

APPENDIX B

Disciplinary Policy and Procedures

1. Introduction

- 1.1 Disciplinary rules and procedures are necessary for encouraging fairness and consistency in the treatment of people at work. It is recognised that effective performance monitoring and managerial support should reduce the need for formal disciplinary action.
- 1.2 The day to day supervision of employees is part of the normal managerial process and is outside the scope of this procedure. Any shortcomings should be brought to the employee's attention as soon as possible in an effort to achieve an improvement in an informal way. The aim of both informal and formal disciplinary measures is to improve the performance of an employee with a view to helping them to fulfil their duties and responsibilities successfully.
- 1.3 The procedure is designed to establish the facts quickly and deal consistently with disciplinary issues.
 - Employees will be advised of the nature of any complaint against them and they will have the opportunity to explain.
 - Employees will be given the opportunity to state their case and be represented or accompanied by a colleague or Trade Union representative of their choice.
 - Employees will not normally be dismissed for a first breach of discipline except in the case of gross misconduct.
 - Employees will have a right of appeal against any disciplinary penalty or action taken.
 - The level of warning issued by a manager will depend on the severity of the misconduct. The sanction for gross misconduct will normally be dismissal without notice and without pay in lieu of notice.
 - Where an employee's record shows a pattern of abuse of the disciplinary policy, e.g. repeated misconduct occurring once a live warning has lapsed, the Council may consider extending the duration of any warning or escalating any new action against the employee, to the next stage of the policy (i.e. as if the prior live warning had not lapsed)
 - Timescales for meetings, appeals etc, may be varied by mutual agreement. The intention is to avoid unreasonable delay but to allow for reasonable flexibility.
 - An employee will be given a copy of this procedure before any disciplinary action commences about their conduct.
 - All matters relating to this procedure must be treated as confidential.

- 1.4 This policy takes account of the amendments made as a result of the Employment Act 2008, which repealed the Employment Act 2002 (Dispute Resolution) Regulations 2004, and the introduction of the ACAS Code of Practice on disciplinary and grievance procedures from 6 April 2009.
- 1.5 The Council will review this document from time to time and may make changes to the content. Changes may result from employee, management and UNISON feedback and/or from changes in employment legislation.

2. Scope

- 2.1 This policy and accompanying guidelines apply to ALL posts at both Cherwell District Council and South Northamptonshire Council with the exception of the statutory roles of Chief Executive (Head of Paid Service), Monitoring Officer and Finance Section 151 Officer. This policy and accompanying guidelines does not apply to employees who have not completed their probationary period unless there is no probationary policy (and where a probationary policy covers disciplinary matters during a probation period). These procedures do not apply in cases of redundancy, ill health retirement or a dismissal at the expiry of the term of a fixed contract.
- 2.2 The Council will consider disciplinary action against an employee for actions inside or outside of work which may have a bearing on an employee's continued employment or on the reputation of the Council. Employees must notify their managers immediately of any charge or conviction.
- 2.3 Issues arising as a result of misconduct/negligence will be dealt with under the Disciplinary Policy, whereas issues which relate to poor performance as a result of a lack of capability will generally be dealt with under the Council's Capability Policy.

3. Rules

- 3.1 Rules are needed to set standards of conduct for employees to follow. At both councils, corporate rules are contained in the contract of employment and in employment policies and procedures. They may be supplemented by other rules or requirements particular to a service area. Rules will be kept to a minimum but will include (not an exhaustive list):
- Attendance / timekeeping
 - Absence
 - Damage to Council property
 - Discrimination
 - Harassment or bullying
 - Health and Safety

- Smoking on Council property including vehicles
- Unreasonable failure to follow an instruction issued by a manager or supervisor
- Unsatisfactory work performance (where this isn't classified as capability)

4. Principles

4.1 The principles of this policy are to ensure that:

- disciplinary procedures are applied in a fair and consistent way
- disciplinary procedures only take place when employees are aware of the standards that are expected of them relating to their attitude/conduct and performance as defined in policies and procedures made available to the employee during employment
- disciplinary procedures are applied primarily to help and encourage employees to improve rather than just as a way of imposing a punishment
- whenever possible informal and low-key methods are used in resolving difficulties around minor misconduct or unsatisfactory performance
- whenever possible reasonable adjustments will be made for employees with a disability
- employees will receive written confirmation of the allegation made and are aware of any investigations or disciplinary hearings due to take place
- employees have the opportunity to state their case before any decision is reached by the chair of the hearing
- the chair will be an independent officer having no prior knowledge of the case and with no potential conflict of interest
- all allegations are investigated fully and a disciplinary hearing takes place before formal disciplinary action is agreed
- all formal disciplinary action is appropriate and proportionate to the nature of the disciplinary offence
- at all stages of the formal process employees are aware of their right to be accompanied by a fellow worker, or trade union representative
- in reaching decisions about appropriate sanctions, the chair will take account of any mitigating circumstances
- employees receive a written explanation for any disciplinary action taken, setting out what improvement is expected and within what timescale and inform them of their right of appeal.

- we will not dismiss any employee for a first breach of discipline except in the case of gross misconduct where the chair deems dismissal to be appropriate
- employees have the right of appeal in relation to any disciplinary action taken with the exception of dismissal which is heard by the Appeals Panel.

5. Employee's Responsibilities

5.1 All employees have a responsibility to:

- take full accountability for their actions and inactions
- maintain expected and reasonable levels of attendance and performance at work
- respect and work in line with the Council's Code of Conduct
- attend and participate in relevant meetings
- comply with the Council's policies
- conform with any Council or statutory rules or agreements applicable to their role
- maintain a reasonable standard of behaviour acceptable to management and other employees including behaviour as outlined in the Code of Conduct and in line with the Equal Opportunities policies

6. Support for Employees and Managers

6.1 Employees may contact HR for support and guidance. UNISON is also able to offer support and guidance to employees who are members of the union and who are facing potential disciplinary action.

7. The Policy

7.1 The disciplinary policy contains the following possible stages (these are not meant to be undertaken in sequence);

- Suspension
- Informal Stage
- Formal stage - Stage 1 Oral Recorded Warning
- Formal stage - Stage 2 Written Warning
- Formal stage - Stage 3 Final written warning
- Formal stage - Stage 4a) dismissal with pay or with pay in lieu of notice and 4b) summary dismissal
- Formal stage - Exceptional circumstances- alternatives to dismissal

8. Informal Stage

- 8.1 In the course of day to day activities there will be occasions when managers will need to advise employees informally of minor breaches of discipline. Mediation may be used as an alternative way of managing a situation informally. This does not preclude the use of formal disciplinary procedures. Managers should record any such action for their own reference as information will not be placed on the employee's personal file.

9. Formal Stage

- 9.1 Where a line manager feels that an allegation about an employee's attitude/conduct or performance is serious enough to warrant an investigation the line manager should follow the formal disciplinary procedure as outlined within this policy.
- 9.2 When following the formal disciplinary procedure line managers are required under the Disability Discrimination Act 1995 to make reasonable adjustments for employees with a disability. Where a line manager is already aware that an employee has a disability or believes this to be the case they should work closely with HR before taking any disciplinary action, seeking advice from the council's occupational health advisers if necessary.

10. Suspension

- 10.1 The Councils may decide to suspend an employee pending an investigation. A manager or supervisor may, in exceptional circumstances, send an employee home pending a decision about suspension rather than suspend immediately.
- 10.2 Suspension is not a disciplinary measure, and is not pre-judging the outcome of a disciplinary hearing. Any such suspension will be with full basic pay. It is a means by which the Council can protect its interests, and those of its employees, while an investigation takes place.
- 10.3 The decision to suspend an employee will normally be the responsibility of the Head of Transformation (or delegated other HR representative) and/or the Monitoring Officer (or Deputy Monitoring Officer if applicable), in conjunction with the employee's line manager.
- 10.4 The duration of the suspension will vary according to the situation but timescales will be as short as reasonably possible and the employee will be given weekly updates either their line manager or the Investigating Officer (this should be agreed at the outset of the investigation) as to progress. A log should be kept by the Line Manager of any communications made between the employee and the organisation.
- 10.5 Suspension should take place on a face to face basis at a meeting, and then written confirmation should be given to the employee concerned as soon as is reasonably possible either at the meeting or immediately afterwards confirming

the suspension is on full pay and a review date.

- 10.6 If suspension of an employee is contemplated, alternatives should always be considered, such as a temporary relocation or reallocation of duties, or a short 'cooling off period' (e.g. the remainder of the working day), or if repetition of the offence is possible, enhanced supervision or monitoring of the employee. Where suspension has taken place, it should be reviewed at regular intervals during the investigation, to see if it is appropriate to keep it in place. Any decision to end a suspension before an agreed end date will be made by those who agreed to the suspension in the first place, and should be done in consultation with HR.
- 10.7 Suspension should be considered on the following grounds:
- The allegations could constitute gross misconduct; and/or
 - the continued presence at work of one or more of the employees involved would impede a full and impartial investigation (e.g. they may have access to certain records, contact with other employees who may be associated with the investigation or may be likely to sabotage the investigation deliberately); or
 - there is considered to be a chance of a recurrence of the alleged offence.
- 10.8 During the period of suspension, the employee remains employed by the relevant council but they are not required to attend work. They must, however, be contactable and available to attend work if required and should not undertake any outside work of any nature during normal working hours including out of hours/standby rota duties or overtime.
- 10.9 Where the Investigating Officer has reason to believe that the employee concerned has committed a criminal offence they will immediately inform the Monitoring Officer (or Deputy Monitoring Officer) who will decide whether to report the matter to the police.
- 10.10 Suspension or redeployment may be deemed appropriate in cases of personal harassment or bullying. If suspension or redeployment is deemed appropriate in cases of personal harassment or bullying, generally, it will be the alleged harasser who is suspended or moved.

11. Investigatory Meetings

- 11.1 Prior to disciplinary action, an investigation will be conducted into the allegations of misconduct by an appointed Investigation Officer. The matter should be investigated in order to ascertain, so far as is reasonably practicable in the circumstances, all the relevant facts. Whether a particular employee was involved or not is for a disciplinary hearing to decide not an investigation.
- 11.2 The Investigating Officer will be appointed by the Head of Transformation or Monitoring Officer (if the investigation implicates members of the HR team), and will have been trained in undertaking investigations. The Investigating Officer should be either at a level equivalent to or higher to the employee being investigated, and depending on the nature of the investigation is also likely to be

- from an independent service area. The Investigating Officer will be an employee who will not have a conflict of interest that might prejudice a fair hearing.
- 11.3 The investigation should be undertaken by the Monitoring Officer or the Deputy Monitoring Officer in cases that affect Heads of Service and Directors. Investigating Officers will be supported by a member of the HR team during investigations to ensure the process is correctly followed and to provide any advice.
 - 11.4 Generally employees will be informed that an investigation is to take place. In some circumstances (e.g. potential fraud), it may be appropriate not to inform the employee at the commencement of the investigation. [If necessary, covert surveillance may be used in line with the RIPA requirements]. In exceptional circumstances, the use of surveillance will be sanctioned by the Monitoring Officer or Deputy Monitoring Officer (in consultation with HR) giving reasons why its use is necessary.
 - 11.5 Where, during the investigation, the alleged disciplinary matter appears to be one of gross misconduct, the employee's Head of Service and the Head of Transformation should immediately be informed by the Investigating Officer. In such cases, the employee in question may be immediately suspended from work on pay pending the results of an investigation into the matter. Such grounds are outlined later on in this policy.
 - 11.6 Where the alleged disciplinary matter is straightforward, the investigation may be brief and ideally will be no longer than 28 days in any case. In more complex situations, investigations may take longer and employees will be kept apprised their line manager or the Investigating Officer of progress on a weekly basis. The employee will be advised in writing should any additional allegations arise during an investigation.
 - 11.7 The Investigating Officer may wish to interview the employee(s) and any witnesses. The employee may be represented at such an interview by either a work colleague or a trade union official in accordance with the Employment Relations Act 1999, providing that this does not unreasonably delay the investigation. The decision as to whether or not any delay is unreasonable rests with the person investigating the matter. If the person conducting the investigation wishes to pursue this course of action they should consult the Head of Transformation.
 - 11.8 In conducting the investigation, the person investigating should ensure that they have spoken to all relevant witnesses and obtained signed statements. Any witnesses should be advised that they may be called to attend any subsequent disciplinary hearing.
 - 11.9 Once the investigation is complete, the results in the form of an investigation report should be passed on to the Head of Transformation or Monitoring Officer (Deputy Monitoring Officer if appropriate). This person may, upon seeing the results of the investigation, decide that there is no case to answer and therefore no reason to convene a disciplinary hearing.

- 11.10 The depth and range of an investigation, and the content of a report to the disciplinary hearing will depend on the seriousness and/or complexity of the allegations in question.
- 11.11 The following issues may be considered relevant to be considered for inclusion. This list is not exhaustive, and depending on the circumstances, there may be other items considered relevant.
- Information about the employee concerned, e.g. length of service, experience, training undertaken, previous 'live' warnings.
 - Relevant documents, such as Council procedures (or appropriate extracts)
 - Witness statements (including where relevant/available an explanation of the alleged conduct on the part of the employee).
 - Informal actions (or why informal guidance/counselling is not appropriate in view of the seriousness of the allegation).
- 11.12 It is not the role of the Investigating Officer to recommend any level of disciplinary action, but they should state whether any further action or not should follow as a result of the investigation. This might include:
- No further action to be taken
 - Counselling, keep under review, management action, training
 - A disciplinary hearing is required
- 11.13 The line manager may deliver the outcome to the employee at a meeting if it is deemed appropriate, but any outcome will also be confirmed in writing to the employee and their line manager. A copy of the investigation report will also be attached.

12. Invitation To A Disciplinary Hearing Following Investigation

- 12.1 Once the Head of Transformation or Monitoring Officer (Deputy Monitoring Officer if appropriate) has considered the recommendation of the Investigating Officer and the employee has been advised that disciplinary action will be taken as an outcome of the investigation, the employee will be written to:
- including details of the allegations made
 - inviting them to a disciplinary hearing stating the time and place of the hearing and giving at least five working days' notice
 - informing them who will chair the hearing
 - informing them that they have the right to be accompanied by a work colleague or trained trade union representative at the hearing

- informing the employee that a member of the HR team will supply them with copies of all documents to be referred to in the hearing at least 2 working days in advance of the hearing for panels and at the time of agenda publication for Committees. (in exceptional circumstances witness statements may need to be anonymous)
- asking them to submit any documents supporting their response to the allegations to the relevant member of the HR team at least 2 working days in advance of the hearing to a panel or prior to agenda publication for a Committee so that these documents can be referred to in the hearing
- reminding the employee about the disciplinary policy by providing a hard copy.
- Informing the employee of the right to witnesses.

The purpose of a disciplinary hearing is to establish the facts of the case, and to decide what action (if any) should be taken.

13. The Disciplinary Panel or Committee

- 13.1 The disciplinary panel will consist of two members, a Chair and a HR Advisor for all employees and all possible outcomes with the exception of Directors and Heads of Service. For Directors and Heads of Service, a member will be nominated by the Joint Personnel Committee as Chair of the disciplinary panel. The JPC has responsibility for investigating the disciplinary allegations and/or nominating an independent person to do so.
- 13.2 Roles of all parties involved in a disciplinary hearing are as follows:
- **Chair** – a manager authorised to hear the case, possibly from a different service team and more senior in position than the employee. Whoever is intending to chair the hearing must have been appropriately trained in discipline handling and must be authorised to issue the level of warning if action is taken. If the person who is to chair the hearing considers that the alleged offence may warrant a more severe type of warning, then they should consult with the Human Resources or (Monitoring Officer in their absence). Under no circumstances can a person chairing a hearing take disciplinary action that is reserved for a more senior manager. The person who chairs the hearing will not be a person who will have been involved in any previous investigation or disciplinary hearing concerning the employee.
 - **Employee** – opportunity to state their case, answer the allegations, call any relevant witnesses and ask questions of any witnesses.
 - **Investigating Officer** – appointed by the Human Resources and appropriately trained, they will present their investigation findings to the Chair as part of the management case.

- **Witness** – a person invited by the employee or the investigating officer to give their statement of events relating to the allegations of the case.
- **HR advisor** – Accompanies the Chair on the panel and ensures that the employee and Chair have copies of all documents relating to the hearing and advises all parties on disciplinary procedures where necessary. For any potential dismissal this role will be filled by the Head of Transformation.
- **Colleague / Trained Trade union rep** - may present the case on behalf of the employee, which could include making opening and closing statements, presenting the case, answering questions on behalf of the employee and asking questions of any witnesses.
- **Note taker** – take notes of the hearing and circulate final version to employee, chair and HR advisor. Audio and video recording of the hearing will not normally be permitted and then only with the agreement of all parties.

14. The Disciplinary Panel Hearing

14.1 A disciplinary hearing can be a very traumatic experience for any employee and arguments and unpleasantness should be avoided. If the hearing is getting out of control, it is advisable to call an adjournment for a few minutes to allow the situation to calm down.

- The management case will normally be presented by the person who undertook the investigation, calling witnesses as necessary.
- The employee (and their representative, if present) will then have the opportunity to state their case, again with the provision to call witnesses as necessary.
- Each side will have the opportunity to ask relevant questions of the other side, including their witnesses, and to sum up at the end of the hearing. The management representative will sum up first, followed by the employee.
- If witnesses are called, they will attend the hearing solely to make their statement and to answer questions. They will then withdraw.
- If, during the hearing, substantial documentary evidence which has not previously been disclosed is produced by either side, the other party shall have the right to request an adjournment in order to allow sufficient time to examine the evidence. The Chair has the discretion to decide whether evidence can be submitted as time has previously been allowed for both parties to submit evidence, and therefore new evidence should be in exceptional circumstances only.
- Other than when parties are summing up, the panel or Committee can ask questions of either side.
- At the end of the hearing, both sides will withdraw, whilst the panel or Committee

and any advisers, considers their decision.

- At the end of the adjournment, the employee (and their representative, if present) and the person presenting the management case will be re-called and given the decision, which will be confirmed in writing, normally within 5 working days. If the decision is to take disciplinary action, then the employee must also be informed of their right of appeal.
- In exceptional circumstances, where it is considered necessary to delay making a decision, the employee will be notified of the decision in writing after the disciplinary hearing. This will be done as soon as possible and normally no later than 5 working days after the date of the hearing.
- If at any stage during the course of the hearing the person chairing the hearing believes it necessary to obtain additional advice, the proceedings will need to be adjourned whilst this advice is sought.

15. Formal Disciplinary Sanctions

15.1 Following a disciplinary hearing the following sanctions may apply:

Stage 1 - Oral Recorded Warning

If following a disciplinary meeting it is decided that an employee's conduct or performance is unsatisfactory, the employee will be issued with an oral recorded warning. This will be a 'live warning' for a duration of 3 months, after which it will be disregarded for disciplinary purposes, subject to no further misconduct during this period. A copy of the note of warning will remain on the employee's personal file. Managers will hold regular review meetings with employees who have a 'live' warning.

Stage 2 - Written Warning

This may be issued if the first offence is serious enough to warrant action at this level. Alternatively it may be issued after an oral recorded warning, if there is no improvement in standards, or if a further offence occurs. A copy of this written warning will be kept on file but will be disregarded for disciplinary purposes after 6 months, subject to satisfactory conduct and / or performance. Managers will hold regular review meetings with employees who have a 'live' warning.

Stage 3 - Final Written Warning

This may be issued if the first offence is serious enough to warrant action at this level. Alternatively it may be issued after an oral recorded warning, or a written warning, depending on the severity of any subsequent misconduct or the failure to achieve required standards of performance/ conduct. A copy of the warning will be filed but will be disregarded for disciplinary purposes after 12 months but may remain on the employee's file, subject to satisfactory conduct. In exceptional cases the period of the warning may be extended to 24 months when the sanction is given. Managers will hold regular review meetings with employees who have a 'live' warning.

Stage 4a - Dismissal with Pay

If there is no satisfactory improvement or if further serious misconduct occurs following previous warnings, after a consideration of the facts and circumstances of the case, an employee may be dismissed with notice or with pay in lieu of notice.

Stage 4b - Gross Misconduct

If, after investigation, an employee is found to have committed an act of gross misconduct, the normal consequence will be summary dismissal without any notice or pay in lieu of notice. While the alleged gross misconduct is being investigated, employees may be suspended with pay.

15.2 Examples of Misconduct

This list is neither exclusive nor exhaustive

The following list indicates the type of conduct which would normally constitute misconduct:-

- i) Disregard of safety practices, procedures and rules;
- ii) Unsatisfactory job performance (for reasons other than incapability);
- iii) Poor time-keeping: late starting, early finishing, excessive break periods;
- iv) Excessive and/or unauthorised absence;
- v) Leaving the workplace without permission during working hours;
- vi) Undertaking activities detrimental to recovery whilst on sick leave;
- vii) Failure to follow Council procedures;
- viii) Misuse of Council facilities or equipment, for example telephones, Information and Communication Technology equipment;
- ix) Insubordination or refusal to obey a reasonable instruction;
- x) Smoking in prohibited areas.

15.3 Examples of Gross Misconduct

This list is neither exclusive nor exhaustive

Gross misconduct includes, but is not limited to, the following:

- Serious abuse
- Corrupt practices

- Where an employee is charged with a criminal offence inconsistent with their position
- theft, fraud and deliberate falsification of records (e.g. expenses claims, time sheets, etc)
- physical violence, threats, fighting, assault on another person
- serious bullying, harassment or discrimination
- deliberate damage to Council property or employee's property
- removal or disposal of any Council property without Management's permission
- serious insubordination
- interference with safety devices or equipment putting other employees or visitors at risk at work
- serious misuse of the Council's property or name
- bringing the Council into serious disrepute
- serious incapability whilst on duty brought on by alcohol or illegal drugs, the misuse of drugs or the possession of illegal drugs whilst at work
- the supply and trafficking of drugs, money laundering activities, or the use, sale or distribution of illegal substances
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of duty of confidence (subject to the Public Interest (Disclosure) act 1998 and Confidential Reporting Policy)
- deliberate or reckless damage, mis-use or interference with or unauthorised use of the Council computers and/or software or unauthorised entry to computer records.
- serious misuse of electronic systems
- conviction of a criminal offence that is relevant to the employee's employment
- deliberate falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee
- undertaking private work on the premises and/or in working hours without express prior permission.
- serious breach of trust or confidence

15.3 Warnings

If issued with a warning, an employee will receive written confirmation within a 5 working days of the disciplinary hearing. This letter will include:

- the reason and duration of the warning
- the consequences of a failure to improve and sustain any improvement for at least the duration of the warning, including the possibility of further disciplinary action up to and including dismissal
- relevant details and timescales relating to the employee's right of appeal
- Employees will have access to notes of the meeting (or a recording of the meeting in some circumstances).

Note: Employees should also be written to in the event of no further action being taken.

16. Factors To Consider When Deciding What Kind Of Disciplinary Action To Take

16.1 Having heard all the evidence at a disciplinary hearing, the person chairing the hearing will need to decide whether or not disciplinary action is warranted and, if so, at what level.

16.2 A disciplinary hearing is not the same as a court of law, where the defendant has to be proved guilty. The judgement to be made after hearing all the evidence is whether or not, on the balance of probabilities, the misconduct occurred.

- In arriving at the decision, the following questions should be considered;
- Have all the relevant facts been ascertained?
- Was the individual given a chance to put his/her case?
- On the balance of probabilities is it reasonable to believe that the misconduct has occurred?

16.3 Unless the answer to all the above is yes, disciplinary action should not be taken against the employee.

16.4 Having decided that the offence was committed, the person chairing the hearing should then decide upon the kind of disciplinary action to take.

16.5 The following questions will need to be considered:

- What penalties have been imposed in similar cases in the past?
- Does the disciplinary procedure give any guidance as to whether or not this type of offence normally constitutes misconduct or gross misconduct?

- What is the employee's disciplinary record: is he/she already in receipt of some kind of disciplinary warning?
- Are there any extenuating circumstances, for example provocation, justifiable ignorance of the rules, lack of experience, etc.?

16.6 The person chairing a disciplinary panel hearing will also need to take into account the level of sanction he/she is authorised to take under the terms of the Disciplinary Procedure. (See below)

16.7 Once all the above have been considered and a tentative decision reached, the following three questions should be considered:

- Is the offence sufficiently serious to warrant the proposed level of sanction?
- Is it consistent with good practice?
- Is the proposed action reasonable given all the circumstances?

Unless the answer to all three of the above is yes, the proposed action should be reconsidered.

17. Who Can Take Authorised Management Action under the Disciplinary Policy?

17.1 It is possible to take disciplinary action at any level for a first disciplinary offence dependent on the circumstances.

STAGE	ACTION	RESPONSIBILITY (HR to be consulted about process and consistency of proposed action)	APPEALS	DURATION OF WARNINGS
ONE	Oral Warning	Line Manager or above	HOS/Director	3 months
TWO	Written warning	Line Manager or above (or nominated other from another service area)	HOS/Director	6 months
THREE	Final written warning	Line Manager or above (or nominated other from another service area)	HOS/Director	12 months (or may be longer in exceptional circumstances)
FOUR	Dismissal	Head of Transformation	SNC Appeals Committee or CDC Appeals	N/A

GROSS MISCONDUCT	Summary Dismissal	Head of Transformation	Panel* SNC Appeals Committee or CDC Appeals Panel*	N/A
Heads of Service and Strategic Directors	Any formal action	Chief Executive	SNC Appeals Committee or CDC Appeals Panel*	As above

18. Disciplinary Action of Trade Union Representatives

18.1 Although normal disciplinary standards will apply to the conduct and performance of trade union representatives, no disciplinary action will be taken until the circumstances of the case have been discussed with a senior trade union representative or full time official and in consultation with HR. This arrangement is in place to avoid the action being misconstrued as an attack on the union itself or on its representation and negotiating role, and is in accordance with the ACAS Code of Practice.

19. Raising a Grievance During Disciplinary Action

19.1 The decision to suspend or continue with disciplinary action pending the investigation of a grievance will depend upon the circumstances of each individual case. This decision will be made by the Human Resources (or Monitoring Officer if applicable).

20. Suspicion of Criminal Behaviour

20.1 If criminal behaviour is suspected or alleged the Investigating Officer in conjunction with HR (and the Chief Executive if the action is against Heads of Service or Directors) will discuss the situation and a decision will be taken over notifying the police in line with the Council's Standing Orders/Financial Regulations.

21. Criminal Proceedings During Disciplinary Action

21.1 Where criminal proceedings are pending against an employee, the Council will determine whether disciplinary action is appropriate. Where it is deemed appropriate, the disciplinary procedure will be carried out objectively and will not normally be delayed or deferred because of any such proceedings, unless it would be prejudicial (in the view of the Council) to those investigations to proceed. Line Managers/Investigating Officers should liaise with HR for further guidance.

22. Criminal Charges or Convictions / Inappropriate Actions Out of Work

22.1 In addition, criminal charges or convictions may result in disciplinary proceedings being taken against the employee up to and including summary dismissal. This will occur where, in the opinion of the Council the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in

which they are employed, or the business or reputation of the Council, or where the existence of the charge or conviction could, in the opinion of the Council, otherwise seriously undermine the trust and confidence that the Council has in the employee.

23. Fraud and Investigations

23.1 Where there is any suspicion of theft or fraud then the employee's manager must contact the Head of Transformation (or the Section 151 Officer in the case of Heads of Service and Directors) who will refer the matter immediately to Audit and or Fraud Investigation.

24. Right of Appeal

24.1 Employees have the right to appeal against any disciplinary action.

Reasons for appeal may include:

- that the penalty is unfair / inconsistent under the circumstances (i.e. judgment)
- new evidence has arisen which was not considered at the original disciplinary hearing and which may have a bearing on the outcome (i.e. facts)
- that the policy and procedure have not been applied correctly (i.e. process)

24.2 When lodging an appeal, the employee should state the grounds of an appeal, and provide any supporting evidence.

24.3 The employee must provide notice of their request to appeal in writing within 5 working days of being informed in writing of the disciplinary sanction being imposed against them. All appeal requests should be sent to the Head of Transformation. There is a form for appeal requests at Appendix 12.

24.4 Appeal hearings will take place as soon as reasonably possible upon receipt of the employee's written notice of appeal. Appeals Committees are likely to take longer to set up but will be done so as expediently as possible.

24.5 Appeal hearings will be made up as follows:

Employee Appealing/Reason	Who will hear the appeal
Strategic Directors/Heads of Service	SNC Appeals Committee or CDC Appeals Panel*
Other employee who is dismissed	Employing Council 's Appeals Committee
Other employee who is not dismissed	Head of Service or Strategic Director (independent and trained) plus HR Representative

All members of the appeals panels will not have been previously involved in the investigation or disciplinary hearing.

- 24.6 For Appeals Committees there will be a Democratic and Elections Officer, Legal Advisor and HR Advisor in attendance (who will all previously have not been involved with the appeal at a previous stage – this may be external advisors if appropriate). These advisors will brief the Committee prior to the hearing taking place. The advisors may at any point during the appeal seek clarification on any issue with regard to the appeal and will provide procedural guidance to the Committee.
- 24.7 The employee shall be given notice in writing at least 10 working days in advance of the time and place of the hearing and they will be allowed to be represented or accompanied and shall be enabled to call witnesses (who are not entitled to representation). This notice may be extended to allow an employee to be adequately represented.
- 24.8 The failure of a party to attend an appeal shall not prevent the appeal from being considered.
- 24.9 The management side will be presented by the Chair of the disciplinary hearing and will be able to call witnesses who are not entitled to representation.
- 24.10 In advance of the hearing, the Appeals Panel or Committee will have available all of the documents presented to the original disciplinary hearing. They will also have a copy of the record of the hearing, the letter confirming the outcome of the original disciplinary hearing, the letter of appeal and all other relevant information. The employee and the management side will also be allowed to submit additional evidence that relates to the reasons for the appeal. The Appeals Panel or Committee should make their findings based on the documentation and the submissions at the appeal hearing.
- 24.11 The employee (appellant) and management side (respondent) will provide any documentation they wish the panel or committee to consider prior to the deadline for agenda publication as notified by Law and Governance (for Committees) or no later than five working days before an appeals panel. Supplementary documentation produced after this time will only be admitted at the discretion of the panel or the committee and with agreement of all parties to the appeal subject to the provisions of Access to Information legislation.
- 24.12 During the appeal hearing both parties to the appeal will be admitted to the room, the Chairman will introduce those present, the procedure will be outlined by either the Democratic and Elections Officer or the Chair of the panel (if not a Committee) and questions on the procedure will be invited.
- 24.13 The employee (appellant) and their representative (if applicable) will make their case. The appellant may be questioned by the management side (respondent) and then the panel or Committee.
- 24.14 The respondent will then make their case and may be questioned by the appellant and then the panel or Committee. In making their case witnesses may be called by the appellant or the respondent. Witnesses must be notified to the Committee Clerk (for Committees) or to the HR Advisor (for panels). This must be done by the deadline notified by the Committee Clerk (for Committees) or to the HR Advisor (for panels) at least five days before the appeal hearing. The respondent or appellant will be responsible for ensuring their witnesses are

aware of the time, date and place of the hearing. Witnesses may be questioned by all parties and then the panel or Committee. Witnesses will only be admitted to the appeal hearing for the duration of their evidence.

24.15 Where the panel or Committee considers that further information or discussion is required the meeting will be adjourned for a period. The length of the adjournment being decided by the Chair.

24.16 At the end of the appeal hearing the respondent will have opportunity to sum up and then the appellant will have opportunity to sum up. Both parties will then be asked to leave. The panel or Committee will then decide whether to ask the parties to wait whilst a decision is reached or confirm that a letter will be sent confirming the outcome. The Appeals Committee or panel will then make their decision. A formal letter will be sent to the appellant confirming the decision of the Appeals Committee or panel within five working days of the appeal hearing. A copy of appeals information will be retained on the employee's personal file.

25. Appeal Outcomes

25.1 The outcome of the appeal will be either:

- The appeal is successful in whole or in part (e.g. could be a lesser sanction imposed or the sanction could be removed altogether)
- The appeal is unsuccessful - the original decision stands

25.2 The appeal panel or committee's decision is final. No further right of appeal exists.

25.3 Where an appeal against dismissal fails, the effective date of termination of employment will be the date on which the employee was originally dismissed not the date of appeal.

26. Disciplinary records

26.1 The list of documents below may be kept on a personnel file after a disciplinary process has taken place and will be kept on file in accordance with the Employment Practices Data Protection Code and Data Protection Act 1998:

- documents relating to a disciplinary investigation, disciplinary hearing or appeal hearing including letters, notes from meetings and witness statements
- a written record of any warning given including any verbal warning
- written record of any further action sanctioned such as employee , transfer, demotion, or written record of dismissal / summary dismissal

When a warning expires it will remain on the employee's personnel file but will be disregarded for any future disciplinary investigations unless there are exceptional circumstances for not doing this.

Appendices

Appendix 1 – Letter to a member of staff under investigation

Appendix 2 – Letter to a witness as part of an investigation

Appendix 3 – Letter to an employee/witness following an investigation – no further action

Appendix 4 – Letter to an employee required to undertake different duties or another post

Appendix 5 – Letter to an employee notifying of suspension

Appendix 6 – Letter to an employee setting up a disciplinary hearing

Appendix 7 – Letter to an employee – disciplinary outcome for warnings

Appendix 8 – Letter to an employee – disciplinary action – no outcome

Appendix 9 – Letter to an employee – Invitation to an appeal hearing

Appendix 10 – Guidance to Conducting a Disciplinary Investigation

Appendix 11 – Disciplinary Investigation Report Template

Appendix 12 – Appeal Application Form

Appendix 1 - Letter to a member of staff under investigation

DATE

Dear (NAME of person under investigation)

I have been asked by the Head of Transformation to investigate allegations that have been made against you concerning **(Insert details of the incident or matter to be investigated here)**.

As part of the investigation, I would like to interview you so that I can get the facts in relation to the incident from you. I will be in touch shortly to arrange a date to meet or the date I would like to meet is (DATE) at (TIME AND PLACE). You may be accompanied by a trade union representative or work colleague, however, you'll need to let me know at least one day before if anyone is coming with you and who it is.

I am required to complete my investigation within a 28 day timescale, the 28 days ending on the DATE. If for any reason this deadline cannot be met I will write to you informing you of the reasons for this and will provide you with a revised completion date.

When I have finished my investigation, I will write a report that will be sent to the Head of Transformation (or delegated other), with my conclusions and recommendations that will include either:

- Taking no further action.
- Taking informal action for example by providing coaching, training or other support.
- Using another formal route such as capability or probation.
- Holding a formal disciplinary hearing.

Any information which comes to light during the course of the investigation may be used at a disciplinary hearing if that is the outcome of the investigation. You will be provided with a copy of my report in the event of a formal disciplinary hearing taking place, and a letter outlining the details of the hearing and the allegations made.

A copy of the Disciplinary Policy is attached for information purposes. It explains how the investigation and disciplinary process works; what things mean and how things are done.

I should remind you that all matters relating to this investigation should be treated in confidence.

Yours sincerely

PRINT NAME
Investigating Officer

Appendix 2 - Letter to a witness as part of an investigation

DATE

Dear (NAME of witness)

I have been asked by the Head of Transformation to investigate allegations that have been made concerning (NAME OF EMPLOYEE UNDER INVESTIGATION) **(Insert details of the incident or matter to be investigated here)**.

As part of the investigation, I would like to interview you so that I can get the facts in relation to the incident. I will be in touch shortly to arrange a date to meet or the date I would like to meet is (DATE) at (TIME AND PLACE). You may be accompanied by a trade union representative or work colleague, however, you'll need to let me know at least one day before if anyone is coming with you and who it is.

You should be aware that a record of our meeting will form part of my overall investigation report to the Head of Transformation (or delegated other). If they believe that there is sufficient evidence to move to a formal disciplinary hearing, then the full investigation report will be made available to all involved in the disciplinary. If you have any concerns about this we can discuss this when we meet.

A copy of the Disciplinary Policy is attached for information purposes. It explains how the investigation and disciplinary process works; what things mean and how things are done.

I should remind you that all matters relating to this investigation should be treated in confidence.

Yours sincerely

PRINT NAME
Investigating Officer

Appendix 3 - Letter to an employee/witness following investigation – no further action

DATE

Dear (NAME of employee/witness)

The investigation into (INSERT BRIEF DETAILS OF ALLEGATIONS) is now complete and I have decided not to take any disciplinary action.

(IF EMPLOYEE IS SUSPENDED OR UNDERTAKING ANOTHER JOB OR DUTIES)
Your suspension/change in duties/change in workplace, etc, will now come to an end on (DATE). Your line manager (NAME) would like to meet you on (DATE) (TIME) at (LOCATION) to talk about your return to work and what happens next.

Please contact (NAME OF LINE MANAGER) on (CONTACT DETAILS) if you have any questions about this letter.

Yours sincerely

Head of Transformation

c.c. Line manager of employee (not witnesses)

Appendix 4 - Letter to an employee undertaking different duties or another post

DATE

Dear (NAME of employee)

I am writing to inform you that you are being transferred to another post of (POST)/or will be undertaking duties of (LIST DUTIES) until further notice with effect from (DATE). This arrangement is not a form of disciplinary action but as a means to be able to investigate (INSERT DETAILS OF THE ALLEGATION).

While you are transferred to this other post/duties/workplace you cannot get involved with your post of (CURRENT POST) at (WORKPLACE – if this has changed). You must also not make contact with your colleague's or other employees who could be involved as a witness in any investigation.

As part of the investigation into the above allegations, the Investigating Officer will need to interview you, in order to gain your view of things. They will be in touch with you shortly to arrange a date when this meeting will take place.

A copy of the Disciplinary Policy is attached for information purposes. It explains how the investigation and disciplinary process works; what things mean and how things are done.

I should remind you that all matters relating to this investigation should be treated in confidence.

Yours sincerely

Head of Transformation

c.c. Line manager of employee

Appendix 5 - Letter to an employee notifying of suspension

DATE

Dear (NAME of employee)

I am writing to inform you that you are being suspended on full pay and without prejudice until further notice with effect from (DATE). This arrangement is not a form of disciplinary action but as a means to be able to investigate (INSERT DETAILS OF THE ALLEGATION). The suspension does not affect any rights either you or the Council might have.

You are being suspended from work rather than being (redeployed to another post/place of work/to undertake different duties) because (INSERT BRIEF EXPLANATION OF WHY SUSPENSION IS APPROPRIATE).

Whilst you are suspended you must be available to meet with the Investigating Officer (INSERT NAME OF INVESTIGATING OFFICER), so that they can interview you. (INSERT NAME OF INVESTIGATING OFFICER) will be in contact shortly to arrange a date for your meeting.

I will keep your suspension under review and it may be possible for you to return to work before the investigation is complete. As such, while you are suspended you must:

- Report to (LINE MANAGER'S NAME) by telephone (INSERT TELEPHONE NUMBER) on (NOMINATED DAY AND TIME) each week.
- Apply to the above person if you wish to take annual leave.
- Notify the above person if you would be unfit to attend work due to sickness absence.

If there is a reason why we would not be able to contact you at your normal home address and telephone number, please let (LINE MANAGER'S NAME) know immediately and give them details of how they can contact you.

Whilst suspended from work you must not enter Council premises without the permission of (EMPLOYEE'S LINE MANAGER). You must also not make contact with colleagues or other employees that could be involved as witnesses in any investigations. I should remind you that all matters relating to this investigation should be treated in confidence.

If you have any queries about the investigation and disciplinary process please contact a member of HR. You may make representations against my decision to suspend you to (DIRECTOR/CHIEF EXECUTIVE)

Yours sincerely

Head of Transformation

c.c. Line manager of employee

Appendix 6 - Letter to an employee setting up a disciplinary hearing

DATE

Dear (NAME)

I am writing to inform you that you are required to attend a disciplinary hearing on (DATE) at (TIME), which will take place at (ROOM, PLACE OF WORK).

Disciplinary action is being taken in relation to (SUMMARISE THE ALLEGATIONS), in accordance with the Council's Disciplinary Policy, a copy of which is attached for your information.

The Chairperson of the disciplinary panel will be (NAME), and the HR representative will be (NAME). Witnesses being called include (NAME OF MANAGEMENT WITNESSES IF KNOWN).

A copy of the Investigation Report and other relevant information disciplinary documents including witness statements will be circulated by (DATE) which is five working days before the hearing and will be circulated by (NAME) HR.

You are required to submit your documents in support of your response to these allegations by (DATE – 5 working days before the disciplinary hearing) to (NAME) HR – see above.

You have the right to be accompanied by a trade union representative or work colleague of your choice, and should let (NAME) HR Representative know who your representative will be if you choose to have one no later than 24 hours before the disciplinary hearing.

You are also required to let (NAME – HR as above) know no later than (DATE – five working days before the hearing) whether you intend to call any witnesses and if so whom. If you intend to call witnesses it is your responsibility to inform your witnesses of the date, time and venue of the hearing, along with any representative you may chose to use.

Yours Sincerely

NAME
CHAIRPERSON OF THE DISCIPLINARY HEARING

Appendix 7 - Letter to an employee – disciplinary outcome (warnings)

DATE

Dear (NAME)

I am writing to inform you of the outcome of the disciplinary hearing you attended on (DATE).

At the disciplinary hearing it was found/not found that the allegations (SUMMARISE THE ALLEGATIONS) were proven/not found to be proven. As a result you were given/are given (INSERT DETAILS OF ACTION TAKEN/WARNING/DISCIPLINARY PENALTY). The reasons I decided to take these actions were as follows: LIST REASONS.

ALSO STATE ANY CONDUCT OR PERFORMANCE IMPROVEMENT EXPECTED ANDY ANY RELATED TIME FRAMES.

This warning will stay on your personal file for ONE YEAR/TWO YEARS.

Any further misconduct will lead to further disciplinary action and may result in dismissal (if final written warning).

If you think the decision is unfair you have the right of appeal. If you wish to appeal you should do so in writing within 10 working days of the date of this letter, to the Head of People & Improvement. You need to state the reason for the appeal which should be at least one of the following, and the reasons why you think the reason is applicable:

- The procedure was not followed and this affected the decision.
- The evidence did not support the finding of misconduct.
- The penalty was unduly severe taking into account the type of unsatisfactory conduct, mitigating circumstances and the employee's service record.
- New evidence is available and information has come to light which may affect the original decision made.

I have enclosed a copy of the minutes from the hearing. If you feel there are any inaccuracies within the minutes please send your comments to me in writing.

Yours Sincerely

NAME
CHAIRPERSON OF THE DISCIPLINARY HEARING

Appendix 8 - Letter to an employee – disciplinary outcome – no action

DATE

Dear (NAME)

I am writing to inform you of the outcome of the disciplinary hearing you attended on (DATE).

After reviewing all of the evidence provided at the hearing I have decided not to take any further disciplinary action. The reasons I decided not to take any action are (LIST REASONS).

Yours Sincerely

NAME
CHAIRPERSON OF THE DISCIPLINARY HEARING

Appendix 9 - Letter to an employee – invitation to appeal hearing

DATE

Dear (NAME)

I am writing to inform you that you are required to attend an appeal hearing on (DATE) at (TIME), which will take place at (ROOM, PLACE OF WORK).

The appeal will be heard in accordance to the Council's Disciplinary Policy. Your appeal being against (SUMMARISE REASONS FOR APPEAL).

The Chairperson of the disciplinary panel will be (NAME), and the HR representative will be (NAME). Witnesses being called include (NAME OF MANAGEMENT WITNESSES IF KNOWN).

A copy of the Investigation Report and other relevant information disciplinary documents including witness statements will be circulated by (DATE) which is five working days before the hearing and will be circulated by (NAME) HR.

You are required to submit your documents in support of your response to these allegations by (DATE – 5 working days before the disciplinary hearing) to (NAME) HR – see above.

You have the right to be accompanied by a trade union representative or work colleague of your choice, and should let (NAME) HR Representative know who your representative will be if you choose to have one no later than 24 hours before the disciplinary hearing.

You are also required to let (NAME – HR as above) know no later than (DATE – five working days before the hearing) whether you intend to call any witnesses and if so whom. If you intend to call witnesses it is your responsibility to inform your witnesses of the date, time and venue of the hearing, along with any representative you may chose to use.

Yours Sincerely

NAME
CHAIRPERSON OF THE DISCIPLINARY HEARING

Appendix 10 - Guidance to Conducting a Disciplinary Investigation

It should be made clear the difference between an investigatory hearing (the purpose of which is to establish the facts and not to make any decisions based on these facts), and a disciplinary hearing (the purpose of which is to determine whether there are any grounds to impose a disciplinary sanction on the employee). Those involved in undertaking investigations should take care:

- Not to jump to conclusions prematurely
- To restrict their activities to investigating the facts, rather than making decisions based on the facts
- Not to say or do anything that implies judgement of the employee's actions or behaviour.

Investigatory Interviews

When interviews are deemed appropriate by the Investigating Officer as part of an investigation the following guidance should be used.

Interview Preparation

Before an interview takes place the Investigating Officer should decide who, if anyone, will need to be interviewed and in what order, and this may involve asking the employee under investigation or other witnesses whether anyone important to establishing the facts should be interviewed. The Investigating Officer should give 48 hours advance warning to the employee and witnesses in writing of the interviews being required.

All of the relevant details should be considered carefully, including any relevant personal details such as previous performance and experience, length of service, and any current warnings and history.

Careful thought should be given to further relevant documentation that may be required, and of any facts that will need to be confirmed in writing such as the evidence of witnesses.

The Investigating Officer should prepare an outline of issues and questions that need to be explored in order to establish the facts – what, when, where and how.

Other considerations might include:

- How the situation has already been dealt with
- Have there been any recent changes to the job or working environment?
- Have there been any previous incidents which relate to this one?
- Has the employee received appropriate induction, counselling or training
- Are there any mitigating circumstances, e.g. health / disability, domestic problems, or provocation?

The Interview

The Investigating Officer should ensure they have all of the relevant facts and documentation available to them at the interview meeting.

The Investigating Officer should ensure a formal but polite and open approach is used that will encourage individuals to talk freely in order to establish the facts. It is important that nothing is prejudged, and that individuals do not feel that blame is being apportioned. Interviews should focus on establishing what was directly observed, heard of done by the employee concerned. The Investigating Officer should try and distinguish

between hearsay and speculation from facts.

Hearsay Evidence which is defined as “evidence offered by a witness, based upon what someone else has told him / her”, and not upon personal knowledge or observation should not generally be admitted. However if admitted it should be dealt with very cautiously and little weight should be given to it.

Anonymous evidence should not normally be used either exceptions to this may be:

- where the allegations are serious and can be verified through independent investigation
 - or
- if a potential witness had a real fear, reasonably held, that they would suffer substantial detriment if they were to sign their statement.

Interview Introductions

- Welcome the interviewee
- Outline the purpose of the interview and the investigation
- Confirm the need for confidentiality
- Introduce those present and explain their roles to the interviewee

Interview Style

- Focus on the evidence and facts relevant to the investigation. i.e. what, where, when and how.
- Pace the interview so that it can be easily followed by the interviewee and the note taker
- The interviewer should be impartial and non-judgemental
- Do not speculate and predict outcomes
- Interviews should not go on longer than an hour and a half without a break
- The interview can be stopped at any time to allow a comfort break or request for a break
- It may be helpful to follow a date order approach to the interview – this will allow the Investigating Officer to see the order of events.

Recording The Interview

The record of the interview should include:

- Date, place and timing of the interview
- Who attended in what capacity
- An accurate account of what was said and by whom

Recording The Interview

The Investigating Officer should decide how to record the interview. Interviews that are likely to be lengthy and complex and particularly when interviewing the employee under investigation, tape recording is often the easiest and most efficient method. However, some employees may feel uncomfortable being interviewed on tape and should not be pressurised into doing so against their will. The employee may request the interview to be recoded in this manner and this should be considered by the Investigating Officer.

There may be instances where tape recording is not deemed appropriate, for example, where a simple statement of fact is required or a prewritten statement is used ad verbatim and can be submitted. Or the minute taker or Investigating Officer is able to work on a lap top and type notes during an interview.

The key is to choose the most efficient and effective way to record information in the circumstances having regard to the interviewee and the nature of the interview.

Appendix 11 - Disciplinary Investigation Report Template

**PRIVATE &
CONFIDENTIAL**

DISCIPLINARY INVESTIGATION REPORT

NAME, JOB TITLE, SERVICE AREA

Date	
Investigating Officer	

INTRODUCTION

- 1.1 Provide brief details of the employee who is the 'subject' of the investigation, their employment history, current role and how long held etc.
- 1.2 Provide brief outline of how the concerns arose.
- 1.3 Note if suspended and when, whether redeployed for duration of investigation or if there are any specific changes in place to allow the investigation to take place ie. line management responsibility removed, budget responsibility suspended, taken off usual duties but still within department etc...
- 1.4 If there are specific allegations record them at this point.
- 1.5 Timescales used for the investigation should be reported here along with any amendments to timescales and the reasons for these changes.

2 SCOPE AND COVERAGE

Investigation objectives should be recorded here.

Members of the investigation team should be listed here. Please print name (with initials shown after in brackets), with job title and service area.

All interviewees should be recorded (including telephone interviews) - the initials should be inserted after each name as these will be the initials used throughout the report. - If the list of interviewees is long consider including it as an appendix

If the Investigating Officer has not interviewed all individuals, either those suggested by the employee under investigation or witnesses then the decision should be recorded in this section (including reasons e.g. character reference only, or off sick)

List of files and documents inspected - If the list is long consider including it as an appendix

List of letters sent to all involved in the investigation. – Please provide dates of copies and to whom and for what reason the letter was sent. Copies should be attached as Appendices.

2.1 Investigation objectives:

To establish whether:

-
-

2.2 Interviews were held as follows:

2.5 Appendices:

Appendix 1	
Appendix 2	
Appendix 3	

3 BACKGROUND

Include brief details of the service area / location / work environment/team e.g. organisational structure and numbers within the team.

Key responsibilities of the 'subject' of the investigation and it may also be appropriate to add the JD and person specification.

Include anything else to 'set the scene' for the reader - there is every chance that the reader will not have any knowledge of the service if this document is used to support any disciplinary action.

Details of policies and procedures that may be relevant should also be mentioned (attach copies if deemed appropriate) and the process used to ensure the employee's knowledge of the policy i.e. induction, training, etc.

If the service area uses many acronyms, consider the use of a small glossary at this point or including it as an appendix

Aim to keep this section approximately half a page in length or a full page for more complex cases

3.1

3.2

3.3

3.4

4 FINDINGS

Organise the findings under each main allegation

- *Avoid pages and pages of continuous text - break up with headings e.g. 'Working Relationships', 'Service Complaints', 'Performance Management', 'Shouting Incident - 31 May', 'Previous Management Action', etc... This makes the report easier to read.*
- *Avoid using vast extracts from statements - only quote directly from the statements where it is necessary, for example, to illustrate the use of language or if the response to a question shows a particular disregard for policy or respect for others. It is the Investigating Officer's responsibility to analyse all the statements and draw out all corroborative evidence. Interviewees are not always articulate during interviews and the Investigating Officer should therefore use their own words to concisely convey the findings.*
- *Investigating Officers are not just fact finders - it is the Investigating Officer's responsibility to explain what the evidence means. Avoid 'he said, she said' reports - the reader should not be left trying to establish what all the facts mean.*
- *If the evidence is inconclusive or there is no evidence to substantiate an allegation - say so. The Head of Transformation or delegated other wants to know whether there is any evidence to support the allegations - it is also the Investigating Officer's responsibility to explain how significant the evidence is - this should come across throughout the report.*
- *It is important to note any mitigating factors e.g. lack of procedural guidance, management action or expected documentation and any other actions / behaviours which may have compounded or aggravated the situation.*
- *Using full names throughout the report can be very repetitive - Council policy is to use initials e.g. Joe Bloggs (JB) - always quote full name and job title the first time they are mentioned within the report - initials thereafter.*
- *In addition to the specific allegations the report should include any patterns of behaviour that may have some relevance.*
- *If specific actions demonstrate a breach of Council policy or service procedures - these should be noted throughout the report, where appropriate.*

ALLEGATION 1:

SUB HEADING

4.1

4.2

4.3

4.4

SUB HEADING

4.5

4.6

ALLEGATION 2:

SUB HEADING

4.7

4.8

4.9

5 SUPPLEMENTARY ISSUES

5.1 There are no supplementary issues to this report OR

5.2 cover issues which you have identified but are not directly related to the allegations or objectives of the investigation (could be system issues, management or policy weaknesses or matters which relate to the individual but were not part of the original brief – e.g. patterns of behaviour)

6 CONCLUSIONS

This is where the Investigating Officer provides an overall fact based opinion on a) whether there is any evidence to support the allegations and b) the strength of the evidence.

i.e. Looking at each allegation, does the majority of evidence support the allegations being made. If so please detail why.

Or

Looking at each allegation, does the majority of evidence NOT support the allegations being made. If so please detail why.

Support the conclusions with the strongest evidence without repeating the text in the main body of the report (where possible) - the conclusions should be clear and concise.

Identify to the reader the strengths and weaknesses in the evidence - emphasising the importance of any issues and where evidence can be open to different interpretation / scenarios.

Draw out key facts which demonstrate particular breaches of policy such as Financial Regulations, service policies & procedures etc. What evidence supports the employee being aware of what was expected or required of them? What is this evidence?

If there are any mitigating factors ensure that they are clear within the conclusions and it is important to explain their significance.

6.1

6.2

6.3

6.4

6.5

7 RECOMMENDATIONS

7.1 The report is sent to the Head of Transformation or delegated other. A meeting with the Line Manager, Head of Transformation (or delegated other) and Investigating Officer should be held to help clarify any points of fact or evidence. The Head of Transformation, in consultation with line manager and Investigating Officer, what decide what the next steps will be. The possible outcomes are:

- No further action.
- Counselling / Performance Management Action or action through an alternative policy such as capability or probation.
- A formal disciplinary hearing is required.

7.2 *If the Investigating Officer believes there is sufficient evidence to warrant consideration by a disciplinary hearing, this should be indicated here.*

7.3 *Any recommendations relating to system, policy, procedural or management weaknesses should also be reported here even if outside the scope of any disciplinary hearing. The Head of Transformation (or another member of HR) will discuss these recommendations with an appropriate manager within the organisation.*

NB. *The discussions following these recommendations should not make any reference to the individuals involved in the investigation.*

END OF REPORT – This report and Appendices should be sent to the Head of Transformation in hard copy, although an electronic copy should be sent where available.

Appendix 12 – Disciplinary Appeal Application Form

Your Name	
Your Job Title	
Your Service Area and Line Manager	

Details of your appeal (Please continue on separate sheet if required).

Please explain the reasons for the appeal (refer to the policy), and attach any supporting evidence.

Individuals involved in the appeal:

Please provide the names and contact details of any people involved in your appeal, including witnesses you wish to call during the appeal.

Outcome requested from the appeal:

Please set out what outcome you would like to see from your appeal.

Name of trade union/other representative (if appropriate)	
---	--

Signature	
Date	

Please send this form to the Head of Transformation within five working days of receiving your disciplinary hearing outcome letter.