

PERSONNEL COMMITTEE – 12TH JUNE 2018

Report of the Head of Strategic Support

Part A

ITEM 7 DISCIPLINARY POLICY AND PROCEDURE (JNC GRADE AND ABOVE)

Purpose of the Report

To gain Personnel Committee approval to implement a Disciplinary Policy and Procedure (JNC Grade and Above) and a revised Disciplinary Guidance document.

Recommendation

That the Personnel Committee agree to the implementation of a Disciplinary Policy and Procedure (JNC Grade and Above) and a revised Disciplinary Guidance document.

Reason

To outline the process in relation to disciplinary issues for officers at JNC Grade and above and the additional process in relation to the Council's 3 Statutory Officers (Chief Executive, Strategic Director of Corporate Services and Head of Strategic Support).

Policy Justification and Previous Decisions

The Disciplinary Policy and Procedure (JNC Grade and Above) was agreed at SMT on 28th February 2018 and JMTUM on 19th April 2018.

Implementation Timetable including Future Decisions

It is recommended that the Disciplinary Policy and Procedure (JNC Grade and Above) and the Disciplinary Guidance be published on the intranet following approval by Personnel Committee.

Report Implications

The following implications have been identified for this report

Financial Implications

There are no immediate financial implications arising from this decision.

Risk Management

There are no specific risks associated with this decision.

Background Papers: none

Annexes: Annex A – Disciplinary Policy and Procedure (JNC Grade and Above)

Annex B – Disciplinary Guidance

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Part B

Background

1. The statutory officers, (the Head of Paid Service and Monitoring Officer (appointed under the Local Government and Housing Act 1989 and the Section 151 Financial Officer (appointed under Section 151 of the Local Government Act 1972)) were subject to a statutory disciplinary scheme contained within the Local Authorities (Standing Orders)(England) Regulations 2000, (the Regulations).
2. Those regulations prohibited any disciplinary action, other than suspension, except in accordance with a recommendation in a report made by a Designated Independent Person.

Legislative Changes

3. On 11th May 2015 the Local Authorities (Standing Orders) (Amendment) (England) Regulations 2015, replaced the statutory Designated Independent Person (DIP) provisions with an Independent Panel process. Following this the JNC published an updated edition of the Chief Executives' Handbook in which the Model Procedure for dealing with matters of discipline incorporates the new statutory process.
4. The 2015 Regulations –
 - Require that the final decision to dismiss any of the statutory officers must be by resolution of Full Council;
 - Require Council to appoint a Committee (referred to in the regulations as "the Panel") which must include at least 2 "Independent Persons";
 - Require that, before taking a vote on whether to approve such a dismissal, Full Council must take into account, in particular:
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the statutory officer who is the subject of the proposed dismissal.
5. The regulations remove the requirement to appoint a Designated Independent Person, and furthermore, take away the condition to act in accordance with the report and recommendation of a DIP.



Disciplinary Policy and Procedure (JNC Grade and above)

Scope

This procedure applies to all employees of the Council employed on JNC for local authority Chief Officer terms and conditions. Where the employee concerned is the Head of Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Head of Strategic Support) or the Chief Finance Officer (i.e. the Strategic Director for Corporate Resources), please refer to [Appendix A](#) for additional procedural requirements which are applicable to these posts in accordance with the JNC for local authority Chief Executive terms and conditions. The policy and procedure and Appendix A should be read in conjunction with the Council's constitution (17.10 – 17.12).

Purpose

The Council's procedures and the Code of Conduct set the expected standards of conduct at work. The purpose of this procedure is to ensure that all employees achieve and maintain satisfactory standards of conduct and behaviour. It also provides a fair and consistent method of dealing with alleged failures to observe these standards.

Criminal Offences

Advice should be sought immediately from Strategic HR if a case appears to involve criminal activity so that a decision can be made as to whether the matter should be referred to the police. In such circumstances the employee will normally be informed of such action unless the police advise otherwise.

Where an employee is charged with or convicted of a criminal offence, the disciplinary hearing may be stayed pending the outcome of the police investigation and/or court case.

Allegations of Fraud, Corruption or Financial Irregularity

The Council has a zero tolerance approach to fraud and corruption (and other forms of financial irregularity). In all cases where fraud, corruption or financial irregularity is suspected, or detected, managers must report the details to the Head of Strategic Support (Monitoring Officer) or the Strategic Director of Corporate Resources (Chief Financial Officer) before proceeding with any investigation.

Financial Loss

If a case involves financial loss (money or assets), advice should be sought from Strategic HR as to whether steps should be taken to recover the loss, in accordance with the Council's loss recovery strategy.

Safeguarding Allegations

Any allegations of misconduct that involve potential safeguarding issues connected with children must be discussed with the Designated Safeguarding Officer in accordance with the policies on safeguarding prior to any discussions taking place with the employee. You can report to:

If an allegation is in any way connected to the safeguarding of children or adults then a referral must be made to the [Disclosure and Barring Service \(DBS\)](#) at the appropriate point in the process. Information provided by the police or other agencies (e.g. investigation outcome, statements) should be shared with the employee, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

Use of Electronic Surveillance Records

Managers who strongly suspect employee misconduct and believe that access to electronic surveillance records may support their case must first discuss their concerns with Strategic HR.

STAGE 1

On becoming aware of an employee's alleged misconduct (see [Appendix B](#) for examples), the employee's manager will make initial enquiries about the incident/concern. This will normally involve a discussion between the manager and the employee concerned to find out their version of events and to establish if there is an acceptable explanation. On the basis of this discussion, the manager may decide:

- That no further action is necessary;
- To deal with the matter informally. The employee should be advised of the expected standards and any remedial action which is required;
- That further investigation is required (possibly including the suspension of the employee) and an appropriate 'Investigating Officer' will be appointed.

Notes should be taken at this meeting and a copy provided to the employee.

Suspension

Suspension is a precautionary measure and does not pre-determine in any way the outcome of an investigation. Suspension should only be imposed after careful consideration of alternatives, which may include the possibility of transferring the employee to an alternative role or adjusting their work. Employees may be suspended at any stage during the investigation process however advice must be sought from Strategic HR before any action is taken. Suspension should only be considered if there are concerns about the employee remaining in the workplace and once confirmed must be kept under regular review. The reason for the suspension should be made clear to the employee and confirmed in writing. The employee does not need to be suspended to be dismissed for gross misconduct.

STAGE 2

No formal disciplinary action will be taken until the matter has been fully investigated. This includes providing the employee with the opportunity to attend a formal investigatory meeting. Before meeting with the employee the Investigating Officer should make enquiries regarding the concerns, which may include interviewing witnesses and/or collating documentation. The employee has the right to be accompanied at the meeting by a work colleague or trade union representative.

The letter inviting the employee to the meeting should outline the general nature of the concerns. Notes should be taken at this meeting and a copy sent to the employee.

At the meeting the Investigating Officer will:

- Make clear to the employee what concerns have been raised;
- Ask the employee to respond to the concern(s) against them;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or trade union representative;
- Interview/obtain signed statements from witnesses following the employee's evidence (if applicable).

The employee will:

- Respond to the questions;
- Provide the names of witnesses (if applicable).

After the investigation meeting it may be necessary for the employee to provide documentation and/or for the Investigating Officer to interview witnesses and/or collate additional documentation.

The Investigating Officer will collect **all of the evidence**, including that which is favourable to the employee, and consider whether there is a case to answer. A report will be produced, for consideration by the employee's manager (or another appropriate manager) as to what action should be taken. The potential outcomes are:

- No further action is necessary;
- To deal with the matter informally. The employee should be advised of the expected standards and any remedial action which is required;
- To refer the matter to a formal disciplinary hearing.

STAGE 3

'A disciplinary hearing will be arranged to consider the employee's conduct. The panel for JNC staff up to and including Heads of Service will include a Head of Service and a Strategic Director or 2 Strategic Directors, with no prior involvement in the case, plus a HR Manager. For cases relating to a Strategic Director who is not a Statutory Officer, the

panel, appointed by the Personnel Committee, will consist of five elected members (with a quorum of three) with no prior involvement in the case.

The employee will receive a minimum of 10 working days written notice of the hearing. The letter should include details of the allegations against the employee, details of the employee's right to be accompanied by a work colleague or trade union representative and the potential outcomes of the hearing. A copy of any paperwork which will be used as evidence at the hearing must also be enclosed.

Any documentation that the employee wishes to refer to at the hearing must be received by the Chair of the panel at least 5 working days before the date of the hearing. It will be the panel's discretion as to whether any documentation presented outside of these deadlines will be considered at the hearing.

Prior to the hearing, the employee may write to the Chair of the panel to request further details in relation to the allegations against them. The employee may also request the postponement of the hearing in order to consider the paperwork provided to them and/or to arrange representation. The rearranged date for the hearing must be agreed by all parties and be no later than 14 days after the original hearing date.

Both the manager and the employee may call witnesses. Details of the manager's witnesses will be included in the hearing invite letter. The employee is responsible for inviting their witnesses to the hearing and must provide the names of any witnesses to the Chair of the panel at least 5 working days before the hearing date. The format of the hearing can be found at [Appendix C](#).

The following outcomes are available to the panel depending on the seriousness of the offence:

- No Case to Answer/No further action is necessary;
- First Written Warning (which will remain in place for 6 months')
- Final Written warning (which will remain in place for 12 months');
- Dismissal (with or without notice).
- Some other sanction short of dismissal that is reasonable in the circumstances.

Alternatively, the panel may wish to consider alternatives. For example, secondment or redeployment to a lower graded post. Where a warning is given, the employee should be advised of the level of improvement required, the date by which it is to be achieved and what will happen if it is not.

Employees should ordinarily be dismissed with notice except in the case of gross misconduct where they should be summarily dismissed without notice.

The employee will be notified in writing of the outcome of the hearing within 5 working days. A copy of the notes from the hearing should be provided.

If the panel determines that the employee should be dismissed, notice of the dismissal cannot be issued until:

- The Chief Executive is provided with the name of the employee whom it is proposed to be dismissed and any other particulars which the hearing panel considers relevant to the dismissal; and
- The Chief Executive has provided every member of the Cabinet with the name of the employee whom it is proposed to be dismissed, any other particulars relevant to the dismissal and the date by which any objection to the dismissal must be made by the Leader on behalf of the Cabinet to the Chief Executive; and either
- The Leader has, within the specified period, notified the hearing panel that there are no objections to the dismissal from the Cabinet or the Chief Executive has confirmed to the panel that no objections were received from the Leader; or
- The panel is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

The panel will write to the employee within 5 working days to confirm their decision and to give notice of dismissal, if appropriate.

Right of Appeal

An employee has the right to appeal against their dismissal and must submit an appeal registration form to the Head of Strategic Support within 5 working days of receiving the letter confirming their dismissal. When completing the registration form the employee should specify the grounds for their appeal and attach any supporting evidence. New evidence will only be considered if it is relevant and there was a good reason why it was not provided as part of the original hearing.

The appeal will be considered by a panel, appointed by the Personnel Committee, of five elected members (with a quorum of three) with no prior involvement in the case.. The panel should contain no more than one member of the Cabinet. The employee may be accompanied by a work colleague or trade union representative.

The format of the hearing will be as per the Appeal Policy and Procedure. The panel will consider the appellant's grounds of appeal and determine whether the original decision to recommend the employee's dismissal was reasonable in the circumstances.

The panel will write to the employee to confirm the outcome of the appeal within 5 working days. There is no further internal right of appeal.

Appendix A - Additional Procedural Requirements applicable to the Head of Paid Service, Monitoring Officer and Chief Finance Officer

The following variations to the Disciplinary Procedure for Chief Officers will apply where the subject of the alleged misconduct is the Head of the Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Head of Strategic Support) or the Chief Finance Officer (i.e. Strategic Director for Corporate Services). Further detail can be found at Appendix 5a of the JNC for local authority for Chief Executives handbook.

STAGE 1 - Informal

If the employee concerned is the Chief Executive, an appropriate person will be appointed by the Leader (or Deputy Leader in their absence) to undertake this stage of the procedure. For the other two posts, the Chief Executive will undertake this stage as the manager of the post holders.

STAGE 2 – Personnel Committee

If it has not been possible to resolve the issue informally, the matter will need to be referred for consideration by the Personnel Committee.

A meeting of the panel appointed by the Personnel Committee will be arranged to consider what action, if any, is appropriate. The panel will consist of five elected members (with a quorum of three) with no prior involvement in the case. The Committee must include at least one member of the Cabinet.

The employee will be invited to attend the meeting and may be accompanied by a work colleague or trade union representative. At least 10 working days' notice should be provided. After considering the results of the investigation and hearing the views of the employee, the Committee may decide:

- No further action
- Informal un-recorded oral warning
- Case to answer/further investigation required

While it is advisable to ensure that a thorough independent investigation has been completed before delivering a sanction, the panel may wish to consider alternatives. For example, secondment or redeployment to a lower graded post. Where a warning is given, the employee should be advised of the level of improvement required, the date by which it is to be achieved and what will happen if it is not.

The employee will be notified in writing of the outcome of the meeting. The letter should include the rationale for the decision and details of the employee's right of appeal. A copy of the notes from the meeting should also be provided.

Where the employee wishes to appeal against action short of dismissal, the appeal arrangements set out on page 5 of this document will apply.

Independent Investigator

The Personnel Committee should appoint an independent investigator where it is decided that there is a case to answer / further investigation is required. The Council should contact the JNC for contact details of independent investigators.

Suspension

The chair of the Personnel Committee has delegated authority to suspend. Suspension should be reviewed after a period of two months and only extended following consultation with the independent investigator and consideration of any objections/representations from the Chief Executive.

Investigation

The independent investigator will gather evidence that will lead to the formulation of a recommendation for consideration by the Personnel Committee. This includes providing the employee with the opportunity to attend a formal investigatory meeting. Before meeting with the Statutory Officer the independent investigator should make enquiries regarding the concerns, which may include interviewing witnesses and/or collating documentation. The Statutory Officer has the right to be accompanied at the meeting by a work colleague or trade union representative.

On completion of their investigation the independent investigator must prepare a report with recommendations and rationale for submission to the Personnel Committee.

Consideration and Decision of the Personnel Committee

The Personnel Committee will conduct a hearing that will allow the Statutory Officer the opportunity to challenge the recommendations of the independent investigator and call witnesses. The hearing will be conducted in accordance with Stage 3 of the Disciplinary Procedure for Chief Officers.

Recommendations of the Personnel Committee

Following the hearing the Personnel Committee will have 3 options:

- No case to answer
- Disciplinary action short of dismissal
- Dismissal

Stage 3 - The Independent Panel

Where the Personnel Committee recommends the dismissal of the employee, the matter will be referred to an Independent Panel for a report. This panel will include at least two independent persons who have consented to serve from amongst those previously appointed by the Council or by another Council under Section 28(7) of the Localism Act 2011.

Both parties should be present or represented at the meeting. The Independent Panel should receive any oral representation from the Statutory Officer. The Personnel Committee should nominate a person to attend on its behalf to provide any response on

behalf of the Personnel Committee to the points made. The Independent Panel may ask questions of either party.

The Independent Panel should review the decision of Personnel Committee and prepare a report for Full Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

Personnel Committee's proposal to dismiss the employee will be referred to Full Council along with a copy of the Independent Panel's report. The meeting of the Independent Panel must take place at least 20 working days before Full Council meet to consider the employee's dismissal.

Stage 4 - Full Council

Full Council will meet to consider the proposal to dismiss the employee and will take into account factors including:

- Any advice, views or recommendations from the Independent Panel;
- The conclusions of the independent investigator into the proposed dismissal;
- The recommendations for dismissal from the Personnel Committee
- Any representations from the employee concerned.

The employee will be invited to attend and may be accompanied by a work colleague or trade union representative. In some circumstances, another appropriate person who is not legally qualified may represent the appellant, but this will be at the discretion of Full Council. Copies of the paperwork to be considered at the meeting should be provided to all parties in advance. The employee should ensure that they take the opportunity to challenge their proposed dismissal as there is no further right of appeal after this meeting.

All discussions will take place under the exempt section of the council meeting.

If Full Council approves the proposal to dismiss the employee, the notice of dismissal cannot be issued until the Chief Executive (or Strategic Director for Corporate Resources) has provided every member of the Cabinet with the opportunity to object to the dismissal.

Personnel Committee will write to the employee within 5 working days to advise them of the outcome and to give notice, if appropriate.

Appendix B - Examples of Misconduct and Gross Misconduct

Examples of Misconduct

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work without reasonable cause;
- Damage to Council property;

- Failure to follow Council procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of Council facilities;
- Undertaking unauthorised employment;
- Improper behaviour or conduct towards colleagues or members of the public;
- Unreasonable refusal to follow a management instruction;
- Abuse of the E-Communications Policy.
- Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc....)
-

Serious examples of any of the above may amount to gross misconduct.

Examples of Gross Misconduct

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;
- Deliberate falsification of reports, accounts, expense claims or self-certification forms;
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the Council or to another Employee or customer;
- Fraud (i.e. an act of deception intended for personal gain or to cause a loss to another party) or corruption (i.e. the deliberate misuse of a position for direct or indirect personal gain);
- Unauthorised entry to computer records or deliberate falsification of records;
- Serious breach of the Council's E-Communications Policy;
- Repeated refusal to carry out duties or reasonable instructions or to comply with Council policies and procedures;
- Serious Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc....)
- Serious breaches of confidence, confidentiality or the Data Protection Act 1988 (subject to the Public Interest Disclosure Act 1988);
- Deliberate or reckless damage to Council property;
- Serious acts of insubordination;
- Acts of bullying, harassment or discrimination (i.e. unacceptable behaviour);
- Serious breach of the Council's safety rules or a single error due to negligence which causes or could have caused significant loss, damage or injury to the Council, its employee or customers;
- Bringing the Council into serious disrepute;

- A criminal offence, which may (whether it is committed during or outside of the employee's hours of work) adversely affect the Council's reputation or the employee's suitability for or ability to undertake the type of work they are employed to perform;
- Violent or threatening behaviour;
- Failure to maintain professional registration where this is a pre-requisite for the post;
- Failure to maintain satisfactory DBS clearance where this is a requirement for the post.

Appendix C - Format of the Disciplinary Hearing

1. The panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their statement of case. They should refer to documents circulated beforehand to evidence their views.
3. If applicable, the Presenting Officer will invite management's witnesses to the hearing. The witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
4. The Presenting Officer will conclude their statement of case.
5. The employee and/or their representative may question the Presenting Officer on their case presentation.
6. The panel may question the Presenting Officer on their case presentation.
7. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
8. If applicable, the employee or their representative will invite the employee's witnesses to the hearing. The witness will be questioned initially by the employee and/or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
9. The employee and/or their representative will conclude their case.
10. The Presenting Officer may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
11. The panel may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
12. The Presenting Officer will have the opportunity to sum up the case against the employee. No new evidence can be included at this point.

13. The employee and/or their representative will have the opportunity to sum up their case. No new evidence can be included at this point.
14. The Presenting Officer, the employee and their representative will leave the room so that the panel can deliberate.
15. Having deliberated on the matters placed before them, the panel will reach their decision and then recall both parties to advise them of the decision.



Disciplinary Guidance

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Purpose

This guidance should be used in conjunction with the Council's Disciplinary Policy and Procedure or the Disciplinary Policy and Procedure for JNC Grade and above.

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Stage 1 - Informal Discussion

On becoming aware of an employee's alleged misconduct (see [Appendix A for examples](#)), an appropriate manager (usually the employee's line manager) should make initial enquiries about the incident/concern. This will normally involve a discussion between the manager and the employee concerned to ascertain the employee's version of events. It is not usual practice for an employee to be accompanied at this stage. However, if the manager or employee feels that it would be appropriate, the employee may be accompanied by a work colleague or Trade Union representative. There is no requirement to provide the employee with notice of this meeting as it is part of normal day-to-day management.

On the basis of the discussion, the manager will need to consider whether any further action is required. The employee should be notified, verbally, of the outcome of the meeting. If it is necessary to remind the employee about the expected standards and any remedial action (e.g. training) which is required, this should be confirmed to the employee in writing. A copy of this letter should be retained by the line manager.

Notes of the discussion should be taken and the employee given the opportunity to amend them as necessary before signing and returning one copy. If the employee makes any amendments, where it is not possible to incorporate these changes, a copy of the amended notes should be kept on file along with the original version. Both copies will need to be presented to the panel if the case proceeds to a disciplinary hearing. Anything discussed as part of this meeting could be used as evidence in any subsequent meeting/hearing.

During or following the meeting, the manager will need to consider whether it is necessary to suspend the employee.

Where it is not appropriate to deal with an allegation informally or where further investigations are required, the employee should be advised that a Formal Investigatory Meeting will be arranged.

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Suspension

Suspension is not a disciplinary penalty and does not in itself imply any presumption of guilt on the part of the employee. It should only be considered if:

- The employee has been arrested or charged with a serious criminal offence which has an impact upon their position or calls into question their suitability for their job;
- There is a demonstrable concern that the employee or others (e.g. colleagues) may be placed at risk by the employee remaining in the work place;
- There is reasonable belief that the employee may seek to influence witnesses or the conduct of the investigation.

Suspension should only be imposed after careful consideration, which may include the possibility of transferring the employee or adjusting their work as an alternative to suspension. Advice should be sought from Human Resources before suspending an employee. Following discussions with HR, if the manager believes that the allegation is so serious that it warrants a period of suspension, this should be approved by a Director. Once the decision has been made it will be necessary for a meeting to be convened with the employee immediately. If the employee is not on site, they should be seen immediately when they are next at work.

Suspending an employee via email, voicemail or text is not considered suitable in any circumstance. Suspension via the phone should only be used in exceptional circumstances (e.g. if there is a safeguarding issue) and should be confirmed in writing to the employee as soon as possible.

In the case of safeguarding issues, theft or other possible criminal offences it may be necessary, as well as suspending the employee, for the Investigating Officer to consider informing the police of their investigation. Advice should be sought from Human Resources if it is felt that this measure is necessary.

Preparing for the Suspension Meeting

When preparing to suspend an employee the following should be considered:

- How the suspension will be carried out (i.e. when, where and by whom). It is important to ensure that confidentiality is maintained;
- Who will accompany the employee to collect their personal belongings;
- How other members of staff will be communicated with (bearing in mind the need to maintain confidentiality);

- What property/records should be obtained from the employee before they leave the premises (e.g. if the investigation is around the falsification of travel claims it may be necessary to ensure receipt of the employee's work diary in order to verify journeys travelled);
- Contact arrangements with the suspended employee (the employee's telephone number should be confirmed) including frequency of contact. It may be difficult for the employee's line manager to take on this position as they are likely to be the Investigating Officer, therefore a nominated manager will normally take on this role;
- Contact with other employees following suspension;
- How to escort the employee off the premises.

Conducting the Suspension Meeting

During the suspension meeting, the employee is likely to have a number of queries surrounding the nature of the concerns raised against them. It is important that the meeting does not turn into an investigatory interview and that the Investigating Officer does not engage in detailed conversation regarding the allegations. The employee will be invited to attend a Formal Investigatory Meeting where they will have the opportunity to put forward their version of events.

At the suspension meeting the employee should be advised:

- Why they have been suspended (i.e. outline the nature of the allegations but not specifics);
- That suspension is viewed as a neutral act and does not pre-determine the outcome of the investigation;
- That the suspension will be on full pay (providing that they make themselves available to be contacted and/or attend meetings throughout their suspension);
- That they should not enter the premises without prior permission;
- That colleagues and possibly service users will need to be informed of their absence and confirm what reason they would like to be given to explain their absence;
- That they should not discuss/involve/engage with or contact work colleagues, service users or others about the case. (If the employee wishes to call a witness, contact should be made via their representative. If they do not have a representative, contact should be made via the Investigating Officer);
- That they will be invited to attend a Formal Investigatory Meeting and given the opportunity to put forward their version of events / explain their conduct;
- That they should be available to be contacted or attend meetings during their normal working hours. Therefore, if applicable, prior to taking any leave it will be necessary to gain authorisation from their line manager;
- That Trade Union representation and welfare advice is available and should be sought if required. Employees are able to discuss the issues with their Trade Union representative;
- That any sickness during the period of their suspension must continue to be reported in line with the Council's sickness absence reporting procedures;

- That the investigation will be conducted as swiftly as possible and they will be kept updated on how the investigation is progressing. An investigation should not normally exceed 3 months' from the date that the allegation is formally made, unless there are contributory factors to justify this.
- That they are required to temporarily return any property belonging to the Council which may be required during their suspension (e.g. keys);
- That they are still within the employ of the Council and in line with their contract of employment should not undertake any work for another employer without prior permission;
- That they will receive written confirmation of the suspension meeting (the employee's current address should be confirmed).

The employee is able to be accompanied at the meeting if they wish and should be made aware of this at the beginning of the meeting. If the Investigating Officer is aware that the employee is a member of a union it may be appropriate for them to make contact with the union prior to the meeting to check if someone would be available to offer support to the employee either during the meeting or immediately afterwards. The detail of the concerns should not be divulged to the union representative in order to ensure the employee's privacy is maintained. The meeting should not be delayed if no-one is available to accompany the employee.

The Investigating Officer should confirm to the employee the reason for, and terms of, the suspension in writing as soon as possible after the meeting. A template letter is attached at [Appendix C](#). It is recommended that the duration of suspensions are kept to a minimum and that employees are kept updated on the progress of the investigation on a regular basis.

Lifting the Suspension

During the course of the investigation it may become apparent that it is no longer necessary for the employee to be suspended from work. In such cases, the Investigating Officer should contact the employee as soon as possible to advise them of this and to arrange their return to work. A template letter to confirm arrangements is attached at [Appendix D](#). The employee should be briefed on issues that have occurred during their suspension (e.g. progress on work the team may have been undertaking, appointments to vacant posts, etc.). It will also be necessary for the Investigating Officer to advise those employees affected by the investigation that the employee will be returning to work.

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Investigation

The Investigating Officer

Investigations will normally be conducted by the employee's line manager, unless they are involved in any way. Conducting an investigation can be time consuming therefore it is important, when identifying an Investigating Officer, that the individual has both the ability and time to commit to completing the task.

The role of the Investigating Officer is to collect relevant evidence, including that which is favourable to the employee and make a determination on the allegations based on the evidence. They should not be involved in making a decision on the disciplinary outcome but will be expected at the end of their investigation to make a recommendation on next steps. This recommendation will be forwarded, as part of the investigation report, to their manager or the manager for the employee's service area if the Investigating Officer is external or works in a different department (i.e. the Decision Maker) for consideration.

The expectation is that disciplinary matters will be dealt with as swiftly as possible and the whole process should be completed within a reasonable period of time. If an investigation exceeds 3 months from the date that the allegation is formally made, the reasons for this will be reviewed by the Decision Making Manager.

Throughout the investigation, the Investigating Officer should:

- Remain impartial and objective, and guard against forming personal opinions. The Investigating Officer's role is to gather the facts, not to make a judgement;
- Not allow personal opinion of the employee to cloud their opinion;
- Consider any mitigating circumstances the employee may wish to have taken into account;
- Focus on facts rather than opinions or assumptions;
- Consider the validity of the witness' version of events (e.g. does the witness have a personal grudge against the employee?);
- Maintain confidentiality;
- Ensure detailed notes are made which are signed and dated by the relevant person to confirm that they are an accurate record. Where the individual requests changes to be made, if it is not possible to incorporate these changes, a copy of the amended notes should be kept on file along with the original version.

Interviewing Witnesses

The Investigating Officer should arrange to meet individually with any witnesses, including those identified by the employee. There is an expectation that when asked, employees should co-operate and assist in the investigation process. If an employee is unwilling to participate, the Investigating Officer should seek to identify the reason for the employee's reluctance and assure them that they will be supported throughout the process. If the person accused of the allegations harasses or victimises a potential witness in any way, this could lead to further disciplinary action being taken.

When arranging to interview a witness the Investigating Officer should ensure that the meeting is held in an appropriate location and consider if any special requirements / reasonable adjustments are needed to support the employee (e.g. hearing loop). The meeting room should be booked to ensure sufficient time is

allowed for a thorough meeting to be conducted and time is factored in for rest breaks during the course of the interview.

At the meeting it is not necessary to inform the witness of the full facts of the case, the intention of the meeting is to discover what they have witnessed and obtain any information, including any documentation, which may assist in the investigation. The Investigating Officer should prepare in advance a list of questions for each witness so that they are clear about what issues they wish to discuss. As the meeting evolves it may be necessary for supplementary questions to be asked if further explanation or understanding is required. If a witness statement was produced immediately following the event, the Investigating Officer should refer to this when questioning the witness.

During the meeting the Investigating Officer should:

- Acknowledge that they appreciate it may be difficult for the employee to provide information about a work colleague and thank them for attending the meeting;
- Introduce the people present and explain their role;
- Explain the purpose of the meeting;
- Advise that breaks can be taken as necessary;
- Advise that a written record of the meeting / witness statement will be taken and sent to them for verification. They will have the opportunity to amend the notes as necessary before signing and returning one copy. Where the individual requests changes to be made, if it is not possible to incorporate these changes, a copy of the amended notes should be kept on file along with the original version;
- Use open questions to gain a broad picture (e.g. what happened next?);
- Reiterate the importance of maintaining confidentiality;
- Inform the witness that if the case proceeds to a disciplinary hearing they may be asked to attend and that the notes of their meeting / witness statement will be used as evidence and may be cross-examined.

As well as work colleagues it may be necessary to consider if any external people should be involved in the investigation process. If this is the case, they should be asked if they would be willing to assist the investigation (e.g. by providing a written statement). There is no general barrier to interviewing children or other client groups (e.g. adults with learning disabilities). The decision to include service users in the investigation must be taken very carefully and if considered necessary, permission should be sought from an appropriate senior manager following discussion with the relevant safeguarding team. Whilst the employee should be made aware of the service user's identity, it will be necessary to ensure that their identity is protected (e.g. by ensuring that initials rather than their full name is used in interview notes) as the paperwork may be seen by parties outside of any disciplinary proceedings (e.g. if a referral is required to the Disclosure and Barring Service).

Having conducted initial interviews with both the employee and witnesses, it may be necessary to re-interview either party if further clarification is needed or other allegations arise. Consideration should be given as to whether, as a consequence of any new information, it may now be necessary for the employee to be suspended if they are currently still at work or have their suspension lifted.

If, as a consequence of the investigation, it is determined that another employee has committed an act of misconduct it will be necessary for a separate investigation to be conducted to consider these concerns.

Collecting Evidence

In addition to interviewing witnesses, the Investigating Officer should collect any documentation that is relevant to the allegations raised. As a matter of course the employee's personal file should be accessed and a copy of the employee's job description and person specification obtained. The Investigating Officer should consider any previous disciplinary warnings the employee may have on file that relate to this or a similar issue.

The types of documents/information required will vary depending on the case but may include:

- Files and documents
- Policies and procedures
- Management documents (e.g. Financial Procedure Rules)
- Rotas and timesheets
- CCTV footage*
- Computer records*
- Telephone records*
- Door access systems*
- Automatic number plate recognition*
- Vehicle tracking systems*
- Training records
- Mileage claims forms
- Text messages (these should be copied and the written document signed by the Investigating Officer and recipient of the text)
- Service user medication records
- Supervision or Personal Review records
- Written complaints
- Witness statements
- Custom and practice

Assistance may need to be sought from colleagues within other departments as part of the investigation process (e.g. IT, Legal Services, Audit, etc.) for specific information in relation to accepted practice, rules and procedures.

If the employee would like information from any of the above sources to be considered as evidence, the Investigating Officer should arrange for this to be obtained or enable the employee to obtain the information.

***Use of Electronic and Surveillance Equipment**

If approval is given by Human Resources and the Monitoring Officer to consult the electronic records and these are subsequently used in a formal disciplinary case the following is recommended as best practice:

- The use of any records should be reasonable and proportionate to the issue under investigation;
- Only records which are to be specifically referred to at a disciplinary hearing should be included in the pack of evidence issued by the Investigating Officer;
- Records collated should be kept secure and destroyed at the conclusion of the case (which needs to allow time for an appeal, Employment Tribunal or civil claim);
- Care should be taken to act within the confines of relevant legislation and not inappropriately infringe on the employee's rights. Further advice is available from Human Resources;
- Covert monitoring of employees is rare but may be considered necessary where criminal activity is suspected. Such monitoring is strictly covered by the Regulation of Investigatory Powers Act (RIPA) and advice must be sought from Human Resources and Legal Services before invoking it.

Further guidance on the type of records available and the process for accessing this information is attached at [Appendix B](#).

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Stage 2 - Formal Investigatory Meeting

The Formal Investigatory Meeting will be conducted by the [Investigating Officer](#). The purpose of this meeting is to establish the facts and allow the employee to respond to the incident / concerns and evidence.

The employee should be informed in writing of the requirement to attend the meeting. This letter should confirm that there are concerns / serious concerns regarding the employee's conduct and, where possible, provide an outline of the concerns. It must also include details of the employee's right to be accompanied at the meeting by a work colleague or Trade Union representative. A template letter is attached at [Appendix E](#).

When choosing a work colleague the employee should bear in mind that it is not reasonable to be accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest. A work colleague who has agreed to accompany a fellow employee is entitled to take a reasonable amount of paid time off to fulfil that responsibility. Work colleagues do not have to accept a request to

accompany an employee and they should not feel pressurised to do so. The Investigating Officer should ensure that the work colleague is not a potential witness.

The Investigating Officer should ensure that the meeting is held in an appropriate location and consider if any special requirements / reasonable adjustments are needed to support the employee (e.g. hearing loop). The meeting room should be booked to ensure sufficient time is allowed for a thorough meeting to be conducted and time is factored in for rest breaks during the course of the interview. It may also be useful to book a second room in order to provide flexibility (e.g. to give the employee somewhere to wait during adjournments).

At the meeting the Investigating Officer will:

- Explain the purpose of the meeting and their role as Investigating Officer;
- Remind the employee, if they are not accompanied, of their right to representation by a work colleague or Trade Union representative and confirm that they are happy to proceed with the meeting. The representative is not able to answer questions on the employee's behalf;
- Ensure that the employee is clear on the concerns being raised;
- Ask the employee to respond to the concerns against them;
- Obtain details of any witnesses that will need to be interviewed following the employee's evidence;
- Obtain copies of any documentary evidence that the employee wishes to provide;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative.

When interviewing the employee the Investigating Officer should:

- Stick to facts and avoid making assumptions;
- Point out and question any discrepancies;
- Determine whether there are any special circumstances or mitigation to be taken into account;
- Not be afraid to challenge what the employee is saying;
- Be careful not to express disapproval or pass judgement (the Investigating Officer should not get involved in arguments or make personal remarks);
- Summarise the main points of discussion at the end of the meeting, therefore allowing all parties to be reminded of the nature of the offence, the arguments and the evidence put forward;
- Ask the employee, prior to ending the meeting, if there is anything else that they wish to say.

When questioning the employee the Investigating Officer should do so in a non-accusatory manner. Open questions should be asked during the interview (e.g. "what happened next?") in order to get a broad picture of the incident. Closed questions requiring a yes/no answer are required only when specific information is

needed. Leading questions (e.g. “would you describe Mr Smith as being aggressive?” or “you did everything you could to prevent the situation, didn’t you?”) should not be asked.

As well as determining the facts of the allegation it is important to ascertain if the employee has an understanding of the consequence of their alleged behaviour / action. In the following scenario, where an unattended child has fallen and hurt themselves, the Investigating Officer may wish to ask the employee responsible for caring for the child the following fact finding questions:

- Why did you leave the child unattended?
- When did you leave the room?
- What was the child doing when you left the room?
- Where was the child lying when you returned to the room?
- Who did you inform that an accident had occurred?

In the case of an employee pushing a member of the public whilst accompanying a service user to the shop the following questions may be considered to see if the employee has an understanding of the consequence of their behaviour:

- How would you act in hindsight if you were confronted by a member of the public again? Why would you do that?
- What do you consider is appropriate behaviour when working in the community?
- What do you think the service user would have felt?

The Investigating Officer is responsible for arranging for an external note taker to be present at the investigatory meeting. The line manager should contact Human Resources to obtain the contact details for external note takers. It is important to ensure that the note taker is competent and has no first-hand knowledge of the case. The note taker should be fully briefed on the details of the case and reminded of the importance of confidentiality. It is not expected that a verbatim account of the meeting will be produced. The employee should be advised in any correspondence of who the note taker will be.

Detailed notes should be taken at all meetings and two typed copies provided to the employee as soon as possible. The employee should be given a deadline by which to return one copy, signed to confirm that they are an accurate record. If the employee makes any amendments, where it is not possible to incorporate these changes, a copy of the amended notes should be kept on file along with the original version. Both copies will need to be presented to the panel if the case proceeds to a disciplinary hearing.

Following the meeting, the Investigating Officer will need to consider whether or not it is necessary to suspend the employee. If an employee is already suspended, consideration should be given as to whether, following the meeting, this can be lifted.

No formal disciplinary action will be taken until the matter has been fully investigated and, only if the matter is deemed to be serious then, a formal disciplinary hearing held.

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Concluding the Investigation

The investigation is complete once the Investigating Officer has interviewed the employee, any witnesses and/or other relevant parties, and has obtained sufficient evidence on which to base a decision as to whether or not there is a case to be answered. The Investigating Officer will need to consider all of the relevant evidence, including that provided by the employee, and take a balanced view as to whether the allegations against the employee are founded. The standard of proof for any investigation and any subsequent disciplinary hearing will need to be “on the balance of probabilities”.

The Investigating Officer should produce a report, for consideration by their manager or the manager for the employee’s service area if the Investigating Officer is external or works in a different department (i.e. the decision making manager), outlining their findings and a recommendation on next steps. As a copy of the report should be included in any disciplinary hearing paperwork, it is important that the report is well structured and clearly defines the background, methods of investigation, and summarises the key points. An example investigation report format can be found at [Appendix G](#).

The decision making manager should take on the role of deciding, based on the contents of the investigation report, what action should be taken and whether the case should proceed to a formal disciplinary hearing. Once a decision has been made, the employee should be advised of the outcome in writing as soon as possible by the decision making manager.

If the investigation concludes that there is no substance to the allegation, a misunderstanding has occurred or there is insufficient evidence to proceed further, the manager may decide that no further action is required. If there is no evidence, the Investigating Officer may wish to consider whether the person who originally made the allegation did so maliciously. If so, disciplinary action may be taken against this person. Advice should be sought from Strategic HR in this instance. A template letter advising the employee that no further action will be taken is attached at [Appendix F](#).

If the investigation reveals some evidence but it appears to be of a minor nature, the manager may decide to address the issue informally. In this instance, the decision making manager will need to arrange a meeting with the employee and reiterate the standards that are expected of them and if necessary implement any remedial action. If any training needs, support and/or coaching for the individual has been identified, the decision making manager will need to decide how best this should be delivered (e.g. via an action plan) and consider the timescales for reviewing

progress. The employee should be made aware that if no improvement has been made following the review period it may be necessary to consider if further disciplinary action is required. A template letter advising the employee that the issue will be addressed informally is attached at [Appendix F](#).

If the decision is made to proceed to a disciplinary hearing, the employee should be advised of the specific allegations in the letter inviting them to the disciplinary hearing. A template letter is attached at [Appendix J](#).

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Stage 3 - Disciplinary Hearing

If the outcome of the investigation is that formal disciplinary action should be taken, a disciplinary hearing will be convened to consider the case. The Investigating Officer (or decision making manager if the Investigating Officer is external or works in a different department) is responsible for organising the hearing, including arranging a panel, rooms, refreshments, and an external note taker. It is not expected that a verbatim account of the hearing will be produced.

Documentation

The Investigating Officer (or the decision making manager) will write to the employee, on behalf of the Chair of the panel, to notify them of the details of the hearing giving them a minimum of 10 working days' notice. The letter should include:

- The date, time and venue of the disciplinary hearing;
- A clear statement of the allegations;
- Details of the employee's right to be represented at the hearing by a work colleague or Trade Union representative;
- The names of any witnesses that will be attending.

A template letter is attached at [Appendix J](#). **A copy of any evidence that will be relied on at the hearing must also be enclosed.** This should include:

- Brief details of the employee's role and their employment (include a copy of the employee's job description and person specification);
- A copy of the investigation report (including copies of all signed meeting notes and statements);
- Copies of relevant policies and procedures.

An example disciplinary hearing folder contents list can be found at [Appendix H](#). Further guidance on preparing for the hearing can be found in the [Hearing Preparation Guide](#).

The letter to the employee must also request that if they intend to refer to any documentation at the hearing, a copy of this must be sent to the Investigating Officer, (or decision making manager) with the names of any witnesses, at least 5 working

days before the date of the hearing. The Investigating Officer (or decision making manager) should ensure that copies are provided to the panel members.

At the disciplinary hearing the Investigating Officer (or decision making manager) will be required to act as Presenting Officer and present a 'statement of case'. This should include information relating to the individual's employment, what the allegations are and how they came about, details of the investigation and its findings. Attached at Appendix I is an example statement of case format which the Presenting Officer may find useful as a basis for their presentation. It is important that only relevant, factual, concise information which can be evidenced is presented.

In advance of the hearing, the Presenting Officer should try to predict the questions which the employee and panel may ask and prepare the answers. If witnesses are due to attend in support of the management case, questions the Presenting Officer wishes to ask of them should also be prepared in advance.

Failure to Attend

Wherever possible, arrangements for the date of the hearing should be made in consultation with the employee and their representative. Where an employee's chosen representative is unable to attend on the arranged date of the hearing the employee can suggest an alternative within 5 working days of the original date. It is important that the employee is made aware that if they fail to attend on the given (or rearranged) date without an acceptable reason, the hearing may go ahead in their absence.

Where an employee is not able to attend due to ill health it may be necessary, depending on the length of and reason for the absence, to postpone the hearing. In such cases, it may be appropriate for an Occupational Health referral to be made regarding the employee's fitness to attend a hearing.

Witnesses

It is the responsibility of the Presenting Officer (i.e. the manager who will be presenting the case at the disciplinary hearing) to ensure that they invite any witnesses (if required) to attend the hearing.

Likewise, it is the employee's responsibility to ensure that they invite any witnesses (if required) to support their case at the hearing. Please note that the employee's Trade Union representative / work colleague can act on behalf of the employee to arrange their attendance at the hearing if permission from the employee has been granted.

Witnesses should only be present at the hearing whilst questions are being asked of them by the employee/representative, Presenting Officer and panel members.

Release of Witnesses

Employees who are asked to attend a disciplinary hearing as a witness **must** be released from duty unless this would have a significant impact on service delivery. Advice should be sought from Human Resources before declining such a request.

Conduct of the Hearing

1. The panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their statement of case. They should refer to documents circulated beforehand to evidence their views.
3. If applicable, the Presenting Officer will invite management's witnesses (one by one) to the hearing. The witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
4. The Presenting Officer will conclude their statement of case.
5. The employee and/or their representative may question the Presenting Officer on their case presentation.
6. The panel may question the Presenting Officer on their case presentation.
7. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
8. If applicable, the employee or their representative will invite the employee's witnesses (one by one) to the hearing. The witness will be questioned initially by the employee and/or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
9. The employee and/or their representative will conclude their case.
10. The Presenting Officer may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
11. The panel may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
12. The Presenting Officer will have the opportunity to sum up the case against the employee. No new evidence can be included at this point.

13. The employee and/or their representative will have the opportunity to sum up their case. No new evidence can be included at this point.
14. The Presenting Officer, the employee and their representative will leave the room so that the panel can deliberate.
15. Having deliberated on the matters placed before them, the panel will reach their decision. Depending on the complexity of the case, it may be appropriate to ask all parties to wait and be recalled to be advised of the outcome. In other cases, it may be more appropriate for the panel to deliberate and to advise the employee and subsequently the management side of the outcome, at a later date. If this is the case, the decision should be made within a reasonable timescale e.g. within a few days and the method of contacting the employee should also be agreed before the hearing is concluded.

Potential Outcomes

For each allegation the panel will first need to decide whether that allegation is founded or not. If founded, they will then need to consider an appropriate sanction. The following options are available to the panel dependent on the seriousness of the offence. Examples of actions / behaviours / attitudes which may constitute gross misconduct and misconduct are shown in Appendix A.

- **No Case to Answer / No Further Action Necessary**

There may be instances where the outcome of the hearing is that there is no case to answer (i.e. there is no finding on the disciplinary charge or the findings are so insignificant). In these circumstances the case will be dismissed without any further formal action against the employee although the panel may wish to make recommendations (e.g. training).

- **First Written Warning**

For less serious breaches of discipline a First Written Warning may be issued. The employee will be given a letter confirming the warning including confirmation of any improvement required and the consequences should the required standard not be achieved. A record of this will be kept on file for a period of 6 months from the date of the disciplinary hearing after which time it will be disregarded, unless it is connected to the safeguarding of children and/or vulnerable adults.

- **Final Written Warning**

In cases where there has been a further act of misconduct related to a previous warning, or where the misconduct is sufficiently serious, a Final Written Warning may be issued. The employee will be given a letter confirming the warning including confirmation of the improvement required and the consequences of their future conduct not meeting the required standards. A record of this will be kept on file for a period of 12 months from the date of the disciplinary hearing after which time it will be disregarded, unless it is connected to the safeguarding of children and/or vulnerable adults.

- **Dismissal**

Except for cases of gross misconduct (see [Appendix A](#)), an employee should not usually be dismissed for a first breach of discipline. Employees should be dismissed with notice (or pay in lieu of notice) except in the case of gross misconduct where the employee will be dismissed without notice.

The disciplinary sanctions outlined will normally be followed sequentially in the order shown above. However, offences of a serious nature may be brought into the procedure at any level if an earlier sanction would not be appropriate or severe enough to deal with the issue.

Notification of the Outcome

Where possible, the outcome of the hearing should be confirmed verbally on the same day as the hearing has taken place. The outcome of the hearing should be confirmed in writing as soon as possible by the Chair of the panel. A template letter can be found at [Appendix K](#). The letter should state the reason for the decision, confirm the sanction awarded and advise the employee of their right of appeal. A copy of the notes from the hearing should also be provided.

Safeguarding Allegations

If an employee is dismissed, or resigns before dismissal, where there are safeguarding allegations then a referral must be made to the [Disclosure and Barring Service \(DBS\)](#). Human Resources are available to support the referral process.

Details of allegations (including warnings) that are connected to the safeguarding of children and/or vulnerable adults should be retained on an employee's personal file until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Information which relates to allegations that were unfounded or found to be malicious should not be retained.

Allegations of Unacceptable Behaviour

For cases involving allegations of unacceptable behaviour (i.e. bullying and/or harassment), a mandatory meeting **must** be held at the end of the disciplinary process, except where the outcome has been dismissal, to re-establish working relationships between the relevant parties. This meeting should take place as soon as possible and should focus on agreeing strategies to assist the parties to resume and repair their working relationship. It may be beneficial for a third party (e.g. manager, trained mediator) to be involved in this meeting to help facilitate a solution. Further information on mediation is available from Human Resources.

Right of Appeal

The employee has the right to appeal against all disciplinary sanctions and must be advised of this right in the hearing outcome letter. Any appeal must be submitted in writing by the employee within 7 working days of receiving notification of the hearing outcome.

Appeals against warnings should be submitted to the Chair of the panel and will be heard, in line with the [Appeal Policy and Procedure](#), by a panel of two officers, chaired by a Strategic Director and accompanied by a representative from Human Resources. Template letters for inviting an employee to an appeal hearing and confirming the outcome can be found at [Appendix M](#) and [Appendix N](#).

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Hearings relating to JNC employees

The Policy relating to JNC level employees clearly sets out the composition of the hearing panel and also allows for an alternative sanction to dismissal. Alternative sanctions suggested include secondment or redeployment to a lower graded post. A panel who would wish to explore this sanction would need to carefully consider the practicalities of this option e.g. does such a vacant post exist and if so does the employee meet the essential requirements of the job. The panel must also consider whether the behaviour which warranted dismissal, within their current post, could be deemed to be acceptable in a lower level post.

If the panel explore whether a realistic alternative to dismissal can be accommodated, but conclude that the employee will be dismissed, they should then ensure that brief notes of that deliberation are recorded.

Notice of dismissal, in all circumstances for JNC staff, cannot be issued until the Chief Executive is provided with the name and relevant details relating to the proposal to dismiss. This should be done without delay as the Chief Executive needs to provide these details to every member of the Cabinet, along with relevant details and timeframe within which any objections can be raised. Panel members should work closely with the Chief Executive to ensure that this opportunity for an objection is provided to the employee within 5 working days.

If an objection is raised by a Cabinet member then the basis of their objection needs to be explored with the Chief Executive. The employee should be notified of the situation and given a realistic timescale for the issue to be resolved as quickly as possible.

Hearings Relating to Head of Paid Service, Monitoring Officer and Chief Financial Officer

This policy allows for an informal stage, a meeting with a panel appointed by the Personnel Committee, a hearing by the Personnel Committee a referral to an Independent Panel and consideration by the Full Council. Guidance on managing those stages is set out below:

- The Chief Executive or appropriate person will investigate and discuss the conduct in order to assess whether to deal with it informally. If they conclude that the matter is of a serious nature and there is a reasonable level of evidence that the employee's conduct is unacceptable, then a meeting should be arranged with a panel appointed by the Personnel Committee. That panel is able to decide that no further action should be taken, issue sanctions short of dismissal or appoint an independent investigator. They can also consider secondments or redeployment at this stage, and would also need to carefully

consider the practicalities of this option e.g. does such a vacant post exist and if so does the employee meet the essential requirements of the job. The panel must also consider whether the behaviour which warranted dismissal, within the employee's current post, could be deemed to be acceptable in a lower level post. The employee has right of appeal at this stage, in relation to sanctions short of dismissal, through the Councils Appeal Policy and Procedure:

- Following an independent investigation, the case will be considered by a panel appointed by the Personnel Committee who have had no prior involvement in the case. This panel can decide that there is no case to answer, to issue a penalty short of dismissal or to dismiss the employee. The employee can appeal against penalties short of dismissal through the Council's Appeal Policy and Procedure. If the employee is dismissed, then an Independent Panel will be convened to review the case and prepare a report for Full Council:
- Full Council will consider the report and listen to any challenges that the employee or their representative makes. There is no further process of appeal for the employee following this meeting:
- If full Council uphold the dismissal, then the Chief Executive or appropriate officer should provide every member of the Cabinet with the opportunity to object to the dismissal before it is confirmed in writing within 5 days of the meeting. If an objection is raised by a Cabinet member then the basis of their objection needs to be explored with the Chief Executive. The employee should be notified of the situation and given a realistic timescale for the issue to be resolved as quickly as possible.

Grievance raised during the Disciplinary Process

The Council's Grievance Policy should not be used for appeals against disciplinary decisions, as this is the purpose of the Appeal Policy. If, however, the employee has a complaint against the disciplinary process during the course of a disciplinary case, they may raise a grievance using the Council's Grievance Policy. If necessary, the disciplinary procedure may be suspended for a short period until the grievance can be considered. There may be a number of possible outcomes from this including:

- Application of other formal action such as disciplinary against another employee / manager;
- Instigation of other separate investigations which should not prevent the current issue being progressed wherever possible;
- That another manager is brought in to deal with the disciplinary case.

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Other Factors

Criminal Offences

Advice should be sought immediately from Human Resources if a case appears to involve criminal activity so that a decision can be made as to whether the matter should be referred to the police. In such circumstances the employee will normally be informed of such action unless the police advise otherwise.

Employees who are charged with or convicted of a criminal offence should only face disciplinary action if the conduct which led to such charges has implications on their employment or their suitability for the job. If insufficient evidence is available to form a reasonable view as to whether or not a disciplinary hearing should be held, action should be deferred until further enquiries have been made or the matter is settled by a court.

Allegations of Financial Irregularity

In all cases where fraud, corruption or impropriety are suspected or detected these must be reported immediately to Audit and Finance.

Disciplinary Action against a Trade Union Official

Although normal disciplinary standards will apply to their conduct as an employee, no disciplinary action should be taken against a Trade Union representative until the circumstances of the case have been discussed with a senior Trade Union representative or full-time officer of the Trade Union concerned. Disciplinary action should not be taken against an employee due to trade union related activities.

Allegations of Safeguarding

Any allegations of misconduct that involve potential safeguarding issues connected with children must be discussed with Human Resources prior to any discussions taking place with the employee.

If an allegation is in any way connected to the safeguarding of children or adults then a referral must be made to the Disclosure and Barring Service (DBS) at the appropriate point in the process. Information provided by the police or other agencies (e.g. investigation outcome, statements) should be shared with the employee, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

Use of Electronic Surveillance Records

Managers who strongly suspect employee misconduct and believe that access to electronic surveillance records may support their case must first discuss their concerns with Human Resources. Further information is available in Appendix B.

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Appendix A - Examples of Misconduct and Gross Misconduct

Examples of Misconduct

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work without reasonable cause;
- Damage to Council property;
- Failure to follow Council procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of Council facilities;
- Undertaking unauthorised employment;
- Improper behaviour or conduct towards colleagues or members of the public;
- Unreasonable refusal to follow a management instruction;
- Abuse of the E-Communications Policy.
- Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc.....)

Serious examples of any of the above may amount to gross misconduct.

Examples of Gross Misconduct

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;¹
- Deliberate falsification of reports, accounts, expense claims or self-certification forms;
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the Council or to another employee or customer;
- Unauthorised entry to computer records or deliberate falsification of records;
- Serious breach of the Council's E-Communications Policy;
- Repeated refusal to carry out duties or reasonable instructions or to comply with Council policies and procedures;
- Serious Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc.....)

1 - In certain cases drugs prescribed by a doctor or purchased from a chemist can induce drowsiness and will include the advice not to operate machinery. Employees must inform their line manager if they have taken such medicine and would normally be required to operate machinery or drive a vehicle during the course of their work.

- Serious breaches of confidence, confidentiality or the Data Protection Act 1988 (subject to the Public Interest Disclosure Act 1988);
- Deliberate or reckless damage to Council property;
- Serious acts of insubordination;
- Acts of bullying, harassment or discrimination (i.e. unacceptable behaviour);
- Serious breach of the Council's safety rules or a single error due to negligence which causes or could have caused significant loss, damage or injury to the Council, its employees or customers;
- Bringing the Council into serious disrepute;
- A criminal offence, which may (whether it is committed during or outside of the employee's hours of work) adversely affect the Council's reputation or the employee's suitability for or ability to undertake the type of work they are employed to perform;
- Violent or threatening behaviour;
- Failure to maintain professional registration where this is a pre-requisite for the post;
- Failure to maintain satisfactory DBS clearance where this is a requirement for the post.

Appendix B - Use of Electronic Surveillance Equipment Records and Data in Disciplinary Cases

This policy does not affect any other policies relating to equipment used at Charnwood Borough Council.

Types of Relevant Equipment in Use

Electronic surveillance equipment of various types is in operation at Charnwood Borough Council, namely:

- CCTV cameras
- Door access system
- In-vehicle monitoring - tracker devices
- Body Worn Video (BMV)
- Mobile hand-sets i.e. hand held
- Car park access system
- Chipside activity data

Data and information from this equipment is monitored and gathered by the Council in the interests of safety and security. It may also include information about employees' activities to ensure that they carry out their duties efficiently and safely, or for training purposes and record-keeping.

E-Communications Data Records

Other sources which leave a data record are:

- Telephony system
- Emails - incoming and outgoing
- Internet usage (Please also see: [Internet and Email Acceptable Usage Policy](#))

Charnwood Borough Council is transparent in the way that it monitors and gathers data and information obtained from electronically collected data. Information collected for another purpose than which employees have been advised, will not be used for another purpose unless it is clearly in the employees interest to do so or the information potentially reveals activity that the Council could not reasonably be expected to ignore. The type of activities which could not reasonably be ignored might include criminal activity in the workplace, gross misconduct or breaches of health and safety rules that jeopardise other workers or members of the public.

Charnwood Borough Council does not use data and information that it holds to deliberately scan or review for issues relating to employee conduct.

Condition of Service / Contracts of Employment

Employees are advised through their individual contracts of employment that data and information from any of the above sources may be used as evidence in

suspected disciplinary matters that may involve them where it is believed that gross misconduct may have potentially occurred.

Suspected Misconduct - Management Action

Managers, who strongly suspect employee misconduct, should initially meet with the employee to discuss their concerns and, where appropriate, advise them their behaviour is unacceptable informing them of the required standard. Details of the meeting should be followed up in writing and placed on the employee's file. At this stage unless gross misconduct is suspected, there should be no need to gather electronic data. Further occurrences however are likely to be perceived as gross misconduct and the manager is then able to request electronic data as part of their investigation. A formal checklist is available for this purpose.

Gross Misconduct

Safeguards are in place to ensure there is a justifiable and reasonable reason for managers requesting electronic records. Therefore managers who strongly suspect gross misconduct and believe that the electronic logs from any of the above sources may support their case must first discuss their concerns with the HR Team Manager. Based on the case put forward by the manager, the HR Team Manager will contact the Monitoring Officer who may authorise the electronic logs to be examined and subsequently used where necessary and appropriate. **No electronic surveillance logs can be requested beyond a 12 month period. Information relating to CCTV imaging is only stored for a period of 28 days, therefore any requests should be made as soon as practicable. CCTV imaging may only be requested for footage collected on Charnwood Borough Council premises. Although the final decision to release the footage lies with the CCTV Manager, initial approval is still required from the HR Team Manager.**

On no account should the manager contact Internal Audit/ICS Services directly for access to the information without HR approval and guidance and authorisation from the Monitoring Officer.

As part of any investigation relating to an allegation of gross misconduct, employees who believe that information gathered by the Council's electronic logs will help demonstrate that the allegation is unfounded, will have the right to request access to that information which has been collected within the last 12 month period. This does not affect the employee's right to make a subject access request, however full access requests covering any other personal data held by the Council will be subject to a £10 fee. Information relating to CCTV imaging is only stored for a period of 28 days. This request should be placed with their manager although the final decision to release the footage lies with the CCTV Manager. CCTV imaging may only be requested for footage collected on Charnwood Borough Council premises. Should an employee believe that their request is not being complied with then they have the right to contact their Strategic Director.

It is acknowledged that all cases will differ in nature and severity, and some instances may require immediate and decisive action, i.e. alleged gross misconduct. However, before consulting an HR Team Manager, the manager should:

- Have a reasonably strong suspicion of serious, regular and/or prolonged misconduct amounting to gross misconduct;
- Be clear about the nature of the employee's alleged transgression(s);
- Be able to give an indication of the frequency, level of seriousness and time period over which the employee is alleged to have transgressed. For example, have monitored the situation for a period of time through observation and diary noting events (e.g. arrival and departure times, diminished work output versus time spent on the PC, etc.);
- Be aware of the activities of co-workers and take care not to single out a particular individual;
- Ensure the action he/she takes is proportionate to the alleged case. For example, it may be more appropriate to use censure and correction rather than formal action where the issue may be a minor, one off transgression perhaps through ignorance or forgetfulness or where it is not a regular occurrence or blatant gross misconduct. Simply cautioning the employee against further transgressions may resolve the matter. It may be more appropriate in those instances therefore for the manager to speak to the employee informally, outline why, how and when the employee transgressed pointing to the relevant policy or procedure, and advise him/her that further commissions of the same or similar offence in the future may lead to formal disciplinary action.
- Have already completed an initial investigation except in the instance of suspected gross misconduct.

Appendix C - Confirmation of Suspension

STRICTLY PRIVATE AND CONFIDENTIAL

[Date]

[Address]

[Date]

Dear [Name],

I am writing to confirm the outcome of our meeting on [date] during which you were advised that, following serious concerns regarding your conduct, you were being suspended from work with immediate effect. As I advised, suspension is not a disciplinary penalty and is not a presumption of guilt. To reiterate, I have not come to a view about whether or not the concerns against you are true and will not do so until these have been thoroughly investigated.

During your suspension you will receive your full contractual basic pay and an investigation will be undertaken into the concerns which have been raised. It is a term of your suspension that you should not attend work in any capacity (including casual work) and you should not contact or discuss these concerns with colleagues [or service users].

During the course of your suspension you must be available to be contacted at all times during your normal working hours and will be required to make yourself available for meetings as appropriate. You have the right to be accompanied at any such meetings and this can be a work colleague or a Trade Union representative.

I appreciate that this is a concerning time for you and would like to remind you that the services of AMICA are available to you. Trade union members can also contact their union for advice and support.

If, as a result of the investigations, there are grounds for formal disciplinary proceedings to be invoked, you will be informed in writing of the reasons for this action and given adequate notice of any disciplinary hearing and your rights of representation at that meeting. A copy of the Disciplinary Policy and Guidance is enclosed for your information.

Finally, I would like to assure you that the investigation will be conducted as speedily as possible and I will contact you [insert frequency] to update you on its progress. Once completed, you will be notified of the outcome. As your suspension will be reviewed on a regular basis, if it is decided that it can be lifted, I will of course get in touch with you immediately.

If you have any queries about the contents of this letter then please do not hesitate to contact me on [insert telephone number].

Yours sincerely,

[Name of Investigating Officer]
[Job Title]

Encs

Disciplinary Policy and Guidance
AMICA leaflet

Appendix D - Lifting of Suspension

STRICTLY PRIVATE AND CONFIDENTIAL

[Date]

[Address]

[Date]

Dear [Name],

I am writing to advise that following my letter dated [insert date of suspension letter] I have reviewed your suspension.

Following [enter details of reason why suspension is being lifted, e.g. new evidence] it has been decided that your suspension from work is to be lifted with effect from [date].

In order to assist you with your return to work, I would be grateful if you would contact me to arrange a meeting to discuss how this could be best facilitated. [Or enter details of return if these are already known]

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely,

[Name of Investigating Officer]

[Job Title]

Appendix E - Invitation to Formal Investigatory Meeting (Stage 2)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

I am writing to invite you to a Formal Investigatory Meeting under Stage 2 of the Disciplinary Policy into [serious] concerns regarding your conduct.

The nature of the allegations are [provide an outline of the nature of the allegations where possible.]

The investigatory meeting will take place at [time] on [date] in [venue]. [Name] will also be in attendance to take notes.

The purpose of this meeting is to give you the opportunity to put forward your case and to provide any relevant information. A copy of the Disciplinary Policy and Guidance is enclosed for your information.

As this is a formal meeting, you are entitled to be accompanied by a work colleague or Trade Union representative.

Once the investigation has been completed you may be required to attend a formal disciplinary hearing. If this is the case, you will be given every opportunity to state your case and outline your version of events. You will again be entitled to be accompanied by either a work colleague or Trade Union representative.

Please sign and return the second copy of this letter as acknowledgement of receipt.

Should you wish to clarify any points in relation to this meeting, please do not hesitate to contact me.

Yours sincerely,

[Name of Investigating Officer]
[Job Title]

Disciplinary Guidance
Version: 2016 -1
Agreed at: Personnel Committee
Date agreed: 20/09/16

I acknowledge receipt of the letter dated [date].

I will/will not be attending the Formal Investigatory Meeting arranged for [date].

Signed: _____

Date: _____

Print Name: _____

Appendix F - Outcome of Disciplinary Investigation (Stage 2)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

Following the Formal Investigatory Meeting on [date], I am writing to confirm the outcome of the investigation into your conduct.

At the meeting the following concerns were discussed:

[List concerns]

[Name] was present as your representative and [name] to take notes.

[Delete options below as appropriate]

Option One

On the basis of the findings of the investigation, I feel that no further action is necessary as the incident / allegation is not substantiated.

Option Two

As a result of the findings of the investigation, I am satisfied that the incident/allegation has been investigated sufficiently and I will address the issue on an informal basis. [Include details of the standards which are expected and any action which is required]. Please note that failure to achieve and maintain the required standards/improvements may result in formal disciplinary action being taken against you.

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely,

[Name of Decision Making Manager]

[Job Title]

Appendix G - Investigation Report Template

The following guidelines may be useful for the Investigating Officer to consider when preparing their investigation report:

1. Background of Work Employment

Details of the employee's job role, how long they have been employed, etc.

A copy of the employee's job description and person specification should be attached as an appendix.

2. Allegations and how they came to light

3. Methodology

How evidence was gathered

A full list of witnesses interviewed including a brief rationale as to why they were interviewed

What documentation, other evidence was collected / considered

4. Findings

Describe what evidence was found

How the evidence was evaluated

Any contributing factors to the situation

Any mitigating circumstances

Why a particular version of events was preferred when conflicting views were given

Consistencies and inconsistencies in evidence should be outlined and explanations given if known

Any risks identified

5. Conclusion

The Investigating Officer should state clearly if the investigation was conclusive and what the conclusions are.

6. Recommendation

Based on the information that the Investigating Officer has gathered they need to complete their report by providing a recommendation as to how they feel the case should proceed.

When formulating their recommendation and considering whether or not disciplinary proceedings are appropriate the Investigating Officer should:

- View the matter objectively;
- Take into account all of the evidence gathered, including the employee's version of events or explanation of what happened as well as anyone they asked to be interviewed as part of the investigation process;
- Decide the matter by applying the balance of probabilities;
- Take a reasoned decision on whether or not to recommend that disciplinary proceedings against the employee should be instigated;

- Identify any associated risks e.g. safeguarding.

Action recommended may include:

- No case to answer;
- Informal action;
- Disciplinary action to be taken;
- Training and development;
- Mediation.

As part of the investigation report it is necessary to include appendices of any evidence that has been collated which back up the main report.

HR Comments

Appendix H - Hearing Folder Contents List Template

This template is to provide a framework on how to structure a disciplinary hearing folder. It is not intended to be prescriptive and can be adapted to suit individual requirements.

Name of Employee
Disciplinary Hearing
Date and Venue of Hearing

Panel Members:

Name, Job Title (Chair)

Name, Job Title (HR Representative)

Presenting Officer:

Name, Job Title

Section 1 Disciplinary Policy

- 1.1 Disciplinary Policy
- 1.2 Hearing Format

Section 2 Employment Details

- 2.1 Employee Summary (Job Title, Grade, Hours, Start Date, etc.)
- 2.2 Contract of Employment
- 2.3 Job Description and Person Specification

Section 3 Correspondence

- 3.1 Confirmation of Suspension dated [date]
- 3.2 Invitation to Formal Investigatory Meeting dated [date]
- 3.3 Outcome of Disciplinary Investigation dated [date]
- 3.4 Invitation to Disciplinary Hearing dated [date]

Section 4 Witness Statements / Notes of Meeting / Evidence

- 4.1 Witness statement from [name/job title] dated [date]
- 4.2 Witness statement from [name/job title] dated [date]
- 4.3 Notes from Formal Investigatory Meeting held on [date]
- 4.4 Copies of evidence (e.g. complaint letters, PDR's, etc.)

Section 5 Supplementary Information

- 5.1 Induction/Improvement/Training plans from [date]

Appendix I - Statement of Case Template

The statement of case is the presentation that the Investigating Officer will make at the disciplinary hearing. Each statement of case will obviously be slightly different but as a rule the following guidelines can be used:

1. Introduction

The introduction should cover general background information about the employee which will also include information on their role and responsibilities, for example:

- Start date
- Job role
- Responsibilities (making reference to job description and person specification contained in the disciplinary hearing folder)
- Hours of work
- Any relevant training
- Any other local arrangements which the Investigating Officer feels the panel should be made aware

2. Allegations

- Set out the allegations investigated
- How the investigation came about
- Details of any previous relevant warnings / concerns and how they may have sparked off more serious concerns

3. Investigation

In order to determine the outcome of the hearing the panel need to ensure that a fair investigation has been conducted. It is therefore necessary for the Investigating Officer to outline how they carried out their investigation making reference to documentation contained in the disciplinary hearing folder.

4. Findings

This should set out the findings of the case. It is recommended to put a chronology of events at the start and then set out under each allegation heading, what was found. A number of specific incidents should be identified and referred to in greater depth.

To support the evidence gathered it will be necessary for the Investigating Officer to call any witnesses who are key to the investigation. This is not confined to people who witnessed the event in question but can include individuals with specialist knowledge of specific procedures.

5. Management Expectation

The Investigating Officer should identify their expectations for example, how an employee should behave in the specified circumstance and why their conduct was not acceptable. Where possible this should be backed up with any documents or policies.

6. Summary

The Investigating Officer should briefly make reference to the key points of their investigation. No new information should be referred to at this stage.

Appendix J - Invitation to Disciplinary Hearing (Stage 3)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

Following the Formal Investigatory Meeting on [date] and the completion of my investigation, the decision has been made to progress to a disciplinary hearing. I am therefore writing to invite you to a disciplinary hearing and to confirm the arrangements.

The hearing will take place at [time] on [date] in [location] and will be heard by [name, job title], [name, job title] and [name, job title]. Also present will be [name] to take notes. On arrival you should report to [location] and ask for [name].

[Name] will be in attendance at the hearing to present the management case. Enclosed is a copy of the documents that will be referred to at the hearing.

During the course of the hearing you will have the right to hear and question all of the evidence presented. You will also have the opportunity to present your case.

The purpose of the hearing is to consider and seek your explanation about the following allegations:

[Include allegations]

[If applicable] These allegations are in breach of the following policies:

[Include details of policies]

In view of the seriousness of these allegations, consideration will be given as to what disciplinary action to take. You will need to be aware that all disciplinary matters are considered serious and a range of penalties are available, including summary dismissal. [If appropriate: These allegations, jointly or separately, may amount to gross misconduct and could result in your dismissal.]

As this is a formal meeting, you are entitled to be accompanied by a work colleague or Trade Union representative.

Please confirm if you are able to attend the hearing and whether you will be calling any witnesses to support your case so that necessary arrangements can be made. [For your information, I will be calling [name] as a witness]. If you are unable to

provide names of witnesses at this point in time, these may be submitted to [name] no later than 5 days before the hearing. Any documentation that you wish to provide should also be submitted to [name] no later than 5 days before the hearing.

If you are unable to attend the hearing, please contact me as soon as possible to advise me of the reasons for your non-attendance.

Should you or your representative require any special arrangements in order to attend the hearing, please contact me on the above number as soon as possible so that I can facilitate these for you.

A copy of the Disciplinary Policy and Guidance is enclosed within the evidence folder for your information.

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely,

[Name of Decision Making Manager]
[Job Title]

I acknowledge receipt of the letter dated [date].

I will/will not be attending the Disciplinary Hearing arranged for [date] (if not attending please provide a reason and note that if this is not an acceptable reason the hearing may go ahead in your absence). Please note that if you do not respond to confirm your attendance before the hearing date it will be assumed that you will be attending.

I will/will not be calling witnesses (please provide names of any witnesses you intend to call).

Signed: _____ Date: _____

Print Name: _____

Appendix K - Outcome of Disciplinary Hearing (Stage 3)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

I am writing to confirm the outcome of the Disciplinary Hearing held on [date] which was heard by me along with [name, job title] and [name, job title]. Also present were [name] as your representative and [name] as note-taker.

The purpose of the hearing was to consider the following allegations:

[List allegations]

[Delete options below as appropriate]

Option One

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision (i.e. founded or unfounded) on each of the allegations making reference to mitigating circumstances if applicable]. As a result, no further action will be taken against you on this occasion.

[Include further details as to why this decision was made and, if applicable, any recommendations/expectations given by the panel.]

In cases of alleged unacceptable behaviour (bullying and/or harassment):

[You are required to attend a **mandatory** meeting to discuss and agree strategies to assist you and [name] to re-establish your working relationship. Your manager will confirm the details of this meeting to you as soon as possible.]

Option Two

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision on each of the allegations (i.e. founded or unfounded) making reference to mitigating circumstances if applicable].

Given the above, the panel has decided that you should be issued with a [first/final] written warning. This warning will remain on your file for [6/12] months. [As this warning relates to an allegation of safeguarding of children/vulnerable adults then it will remain on your file until you reach normal retirement age or for a period of 10 years from the date of the allegation, whichever is longer.]

As explained to you at the hearing, an immediate improvement in your conduct is expected. [Include details of the required improvements.] If you fail to demonstrate an acceptable improvement, or if any offence of a different nature occurs during the life of this warning, the likely consequence is that further formal disciplinary action will be taken against you. This could include the termination of your employment.

I have enclosed a copy of the Appeal Policy and Procedure along with an appeal registration form. You have the right to appeal against this decision and should complete and return the appeal registration form to me within 7 working days of receiving this letter.

In cases of alleged unacceptable behaviour (bullying and/or harassment):
[You are required to attend a **mandatory** meeting to discuss and agree strategies to assist you and [name] to re-establish your working relationship. Your manager will confirm the details of this meeting to you as soon as possible.]

Option Three

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision on each of the allegations (i.e. founded or unfounded) making reference to mitigating circumstances if applicable].

Given the above, it is the panel's view that your actions did constitute gross misconduct and therefore, you are summarily dismissed from the Council's employment with immediate effect. Your P45 will be forwarded to you shortly.

[As a result of your dismissal, I must advise you that I will be informing the Disclosure and Barring Service who may wish to undertake their own investigation.]

You are required to return any property which is still in your possession and [name] will be in contact with you to arrange this.

I have enclosed a copy of the Appeal Procedure along with an appeal registration form. You have the right to appeal against this decision and should complete and return the appeal registration form within 7 working days of receiving this letter.

Should you decide to appeal; the effect of the dismissal will still stand pending the outcome of the appeal hearing.

Option Four

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision on each of the allegations (i.e. founded or unfounded) making reference to mitigating circumstances if applicable].

On [date of previous letter] you were informed in writing that you had been given a final written warning in accordance with the Disciplinary Policy. In that letter you were advised that failure to improve your conduct or committing another act of misconduct, whether the act was of the same or different nature, could result in your dismissal.

Given the above, it is the panel's view that your conduct is not satisfactory and therefore, you are dismissed from the Council's employment. As this is not summary dismissal, you are entitled to [duration] paid notice from the date of the hearing and therefore your employment will terminate on [date]. You [are/are not] required to work this notice. Your P45 will be forwarded to you shortly.

[As a result of your dismissal, I must advise you that I will be informing the Disclosure and Barring Service who may wish to undertake their own investigation.]

You are required to return any property which is still in your possession and [name] will be in contact with you to arrange this.

I have enclosed a copy of the Appeal Procedure along with an appeal registration form. You have the right to appeal against this decision and should complete and return the appeal registration form within 7 working days of receiving this letter.

Should you decide to appeal; the effect of the dismissal will still stand pending the outcome of the appeal hearing.

A copy of the notes taken at the hearing is enclosed for your information.

Please sign and return the second copy of this letter in acknowledgement of receipt.

Yours sincerely,

[Name of person who chaired the hearing]
[Job Title]

Appendix L - First/Final Written Warning Template

DISCIPLINARY POLICY - [FIRST/FINAL] WRITTEN WARNING

Name: [Employee's Name]

Job Title: [Job Title]

1. Date Issued

This warning was issued at a Disciplinary Hearing on [date]. The purpose of the hearing was to consider the following allegations:

[List allegations and whether they were founded or unfounded and a description as to the reason for this decision]

2. Status of Warning

This is a [first/final] written warning issued under the Disciplinary Policy.

3. Nature of Offence

You were issued with this warning as you had [list allegations which were founded].

4. Improvements Required

At the Disciplinary Hearing on [date] you were advised that you would be required to [enter details of standard / improvements in behaviour/conduct required]. Your conduct will therefore be monitored on an ongoing basis.

5. Support to be Given

[Enter details of any agreed support that will be provided, e.g. training]. Your manager, [name], is available to provide you with any help or support that you may need.

6. Retention of Warning on Personal File

A copy of this warning will be kept on your personal file for [6/12] months from [date of Disciplinary Hearing]. [If appropriate: As this warning relates to an allegation of safeguarding of children/vulnerable adults, it will remain on file until you reach normal retirement age or for 10 years, whichever is longer.] Reference to this warning will only be made if your conduct relating to your employment is found to be unacceptable during this timescale or you request a reference while the warning is in effect.

7. Consequences of Failure to Maintain

If you fail to comply with the requirements set out in paragraph 4 above, or if you commit further disciplinary offences of a similar or different nature, this warning may be taken into account in determining any penalty at any subsequent disciplinary hearing. If the case against you was proven, the likelihood is that a more severe penalty would be imposed (i.e. action up to and including dismissal).

Appendix M - Invitation to Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

Following receipt of your appeal under the Disciplinary Policy against the [first / final written warning you were issued / termination of employment], I am writing to invite you to attend an appeal hearing. Your appeal will be heard by [name, job title], [name, job title] and [name, job title] at [time] on [date] in [location]. [Name] will also be in attendance to take notes. On arrival you should report to [location] and ask for [name].

You may, if you wish, be accompanied by a work colleague or Trade Union representative.

Enclosed for your attention is a copy of management's response to your appeal statement, along with supporting documents. I will be in attendance at the hearing to present the management case.

The outcome of the appeal hearing will be to either:

- Uphold the original decision taken and maintain any sanction;
- Overturn the original decision and implement a new decision along with any appropriate sanction/action. [first / final written warning - In cases where new evidence is provided, this could include increasing the original sanction.]

Please be advised that the decision of the appeal hearing will be final and there is no further right of appeal.

I would be grateful if you would please acknowledge if you are able to attend the hearing and whether you will be calling any witnesses to support your case or providing any additional documentation so that necessary arrangements can be made. [For your information, management will be calling [name(s)] as their witness]. If you are unable to provide names of witnesses at this point in time, these must be submitted to [name] no later than 5 days before the hearing, together with any additional documentation that you wish to submit.

Should you or your representative require any special arrangements in order to attend the hearing, please contact me on the above number as soon as possible so that I can facilitate these for you.

Please sign and return the second copy of this letter as acknowledgement of receipt.

Yours sincerely,

[Name of chair of original hearing]

[Job Title]

I acknowledge receipt of the letter dated [date].

I will/will not be attending the Disciplinary Appeal Hearing arranged for [date] (if not attending please provide a reason and note that if this is not an acceptable reason the hearing may go ahead in your absence).

I will/will not be calling witnesses (please provide names of any witnesses you intend to call).

Signed: _____

Date: _____

Print Name: _____

Appendix N - Outcome of Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

I am writing to confirm the outcome of the Disciplinary Appeal Hearing held on [date] which was heard by me along with [name, job title] and [name, job title]. Also present was [name] as your representative and [name] as note taker.

You appealed against the decision made at the Disciplinary Hearing on [date]. The reason for your appeal was [reason].

Having considered the evidence provided at the hearing, the panel have decided to [uphold the original decision to issue you with a first written warning / final written warning / terminate your employment] or [overturn the original decision to issue you with a first written warning / final written warning / terminate your employment]. Include reasons for decision and details of any additional actions/recommendations.]

The decision of the appeal hearing is final and there is no further right of appeal.

Yours sincerely,

[Name of person who chaired the appeal hearing]
[Job Title]