am not allowed access to my workplace or colleagues?

A. You will normally be allowed access for this purpose. Please contact your nominated liaison Officer to arrange. Also if you are a member of a trade union your trade union representative will be able to help in the collection of evidence where access cannot be reasonably granted.

Q. Where can I go for further advice whilst I am suspended?

A. If you are a member of a trade union you are advised to seek advice from your trade union representative.

Your nominated Liaison Officer will also keep in contact with you to both advise you of progress regarding the investigation and keep you updated with developments in connection with your job, section, department, etc. Your nominated Liaison Officer can arrange a referral to occupational health if you feel you would like to access additional support. You are strongly advised to take up any support that is available through the Authority's occupational health service or your own GP.

Depending upon the nature of the investigation you may feel it appropriate to approach other outside agencies, e.g. Citizen's Advice Bureau, Legal Aid Scheme, etc.

Q. How long can the suspension last?

A. There are no specified time limits. However, suspension will be for as short a period as possible. Where a suspended employee is the subject of external

investigations, police enquiries or charged with a criminal offence, the length of the suspension may be prolonged pending the outcome of police enquiries or legal proceedings. Where the investigation is subject to a delay the Investigating Officer will write to inform you of the delay and the reason for it.

Q. How will I know when the suspension has ended?

A. Normally, suspension ends when, following the completion of the investigation, a decision is taken. This decision may be:

- take no action and end the suspension;
- to proceed with formal disciplinary action;
- to take some other form of action.

In any event you will be notified in writing of the decision. Where disciplinary action is taken, the suspension will normally continue until the hearing takes place, and management will decide at the hearing whether the suspension will end. You will remain suspended until informed otherwise by your line manager.

As stated in the extract from the Disciplinary Procedure in Section 1, suspension is not a disciplinary penalty.