

# SUSPENSIONS



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This policy supersedes all previous policies, circulars and agreements connected with Suspensions within the States of Jersey.	

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## 1. Policy statement for Suspensions

- 1.1 It is the aim of the States of Jersey to ensure that employees who are suspended from work are dealt with fairly and objectively.
- 1.2 Suspension is regarded as a neutral act.

## 2. Policy aims

- 2.1 The purpose and aims of this policy are to:
  - Provide clear guidance to employees about the process of suspension
  - Ensure equality and consistency in managing and implementing suspensions
  - Ensure effective arrangements are in place for suspending employees in cases of gross misconduct or other serious situations
  - Ensure there are objective arrangements in place to review suspensions which last 28 calendar days or more.

## 3. Key principles

A standard set of underpinning principles has been developed for this Policy and will apply to all States of Jersey Human Resources Policies, and terms and condition of service. These principles can be found at this link to Policies on the States intranet [Insert Link]:

## 4. Links to other Policies

- 4.1 Other documents that are helpful to consider when using this policy are:
  - Equality & Diversity Policy
  - Disciplinary Policy
  - Capability Policy
  - Investigation Guidelines
  - Safeguarding Policies
  - Checking and Monitoring Jersey Professional Registration for professionals registered under the Health Care (Registration) (Jersey) Law 1995 (HSSD Policy)

## 5. Who this policy applies to

- 5.1 This policy applies to all employees<sup>1</sup> of the States of Jersey on permanent and non-permanent contracts of employment.
- 5.2 It does not apply to:

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<sup>1</sup> Throughout this policy the term 'employee' is used to include all employees and all office holders of the States of Jersey.

- Workers who work for the States of Jersey through a contract for services on an interim, locum, self-employed, or agency basis;
- Voluntary staff or those on honorary contracts where there is no implied contract of employment;
- Workers who are engaged on UK training contracts; and
- Workers engaged on zero hour agreements.

## 6. Specific roles and responsibilities under this policy

### 6.1 **Employees** are responsible for:

- Complying with the terms of their suspension as detailed in their letter of suspension.

### 6.2 **Line Managers** are responsible for:

- Liaising with HR regarding the act of suspension and following this policy when undertaking a suspension
- Notifying their Chief Officer or nominee before an employee is suspended
- Ensuring that all options other than suspension are fully considered
- Ensuring that regular contact is maintained by the supporting officer with the employee during their suspension and updating them on actions that are being taken
- Considering any requests from the employee for annual leave

### 6.3 **Human Resources** (HR) are responsible for:

- Together with Line Managers ensuring that this policy is properly implemented
- Providing a supporting officer for a suspended employee

### 6.4 **Chief Officers** are responsible for ensuring that:

- Arrangements are in place to ensure that employees in their department follow the procedures relating to this policy
- Line managers are fully conversant with their duties and responsibilities under this policy

## 7. Suspension

### 7.1 **Reasons for suspension**

An employee may be suspended for any of the following reasons:

- An allegation of gross misconduct has been made against them
- Safeguarding
- Being remanded in custody pending a court hearing
- Medical reasons
- Lapsed registration under the Health Care (Registration)(Jersey) Law 1995

- 7.1.1 Reasons for alleged gross misconduct are covered in the Disciplinary Rules and Code of Conduct. Examples of gross misconduct include, but are not limited to:
- Abuse or harassment of a service user
  - Fighting, physical or verbal violence/abuse at work
  - Fraud or theft
  - Malicious damage to the property of colleagues, service users, the States of Jersey or members of the public
  - Serious personal harassment or bullying to other employees
  - Corrupt practice
  - Where the employee is being charged with a serious criminal offence that is potentially inconsistent with their position or brings the States of Jersey into disrepute
  - Where there is a clear concern that the employee or others may be placed at risk by them remaining in the work place
  - Where it is considered possible that the employee may influence witnesses or interfere with relevant evidence during an investigation
  - Cases where there is a potential for the employee to bring the organisation into disrepute.
- 7.1.2 Safeguarding of vulnerable adults and children is taken seriously by the States of Jersey. If the DBS check uncovers an issue relating to safeguarding that the employee failed to disclose, then the States of Jersey reserves the right to suspend the employee pending further investigation as this would potentially constitute gross misconduct. This also applies to any action, omission, performance, conduct or behaviour that raises safeguarding concerns.
- 7.1.3 In circumstances where an employee is remanded in custody pending a court hearing, the Employer reserves the right to suspend the employee *without pay* until such time as their employment position is resolved.
- 7.1.4 An employee may be suspended on medical grounds *with pay for a maximum period of 6 weeks* when:
- Their attendance at work may be a risk to themselves or others because of their health condition
  - Their GP has signed the individual back to work and, an assessment by occupational health is pending to confirm their fitness to work
  - The employee refuses to seek medical advice when their health is having a detrimental and demonstrable impact on their ability to work
  - The employee's health is having a demonstrable impact on service delivery e.g. when they refuse to participate in workplace health assessments/surveillance under Health and Safety legislation.
- 7.1.5 Under the Health Care (Registration) (Jersey) Law 1995, it is an offence to engage in a contracted occupation that requires registration if not locally registered through the Professional and Care Regulation Team.

Any registered health and social care professional employed by or within HSSD who enters a period of lapsed UK registration (at any time) or local registration from 01 January of any year will be in breach of their HSSD Contract of Employment or, external agency agreement. Their contract of employment will therefore become invalid until such time as UK and/or local registrations are renewed.

The health and social care professional will be suspended *without pay* until HSSD has written confirmation of reinstated registration. This will result in a break in employee/employer pension and social security contributions.

(For further information, see link below:

<https://soj/depts/HSS/Registered%20Documents/P%20Professional%20Registration%20Policy.pdf> )

- 7.1.6 If suspension or temporary redeployment is appropriate in cases of personal harassment or bullying, the alleged harasser should be suspended or moved to a different work location or different role on a temporary basis. If the employer is operationally unable to redeploy the alleged harasser, it may be appropriate in certain circumstances to redeploy the complainant.

If appropriate, it may be necessary for the person being bullied or harassed to take time away from work (e.g. to recover from the stress of the alleged incident). This is not classed as suspension.

## 7.2 Suspension of an employee

- 7.2.1 *Decision to suspend.* The decision to suspend must follow a preliminary assessment of the circumstances which should determine whether suspension is justified for the reasons outlined above. This decision should be made together with the HRBP for the department/and or Head of Case Management. The Chief Officer or their nominee must be informed prior to a suspension being carried out.

- 7.2.2 *Practical arrangements.* Where it has been agreed to proceed with suspension the following should be considered before the suspension is carried out:

- Locating suitable office space to ensure that the suspension interview takes place in private
- Where appropriate, safeguarding of relevant documents, records and other items of States of Jersey property
- Handing over keys and other equipment, which may include a work mobile or IT equipment
- Accompanying the employee back to the workplace to collect personal belongings if required
- Limiting or removing access to IT systems
- Guidance about contact with other employees whilst on suspension e.g. it may be necessary in some circumstances for a suspended employee to be prohibited from contact with particular named employees.
- The means by which the employee's absence from work will be communicated to internal and external colleagues and customers.

Examples of where it is advisable to remove or restrict the IT access of suspended employees:

- Staff who have administration rights to States of Jersey IT systems
- Instances of child/vulnerable adult abuse where employees have access to client information systems
- Where soft copy documents relevant to the alleged misconduct may be deleted or tampered with
- Instances of harassment/bullying where cyber bullying may continue or witness intimidation
- Where an employee works from home and/or may have the access to continue to harass, bully or intimidate others

- 7.2.3. *Letter of suspension.* A letter of suspension should be sent to the employee not later than one working day after the meeting held to suspend them or given to them at the meeting. This letter should include:

- Confirmation of those present at the suspension meeting including representation
- Reason for the suspension
- Actions that will be taken during the suspension e.g. an investigation, medical appointment, etc.
- Arrangements regarding pay
- Name of support contact from the HR Case Management Team
- Access to the workplace
- Contact with colleagues during suspension
- Process for review if the suspension lasts for 28 calendar days or more
- Support mechanisms available

If the letter is not available at the time of the suspension, then the letter should be sent to the employee confirming the suspension

7.2.4 *Suspension meeting.* The suspension meeting should be convened as soon as possible once the decision to suspend has been made. The employee should be asked to attend the meeting, and should be given a brief outline of the reasons for the meeting.

The employee has the right to representation at this meeting. They may, if they wish, bring a workplace colleague or Trade Union representative with them. However, the unavailability of a representative should not delay the suspension.

Normally those attending the meeting should be:

- The employee's line manager (Suspending Officer)
- An HR Business Partner
- The employee
- The employee's representative, either a workplace colleague or Trade Union representative

The employee must be given the reason for their suspension and the arrangements in place during their suspension should be explained. The line manager should allow the employee the opportunity to comment on the alleged misconduct and the decision to suspend, and any comments made by the employee should be noted.

Where the employee decides not to have a workplace colleague or union representative present, this should be recorded by the line manager.

Managers should to be sensitive to reactions from the employee including shock, stress or distress and should ensure they offer the employee appropriate support.

### 7.3 Other matters

7.3.1 *Pay.* Where the suspension is paid, this will be based on contractual pensionable pay. Any additional allowances are not paid unless they are contractual and pensionable. Since suspension (where there is an allegation of gross misconduct) is regarded as a neutral act, the employee will not suffer any detriment in pay.

Where an employee is medically suspended they will receive contractual pensionable pay for up to 6 weeks, during which time it is expected that any issues regarding their medical status should be resolved. If the employee is formally signed off work by their doctor, they will revert to normal sick pay arrangements.

For employees who do not comply with health registration requirements they will not be paid until the issue is resolved.

7.3.2 *Sickness during suspension (except medical suspension).* If an employee, who is suspended because of allegations of gross misconduct, falls sick during the period of their suspension and has a medical certificate to cover the sickness, their suspension will be placed on hold until such time as they are fit to return to work. All other types of suspension remain in place until they are resolved.

7.3.3 *Leave during suspension.* When there is an allegation of gross misconduct, a suspended employee who has previously booked annual leave may take this during the period of suspension providing they notify/remind their manager. Any leave that has not been booked prior to the suspension may be taken at the discretion of the line manager. All leave will be deducted from the employee's usual annual leave allocation.

For employees who do not comply with health registration requirements, any pre-booked leave will be paid. Requests for additional leave will not be authorised.

For employees who are medically suspended, any pre-booked annual leave will be honored and classed as annual leave.

An employee must notify their line manager if they are leaving the island for *any* reason whilst suspended. An employee is normally expected to reside on island whilst suspended.

7.3.4 *Support.* Suspended employees will be allocated a supporting officer who will act as liaison during the period of suspension. They should make contact on a weekly basis as a minimum and a contact log should be maintained. Employees are expected to make themselves available during their normal working hours as contact from the supporting officer made be made at any time during these hours.

Employees should be given the details of the 24/7 Personal Helpline number and offered to be referred to Occupational Health. This is particularly important if the employee is distressed or anxious.

7.3.5 *Social care* Suspended employees may not attend their workplace (or any other SoJ workplace) other than for meetings in connection with their suspension, e.g. investigation meetings, disciplinary hearings, etc. except for the purposes of receiving treatment/attending an appointment at the hospital, or interacting with public facing departments as a private citizen e.g. Tax Office, Social Security.

## **8. Suspension Review**

Suspension Review Panels have been established by the States of Jersey as an integral part of the public employee suspension process in Jersey and are in place to examine and review the process of suspension for all States employees. Suspension Review Panels are expected to comply with this policy.

### **8.1. Suspension Review Panels**

8.1.1 The purpose of the suspension review panel is to:

- Ensure the employee was given the reasons for suspension in writing
- Determine whether the employee was given the opportunity to be represented by a Union representative or a workplace colleague
- Address whether the conditions for the suspension are being and continue to be met



- Explore whether the suspension can be lifted and the employee can return to their substantive post or to a different location or in a different capacity
- Ensure the employee is being given suitable and appropriate support by a nominated person during their suspension
- Report the finding to the member of the States Employment Board responsible for suspensions and outcome to the individual.

8.1.2 The panel will be comprised of a minimum of two members drawn from the public service, who are independent of the department in which the suspended person was employed and who are not conflicted. One of the panel members will act as chair of the review meeting.

8.1.3 Panel members are required to maintain confidentiality regarding the details of an employee's suspension. Failure to abide by this shall be viewed as an act of gross misconduct, save in extenuating circumstances.

8.1.4 The role of the panel is to examine the process of the suspension and not to examine the substance of the complaint or accusations relating to that suspension. (This is the remit of any subsequent formal disciplinary hearing).

8.1.5 The suspension review panel is required to meet on a monthly basis.

8.1.6 A suspension will be reviewed if it has been in place for 28 calendar days or more and will be reviewed at each subsequent suspension review panel until it is concluded.

## **8.2 Attendance at the panel**

8.2.1 Employees who have been suspended for 28 calendar days or more, will be invited to attend the panel although they are not obliged to attend.

8.2.2 Employees are entitled to be accompanied to each review by a union representative, or a workplace colleague. They may not be accompanied by a legal representative friend or family member.

8.2.3 The manager responsible for the suspension, and the HR Case Manager, is required to attend the review.

## **8.3 Meeting and documentation**

8.3.4 Meetings will generally be held in the Human Resources Department. However, this may not always be possible in which instance other arrangements will be made. All meetings will be held in private.

8.3.5 The HR Case Manager of the appropriate department is required to produce a report in advance for the suspension review panel which will be included in the panel's papers. This should include the steps taken to resolve the suspension and detail consideration of alternative options to suspension.

8.3.6 Documentation required for the meeting will be circulated to the panel members approximately one week before the day of the meeting. No minutes of the meeting are required to be kept other than the report made to the States Employment Board. Panel members are not permitted to circulate the papers or discuss them with anyone else.

8.3.7 Minutes or notes of the panel will not be made.

8.3.8 Following the panel an anonymised report will be passed to the States Employment Board for the consideration of the SEB member responsible for suspensions. The report should contain any findings or recommendations of the panel.

8.3.9 A letter giving the outcome of the panel's findings should be sent to the suspended employee after the meeting stating whether the suspension is valid or not. This letter should be confined to the details of the process only.

## 8.4 Suspension Review Panel Running Order

8.4.1 When reviewing a suspension, the following running order should be followed:

- Presentation of suspension report (Manager/HR Case Manager)
- Questions from the employee, if present
- Questions or observations from the panel members

## 9. Glossary of terms used in policy

TERM	MEANING
DBS	Disclosure and barring service
Gross misconduct	<p>Misconduct that is so serious that the bond of trust and confidence between employer and employee is completely broken or fundamentally breaches the contract of employment for example</p> <ul style="list-style-type: none"> <li>➤ Theft</li> <li>➤ Assault</li> <li>➤ Malicious or willful damage to property</li> <li>➤ Misuse of information</li> <li>➤ Breaches of the Data Protection Act</li> <li>➤ Bullying and harassment</li> </ul> <p>If established the employee maybe liable to summary dismissal for the first offence.</p> <p><b>(see Disciplinary Rules)</b></p>
Workplace colleague	<p>Normally someone you work with in the same area or department and this may <b>not</b> be a friend or relative. Lawyers are not permitted, save in exceptional circumstances relating to fitness to practice, which must be agreed with Employment Relations.</p>