

***CAERPHILLY COUNTY
BOROUGH COUNCIL***

DISCIPLINARY PROCEDURE

JULY 2004

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NOTE

Wherever the designation Manager is used throughout this policy, it is taken to mean Head of Service, Line Manager, Supervisor, Officer in Charge or anyone who has a responsibility for employees through their work.

This policy applies to all Council employees, except those school based support/teaching staff for whom the Governing Body set the local terms and conditions of employment. For these staff, the LEA will develop a policy based on the principles contained within the corporate policy, which will then be recommended to Governing Bodies for adoption. Support in managing issues in relation to the subject matter of this policy can only be offered to schools where LEA recommended policies have been adopted.

DISCIPLINARY PROCEDURE

1.0 INTRODUCTION

- 1.1 The purpose of this procedure is to help and encourage all Council employees to achieve and maintain standards of conduct, behaviour and performance at the workplace. The procedure sets out to ensure that all employees are treated in a fair, consistent and non-discriminatory manner as detailed in the Council's equal opportunities policy statement. A separate policy which embodies the same principles applies to Schools and has to be adopted by the Governing Body.
- 1.2 The principles, which underpin the procedure, apply to all employees with the Council. The Local Authorities (Standing Orders) Regulations 1993 which emanate from the Local Government & Housing Act 1989 prescribe different procedures for dealing with the Head of Paid Service. Caerphilly County Borough Council's Constitution extends these procedures to include the Head of Paid Service, the Section 151 Officer and the Monitoring Officer and other Directors.
- 1.3 The procedure will apply where an employee's actions and negligence, conduct or omissions are such as to give reasonable grounds for believing that the employee may be or becomes liable for disciplinary action. The procedure will not apply where illness, other incapacity, inadequate training and/or supervision renders the employee incapable of discharging the duties/responsibilities of their post or where the employee's performance becomes inadequate as a consequence of these reasons.
- 1.4 The procedure does not take away an employee's legal rights as it has due regard for the legislative requirements of relevant Acts of Parliament and embraces relevant principles contained within the National Agreements and the ACAS Code of Practice dated September, 2000 relating to disciplinary and grievance procedures.
- 1.5 The procedure is to be cross-referenced with the following core policies of the Council:
- Managing Attendance,
 - Capability,
 - Grievance,
 - Substance Misuse,
 - Whistleblowing,
 - Equal Opportunity Policies including Bullying & Harassment,
 - Redeployment Policy,
 - Rehabilitation of Offenders,
 - IT Security,
 - Microsoft Exchange Code of Practice,

- the Corporate Email User Policy and the Internet Usage Standards and Code of Practice.

and the National Assembly Codes of Conduct, Codes of Conduct in relation to Social Care and the Council's Code of Conduct,

Depending on the nature of the allegations the appropriate policies should be examined before the Disciplinary Procedure is invoked.

2.0 SCOPE OF THE POLICY

- 2.1 This policy has been agreed with the Trade Unions. The policy applies to all Council employees, except those school based support/teaching staff for whom the Governing Body set the local terms and conditions of employment. For these staff, the LEA will develop a policy based on the principles contained within the corporate policy, which will then be recommended to Governing Bodies for adoption. Support in managing issues in relation to the subject matter of this policy can only be offered to schools where LEA recommended policies have been adopted.
- 2.2 The effective date of the policy is 1st July 2004.

3.0 GUIDING PRINCIPLES

3.1 The maintenance of discipline and the setting of conduct etc. is the responsibility of Heads of Service through their senior officers and supervisors. The Council recognises that it must make employees aware of the rules and regulations, which govern their employment with the Council. This Section should be cross-referenced to Section 1.2 of the Procedure.

3.2 The guiding principles, which will govern the operation of the procedure, are detailed below:

- (a) The procedure aims to be corrective rather than punitive.
- (b) No action will be taken under the disciplinary procedure until the circumstances surrounding the case have been fully investigated.
- (c) At each stage of the procedure confidentiality will apply. Where an allegation of misconduct has been made against a member of staff, it is important that the employee be advised, as soon as possible, that an allegation has been made and the nature of the allegation. Should the investigatory stage become protracted, it will be important to ensure that the member of staff against whom the allegation has been made and their representative, are kept informed of developments. They should be advised of any fundamental changes with regard to, for example, the nature of the complaint, the possible resolution etc.

The employee will be given an opportunity to state their own case before any decision is made. In order to be able to answer any allegations, the employee must be made aware of the details of the allegations in a clear and unambiguous way. It should be noted however that on some occasions e.g. potential child/vulnerable adult protection issues, it may not be appropriate during the initial stages of the investigation to provide the member of staff with the detail of the allegation(s) that has been made.

- (d) At all stages, information gained by all participants must be treated in the strictest confidence. The employee will have the right to be represented by a work colleague, local or full time trade union representative, spouse, partner, friend or legal representative.
- (e) No employee will be dismissed for a first breach of discipline except in cases of gross misconduct where the employee may be dismissed without notice or payment in lieu of notice.
- (f) The procedure is not intended to be rigid in that each alleged case which warrants disciplinary action should commence at the initial stage of the procedure. The procedure can be entered at any stage commensurate with the alleged misconduct. Where it is necessary to use the procedure it will be implemented as speedily as possible, taking into account the individual circumstances of the case.

- (g) Criminal offences committed outside employment will not be treated as automatic reasons for dismissal or other disciplinary penalty. Each situation will be judged in the context of whether the offence committed has relevance to the duties undertaken by the employee. The major consideration will be whether the offence is one which renders the employee unsuitable for continued employment. Staff are required to disclose criminal offences and failure to do so may lead to disciplinary action.
- (h) In the case of alleged serious/gross misconduct i.e. where there is a possibility of a final written warning or a dismissal, the Investigatory Officer who decides there is sufficient evidence to go forward to a Disciplinary Hearing cannot be the same Officer who hears the case and decides if any disciplinary action should be imposed.
- (i) When dealing with complaints under the procedure there will be a clear separation of the process of reaching findings and then making decisions on what action, if appropriate, needs to be taken.
- (j) Normal disciplinary standards will apply to stewards and trade union officials in their roles as Council employees. The Disciplinary Procedure agreed with the Trade Unions requires the Council to advise:
- The local Branch Secretary/Official should a steward be suspended. The information given to the Branch Secretary/Official will be limited to the action and not the allegation.
 - The full time Officer should a Branch Secretary/Official be suspended from duty. The information given to the full time Officer will be limited to the action and not the allegation.

In addition, no disciplinary action will be taken against a branch steward or branch official until the circumstances of the case have been discussed with the Branch Secretary/Official or full time Officer, whoever is appropriate.

This protocol is in accordance with the ACAS Code of Practice.

4.0 CONDUCT

- 4.1 It is important that every employee understands that Local Government employment calls for the highest standard of conduct, responsibility and integrity and that public confidence would be shaken were the least suspicion to arise that any employee could be influenced by improper motives. Failure to maintain acceptable standards both inside and outside work, could, according to the circumstances, constitute misconduct leading to disciplinary action. Any potential cases should be discussed with the Head of Personnel and/or the Monitoring Officer/Corporate Solicitor, if appropriate.
- 4.2 It is recognised however that there could be circumstances where an individual employee becomes aware of facts or information which indicate possible misconduct within the Council's operations. In such circumstances, the provisions of the Council's Whistleblowing Policy will apply.
- 4.3 Protection of vulnerable people, children or vulnerable adults, is a primary responsibility of all staff employed by the Council.
- 4.4 When an employee is aware of or suspects that abuse of a child or children by an employee or other persons having contact with the child is occurring, they have a legal obligation to report such matters to the appropriate officer e.g. the Child Protection Co-ordinator, the Intake & Assessment Manager or if they are unavailable, a Children's Services Manager. If in any doubt, employees should contact the Directorate Personnel Staff. Failure to do so will be regarded as a disciplinary offence and the provisions of the procedure will apply.
- 4.5 When an employee is aware of or suspects that abuse of a vulnerable adult or adults by an employee or other persons having contact with the vulnerable person/s is occurring, they have a legal obligation to report such matters to the appropriate officer e.g. the Duty Team Manager or if they are unavailable an Adult Services Manager. If in any doubt, the employees should contact the Directorate Personnel Staff. Failure to do so will be regarded as a disciplinary offence and the provisions of the procedure will apply.
- 4.6 If an employee has any concerns in relation to abuse of children/vulnerable adults out of normal office hours, then these matters should be reported to the Police, without delay.

5.0 MISCONDUCT

- 5.1 Action under the disciplinary process can be taken for any alleged misconduct. However, a distinction has to be drawn between misconduct and gross misconduct.
- 5.2 Misconduct is that which would not normally constitute sufficient grounds for dismissal unless there was continued contravention of the disciplinary rules. Examples are poor timekeeping, unjustifiable absence from work, minor insubordination etc.
- 5.3 Gross misconduct is conduct which is considered to be so serious that an employee could be dismissed for a first offence. This may include for example:
- destruction or theft of the Council's property
 - during the course of employment – fraud or assault (physical or verbal) on an employee or member of the public
 - failure to follow Council policies considered to be fundamental to its operation
 - any negligent act or omission which puts the Council, its employees, clients or member of the public at risk.
 - a failure to report child abuse or actual/suspected abuse of a child or children (Cross reference to the Whistleblowing Policy)
 - being in possession of indecent material showing images of children. Images of this nature will be classed as gross misconduct
 - a failure to report abuse or suspected abuse of vulnerable adults (Cross reference to the Whistleblowing Policy)
 - being in possession of indecent material showing images of vulnerable adults. Images of this nature will be classed as gross misconduct
 - the harassment of whistleblowers
 - harassment of employees, clients or members of the public e.g. includes sexual/ racial/religious/sexual orientation
 - workplace bullying
- 5.4 These examples are neither exclusive nor exhaustive. The level and type of misconduct will depend on the individual circumstances of each case.

6.0 SUSPENSION

- 6.1 Suspension from duty will be reserved for actions which, if proven, could lead to dismissal, and/or when it is considered undesirable for the employee to remain in post whilst an investigation is being undertaken, and/or until such time as any subsequent Disciplinary Hearing is completed. Suspension will be limited to the shortest possible time. This section should be cross-referenced with Section 1.2 of the Procedure.
- 6.2 Suspension is not intended to be a punishment or a presumption of guilt. Suspension will always be on full pay.
- 6.3 In exceptional circumstances, it may be necessary to allow an employee a 'cooling off' period, or to ensure that the employee is not present whilst initial enquiries are made. In some circumstances an initial 'cooling off' period may be extended to special leave which will be granted only after consultation with the Head of Personnel. Such arrangements will be reviewed on a regular basis and not later than four weeks after the special leave has been granted. Where the initial enquiries indicate that there is a matter to investigate, then special leave would change to suspension.
- 6.4 Suspension will be limited to the shortest possible time. However, there may be cases where suspension continues for a period of time longer than anticipated. In such cases, there will be a review, after suspension has lasted for four weeks.
- This review will be undertaken by an officer independent of the case in question and the Directorate. Both management and the employee, or their representative, will have the opportunity to put their case forward to the Independent Officer.
- The Independent Officer will decide, in the light of evidence put to them, whether the suspension should continue and set a date for a further review, or ensure that a date be set by which the Disciplinary Hearing should be convened.
- 6.5 Suspension is a difficult time for the employee concerned and Managers should ensure that appropriate mentoring/counselling can be provided if the individual so wishes. Managers should also maintain contact with the employee who has been suspended.
- 6.6 Any employee who is suspended will be expected to follow the same rules as other employees for the approval of leave etc and sickness.

7.0 CHILD PROTECTION/VULNERABLE ADULT ISSUES

- 7.1 Suspension should also occur where a child/vulnerable adult could be placed in danger if the member of staff were not removed from duty.
- 7.2 Staff should only be suspended from duty where a preliminary enquiry and careful assessment by the line manager, taking into account the interests of children/vulnerable adult and other staff, suggests that a complaint could lead to dismissal or prosecution or where a child/vulnerable adult could be endangered without suspension.
- 7.3 Where an allegation/complaint has been made or actions witnessed which could constitute abuse ('significant harm') as defined by Caerphilly Area Child/Adult Protection Committee's procedure, a preliminary investigation should not take place until a referral has been made to the appropriate officer within Social Services, who will then advise how to proceed.
- 7.4 The appropriate officers for issues concerning children are the Child Protection Co-ordinator, the Intake & Assessment Manager or if they are unavailable, a Children's Services Manager.
- 7.5 The appropriate officer for issues concerning vulnerable adults is the Duty Team manager or if they are unavailable, an Adult Services Manager.

8.0 PROCEDURE IN OPERATION

8.1 Investigation

- 8.1.1 In all cases, where allegations are made against the employee, the circumstances around the case will be fully investigated. In other cases, such as potential gross misconduct, the investigation will be carried out by either the Head of Service, or the appropriate level of management/supervision within the service or other appropriate Officers in the organisation. They will enlist the help or assistance of other officers as appropriate. This Section should be cross-referenced with Section 1.2 of the Procedure. The only exception to this is where it is believed a criminal offence has occurred that involves a child/vulnerable adult (see paragraph 8.1.4).

In certain cases, it may be appropriate to involve Internal Audit at the investigating stage. For any cases involving potential financial irregularities (as stated in the Council's Financial Regulations), Internal Audit must be alerted. It may be, however, that in some cases, Internal Audit may have carried out their own investigation and have already alerted the Manager.

- 8.1.2 As part of the investigation process, it will be necessary to conduct an investigatory interview with the employee concerned. The interview will be conducted by the officer who is investigating the case. The employee can be accompanied by a work colleague or a trade union representative, local or full time.

The ACAS Code of Practice (September, 2000) refers to contractual rights which may allow an employee to be accompanied by a spouse, partner or legal representative. The employee must inform the Officer investigating the case, by whom and in what capacity they are being represented. Any information gained must be treated in the strictest confidence.

- 8.1.3 The Officer investigating the case must also obtain statements from witnesses, if there are any. There may be employees and/or members of the public who can provide further information on the events surrounding the case. Witnesses should be advised that they may be required to attend any subsequent Hearing.

Witnesses cannot be called to a Hearing unless witness statements have already been provided. Every effort should be made, if found necessary, for witnesses to attend Hearings in order that examination or cross examination can take place. If witnesses are unable to attend a Disciplinary Hearing, then the Disciplinary Officer or Panel will have the authority to decide what weight can be given to the witness statements and whether they can be accepted in evidence.

- 8.1.4 In other circumstances, it may be necessary to also involve the Police where criminal acts are alleged. The decision to involve the Police will be taken following consultation with the Chief Executive and/or appropriate Director and the appropriate Head of Service. The Head of Personnel should also be consulted. Where this course of action is to be taken the

relevant Head of Service will ensure that the employee is informed and advised to seek the assistance of their Trade Union or other appropriate representative.

Where it is believed a criminal offence has occurred that involves a child/vulnerable adult there will always be a strategy discussion/meeting with the police to determine how best and in what order to proceed. This may result in the Police undertaking a criminal investigation which will take precedence. The point at which the employee will themselves be alerted will be guided by the agreement reached. This should be cross-referenced to Paragraph 8.1.1.

8.1.5 In all appropriate cases the Council shall seek restitution.

8.2 Outcome of the Investigation

8.2.1 Following the investigation, the Officer who undertook the investigation can essentially make one of three decisions based on the accumulated evidence available:

- (a) To proceed with a Disciplinary Hearing as they are of the opinion that there is a case to answer;
- (b) To instigate no disciplinary action but to deal with the issue under the Capability or Managing Attendance Procedures and/or to arrange counselling, coaching or mentoring for the employee;
- (c) To judge that there is no case to answer.

8.2.2 Where it is decided not to take any form of disciplinary action, the person who undertook the investigation will write to the employee concerned and, where appropriate, the trade union representative. This letter will state that no disciplinary action will be taken against the employee and will confirm that, other than matters relating to protection of children/vulnerable adults, all relevant documents will be expunged from the files.

8.2.3 Where the matter is to be dealt with through the capability or managing attendance process and/or counselling, the provisions of the appropriate procedure will apply.

8.2.4 Where it is decided, on the basis of the accumulated evidence following the investigation, that the disciplinary procedure should be invoked, the following procedure will be followed:

- (i) A disciplinary interview can be conducted immediately following the investigatory interview with the agreement of the employee and their representative (if they have one) unless it is perceived that the case is one of serious/gross misconduct.
- (ii) If a Hearing is not to be convened immediately, the Head of Service or other appropriate level of management will write to the employee, giving them at least ten

days notice and informing him/her that they will be required to attend a Disciplinary Hearing. The letter will detail –

- The date, time and location of the Hearing
- The fact that they can be represented by a work colleague, or a trade union representative (local or full time)

The ACAS Code of Practice states that contractual rights allow a person to be represented by a spouse, partner or legal representative.

- The specific allegations made against the employee

If at the Disciplinary Hearing, there will be a reliance on documents, witness statements or an intention to call witnesses, details should be made available to the employee ten working days prior to the Hearing. Documents provided by the employee should be made available five working days before the date of the Disciplinary Hearing.

- (iii) The Officer who is investigating the case will present the case at the Disciplinary Hearing.
- (iv) In serious and complex cases, it may be appropriate for management to produce a Statement of Case which will set out the details of the allegations, witnesses and relevant documentary evidence.
- (v) Copies of all relevant documents and witness statements which will be used by the Council at the Disciplinary Hearing will be made available to the employee at least ten working days prior to the Hearing unless both sides agree to a different time span.

The employee must also make available relevant documents to the Presenting Officer five working days before the Disciplinary Hearing.

- (vi) The names of witnesses who are to be called to provide evidence at the Disciplinary Hearing will be declared by both sides. The opportunity to speak to other employees of the Council will be made available provided it is deemed appropriate and the employee concerned is prepared to speak to the employee against whom the allegations have been made.

8.2.5 The detailed procedure to be followed at the actual Hearing is set out in Appendix A.

8.3 Confidential Information

- 8.3.1 There may be cases which involve the potential use of or reference to confidential information and usually involves reference to information about clients.
- 8.3.2 There is potentially a conflict between the need to protect the confidentiality of any client information and natural justice in providing the employee with access to information which either supports the allegation made or alternatively provides the employee with information to support their version of events.
- 8.3.3 The person hearing the case will have to carefully consider the question of confidentiality after considering representations from both sides. In considering confidentiality, the following points should be considered –
- All information relating to clients should be on an anonymised basis.
 - If either side quotes from or uses information in documents or files, then it must be available to the other side.
 - The employee or representative can request specific information or documents from files, but the reason for the request and its relevance will have to be established. No reasonable request will be refused.
 - If there is a refusal to release information, the person hearing the case will have to decide whether the Hearing can continue in the absence of the information or whether the employee concerned would be fundamentally disadvantaged.
 - Some documents may be the property of a third party and it may not be within the jurisdiction of Caerphilly County Borough Council to agree disclosure.
 - If a case ultimately ends in an Employment Tribunal, they have the power to order release and they will also review the consideration Caerphilly County Borough Council gave to any request for release and the reasonableness of its decision.
- 8.3.4 The whole question of the release of information must be resolved before the Disciplinary Hearing commences. Where there is a disagreement, the matter should be referred to an Independent Officer (Section 6.4)

9.0 DISCIPLINARY ACTION

- 9.1 The Nominated Officer or, in exceptional circumstances, an agreed Disciplinary Panel, e.g. where a case involves a number of employees across the organisation, will hear evidence from both sides and witnesses if appropriate. If it is found that the complaint against the employee is substantiated and the person dealing with the case decides that some form of disciplinary penalty should be imposed, then the penalties listed below are available. The penalties imposed will depend on the seriousness of the case.
- Verbal warning
 - Written warning
 - Final written warning
 - Dismissal
- 9.2 More than one verbal or written warning may be given in appropriate circumstances.
- 9.3 Where an employee is the subject of disciplinary action, earlier verbal warnings will not be taken into account if they have completed satisfactory service of five months since a recorded verbal warning.
- 9.4 Where an employee is the subject of disciplinary action, earlier written warnings will not be taken into account if they have completed satisfactory service of ten months since a written warning. Final written warnings will not be taken into account after fifteen months have elapsed.
- 9.5 In line with the ACAS Advisory Handbook on Discipline and Grievances at Work, exceptionally there may be circumstances where the misconduct is so serious – verging on gross misconduct – that it cannot be realistically ignored for future disciplinary purposes. In such circumstances it should be made very clear that the final written warning can never be removed and that any recurrence of serious misconduct will lead to dismissal. Such instances should be very rare, as it is not good employment practice to keep someone permanently under threat of dismissal.
- 9.6 Where the decision is to dismiss the employee, the advice of the Head of Personnel, the Personnel Manager (Standards & Development) or the Personnel Manager (Employee Services), should be sought prior to such decision being confirmed.
- 9.7 As an alternative to dismissal, other methods of imposing discipline may be considered such as loss of seniority, demotion, transfer to another post, the loss of one or more increment(s) or future increment(s) being withheld. An Appeals Committee considering an appeal against

dismissal may also substitute the above alternatives instead of dismissal and this decision will be final.

10.0 RIGHTS OF APPEAL

- 10.1 An employee may appeal within ten working days of receipt of a verbal, written or final written warning and must state the grounds on which they are appealing. The appeal will be heard by the Head of Service, or a more appropriate senior level of management than that which took the original decision. They will not have been involved in the original disciplinary decision.
- 10.2 An employee may appeal against dismissal within ten working days of receipt of the letter of termination of employment. An employee must state the grounds on which they are appealing. Such notification of an appeal should be made in writing to the Head of Personnel. The appeal will be heard by an Appeals Committee comprising Members of the Council.
- 10.3 The Council has established an independent Appeals Committee to hear appeals against dismissal. (The Committee will not hear appeals which are against a penalty being given as an 'alternative to dismissal' – section 10.1 will apply in these circumstances). The Committee will comprise seven Members of the Council who are specifically named. The Appeals Committee will hear appeals provided three Members are present and they will be advised by a representative from Legal Services.
- 10.4 An appeal will take the form of either a complete re-hearing or a review of the original case, depending on the circumstances and the grounds of appeal.

An Appeal Review will normally take place where there is an appeal against a penalty. An Appeal Re-hearing will normally take place where evidence/facts were not available at the original Disciplinary Hearing. In some cases, a Re-Hearing can take place where it is found that the original Disciplinary Hearing was procedurally flawed.

- 10.5 The procedures to be used for the Disciplinary Procedure and Appeals are attached at Appendices A, B and C. A flowchart detailing the procedure in operation is attached at Appendix D.

11.0 REVIEW OF THE POLICY

11.1 The content of the policy will be reviewed every two years.

JULY 2004

PROCEDURE TO BE FOLLOWED AT A DISCIPLINARY HEARING

NB: The person/panel hearing the case will not have received any papers from either side before the date of the Hearing

The procedure to be followed at the Disciplinary Hearing is detailed below: -

- (1) At the commencement of the hearing, the person hearing the case will outline the procedure to be followed and will confirm that all parties understand the procedure.
- (2) The person hearing the case will detail the allegations made against the employee.
- (3) The Officer representing the Council will detail the case against the employee concerned. The employee, their representative and the person hearing the case can ask questions.
- (4) The Officer will call witnesses, as appropriate, to provide evidence in support of the allegations against the employee.
- (5) The employee or their representative will be able to ask questions of the Officer representing the Council and any witnesses.
- (6) Each witness will leave the room after giving their evidence.
- (7) The same process (steps 3-6) will be adopted in relation to the presentation of the evidence by the employee or their representative.
- (8) After both sides have provided their evidence, the Council's representative and the employee or their representative will be given the opportunity to sum up detailing the main points of their respective cases. The Council's representative will sum up first. No new evidence can be submitted at this stage.
- (9) Following the summing up stage, all parties will withdraw leaving only the person authorised to make the final decision and the independent officer who is advising the person making the decision.
- (10) In making their decision, the person can, if required, recall any of the parties involved to clarify any areas of misunderstanding or doubt. If one party is recalled, both parties will be recalled.

- (11) The adviser to the Disciplinary Officer/Panel will only be present to provide advice on policy and procedure. They will not take an active part in formulating a decision on the case.
- (12) Once having made a decision on the facts presented, but before relaying the decision made, the Disciplinary Officer/Panel should request details of any outstanding or current warnings under this procedure, the Managing Attendance or Capability Procedures before deciding on the penalty to be imposed, if any.
- (13) Once a decision has been made, the parties can either return to hear the decision or receive the decision in writing. If a disciplinary penalty is imposed, the employee will be informed that they have a right of appeal.
- (14) The decision plus details of the right of appeal will be despatched to the employee concerned in writing within five working days of the Hearing. At the earliest opportunity, the employee will also be provided with a set of notes (not verbatim) of the Hearing.

PROCEDURE TO BE FOLLOWED AT AN APPEAL REVIEW

NB: The Appeals Officer/Panel hearing the case will not have received any papers from either side before the date of the Hearing

The procedure to be followed at an Appeal Review is detailed below: -

- (1) At the commencement of the Appeal Review, the Appeals Officer/Panel hearing the case will outline the procedure to be followed and will confirm that all parties understand the procedure.
- (2) The Appeals Officer/Panel hearing the appeal will outline the grounds of appeal made by the appellant against the penalty imposed at the original Disciplinary Hearing.
- (3) The appellant or their representative will detail the grounds of appeal which are being made against the penalty imposed at the original Disciplinary Hearing. The Disciplinary Officer who made the decision at the original Disciplinary Hearing can ask questions of the appellant. The Appeals Officer/Panel can ask questions of the appellant.
- (4) The Disciplinary Officer will present to the Appeals Officer/Panel the reasons for the decision that was made at the original Disciplinary Hearing. The appellant or their representative can ask questions of the Disciplinary Officer. The Appeals Officer/Panel can ask questions of the Disciplinary Officer.
- (5) After both sides have provided their evidence, the Appellant or their representative will be given the opportunity to sum up detailing the main points of their case. The Disciplinary Officer representing the Council will be given the opportunity to sum up the main points of their case. No new evidence can be submitted at this stage.
- (6) Following the summing up stage, all parties will withdraw leaving only the Appeals Officer/Panel authorised to make the final decision and the adviser.
- (7) In making their decision, the Appeals Officer/Panel can, if required, recall any of the parties involved to clarify any areas of misunderstanding or doubt. If one party is recalled, both parties will be recalled.
- (8) The adviser will only be present to provide advice on policy and procedure. They will not take an active part in formulating a decision on the case.

- (9) Once a decision has been made, the parties can return to hear the decision or receive the decision in writing. The original disciplinary penalty can be confirmed or a lower penalty imposed.
- (10) The decision will be despatched to the appellant in writing within five working days of the Hearing.

PROCEDURE TO BE FOLLOWED AT AN APPEAL RE-HEARING

NB: The Appeals Officer/Panel hearing the case will not have received any papers from either side before the date of the Hearing

The procedure to be followed at an Appeal Re-hearing is detailed below: -

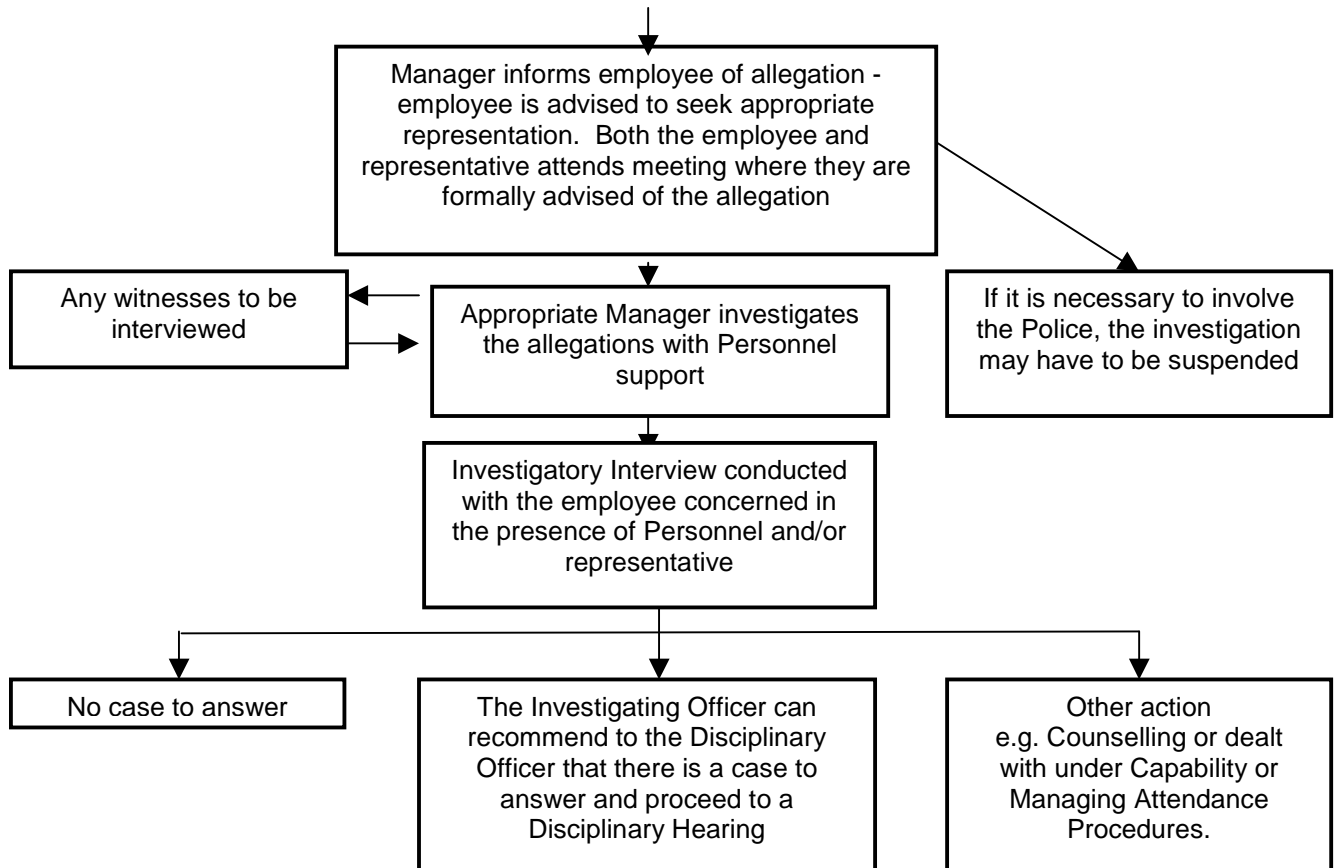
- (1) At the commencement of the Appeal Re-hearing, the Appeals Officer/Panel hearing the case will outline the procedure to be followed and will confirm that all parties understand the procedure.
- (2) The Appeals Officer/Panel hearing the appeal will outline the grounds of appeal made by the appellant.
- (3) The Officer representing the Council will detail the grounds of appeal. The appellant or their representative can ask questions of the Officer representing the Council. The Appeals Officer/Panel can ask questions of the appellant.
- (4) The Officer representing the Council, can call witnesses as appropriate, to provide evidence in support of their appeal.
- (5) The Appellant or their Representative can ask questions of the witness(es). The Appeals Officer/Panel can ask questions of the witness(es).
- (6) Each witness will leave the room after giving their evidence.
- (7) The same process (steps 3-6) will be adopted in relation to the presentation of the evidence by the Appellant or their Representative.
- (8) After both sides have provided their evidence, the Officer representing the Council will be given the opportunity to sum up detailing the main points of their case. The Appellant or their Representative will be given the opportunity to sum up the main points of their case. No new evidence can be submitted at this stage.
- (9) Following the summing up stage, all parties will withdraw leaving only the Appeals Officer/Panel authorised to make the final decision and the adviser.
- (10) In making their decision, the Appeals Officer/Panel can, if required, recall any of the parties involved to clarify any areas of misunderstanding or doubt. If one party is recalled, both parties will be recalled.

- (11) The advisor will only be present to provide advice on policy and procedure. They will not take an active part in formulating a decision on the case.
- (12) Once a decision has been made, the parties can return to hear the decision or receive the decision in writing. The original disciplinary penalty can be confirmed or a lower penalty imposed.
- (13) The decision will be despatched to the appellant in writing within five working days of the Hearing.

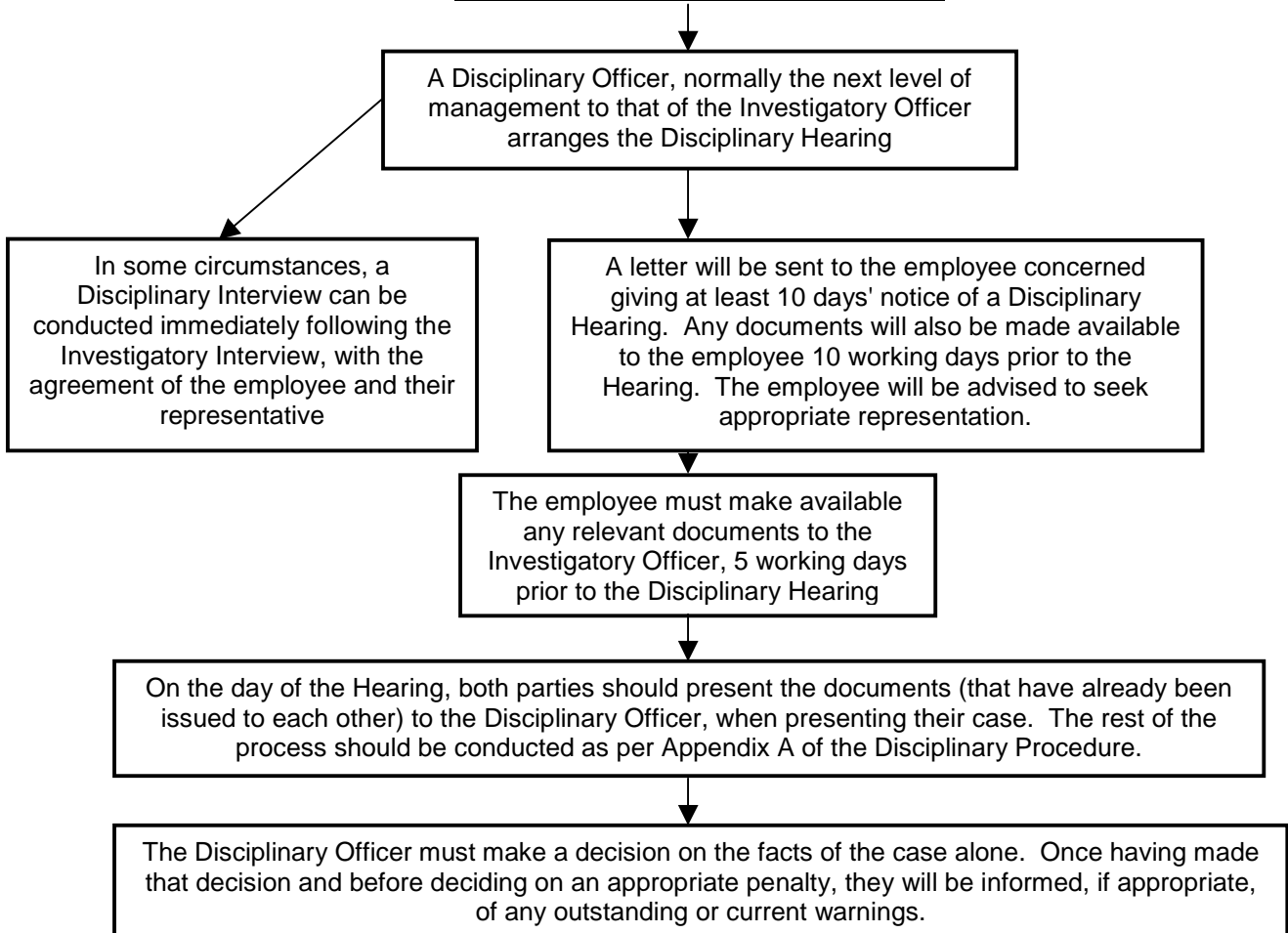
DISCIPLINARY PROCEDURE IN OPERATION

APPENDIX D

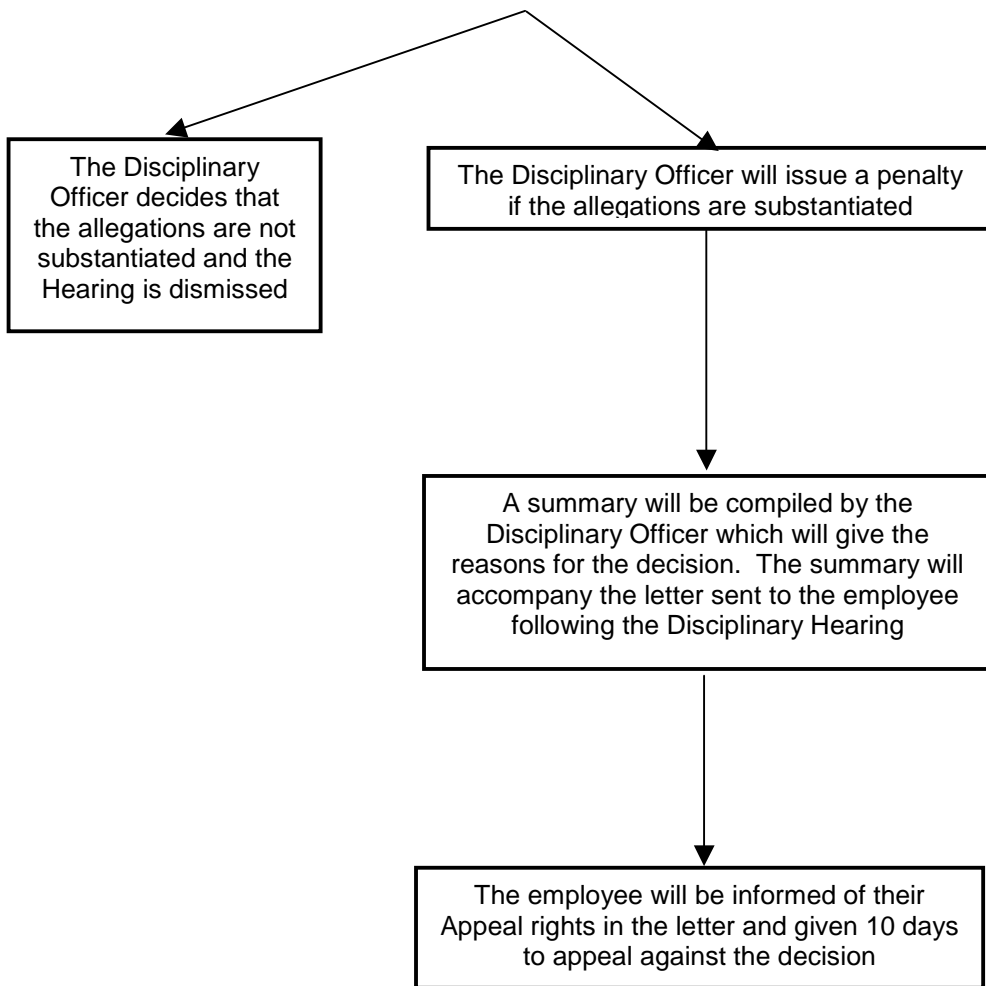
STAGE 1 - INVESTIGATION



STAGE 2 - DISCIPLINARY HEARING



STAGE 3 - DISCIPLINARY ACTION



STAGE 4 - THE APPEAL

