



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCES IN EUROPE
HEADQUARTERS UNITED STATES AIR FORCES AFRICA



19 Sep 17

MEMORANDUM FOR 100 FSS/FSMC

FROM: HQ USAFE-AFAFRICA/A1K
Unit 3050, Box 25
APO AE 09094-5025

SUBJECT: Policy for Local National Direct Hire (LNDH) Conduct and Discipline Procedures

1. Recent developments in UK legislation on Conduct and Discipline created the necessity to revise existing Conduct and Discipline procedures applicable to Local National Direct Hire (LNDH) personnel.

2. The attached policy will be effective immediately and will replace in its entirety Chapter 8 Conduct and Discipline currently part of the USAFEI 36-707, *Administration of Local National Direct Hire Civilian Employees in the United Kingdom*. It will remain in effect for the duration of one year, or until a revision of USAFEI 36-707 is published, whichever is earlier.

3. The Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice 1, dated March 2015, has legal effect in the UK. Accordingly, the ACAS Code of Practice 1, is reflected in the attached policy; however, the ACAS guide on Discipline and Grievance at Work, does not have statutory effect and is for guidance only. This guide should only be used in as much as the attached Conduct and Disciplinary Procedures do not provide any specific guidance. Developing local implementation guidance and updating training of supervisors and managers is advisable.

4. Point of contact in this matter is Mr Dirk Schubert, HQ USAFE-AFAFRICA/A1KC. He can be reached at dirk.schubert.de@us.af.mil, or DSN 480-3899.

DEBRA A. WARNER
Chief, Personnel Division
Directorate, Manpower, Personnel, and Services

Attachment:
Policy on Conduct and Disciplinary Procedures for LNDH Personnel

Conduct and Disciplinary Procedures for Local National Direct Hire (LNDH) Personnel

1. Standards of Conduct. The Standards of Conduct and the examples of misconduct given below are not exhaustive. Employees are under a duty to comply with the standards of behavior and performance required by the United States Air Force (USAF) and to behave in a reasonable manner at all times. The paragraphs below include principles that follow the spirit and intent of DoD 5500.7-R Joint Ethics Regulation. Violations of these principles will be subject to investigation, and may, depending on their nature, result in disciplinary action up to and including removal from employment.

1.1. Employees are expected to:

1.1.1. Report promptly for work in a condition that will permit the proper performance of assigned duties; be ready to start at their established starting time and are required to remain performing work until their established finishing time, and adhere to work schedules established by the supervisor. The USAF reserves the right not to pay employees for working time lost due to tardiness. Persistent tardiness may result in disciplinary action.

1.1.2. Work additional hours on short notice, as the needs of the mission require. The employees individual circumstances will be taken into account by the supervisor.

1.1.3. Obtain their supervisors authorization if for any reason they wish to arrive later or leave earlier than normal start and finish times.

1.1.4. Be solely responsible for their own time recording on starting and finishing work. Any errors or omissions must be corrected by them, and raised with management who will authorize or endorse any amendment.

1.1.5. Act in accordance with rules relating to notification of absence in case of illness.

1.1.6. Give ready response to directions and instructions received from the supervisor.

1.1.7. Render full, efficient, and industrious service in the performance of assigned duties and cooperate fully with colleagues and management, and to ensure the maintenance of acceptable standards of politeness.

1.1.8. Exercise courtesy and tact in dealing with co-workers, customers, and visitors.

1.1.9. Maintain satisfactory standards of performance at work, a high level of quality, accuracy and diligence.

1.1.10. Dress in a manner suitable to the function in which engaged. Attire that is clearly unhealthy, unsafe, interfering with productivity, or disruptive to the work environment is not authorized.

1.1.11. From time to time, or as requested, to perform duties outside of normal job responsibilities. The supervisor will only request the performance of duties that can reasonably expected of the employee based on the individual's grade, qualifications, skills and capacity to perform those duties.

1.1.12. From time to time, or as requested, work at locations other than the normal place of work within the scope of the terms and conditions of employment. Supervisors will take factors limiting the employees mobility into account.

1.1.13 Take all necessary steps required to avoid bringing the reputation of the USAF in to disrepute and to endeavor to preserve positive relationships with outside agencies.

1.1.14. Safeguard information that is sensitive, classified or designated for official use only by not disclosing or discussing any knowledge acquired as a result of employment either during employment and at all times outside of employment after its termination.

1.1.15. Not to remove official documents or records for personal reasons or in violation of any Air Force or Department of Defense instructions or regulations.

1.1.16. Use and maintain property, equipment, and materials of the US Forces economically and appropriately. Property and equipment must not be taken from the premises other than for use on authorized business.

1.1.17 Understand and observe health, safety and welfare regulations and procedures applicable to their place of work.

1.1.18 Report all accidents, however minor, to their line supervisor and the CPF as soon as possible, and make an entry in the Accident Report Book.

1.1.19. Comply with established rules governing notification and justification of absences.

1.1.20. Promptly inform the employer of changes in address.

1.1.21 Comply with Air Force and DOD Instructions, rules, policies and procedures where applicable.

1.1.22 Not make use of the any USAF communication systems (email, phone, portable and stationary computers, etc.) otherwise than in accordance with USAF policies and procedures.

1.1.23 Be solely responsible for the safety of their personal possessions while on work premises and ensure that their possessions are at all times kept in a safe place.

1.1.24 Inform management immediately if they find an item of personal property on the premises, so that it can be returned to its proper owner.

1.2 Employees are expected to refrain from:

1.2.1. Using illegal drugs and alcohol while on duty, and from gambling on duty. Air Force official policy is Zero Tolerance for illegal drug use.

1.2.2. Harassing and discriminating against other employees because of their age, gender, sexual orientation, religion and belief, disability, race, nationality, ethnic or national origin.

1.2.3. Engaging in any private business or professional activity which will result in a conflict between private interests and those of the USAF, or which involves the use of information gained through the official position, to further a private interest.

1.2.4. Soliciting, accepting, or agreeing to accept anything of value in return for performing or failing to perform an official act.

1.2.5. Canvassing, soliciting, or peddling on installation premises unless in conjunction with authorized activities.

1.2.6. Making a gift or present to any superior, equal, or lower graded official, unless in conjunction with an official function (e.g. Christmas activity, Going-away, etc) or otherwise authorized per the DOD Joint Ethics Regulation.

1.2.7. Directly or indirectly using, or allowing the use of government facilities and property of any kind for other than officially approved activities.

1.2.8. Engaging in outside employment which interferes or is not compatible with the performance of official duties, or may reasonably be expected to bring discredit upon the employer.

1.2.9. Giving or lending to unauthorized persons installation issued identification cards, permits to ride in military vehicles, or other identification documents issued by virtue of one's employment.

2. Responsibilities.

2.1. Commanders and Officials Appointed to Act on the Commander's Behalf

2.1.1. Administer in accordance with regulations fair, impartial, uniform, and proper disciplinary programs within their activities.

2.1.2. Ensure that the rules, regulations, and other conditions of employment are observed and made known to all civilian employees under their jurisdiction.

2.1.3 Appoint Deciding Officials (DO) and Appeal Officials (AO) from within the employee's chain of command. For employees under their direct supervision, appoint a DO, and act as the AO.

2.1.4 Be prepared to substantiate and defend any disciplinary action taken based on their decision.

2.2. Civilian Personnel Flight Chief (Civilian Personnel Officer).

2.2.1. Assist commanders or their representatives, and supervisors to ensure that all requirements for disciplinary actions are met.

2.2.2. Appoint from within the Civilian Personnel Flight (CPF) staff the Investigation Official (IO) tasked with fact finding, holding the investigation meeting as necessary, and furnishing the investigation report. The IO will be adequately trained to meet the requirements of the role.

2.2.3. Ensure that disciplinary actions comply with applicable laws, regulations, and policy.

2.2.4. Coordinate on all notices of proposed action and replies written to the employee and the issuance of final decisions. Members of the CPF may advise on procedure and the sanctions available; however, final decisions as to sanction must always be made by the relevant deciding officials or relevant Commander in the chain of command.

2.2.5 Be prepared to review and, when appropriate substantiate any investigatory reports prepared by a member of CPF staff.

2.3. Installation Legal Office. Assists the IO if requested, and reviews the IO's report to ensure the evidence supports the conclusions reached and the report is otherwise legally sufficient.

2.3.1. Coordinates on the DO's Notice of Decision to ensure it contains the details required IAW this procedure. It would be inappropriate for the SJA to advise on what type of sanction is warranted based on the facts of the case, he should only advise on the range of sanctions available.

2.4. Supervisors. Maintain an environment which generates good employee-management relations and efficient production.

2.4.1. Keep employees informed of rules, regulations, and standards of conduct, and maintain conduct and discipline within the framework of policy and established procedures.

2.4.2. Take all possible steps to prevent situations which might lead to disciplinary action.

2.4.3. Gather, analyze, and carefully consider all facts and circumstances before taking or recommending disciplinary action. Be prepared to substantiate and defend any disciplinary action taken with which they were involved in, if appropriate.

2.4.4. Constructively discuss disciplinary matters with employees individually and in private when circumstances so warrant.

2.4.5. Act as Deciding Official (DO) or Appeal Official (AO) when appointed. Coordinate, sign, and issue notices of proposed and final action; receive and consider replies to proposed actions, and ensure all approvals and coordination of management officials, CPF, and other staff agencies required by regulation or policy are obtained.

2.5. Employees. Employees must perform their assigned duties conscientiously; respect the administrative authority of those directing their work; and observe the spirit as well as the letter of the laws and regulations governing their conduct. The USAF does not interfere in the private lives of its employees; however, it does require that their conduct, character, and reputation do not reflect adversely on their official position.

3. Disciplinary Action Process. An administrative action taken by management to correct an employee's misconduct or poor performance that is intended to ensure it will not reoccur. The disciplinary action process will minimally include fact finding, a memorandum detailing the facts, a disciplinary meeting, and a memorandum of the disciplinary decision. Depending on the seriousness of the offense the possible disciplinary actions include oral warnings, written and final warnings, disciplinary action taken to include reassignments and dismissals.

3.1. Suspension. In certain circumstances, e.g. in cases involving gross misconduct, or where immediate action is necessary because relationships have broken down; where there is potential danger to USAF property; if there is a fear evidence will be tampered with; or, there USAF is concern regarding the welfare of other employees, consideration should be given to a brief period of suspension with pay to allow for an unhindered investigation to be conducted. Such a suspension should only be imposed after careful consideration and should be reviewed to ensure it is not unnecessarily protracted. It should be made clear that suspension is not an assumption of guilt nor is it considered a disciplinary sanction.

3.2. Fact Finding. When an incident(s) occurs which leads a supervisor to believe an employee's actions could involve misconduct that may warrant disciplinary action, an investigation will take place promptly to establish the facts surrounding the incident. The process should begin as soon as practicable when peoples' recollections will still be fresh. During this process, the IO, will collect information to establish the facts, which could include: witness statements taken from anyone who witnessed the incident, or who can give other relevant information; relevant documents; or, other physical evidence. Witnesses who make statements should be advised at the outset that the employee against whom disciplinary action may be taken, may be entitled to see their statement and that only in very rare cases will their names be redacted.

3.2.1. The IO will be a representative from the CPF staff appointed by the Chief, CPF. The IO will be a different person to the one chairing any disciplinary meeting.

3.2.2. The IO will produce an Investigative Report that may contain recommendations as to possible courses of action. The possible recommendations are: formal action; informal action; or, no further action. No potential sanction will be suggested by the IO to any person conducting the disciplinary hearing or any subsequent appeal hearing. The IO will not decide on the type of disciplinary action. This is the responsibility of the DO, or AO. This report may be disclosed to the employee upon request.

3.2.3 The SJA responsible for the installation at which the alleged misconduct occurred will assist the IO if requested and will review the report to ensure the evidence supports the conclusions reached. If necessary, the SJA will suggest further steps required to ensure the report contains sufficient detail to support the conclusions reached, and may suggest obtaining further specific evidence.

3.3. Investigatory Meeting. This will be held between the IO and employee and should not, by itself, result in disciplinary action. It is not always necessary to hold an investigatory meeting, but when one is held, the employee will be given advance notice and time to prepare. The meeting will be confined to establishing the facts. There is no formal right for employees to be accompanied at the investigatory meeting, however, the IO should consider an employee's request to be accompanied and may allow it.

3.3.1. At the investigatory meeting, a note-taker will make a record of the meeting. The employee should be provided with a copy of the record to check and confirm that it is an accurate record of the conversation that took place. The employee will be requested to countersign the record and acknowledge the accuracy of its contents. Employees will be given the opportunity to provide signed clarification if they feel the record is inaccurate. The original record of the meeting and any notes taken will be kept on the employee's OPF.

3.4. Disciplinary Meeting. If it is decided there is a case for possible disciplinary action, a disciplinary meeting will be held between management and the employee that will determine the course of disciplinary action, if any. This meeting will be scheduled as soon as possible after the fact finding is concluded; however, no later than 10 workdays following the completion of the IO's Report.

3.4.1. The disciplinary meeting will be conducted by the DO. As a rule, the DO is a management representative at the lowest possible level, usually the employee's direct supervisor, or if the supervisor is involved in the matter under consideration, the next higher level supervisor, unless the responsible Commander believes it appropriate in the circumstances to appoint someone else.

3.4.2. Employees will be given written notice when a disciplinary meeting is to take place. The notice will contain sufficient information about the alleged misconduct and its possible consequences to enable the employee to prepare for the disciplinary meeting. In addition, the notice will contain any witness statements and other evidence the DO will consider and will say whether the DO intends to call any witnesses. The notice will also inform employees that they may call witnesses and provide evidence on their own behalf. The identity of witnesses

employees intends to call must be disclosed, together with a copy of their statement, and a copy of any other evidence they intend to rely on must be provided to the DO. The DO will make a decision based on relevant evidence (that may include whatever has been disclosed to, and by, the employee).

3.4.3. Employees will be advised of their right to appeal the decision by the DO. A representative from the CPF will attend the disciplinary meeting. The employee may request to be accompanied by a workplace companion (see paragraph 3.4.5.). Legal representatives will not be given permission to appear with or on behalf of the employee.

3.4.4. Employee's absence. Employees must make every attempt to attend the disciplinary meeting. Should they be absent without reasonable excuse, this in itself may be cause for disciplinary action. If employees provide proper justification for not being able to attend (e.g. sick absence, unforeseen emergency, etc.), the DO should consider rescheduling, or should consider suitable alternatives (e.g. holding the meeting by phone, or visiting the employees' home, or another suitable location). Sick absence may delay the disciplinary action process, but it will not prevent disciplinary action when it's warranted. Supervisors are expected to make reasonable and appropriate adjustments if required. If an employee is repeatedly unable or unwilling to attend a meeting, the DO may conclude that a decision will have to be made based on the evidence already available and should inform the employee of his decision to proceed with the matter immediately

3.4.5. Workplace companion. Employees have a statutory right to be accompanied by a companion where the disciplinary meeting could result in a formal warning, or other disciplinary action; or, at an appeal hearing where a warning may be confirmed or some other disciplinary action taken. The companion may be a fellow worker, trade union representative, or, an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany the employee. To exercise this statutory right the employee must make a reasonable request to the DO. Depending on the circumstances it could be considered unreasonable, for example, if the companion will have to travel from a remote location despite alternatives, or if someone is named that would be so biased as to prejudice the hearing. A companion may not respond to questions addressed to the employee on his/her behalf, since the employee must give their own account in response to the questions asked, or address the hearing if the employee does not wish it. The companion may not disrupt or otherwise prevent the employer from explaining their case.

3.4.6. Disciplinary Meeting Procedure. At the hearing, the DO will explain the complaint against the employee and will go through the evidence that has been gathered. The employee will be expected to set out their case and answer any allegations made. The employee will be given a reasonable opportunity to ask questions and present evidence and will be expected to call any relevant witnesses to support their case and raise points about information provided by other witnesses.

3.4.6.1. A note-taker will be present who will record the contents of the meeting. The employee should be provided with a copy of the record to check and confirm that it is an accurate record of

what took place. The employee will be requested to countersign the record and acknowledge the accuracy of its contents. Employees will be given the opportunity to provide signed clarification if they feel the record is inaccurate. The original record of the meeting and any notes taken will be kept on the employee's OPF.

3.4.6.2. In most cases the DO will adjourn the meeting before making a decision as to whether a disciplinary sanction is appropriate. Also, if other matters arise during the hearing that require further investigation, the DO may adjourn the meeting for a short time to enable him to make further enquiries.

3.4.7. Notice of Decision. Within one working week of the disciplinary meeting, or as soon as reasonably practicable, the DO will provide the employee in writing with a Notice of Decision. The Notice of Decision will state whether disciplinary action or other action will be taken. A copy of this notification will be retained in the employee's OPF. The notification will specify: the nature of the misconduct; the disciplinary penalty and, if appropriate, how long it will last; the likely consequences of further misconduct; and, the timescale for lodging an appeal and how the appeal should be made. If the employee is to be dismissed, the reasons for dismissal must be clearly stated. The Notice of Decision should be pre-coordinated with the CPF and the responsible SJA. The Notice of Decision must be signed and dated by the DO.

4. Types of Disciplinary Action

Disciplinary action will be dealt with in three stages: Written warning, final written warning and dismissal. Depending on the circumstances of the case and the gravity of the misconduct sanctions may be imposed at any level, or skip levels.

4.1. Informal Counseling. Very minor cases of misconduct may be dealt with informally without a disciplinary meeting. In circumstances when an employee is spoken to about their behavior and informally counselled, the supervisor will make a note in the Supervisor's Employee Brief (AF 971).

4.2. Written Warning. Following a disciplinary meeting, the employee's supervisor or another member of the employee's chain of command may issue a written warning. A written warning is a formal letter addressed to an employee containing the following: (1) an explanation of the reasons for the warning; (2) an explanation of the improvements in conduct required; (3) the timescale for making these improvements; (4) any support the employing organization will provide to assist the employee; (5) an explanation of the consequences of any repetition of misconduct or failure to improve conduct to an acceptable standard; and (6) advice as to the employee's right to appeal against the disciplinary decision. The CPF will assist in drafting a legally compliant written warning.

4.2.1. A written warning remains in effect for two years. It will normally be disregarded for disciplinary purposes after a period of two years, or any longer period specified in the warning subject to satisfactory conduct and performance during that time; however, it will remain a

permanent part of the employee's personnel record. A decision to dismiss should not be based on an expired warning, but the fact that there is an expired warning may mean that the DO could decide not to pursue a lesser sanction.

4.3. Final Written Warning. In the event of a failure to improve or change behavior while a prior warning is still in effect, a Final Written Warning may be issued. This is possible even if the prior warning is for a different type of misconduct. A Final Written Warning may also be issued where the misconduct, infringement or offense is sufficiently serious to warrant only one written warning before dismissal.

4.3.1. Following a disciplinary meeting, the DO may issue a Final Written Warning. A Final Written Warning is a formal letter addressed to an employee containing the following: (1) an explanation of the reasons for the final warning; (2) an explanation of the improvements in conduct required; (3) the timescale for making these improvements; (4) any support the employing organization will provide to assist the employee; (5) an explanation that any repetition of misconduct or failure to improve conduct to an acceptable standard will render the employee liable to dismissal; and (6) advice as to the employee's right to appeal against the disciplinary decision. The CPF will assist in drafting a legally compliant Final Written Warning.

4.3.2. A Final Written Warning will normally remain in force for 3 years and a copy of the final written warning will be kept in the OPF. In exceptional cases, depending upon the seriousness and nature of the behavior, misconduct or infringement, the period for which the Final Written Warning remains in force may be longer. The Final Written Warning will normally be disregarded for disciplinary purposes after a period of 3 years or any longer period specified in the warning, subject to satisfactory conduct and performance during that time; however, it will remain a permanent part of the personnel record. A decision to dismiss should not be based on an expired warning, but the fact that there is an expired warning may mean that the DO could decide not to substitute a lesser sanction.

4.4. Disciplinary Reassignment, or Change to Lower Grade. Following a disciplinary meeting, employees may be reassigned to another position for disciplinary reasons when, due to their misconduct it is inappropriate for them to remain in their current position or their conduct is expected to improve in the new position. This position change may be a reassignment, or a change to lower grade. The employee will be informed of the reassignment as soon as is reasonably practicable. Employees will be provided with (1) written confirmation of the action to be taken, (2) how it is to be implemented, (3) the reason for the action, (4) the date on which it will come into effect (if appropriate) and (5) information on their right to appeal. This sanction may be used in conjunction with a Written Warning or Final Written Warning.

4.5. Dismissal. This is separation for cause, and will occur in the event of a failure to improve conduct while a Final Written Warning is in effect, even if that warning is for a different type of misconduct to the type currently being considered, or where the misconduct, infringement or offence is sufficiently serious to warrant dismissal, or if the employee is guilty of an act of gross misconduct, dismissal will normally result.

4.6 Summary Dismissal. If an employee is guilty of an act of gross misconduct or some other fundamental breach of Air Force rules, DOD regulations or of the contract of employment, employment may be terminated by Summary Dismissal. This means that there is no obligation on the employing organization to allow for a notice period or make a payment in lieu of notice. If the behavior justifies it, the employing organization may terminate employment by Summary Dismissal without any previous warning(s) having been given. See Attachment 2: Disciplinary Penalties, for a non-exhaustive list of examples of behavior that constitutes gross misconduct.

4.6.1. In the case of dismissal (including summary dismissal), the employee will be informed as soon as is reasonably practicable, and be provided with written confirmation of the dismissal. The letter will include the following: (1) clear details of the reason for the dismissal; (2) the date on which his employment terminated or will terminate; (2) the appropriate period of notice or pay in lieu of notice (if any); and (3) advice as to his right to appeal against the dismissal. Employees with one year's service or more have the right to request a "written statement of reasons for dismissal". If such a request is made, the supervisor in coordination with the CPF must comply with the request within 14 calendar days of the request being made.

5. Appeals. If an employee wishes to appeal against a disciplinary decision or sanction, he must inform the DO in writing within five working days of receiving notification of the disciplinary decision. The employee's written notification should specify the grounds for the appeal, e.g. new evidence, undue severity or inconsistency of penalty. If the employee wishes to produce additional evidence to support his case then this must be provided to the DO in advance of the appeal hearing.

5.1. All appeals will be dealt with as promptly as possible by an AO and a date will be set for the appeal hearing as soon as is reasonably practicable after the DO has received written notification of the appeal.

5.2. The AO is a member of the employing organization who has not been involved in the investigation or disciplinary hearing and/or who is more senior than the person who heard the disciplinary hearing.

5.3. The employee must be informed of the confirmation of the AO, the arrangements for the appeal hearing, and any other representative of the employing organization who will be present. A representative of the CPF will participate in the Appeals Hearing as advisor to the AO in relation to procedure. An impartial attendee will take notes. The employee must be informed of the right to be accompanied at the appeal hearing (see paragraph 3.4.5.) and must be told if any witnesses are to attend the appeal hearing on behalf of the employing organization. Legal representatives will not be given permission to attend with the employee. If the employing organization intends to call witnesses or produce further evidence, copies of the witness statements and further evidence must be provided to the employee prior to the Appeal hearing.

5.4. The employee may bring witnesses to the appeal hearing and provide further evidence; however, the AO must be informed in advance of the name and relevance of any witnesses and

must be provided with copies of any further evidence the employee wishes to use in his support. Employees will be informed that it is their responsibility to ensure that any witnesses they feel could help the case are brought to the attention of the AO. Any work colleagues whom employees request to appear as witnesses will be given a reasonable amount of time off work to prepare for and attend the appeal hearing.

5.5. At the appeal hearing, the employee will be asked to present his appeal to the AO.

5.6. The AO will confirm to the employee in writing the outcome of the appeal hearing usually within five working days of the appeal hearing, or as soon as is reasonably practicable. The AO's decision will be final and there is no further right of appeal. The AO will coordinate his written decision with the CPF and the SJA responsible for the installation at which the alleged misconduct took place.

5.7 If the AO finds the appeal in the employee's favor, any remedial action will be taken promptly and corrective action will be taken.

6. Uniformity of Disciplinary Actions. When considering any misconduct and the appropriate disciplinary sanction, the DO or AO should do so impartially and without bias, taking in to account any mitigating factors and any factors that reduce mitigation.

6.1. The following table lists matters that will have to be taken into account when considering the type of disciplinary sanction. It is only intended as a guide and is not exclusive.

| Nature of the Misconduct: | Possible Aggravating Features | Possible Mitigating Features |
|---|--|--|
| <ul style="list-style-type: none"> • Type of misconduct • Misconduct or gross misconduct • Consequences of the misconduct • How the misconduct relates to the Employee's position e.g. dishonesty & the employee is in a position of trust; bullying & the employee is a supervisor | <ul style="list-style-type: none"> • Previous misconduct record – unexpired previous • In cases of possible dismissal: written warnings, or final written warnings; disciplinary reassignments that may counter balance mitigating factors • Any pattern of behavior shown in relation to this and previous misconduct • Series of misconduct • Type of previous misconduct | <ul style="list-style-type: none"> • Culpability of others • Length of service (not necessarily relevant when gross misconduct) • Previous work history • Other mitigating circumstances e.g. welfare issues |

| | | |
|--|---|--|
| | <ul style="list-style-type: none"> • Employee willfulness • Employee’s unwillingness to improve behavior • Lack of remorse or acceptance that the misconduct was wrong | |
|--|---|--|

6.2. Before making a final decision to terminate employment, a DO or AO should consider mitigating factors. Expired warnings should only be taken in to consideration in specific circumstances if the decision is to dismiss the employee based on the merits of the present case including active warnings. If for instance there are positive mitigating factors to consider then the expired Written Warning may be used to counter balance these positive mitigating factors.

7. Abandonment of Position. Employees may be dismissed upon determination that they have abandoned their position. Dismissal will not be taken until at least 7 calendar days from the date the employee was last on the job. Prior to initiating the dismissal, supervisors will make all reasonable efforts to contact the employee and provide full documentation in the Supervisor’s Employee Work Folder. Contact by phone will be attempted on at least two separate occasions (different days). The effective date of the dismissal will be the last day the employee was on the job. Notice of separation will be sent to the employee’s last known mailing address.

8. Criminal Offenses Outside of Employment. Offenses outside of employment will not be treated as automatic reasons for dismissal. In the event that an employee is charged or convicted with a criminal offense, the main consideration will be whether the offense is one that makes the individual unsuitable for his or her position. Employees are required to report any arrest, charges, or convictions for any reason to their supervisor. Supervisors are required to report the facts immediately to the CPF.

9. False statements. Making false statements, claims, or withholding relevant information on a claim certificate (i.e. travel vouchers, SSP requests, etc.) is a disciplinary offense and can lead to criminal prosecution and/or dismissal.

10. Employment Tribunals. In the event of receipt of notification that an employee has filed a claim with an Employment Tribunal, the original documentation must be passed to the servicing Staff Judge Advocate without delay who will refer the matter to USAFE-UK/JA . Process will take place IAW AFI 51-301 and any existing USAFE supplements. The Staff Judge Advocate will pass a copy of the documentation to the CPO immediately.

10.1 Reporting Procedures. The CPO will notify HQ USAFE-AFAFRICA/A1K, in writing, in the event of any serviced organization receiving notification that a complaint has been made against it to an Employment Tribunal. USAFE-UK/JA will forward a summary of each tribunal case and details of any out of court settlements to HQ USAFE-AFAFRICA/A1K.

Attachment 2: Disciplinary Penalties

A2.1. Misconduct (falling short of gross misconduct). Set out below are examples of behavior which the USAF treats as misconduct falling short of gross misconduct. Such behavior will normally render you liable to sanction under the Disciplinary Procedure. You should note that this list is not exhaustive. Examples include:

A2.1.1. Failure to adhere to working hours; persistent tardiness; leaving the job without permission, or, delayed return from lunch;

A2.1.2. Unauthorized absence;

A2.1.3. Unacceptable levels of absence;

A2.1.4. Failure to request leave according to established procedures; failure to honor a valid denial of a leave request.

A2.1.5. Failure to follow Air Force or DOD rules, regulations or instructions (note very serious failures may constitute gross misconduct);

A2.1.6. Loafing or sleeping on duty when hazard to personnel or property is not acute or when no injury is involved;

A2.1.7. Delay or failure to carry out assigned work or instruction in a reasonable period of time;

A2.1.8. Careless workmanship or negligence;

A2.1.9. Failure to observe safety practices including failure to use safety equipment such as eye protection devices and failure to comply with hearing conservation program requirements;

A2.1.10. Loss of, or damage to, unauthorized use or destruction of property (including motor vehicles), records, or information belonging to USAF, its employees, suppliers or business partners;

A2.1.11. Dress in a manner inappropriate to the function in which engaged. Attire that is clearly unhealthy, unsafe, interfering with productivity, or disruptive to the work environment is not authorized.;

A2.1.12. Helping another employee (in any way) to commit a disciplinary offence;

A2.1.13. Rude, boisterous play which adversely affects production, discipline, or morale; use of abusive or offensive language; quarreling or inciting to quarrel; or interfering with the production of others, short of gross misconduct;

A2.1.14. Gambling during working hours;

A2.1.15. Reporting for duty drunk or impaired by intoxicants, short of gross misconduct;

A2.1.16. Any action or failure to take action based on race, color, religion, sex, or national origin of an employee, former employee, or applicant which affects his rights, privileges, benefits, dignity, and equality of economic opportunity that falls short of gross misconduct;

A2.1.17. Use of abusive or offensive language toward a subordinate short of gross misconduct; baiting or otherwise inciting a subordinate to violate rules or regulations; coercion in deprivation of an employee's rights; or reprisal for employment of appellate procedures;

A2.1.18. Compromise or discredit of examination materials or process resulting from discussion of specific question(s) or content of examination with other employee(s) based on experience in the examination when there is no deliberate effort or intent to compromise the examination materials or process;

A2.1.19. Aiding and assisting in the prosecution of claim against the US, or receiving a gratuity or any share of, or interest, in a claim from any claimant otherwise than in discharge of proper official duties;

A2.1.20. Soliciting contributions from other government officers or employees for gifts or presents to those in superior official positions. Accepting gifts or presents offered or presented as contributions from persons in government employ receiving lower salary.

A2.1.21 Making gifts or giving presents to any superior, equal, or lower graded official, unless in conjunction with an official function (e.g. Christmas activity, Going-away etc) or in accordance with the rules per the DoD Joint Ethics Regulation.

A2.2. Gross misconduct. Set out below are examples of behavior which the USAF treats as gross misconduct. Such behavior will normally render you liable to dismissal without notice. You should note that this list is not exhaustive. Examples include:

A2.2.1. Theft, actual or attempted;

A2.2.2. Dishonesty or Fraud;

A2.2.3. Assault, act of violence, or aggression; fighting, threatening, or inflicting bodily harm on another; physical resistance to competent authority; indecent or immoral conduct;

A2.2.4. Unacceptable use of obscene or abusive language (including language of a discriminatory nature); obscene, indecent, or, immoral conduct;

A2.2.5. Possession or use of non-prescribed drugs on USAF premises or during working hours;

A2.2.6. Possession, sale or consumption of alcohol on USAF premises or during working hours, other than on occasions that are authorized;

A2.2.7. Serious incapability at work brought on by alcohol or non-prescribed drugs; being on duty so impaired by intoxicants as to be unable to properly perform assigned duties, or to be a hazard to self or to others;

A2.2.8. Willful or intentional loss of, or damage to, unauthorized use or destruction of property (including motor vehicles), records, or information belonging to USAF, its employees, suppliers or business partners;

A2.2.9. Loss of, or damage to, unauthorized use or destruction of property (including motor vehicles), records, or information belonging to USAF, its employees, suppliers or business partners, that results in serious financial loss or death or personal injury;

A2.2.10. Serious insubordination; Insubordinate defiance of authority; refusal to comply with proper orders; wanton disregard of directives or insolence. Refusal to carry out reasonable management instructions;

A2.2.11. Falsification of records or other USAF documents, including those relating to obtaining employment; deliberate misrepresentation; falsification, exaggeration, or concealment of material fact in connection with any official document; or withholding of material facts in connection with matters under official investigation.

A2.2.12. Unlawful discrimination, harassment or bullying;

A2.2.13. Bribery or corruption;

A2.2.14. The promotion of, assistance in, or operation of organized gambling on duty or on USAF installations without the appropriate authorization;

A2.2.15. Acts of indecency or sexual harassment;

A2.2.16. Failure to observe health and safety policies and procedures, including failure to use safety equipment, when hazard is acute to life or property, or endangering the health and safety of a fellow employee, or third party;

A2.2.17. Loafing or sleeping on duty when hazard to personnel or property is acute or when there has been injury or significant loss;

A2.2.18. Breach of confidentiality, including the unauthorized disclosure of USAF business to the media or any other party (this rule does not apply to making, in good faith, a protected disclosure within the meaning of Part IVA of the Employment Rights Act 1996 (whistleblowing) or to a relevant pay disclosure made in compliance with section 77 of the Equality Act 2010);

A2.2.19. Unauthorized access to or use of USAF computer data or computer hardware;

A2.2.20. Copying of USAF computer software, other than when authorized in the employee's normal course of employment;

A2.2.21. Bringing the USAF into disrepute;

A2.2.22. Misuse of the name of the USAF;

A2.2.23. Serious breach of the Air Force and DOD policies, regulations, instructions or procedures;

A2.2.24. Careless workmanship or negligence which causes or might cause unacceptable loss, damage or injury; or, an attempt is made to conceal defective work or there is an unauthorized attempt to remove or destroy work;

A2.2.25. Conviction of a criminal offence (except for minor road traffic offences) that impacts on your suitability to do your job or your relationship with the USAF, your work colleagues or the USAF's suppliers, business partners or other agencies;

A2.2.26. Off-duty misconduct of such major import that the employee is unable to fulfill his job responsibilities, i.e. off-duty misconduct of such significance that there is an adverse effect upon the USAF;

A2.2.27. Making false, malicious, unfounded, or highly irresponsible statements against other officials, or subordinates with the intent to destroy or damage the reputation, authority or official standing of those concerned;

A2.2.28. Violation of security regulations, procedures or instructions, even when the breach does not result in release of security information to unauthorized sources and there is no evidence of a compromise of classified information;

A2.2.29. Deliberate misuse or unauthorized use of non-appropriated fund monies or property;

A2.2.30. Accepting favors or gifts from vendors for personal gain.