**** Cyngor Sir CEREDIGION County Council

Adnoddau Dynol | Human Resources

**Policy and Procedure**

**Disciplinary**

**November 2017**

**www.ceri.ceredigion.gov.uk**

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**The appendices do not form part of the policy and are for guidance purposes only.**

# Policy

## Policy Statement

1.1 It is the policy of Ceredigion County Council to promote good employee relations between the Council and all its employees. Great importance is therefore attached to the principle of fair and consistent treatment for all employees and for the highest standard of conduct. The Council will ensure effective arrangements exist to deal with disciplinary matters in a fair and consistent manner and for those involved in disciplinary issues to have an opportunity to present their case without prejudice or victimisation.

1.2 This policy is to be read and followed in conjunction with the Council’s other policies and procedures including The Code of Conduct, the Grievance Procedure, Suspension Policy, Information Technology policies, etc. (please refer to the Policies and Strategies section on Ceri Net or contact Human Resources(HR) for a copy of any policies).

1.3 Any Employee may respond in Welsh to any allegations made against him or against her. If the Employee wishes to use the Welsh language then a simultaneous translation service from Welsh to English will be provided unless the meeting can be conducted entirely through the medium of Welsh.

1.4 This policy has been prepared taking into account the ACAS Guidance on how to Conduct workplace investigations and Discipline and Grievances at work: the ACAS guide.

## Scope

2.1 This policy applies to all employees under a contract of employment with the Council, with the exception of those who hold posts that fall under the Local Authorities Standing Orders (Wales) Regulations 2006 . There is also a specific policy which applies to those employees working in Schools or who are employed by School Governing Bodies.

## Principles

3.1 The policy is based on the following principles:-

* + The attainment and maintenance of the required standard of conduct of all employees.
  + The protection of the employee to be treated fairly and consistently in accordance with the principles of natural justice, the right of representation and the right to present their case.
  + The protection of the Manager to organise and manage those for whom he/she is responsible, ensuring and maintaining the required standard of employee conduct and to take any disciplinary action, including dismissal.
  + The Council has an obligation to treat all disciplinary matters in the strictest confidence as far as is reasonably practicable during the disciplinary process.
  + All allegations will be investigated before any formal disciplinary action is taken.
  + Employees will be kept informed of the timescales of any investigations or hearings.
  + The employee will receive written details of the allegations against him/her in as much detail as deemed appropriate. This will be dependent on the circumstances surrounding each case but for child or vulnerable adult concerns, full details may not be given until a later stage.
  + The employee will have the opportunity to state his/her case during the investigation and at any subsequent hearing.
  + Any warnings or other penalties must be clearly explained and recorded including time limitations.
  + No action will be taken against individuals unless the allegation(s) are demonstrated on the balance of probability.

# Procedure

## Informal Discussion/Supervision

4.1 It is important that, whenever possible problems relating to unsatisfactory conduct are dealt with informally under supervision. Supervision or an informal discussion will be the most appropriate way of dealing with a minor misconduct, or an allegation of a minor misconduct, but will be inappropriate in many circumstances including serious disciplinary matters, or serious allegations made against the employee.

4.2 Supervision will take the form of a private, one to one discussion where the Line Manager will give constructive feedback to the employee about his/her conduct and discuss the ways of improving and maintaining the improvement. Managers should pay attention to any relevant points the employee raises which they feel might have been affecting their performance, such as personal problems, work-life balance or ill health and consider whether, by addressing these through the appropriate policies, the problem might be addressed. For minor misconduct by an employee a Line Manager has the discretion to issue a supervisory warning without progression to the formal Disciplinary Procedure and inform the employee of what improvement action they should take.

4.3 The Line Manager must ensure that they have given clear information to the employee as to what improvement action is required and when this will be reviewed. Notes of the discussion, and any supervisory warnings, should be kept for reference purposes.

4.4 If, during informal discussion:

* it becomes apparent that the matter is more serious than first understood;
* if an agreed improvement action from previous informal discussions/supervision is not carried out or maintained;
* if there are multiple occurrences of a minor misconduct; or
* If there is a repeated minor misconduct of the same nature the meeting should be adjourned and the employee informed that the matter will be progressed under the formal Disciplinary Procedure. The Line Manager will then contact HR and their Group Manager or Head of Service informing them who will be the Disciplining Officer and to agree with them that the matter will be dealt with under the formal Disciplinary Procedure. The Disciplining Officer will normally be the Line managers’ Manager or another senior manager, although this may vary according to the circumstances of the case. A Terms of Reference for the Investigation must be completed. See appendix 1. Human Resources will appoint an appropriate Investigating Officer.

## Formal stage

* 1. The purpose of the formal procedure is to address serious cases of misconduct or allegations of serious misconduct. It should be noted that unsatisfactory performance can be related to capability or ill health and reference should be made to the relevant policies (please refer to the Policies and Strategies section on Ceri Net or contact HR for a copy of any policies). Progression to the Formal Disciplinary Procedure will also include instances of repeated misconduct, where informal supervisory support has been in place and no improvements have been made or where improvements have not been maintained. When it is decided that the matter must progress to the formal stage in order to investigate allegations of misconduct, the line manager will meet with the employee to inform them and then HR will write to the employee within 7 working days of the meeting. Where it is not possible to meet with the employee a letter will be sent by HR setting out the nature of the allegations to be investigated in as much detail as possible, and will also notify the employee who the Investigating Officer is.

5.2 Where disciplinary action is considered against an employee who is a Trade Union representative the normal disciplinary policy should be followed. It is advisable to discuss the matter at an early stage with an official employed by the Union, after obtaining the employee’s agreement.

## Child and Vulnerable Adults Protection Issues

6.1 Allegations against an employee concerning the potential abuse of children or vulnerable adults will not necessarily follow the usual disciplinary process. Any disclosure or allegation of potential abuse of children or vulnerable adults should be reported via the Council’s Safeguarding: Recording of Child/Adult Protection Allegations Against a Member of Staff or Volunteer procedure.

### Potential abuse of children by an employee

Matters concerning allegations of alleged child abuse will be conducted in accordance with Part 7 (Safeguarding) of the Social Services and Well-being (Wales) Act 2014 and Part 4 of the All Wales Child Protection Procedures 2008 (or the version in force at the time of the allegation). In accordance with these procedures, matters will be subject to a “Strategy Meeting” at which representatives including the Police, Social Services, Legal, Education, Child Protection Team and HR from the Council will be present. The outcome of the Strategy Meeting may be that the matter is referred to the Police for investigation prior to any Council investigation or it may be deemed appropriate for the matter to be progressed in accordance with this policy.

### Potential abuse of Adults at risk by an employee

Matters concerning allegations of alleged abuse of adults at risk will be conducted in accordance with Part 7 (Safeguarding) of the Social Services and Well-being (Wales) Act 2014 and the Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse 2013 (or the version in force at the time of the allegation). In accordance with these procedures, matters will usually be subject to a statutory “Strategy Meeting” at which representatives including the Police, Social Services, Legal, Adult Protection and HR from the Council will be present. The outcome of the “Strategy Meeting” may be that the matter is referred to the Police for investigation or it may be deemed appropriate for the matter to be progressed in accordance with this policy.

## Police Involvement

* 1. If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration needs to be given as to what effect the charge or conviction has on the employee’s suitability to do their job and their relationship with the employer, work colleagues and customers. Conviction of such an offence may therefore result in disciplinary action.
  2. If an employee is suspected of committing a criminal offence in work and the Line Manager considers that this is a reason for disciplinary action, the employee’s Line Manager should contact HR and the relevant Head of Service, who should notify the police accordingly. The disciplinary investigation may be able to continue alongside any police investigation given that both are distinct procedures. Discussions will be had with the police to ensure, so far as possible, that the police investigation is not prejudiced by the disciplinary investigation.

## Suspension

* 1. Please refer to the Council’s Suspension Policy & Procedure.

## Grievances

9.1 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be more appropriate to deal with both issues concurrently. Please refer to Ceredigion County Council’s Grievance Policy. A decision on what action to take in such circumstances should be discussed between the relevant Head of Service and HR Officer.

## Representation

10.1 Employees can be represented by a companion who may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany the employee.

10.2 There is a legal right to representation at the disciplinary hearing however the employee may choose to be accompanied by their chosen companion at all formal stages of the process.

10.3 The representative can address the hearing to present and sum up the employee’s case. The representative does not, however have the right to answer questions on the employee’s behalf, address the hearing if the employee does not wish it, nor prevent the employer from explaining their case.

## Investigation

11.1 It is vital that all allegations are investigated before any disciplinary action is taken. The purpose of the investigation is to establish whether or not there is a case to answer.

11.2 It is normal practice for a Line Manager to establish preliminary facts prior to any formal investigation in order to ascertain whether a formal investigation is necessary, apart from in situations where there are child and vulnerable adult protection issues in which case the Line Manager should not establish preliminary facts or carry out any investigation. A preliminary fact finding exercise by the Line Manager will not prejudice the formal investigation nor will it prevent the Line Manager from being involved as a potential witness. If it is not appropriate for the Line Manager to be involved in establishing preliminary facts, i.e. if the Line Manager is involved in the incident or the employee makes a complaint against the Line Manager, another senior officer will establish the preliminary facts in that situation.

11.3 After the preliminary facts are established, if the Line Manager decides an oral warning will be sufficient in the circumstances and a formal investigation is not needed i.e. if the facts are straightforward or if the employee admits to the minor misconduct he/she is being accused of, the Line Manager should discuss with HR. The Line Manager will then invite the employee to a meeting to issue the oral warning. The employee can be represented at this meeting by a Trade Union representative or work colleague. HR will then send a letter to the employee to confirm the oral warning within 7 working days.

11.4 If after the preliminary facts are established the Line Manager feels that an oral warning may not be sufficient, they should seek advice from Human Resources and if there is agreement that a formal investigation is needed the Line Manager will inform his/her manager who should commission the investigation and become the Disciplining Officer. A Human Resources Officer will be designated to the investigation and will appoint an appropriate Investigating officer.

11.5 The Investigating Officer should be given written terms of reference by the Disciplining Officer. The Investigating Officer should deliver his/her report to the designated Human Resources Officer in the first instance on completion of the report.

11.6 A thorough investigation must be carried out as quickly as possible. The Investigation should not take longer than 6 weeks to complete although it is recognised that some matters are particularly complex and may require more time.

11.7 Through the course of the investigation, however it may transpire that other or new issues have come to light which also require investigation. Where this occurs, the Investigating Officer must discuss the issue with the Disciplining Officer and the designated Human Resources Officer to see if the scope of the investigation should be extended.

11.8 Where it is agreed that the scope of the investigation should be extended, then the Human Resources Officer will notify the individual in writing, providing as much detail as possible. If the allegation(s) change(s) during the investigation, then the Investigating Officer must interview the individual at least once on the new allegations.

11.9 The objective of the investigation is to obtain all relevant facts and information. This will include interviewing the person being investigated and all appropriate witnesses, taking statements, obtaining documentary evidence (e.g. employment records), and contacting outside agencies, bodies or individuals as appropriate.

11.10 Employees interviewed as witnesses will be requested to provide signed statements in respect of their evidence. In some cases, or by agreement interviews may be subject to audio recording, in which case the audio transcript will be typed up in full. Any such recording will be made available to the subject on request at any time

11.11 Once the Investigating Officer is satisfied that all necessary investigations are concluded, a written report will be produced and delivered to the designated Human Resources Officer, containing a recommendation as to whether or not there is a disciplinary case to answer. The designated Human Resources Officer is then responsible for liaising with the Disciplining Officer.

## Informing the Employee

12.1 If, after the Disciplining Officer has examined the investigation report and the evidence available, he/she decides that there is no case to answer, the Human Resources Officer and Line Manager will meet with the employee to inform them of this decision. If the employee has been suspended or temporarily deployed to other duties, (see suspension policy), they will be informed of the date that they will be expected to return to their usual work. The outcome will be confirmed in writing no later than 7 working days following the meeting. The requirement for support will be identified and discussed to assist the individual to return to work.

12.2 If there is insufficient evidence to warrant a disciplinary process but the employee requires some form of managerial support, then this will be agreed with the employee and arranged by the Line Manager through supervision or training during the return to work.

12.3 If, after examining the evidence, the Disciplining Officer with advice from the Human Resources Officer decides that there is sufficient evidence to issue an oral warning, and that a sanction is sufficient, the Line Manager will be informed. The Disciplining Officer will then invite the employee to a meeting to issue the oral warning. The employee can be represented at this meeting by a Trade Union representative or work colleague. This will confirmed in writing no later than 7 working days following the meeting.

12.4 If after the Disciplining Officer and the Human Resources Officer have examined the investigation report and the evidence available, and agree that there is sufficient evidence to warrant a disciplinary hearing based on the investigation officer’s report, the Human Resources Officer will inform the Line Manager and write to the employee to inform him/her that there is a case to answer and that he/she will be requested to attend a Disciplinary Hearing. The letter will include the date, time and venue for the disciplinary panel for the hearing.

12.5 It is the individual’s responsibility to contact their own witnesses to support their case at a disciplinary hearing. If the employee is suspended, they may contact witnesses through their allocated Human Resources Officer or their Union Representative. All witness statements and documentation detailing the employee’s statement of case for use in the hearing must where possible be supplied to the Human Resources Officer no later than 5 working days before the date of the hearing. The Investigating Officer is responsible for notifying the Human Resources Officer of the names of his/her witnesses, securing their release and notifying them of the time, date and venue etc. The Human Resources Officer will provide the employee, the Investigating Officer and the Disciplinary Panel members with the bundle of documents to be referred to in the hearing before the hearing. Only in exceptional circumstances can documents be presented on the day and this will be at the panel’s discretion.

12.6 It is the responsibility of the employee to reply to the Human Resources Officer within 7 working days if they cannot attend the hearing due to a pre notified appointment, are suffering from ill health evidenced by a Doctor’s certification or if their Union representative is unable to attend. If the employee or their Union representative cannot or does not attend on the given date, the hearing may be postponed and a later date agreed with the employee and their Union representative. This will be permitted on one occasion, unless there are exceptional circumstances. If the employee (or their representative) requests a further postponement, or does not attend for a second time, the hearing will not normally be re-scheduled and the hearing will proceed in the absence of the employee or their representative and will be based on the written documentation.

12.7 If the employee decides to tender his/her resignation during the investigation, the employee will be notified of the result of the investigation and if a disciplinary hearing is recommended. The employee will be invited to attend the hearing, along with their representative, however the hearing will be heard with or without the employee present.

## The Disciplinary Hearing

13.1 The point of the hearing is to establish the facts, decide if an act of misconduct has occurred and to decide what disciplinary sanction to impose, if any.

13.2 The disciplinary hearing is conducted either by a Panel or the Disciplining Officer and offers an opportunity for the Investigating Officer and the employee to present his/her case and be questioned on it, discuss the allegations made, ask questions and call any relevant witness.

13.3 In the event that the hearing is conducted by a Panel, this will consist of three Senior Officers, one of whom will be the Disciplining Officer who will chair the Panel, plus a representative from Human Resources in an advisory capacity. A minute clerk will also be present. The composition of the individual panels can be seen in Appendix 6.

13.4 After the Investigating Officer and employee have presented their case, the Panel / Disciplining Officer will consider and discuss all the evidence and reach a decision as to the outcome including any possible sanction. The decision should be made by a consensus, or in the rare event that the panel fails to agree, a simple majority applies. The HR Advisor will remain in an advisory capacity to ensure fairness and equality. The minute clerk will not be present during the Panel / Disciplining Officer’s deliberations.

* 1. The format of the hearing can been seen in more detail in Appendix 5.

## Disciplinary Outcomes

14.1 It is necessary to distinguish between different levels of seriousness of conduct. The severity of warning will reflect the seriousness of the offence and/or the individual’s current disciplinary record, together with any mitigating circumstances.

14.2 Formal warnings are normally cumulative but each must be assessed on their own merits as considered by the Panel / Disciplining Officer

14.3 Possible outcomes of a disciplinary hearing include:-

* ***No disciplinary action taken*** against the employee. This will be confirmed in writing
* ***Oral Warning*** – An oral warning will be applicable in cases of minor misconduct. An oral warning issued to an employee will be recorded in writing on the personal file and remain in force for 6 months from the date issued.
* ***Written Warning*** – A written warning will be applicable in cases of serious misconduct or more than one minor misconduct. A written warning issued to an employee will be placed on the employee’s personal file and remain in force for 6 months from the date of the hearing.
* ***Final Written Warning*** *–* A final written warning will be applicable in cases of very serious misconduct, or misconduct where a written warning has already been issued. A final written warning issued to an employee will be placed on the personal file and may last for up to 24 months from the date of the hearing but normally no less than 12 months.
* ***Disciplinary penalties avoiding dismissal*** *-* where the hearing finds an employee’s conduct or capability to be unacceptable to the point that dismissal is a possible outcome, it may be appropriate to consider alternative penalties to dismissal. These penalties can include: demotion, which will normally include a reduction in pay; loss of seniority or loss in increment; or disciplinary transfer. These disciplinary penalties must be explained, agreed between the employee and the disciplinary panel and confirmed in writing along with any specified period which may be appropriate. Any such actions will be viewed as an alternative to dismissal, if the employee disagrees with the alternative penalty, and no other alternative penalty can be agreed upon, they may be dismissed.
* ***Dismissal with Notice*** – where the employee has either failed to respond to previous warnings and their conduct or capability remains unacceptable, or is found to be of a serious nature at a first hearing, dismissal with contractual notice may be an appropriate disciplinary penalty. Where the employee’s presence in the workplace would cause significant difficulty on either part; a payment may be made in lieu of notice. This may be, for example, where there has been a breakdown in trust between the employer and the employee.
* ***Dismissal without notice or Summary Dismissal –*** This may be appropriate if it has been found at a disciplinary hearing that the employee’s conduct amounts to gross misconduct where the mitigating circumstances are insufficient and/or where the employee’s presence at work in untenable.
* ***Recover expenses incurred by the Council –*** If the employee has damaged or stolen any property belonging to the Council and it will incur cost for the Council to repair or replace, the full cost or a percentage of the cost will be recovered from the employee if the panel decide that the employee did deliberately, fraudulently or negligently cause the loss or damage to the property.

14.4 All outcomes and sanctions will be confirmed in writing within 7 working days of the disciplinary hearing.

14.5 A decision to apply a particular sanction should not be based on an expired warning but the fact that there is an expired warning can explain why the employer does not substitute a lesser sanction.

## Appeals against Disciplinary Outcome

15.1 An Appeal will be undertaken by means of a review of the decision usually based on the reasons given in the letter of appeal. In certain circumstances the appeal will take the form of a rehearing where new evidence has come to light or where an allegation of bias is made.

15.2 To lodge an appeal, the employee must write, stating the reason for the appeal, to the Human Resources Officer within 10 working days from the date of the letter setting out the disciplinary sanction.

15.3 Reasons for appeal on which the disciplinary action should be reviewed may include:

* + - Failure to adhere to the procedure.
    - An inappropriate or inconsistent penalty.
    - Extenuating circumstances that were not considered.
    - Bias by the person chairing the hearing.
    - New evidence subsequently coming to light which may have affected the decision.

15.4 The Council will try and hold appeal hearings within 30 working days of receipt of the notice from the employee. If this is genuinely not possible, the employee will be informed, given the reason for the delay and informed of the next possible date for the hearing.

15.5 If the employee or their companion is unable to attend on the date set for the appeal hearing, he/she must inform HR at least 7 working days prior to the appeal hearing date and one alternative date will be arranged.

15.6 An appeal against disciplinary decision short of dismissal will be heard either by a senior manager alone, who has not been involved in the case up to this point, or a panel compromising of a senior manager with two senior officers and a Human Resources Officer present in an advisory capacity to ensure fairness and equality none of whom having being involved in the case up to this point.

15.7 Appeals against dismissals will always be conducted by a panel of 3. The composition of the individual panels can be seen in Appendix 6.

15.8 As in the case of a disciplinary hearing, the Appeals manager or Panel will be able to ask relevant questions to help them arrive at a decision.

15.9 The Appeals manager or Panel will be able to confirm the decision and the disciplinary penalty imposed, or may reject the original conclusions and substitute a different decision. The decision will be confirmed in writing to the employee by the Human Resources Officer within 7 working days of the appeal hearing. If the Appeals manager or Panel rejects the decision made at the disciplinary hearing, the new decision will be recorded on the individual’s personnel record and the previous decision will be removed.

* 1. The appeal hearing is the final stage of the Council’s Disciplinary Procedure and the Appeals manager or Panel’s decision is final.

**Note**

Please note that the Appendices attached to this policy and procedure do not form part of the policy and procedure and may be amended without prior consultation with Trade Unions and Professional Organisations.

Appendices

## Appendix 1

**INVESTIGATING OFFICER TERMS OF REFERENCE**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | | | | | | |
| Date: |  | | | | | |
|  |  | | | | | |
| Employee/s subject to Investigation: |  | | | | | |
|  |  | | | | | |
| Employee’s Place of Work: |  | | | | | |
|  |  | | | | | |
| Contact details of employee (ensure that employee is asked how they prefer to be contacted |  | | | | | |
|  |  | | | | | |
| Date of suspension (if applicable) |  | | | | | |
|  |  | | | | | |
| Name of Contact Officer appointed (if applicable) |  | | | | | |
|  | | | |  | | |
| Name of Employee’s Line Manager | | | |  | | |
|  | | | |  | | |
| Contact details of Line Manager | | | |  | | |
|  | | | |  | | |
| Name of Investigating Officer | | | |  | | |
|  | | | |  | | |
| Commencement date of investigation | | | |  | | |
|  | | | |  | | |
| Name of Disciplining Officer | | | |  | | |
|  | | | |  | | |
| 1. **Background** | | | |  | | |
| Briefly describe the circumstances and issues to be investigated:  Describe any actions taken in handling the complaint so far: | | | | | | |
|  | | | | | | |
| 1. **Reporting Requirements** | | | | | | |
| The Investigator must provide a concise written report with appendices of evidence and witness statements where relevant.  **Requirements of the Investigator:**  Take statements and reach findings of fact as well as make recommendations either specific to the events, or more generally, including whether you believe a disciplinary offence has been committed.  Statements should be agreed and signed by the person making the statement. Witnesses should be informed that they may be required to attend a panel and answer questions in relation to their statement.  Attend the Hearing and present the investigation report.  Complete the workplace investigation in a timely manner; it is expected that your report | | | | | | |
| will be available by: | |  | | | | |
| See template report and Investigation timetable. | | | | | |  |
| **Recipient of the report** | | | | | | |
| Please address the report to: | |  | | | | |
|  | |  | | | | |
| In addition to whom the report is addressed it will be made available to panel members if a disciplinary hearing is required and the individual/s who are the subject of the report and their representative/s. | | | | | | |
|  | | | | | | |
| 1. **Human Resources Team** | | | | | | |
|  | | |  | |  | |
| The investigator must contact | | |  | | in the HR section for advice if: | |
| * New allegations are made during the investigation. * There are reasons why it is not possible to meet the deadline given. * The investigator believes it is necessary to widen the scope of the investigation. * If a criminal offence is suspected which has not already been investigated including new safeguarding concerns. | | | | | | |

## Appendix 2

**INVESTIGATION PROCESS CHART**

**COVER SHEET FOR INVESTIGATION REPORT**

|  |  |  |  |
| --- | --- | --- | --- |
| **1** | Manager receives complaint/allegation and may do a fact finding exercise to see if valid before proceeding further | **Date Complaint/Allegation Rec’d and by whom.** | |
| **2** | Manager and relevant Group Manager / Head of Service with advice from Human Resources may at this point suspend the person and/or inform them that they are subject to an investigation. The allegation should first be considered with due regard for any criminal or safeguarding concerns and process taking precedent.  Suspension and/or allegations must be confirmed in writing to the employee by Human Resources and a contact officer noted. A copy of the relevant policy is enclosed with letter | **Date Suspended / Date Informed** | |
| **3** | The investigating officer, and disciplining officer are appointed by consultation with Human Resources and relevant Head/s of Service | **Investigating Officer** |  |
| **Disciplining Officer** |  |
| **4** | The disciplining officer or their nominated representative in consultation with HR provides the Investigating Officer with the terms of reference detailing the allegation or complaint, in order to conduct the investigation. | **Date Contacted** | |
| **5** | The Investigating Officer makes contact by letter (or telephone if this has been specifically requested) with subject, to inform them of their role as Investigating Officer. | **Date Letter Sent** | |

|  |  |  |
| --- | --- | --- |
| **6** | Make a plan with timescales showing:   1. List of witnesses – who do you need to speak to and in what order? 2. Information that you will need from each person 3. Write to request certain information be available to collect at their interview or beforehand if possible 4. Compile a list essential questions based on this information 5. Interview the employee being investigated last – your questions to them will be based on evidence and information given by other witnesses 6. Do not inform them of who you have interviewed or what was discussed at each meeting 7. Keep a diary with all meetings/interviews regarding the case (Outlook is useful) 8. Set aside the time and seek support from your team regarding your own work 9. See if a Clerk is available for your meetings so that you are not making notes as you go along, ensuring confidentiality is maintained at all times. | **Date Completed** |
| **7** | Arrange to meet with witnesses:   1. Prepare your script beforehand using the template witness statement (appendix ?) to guide you. 2. Select appropriate venue – not necessarily normal place of work   (c) Consider how much information you need to impart to any witness. Only share what is absolutely necessary | **Date Arranged** |
| **8** | Type up the witness statement and send to the respective witness and get them to sign it and return within timescales. Do not be wary of interviewing a witness a second time.  If agreed by all parties an audio transcript can be used subject to the original audio recording being made available to the subject on request prior to any hearing date. | **Date Sent/Returned** |
| **9** | Prepare a report using the template provided (Appendix ?) and pass to the allocated human resources officer who will arrange for the Disciplining officer to review it. Human Resources will arrange for feedback to be given to the Investigating Officer in relation to their recommendations. | **Date Completed/Sent** |

## Appendix 3

**GUIDANCE FOR INVESTIGATING OFFICERS**

1. **Introduction**

It is sometimes necessary to investigate certain matters involving employee(s) and you may be nominated as the Investigating Officer. These matters may relate to disciplinary allegations, or any matter where there is a need to establish the facts and ascertain whether there is a case to be answered at a hearing.

If you are asked to investigate a matter, you will need to seek advice and support from a Human Resources Officer and must read the following guidance carefully. You must declare at that time if you feel it is inappropriate for you to undertake the investigation, if for example, the matter involves a close friend or if you have had some previous personal relationship difficulties with the person who is subject to the investigation.

Investigations should be concluded within 6 weeks if possible and in any event within a period of three months. An investigation must take priority over all other work commitments as far as possible. The Investigating Officer should discuss the time scale of his/her investigation with the employee affected (in general terms) at the beginning of the process and should keep him/her updated thereafter. If it becomes evident that more time is needed then you must discuss this with the HR Officer as soon as possible. Only in exceptional cases should an investigation exceed 3 months.

If an employee has admitted committing a disciplinary offence then the investigation will not need to be as detailed, as the case is proven by the employee’s own admission.

Investigation training will be given to nominated Investigating Officers

1. **Confidentiality**

Confidentiality during an investigation is of the utmost importance so as to maintain the integrity of the evidence and the respect of the individual being investigated. It is essential that the Investigating Officer must not discuss more information than is necessary with any individual. It is also necessary to impress upon any witnesses the need to maintain confidentiality. The Investigating Officer is not to discuss the case with anyone other than those involved in the case. Employees must also be informed of the confidentiality of all cases.

Special care should be taken not to inadvertently include appendices to the investigation report which may breach confidentiality or Data Protection laws e.g. Service sickness records specifying the names of employees other than the employee concerned. Include only the information which is necessary and relevant to the investigation.

1. **Prior to the Investigation**

In disciplinary matters it is usual for the Investigating Officer to undertake a thorough investigation into the facts, prepare a report with recommendations on the findings and attend any disciplinary hearing to present the case to the panel. In disciplinary investigations your role is to establish whether on the balance of probabilities there is a case to answer.

A clear Terms of Reference needs to be completed by the Disciplining Officer outlining the detail of the investigation than needs to be undertaken.

1. **Plan the Investigation**

Clarify the allegations or complaint. Having discussed the issue in broad terms with the Disciplining Officer and Human Resources Officer, the first person you would normally interview is the complainant.

Decide what facts need to be established and continually review.

Decide which witnesses need to be interviewed and in what order.

Timetable the interviews ensuring that there will be adequate time to re-interview witnesses if more information comes to light.

Decide what documentary evidence is needed – this may include employment records, rotas, etc.

Ensure that you are complying with the requirements of the appropriate policy.

It is important that the rights of employees are protected whether it is the employee being investigated or an employee who has made a complaint. Care should be taken when dealing with incident of Whistleblowing. Please refer to the Council Whistleblowing Policy for further guidance.

1. **Starting the Investigation**

You will need to have a full briefing with the Human Resources Officer before starting the investigation. The investigation must take priority over all other work commitments where possible. The employee will be notified in writing by the HR section of the investigation and the reason for it and that they have appointed you as the Investigating Officer. The employee will also be advised of their right to be represented by a colleague or trade union representative.

If you become aware of any financial loss e.g. theft, fraudulent travel claims, employees being paid for hours not worked etc, you will need to immediately contact the Human Resources Officer who will then make contact with the Internal Audit, Financial Services, Monitoring Officer or police as appropriate for their support and expert advice.

1. **During the Investigation**

Arrange to interview all parties involved promptly to ensure that the recollection of events is still clear.

Obtain all relevant information including witness statements and other documents.

The investigation should be completed within the agreed time period as agreed by both parties.

1. **Interviewing Witnesses**

Witnesses should be informed at the beginning of the interview that their statement may be used at a future hearing and that it is possible they may be called as a witness.

A signed and dated statement of all interviews will be taken as part of the investigation.

You should make sure that you:

* + - Plan the interview in advance.
    - Be courteous, no matter how serious the allegations are.
    - Select a suitable venue free from interruptions.
    - Do not lead the witness – let them tell you what happened in their own words.
    - The interview should not develop into a hearing where a verdict is reached.
    - Obtain agreed witness statements from all parties involved.

1. **Preparing the Investigation Report**

Once all the evidence has been collected, you should write a report setting out the facts as told to you by the interviewees, in chronological order. If there are contradictions it is best to highlight them, as they may need to be proved further in the hearing.

The report should include the following:

* + - An introductory statement which sets out your name, position and when you were asked to start the investigation
    - A brief statement which outlines the name and post details of the individual together with length of service, office base etc.
    - Details of the allegations
    - Summary of the background of the incident/complaint
    - Summary of main findings
    - Details of any conflicting evidence
    - Other relevant documents ie: written instructions or training records, policies/procedures, guidance notes
    - Any other relevant material
    - Brief conclusions ie: outlining the main conclusions reached and a recommendation which states whether or not in you view there is a formal disciplinary case to answer.
    - Appendices to include all evidence which the report is based upon.

The report must:

* + - Relate as far as possible only to the matter of the complaint/grievance
    - Maintain confidentiality
    - Be prepared to reveal any management shortcomings which may come to light during the investigation

During the course of the investigation, it may transpire that other allegations come to light which go further or may even be unrelated to the original allegations. Should this occur then you should make contact with the HR Officer and Disciplining Officer in order that a decision can be made as to whether the scope of the investigation needs to be widened. In the event that the new allegations are to be investigated then the HR Officer will write to the individual providing details of the new allegations.

Once the report has been finalised it should be formally submitted to the Disciplining Officer and a copy provided to the HR Officer.

The Disciplining Officer and HR Officer will consider the report and evidence produced. If they conclude that the matter should proceed to a formal disciplinary hearing then the necessary arrangements will be made for the hearing to take place. The employee and their representative will be issued with a copy of the report.

If no further action is to be taken you will be responsible for informing all witnesses that you interviewed that there will be no further action. The manager who received your report will inform the employee who was the subject of the complaint.

If the case continues to a hearing then your report will be used as the Statement of Case.

1. **Preparation for a Disciplinary Hearing**

Arrange for all necessary witnesses to attend and ensure they are briefed so that they know what to expect.

The employee under investigation has the right to call witnesses at the hearing. The HR Officer must inform them of this right but it is their responsibility or that of their representative to organise this.

The names of your witnesses and the witnesses of the employee must be submitted to the HR Officer at least 7 days before the date of the hearing.

You will be expected to present the case based on your report. You will be expected to present the key points of your investigation, explaining any conflicting evidence and sum up the investigation.

You may need to prepare a statement of the main facts of the investigation for your summing up, but be prepared to add any relevant facts from the evidence heard at the hearing.

1. **Disciplinary Hearing**

At the hearing the Investigating Officer (or nominee approved by the Council) will:

* + - Present the Statement of Case by outlining the allegations, presenting the evidence and calling and questioning witnesses as required
    - Ask questions of the employee concerned and of their witnesses
    - Answer questions from the employee concerned, their representative and the panel
    - Sum up the case. If new evidence is put forward which has not been covered previously, comment on its relevance

1. **Appeals Hearing**

Following a disciplinary hearing, an employee has the right to appeal against any decision made.

The Appeals hearing will follow the same format as the disciplinary hearing. The Appeals hearing will only hear the matters identified within the Appeal.

## Appendix 4

**INVESTIGATING OFFICER’S REPORT**

**Investigation report into an allegation(s) of** (*allegation*) **against** (*name of employee*) **in accordance with the** (*procedure e.g. Disciplinary*) **POLICY**.

**INVESTIGATION OFFICER’S (I. O.) NAME:**

**SOURCE OF ALLEGATION(S)/COMPLAINT:**

(*How the situation was brought to manager’s attention*)

**DATE INVESTIGATION COMMENCED:**

(i.e. Was this the same as the date appointed or was I.O. on Annual Leave for a period of time causing a delay in starting etc)

**DISCIPLINING OFFICER NAME:**

**A DETAILS OF THE ALLEGATION(S)**

**The allegation(s) is as follows:-**

List the actual allegation(s) as agreed with the Nominated Officer/Complainant, numbering each separate allegation, providing a brief synopsis of each. The allegation(s) should be stated in a factual and precise manner.

**B OUTLINE OF THE INVESTIGATION**

**The steps of the investigation:-**

**The following interviews were carried out:-**

(Who was interviewed and dates)

**Who Date Taken Statement Attached (Ref)**

XXX XXX Appendix ?

XXX XXX Appendix ?

**Staff or Other Relevant Persons who it was not possible to see:**

(Who / Why – an e.g. may be where an employee has left authority etc)

**Records Inspected:**

(e.g. Case File / Employees File checked by Human Resources Officer)

**Other material Inspected (written or other):**

(e.g. Internet sites)

**C BACKGROUND TO ALLEGATION(S) AND CHRONOLOGY OF MAIN EVENTS**

**D INVESTIGATION FINDINGS**

(List each allegation(s) / complaint as at A – under each, detail your findings on what happened and why, providing evidence to support or disprove it, based on what you have been told or what you have seen recorded and comparison against practice guidance and standards. This should include what happened as well as what didn’t happen). Provide details of any conflicting evidence.

**E CONCLUSION OF INVESTIGATING OFFICER**

(The conclusion is your assessment or view of the situation and your reason for reaching this view. It should be clear to anyone reading this as to why you have reached a certain conclusion. You will also need to conclude whether or not in your view there is a case to answer or not). If you are unable to reach a view on a particular issue you should say so. (e.g. when there is conflicting information, neither being able to be substantiated). You may wish to reflect a personal view based on the balance of probabilities but you should be able to substantiate why you think this). Please note that it is not the Investigating Officers role to put forward or recommend sanctions.

**F ANY FURTHER COMMENTS (OPTIONAL)**

(e.g. that some staff commented but were reluctant to be formal witnesses or provide evidence).

**G Appendices**

## Appendix 5

1. **Conducting a Disciplinary Hearing**
   1. The Disciplinary Hearing provides an opportunity for the Disciplining Manager / Panel Members to directly meet with and question all concerned and for the subject of the Disciplinary Hearing to state their case. It is critical that the whole process (including preparation) meets with the basic principles of natural justice and will withstand scrutiny at any subsequent appeal hearing, particularly on the following:
      1. That the employee knows the nature of the case against him/her.
      2. That the employee has the opportunity to state his/her case.
      3. That the officers conducting the disciplinary hearing act in good faith.
2. **Recommended procedure to be followed**
   1. The Disciplining manager / chair of the panel should introduce all those present together with their respective roles at the hearing.
   2. Explain the purpose of the hearing and confirm that the Council’s Disciplinary Policy will be followed.
   3. Confirm that the allegations, if proven, could result in disciplinary action – including dismissal in the case of serious allegations.
   4. Indicate the format and intention of the hearing to ensure:
      1. Full and fair consideration of all relevant issues
      2. That there is evidence of a thorough investigation having been undertaken
      3. All appropriate evidence is heard
      4. The employee understands all the issues so he/she can answer and defend himself/herself against the allegations
   5. The Investigating Officer will present their report and evidence collated and remain throughout the hearing.
   6. The Investigating Officer will answer questions firstly from the Disciplining Manager/ Panel Members and lastly from the employee (or representative).
   7. The Investigating Officer will have the opportunity to call and question witnesses who will then answer questions in the same order as 2.6. The witnesses will only remain in attendance during their questioning.
   8. The employee (or representative) will be invited to make statements, present evidence (verbal and/or documentary) in response to the allegations.
   9. The employee (or representative) will answer any questions from the Disciplining Manager/ Panel Members and if necessary from the Investigating Officer unless agreed otherwise.
   10. The employee or their representative will have the opportunity to call and question witnesses who will then answer questions from the Disciplining Manager/ Panel Members and Investigating Officer.
   11. All parties will be allowed to make concluding remarks.
   12. The Disciplining Manager/ Chair of the panel will ask both parties to withdraw to allow deliberation.
   13. If the Disciplining Manager/ Panel Members wish to clarify any point with either party during deliberations, he/she will recall both parties even if any questions are to be directed only to one of the parties.
   14. The Disciplining Manager/ Panel Members will deliberate objectively on:
       1. The evidence presented
       2. The allegations and their gravity and implications
       3. The employee – their record and any mitigating factors
       4. The balance of probabilities
   15. The employee together with their representative, the Investigating Officer and minute clerk will be recalled. Having reached a conclusion the Disciplining Manager/ Panel Chair will communicate the decision to the employee (or the representative), and the HR Officer will confirm the decision in writing (together with details of the right of appeal) within 7 working days.

## Appendix 6

**Panel members for Disciplinary & Appeal Hearings**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **GRADE OF EMPLOYEE SUBJECT TO DISCIPLINARY PROCEDURES** | **MINIMUM LEVEL AUTHORISED TO SUSPEND FROM DUTY** | **MINIMUM LEVEL AUTHORISED TO CHAIR A HEARING AND MAKE APPROPRIATE DISCIPLINARY DECISIONS** | **MINIMUM LEVEL AUTHORISED TO CONSIDER AN APPEAL** | |
| **Oral, Written & Final Written Warnings** | **Dismissal or Relegation** |
| All employees up to and including Grade 11 | Operational /Corporate /Group Manager | Any Officer nominated by the Head of Service, Strategic Director, Deputy Chief Executive, Chief Executive to undertake the delegated task. The officer must be at a more senior level than the employee subject to the disciplinary action. and normally at Grade 12 or above | Operational Manager | 3 Heads of Service, or Strategic Director not previously involved |
| All employees Grade 12 and above (including Soulbury Grades Centrally employed Teachers) | Head of Service | Head of Service – Chair  2 other panel members at Group /Corporate manager not previously involved | 3 Heads of Service, or Strategic Director | 3 Heads of Service, or Strategic Director not previously involved |
| Head of Service | Strategic Director | Strategic Director | Panel of Strategic Director/Deputy Chief Executive/  Chief Executive | Panel of Elected Members |
| Strategic Director | Chief Executive | Chief Executive | Panel of Elected Members | Panel of Elected Members |
| Deputy Chief Executive/  Chief Executive | Member Investigating Committee and Independent Officer | Member Investigating Committee and Independent Officer | Panel of Elected Members\* | Panel of Elected Members\* |

## Appendix7

**EXAMPLES OF MISCONDUCT & GROSS MISCONDUCT**

1. **Misconduct**
   1. Disobeying instructions, i.e. when an employee without sufficient cause disobeys or omits or neglects to carry out a reasonable management instruction, whether in writing or not, which it is in the employee’s duty to obey including failure to observe the operational regulations and orders of the employing department.
   2. Abusive conduct from employees in connection with their employment towards a fellow employee, or a member of the public.
   3. Absence from duty, for example, when an employee without sufficient cause, is absent from duty or is late for duty or other attendance; or without permission or sufficient cause leaves his/her place of work, including taking excessive refreshment breaks.
   4. Neglect of duty when an employee without sufficient cause fails to discharge the obligations which statute or his contract of employment place upon him/her.
   5. Carelessness or neglect by the employee which causes any loss, damage or injury to occur to any person or property; or without sufficient cause fails to report any matter which it is his/her duty to report; or without sufficient cause fails to make an entry which it is his/her duty to make, in any book or document.
   6. Failure to properly account for, or to make a prompt and true return of any money or property which comes into the employee’s possession in the course of his/her duties.
   7. Failure to carry out duties to an acceptable standard.
   8. Failure to adhere to any of the Council’s policies, procedures or strategies as they are applicable to the employee or their role.

**This list is illustrative and is not an exhaustive list and depending on the circumstances might be described as gross misconduct.**

1. **Gross Misconduct**
   1. An employee may be dismissed by the Council without notice or payment in lieu of notice if they are found guilty of gross misconduct. Gross misconduct is a fundamental breach of contract and as such can mean dismissal on the first time that an offence occurs. The following list provides examples of offences, which are normally regarded as gross misconduct. Other acts or omissions may also come under the general definition of gross misconduct which are not specified.
      1. Theft or unauthorised possession.
      2. Wilful or malicious damage to property or premises belonging to the Council, fellow employee or visitor or any other property or premises during the course of employment.
      3. Fraud.
      4. Deliberate falsification of any document requiring completion during the course of employment. This includes application forms, sick notes, flexi sheets or mileage claims.
      5. Withholding of information from the above documents may also constitute gross misconduct, for example, a failure to disclose criminal offences, or outside working where there is a conflict of interest.
      6. Violence – including verbal abuse towards service users, employees or visitors.
      7. Certain behaviour outside of work may also be deemed to constitute gross misconduct e.g. criminal activity, moonlighting where this impacts on the working relationship, the reputation of the Council or is in breach of conditions of employment.
      8. Incapacity during working time due to the influence or alcohol or other substance misuse including non-prescriptive drugs.
      9. Gross insubordination.
      10. Serious breach of confidential information.
      11. Gross professional misconduct or negligence for example, ill treatment or wilful neglect of service users.
      12. Any unjustifiable action or failure to act which the consequences of which threaten the health and safety of others or causes unacceptable injury or loss.
      13. Working without authorisation (whether paid or unpaid) for another employer/organisation whilst on sick leave.
      14. Discrimination on any grounds.
      15. Harassment or bullying of employees, service users or members of the public on any grounds.
      16. Interference with an investigation under the Disciplinary Procedure, for example, intimidation of witnesses.
      17. Communication by employees via the Internet or e-mail which may amount to harassment or is defamatory, or where offensive or inappropriate messages and/or material is sent.
      18. Reckless or serious misuse of a Council vehicle or machinery
      19. Sexual misbehaviour at work.
      20. Acceptance of bribes or participation in other corrupt practices.
      21. Conviction of a criminal offence, which renders an employee unsuitable or unavailable for continued employment.
      22. A legal inability to carry out the normal duties required by the job, for example, disqualification from driving, a failure to obtain a work permit or a failure to obtain or maintain professional registration. This needs to be in conjunction with HR.
      23. Any incident of misconduct following a previous warning

**This list is illustrative and is not exhaustive.**

## Appendix 8

**Template Letter 1**

**Letter informing a member of staff of investigation into allegation(s) received**

Dear [*name of employee*] [Date]

**Investigation into allegation(s)**

Further to our meeting today I am writing to confirm that I have received an allegation(s) relating to [*insert allegation or allegations*].

In accordance with the Council’s Disciplinary Policy I have appointed [*insert name*] as the Investigating Officer with the responsibility of conducting a full investigation into this/theseallegation/allegations [*delete as applicable*]. If you have any objection to the appointment of [*insert name of investigating officer*] as a result of evidence which questions his/her [*delete as appropriate*] ability to act impartially in conducting this investigation please contact me in writing immediately.

[*Insert name of Investigating Officer*] will contact you shortly to arrange a mutually convenient time for a meeting to discuss the issue. You have the right to be accompanied by your Trade Union Representative or by a colleague at the investigation meeting and, of course, at all other subsequent formal stages should these stages be required.

Any information which is gained during the process of the investigation may be presented at any subsequent disciplinary interview or hearing.

I will contact you again once the investigation has been completed.

Yours sincerely,

**[***HR Officer***]**

**Template Letter 2**

**Letter to member of staff to advise of no further action**

Dear *[name of employee]* [*Date*]

**Disciplinary investigation – No further action**

I write further to the recent disciplinary investigation which was launched in response to the following allegation(s) which was/were made against you: [*insert allegation(s)]*

I am pleased to advise you that following consideration of the evidence provided the allegation(s) have not been proven and, consequently, no further action will be taken.

Yours sincerely

**[***HR Officer***]**

**Template Letter 3**

**Letter inviting a member of staff to attend an investigation meeting**

Dear [*name of employee*] [*Date*]

**Investigation meeting**

Further to [*insert name of HR officer who sent letter 2]* of [*insert date of letter*].

I have been appointed as the investigating officer with regard to the allegation of possible misconduct / gross misconduct [*delete as applicable*] on your part.

I would appreciate if you would contact me to arrange a mutually convenient time for us to have a meeting to discuss the matter.

This will not be a disciplinary interview or hearing but will be undertaken for the purpose of investigating the matter prior to deciding whether or not any formal action should be instigated.

You have the right to be accompanied by your Trade Union Representative or by a colleague at the investigation meeting and, of course, at all other subsequent formal stages should these stages be required.

Yours sincerely,

**Investigating Officer**

**Template Letter 4**

**Letter inviting a witness to attend an investigation meeting**

Dear [*name of witness*] [*Date*]

**Investigation meeting**

I have been appointed as investigating officer with regard to allegations made against [*enter name of employee*].

I would be grateful that you attend an investigation meeting scheduled for [*date and time*] and is to be held at [*location*].

Please note that at all times when you are interviewed in relation to this matter you may be accompanied by your Trade Union Representative or a colleague.

Yours sincerely,

**Investigating Officer**

**Template Letter 5**

|  |  |
| --- | --- |
| *Date/Dyddiad:*  ***???????*** | *Contact/Cysylltiad:* |
| *Our Ref/Ein Cyf:* | **Investigating Officers Name** |
| *our Ref/Eich Cyf:* | *Telephone/Ffôn:* ***??????***  *Fax No:* ***??????*** |

**Strictly Private & Confidential**

Witness Name

Witness Address (Home or Work)

Dear *(Witness Name)*,

**Re: Witness Statement**

Please find enclosed your Witness statement that I have prepared following your interview on *(date interview conducted)*.

If the statement is an accurate reflection of our conversation, will you please sign and date it and return it to me in the envelope provided as soon as possible. If you have any questions regarding the statement or its content could you please contact me on the telephone number above as soon as possible.

As I explained during the interview, if at the end of the investigation, it is concluded that there is a case to answer, the content of this witness statement will be disclosed to all individual concerned in a hearing and you may be called upon as a witness to discuss the content of this statement.

Once again can I thank you for your time, cooperation and patience. I look forward to hearing from you in due course.

Yours sincerely

**Investigating Officer**

**Template Letter 6**

**Letter to member of staff to request their attendance at a disciplinary hearing**

Dear *[name of employee] [Date]*

**Disciplinary hearing**

I write with regard to [(if appropriate) your suspension from work following] an allegation of misconduct/gross misconduct [*delete as applicable*]. [*Name of Investigating Officer*] who was appointed as the Investigating Officer, has now completed his/her [*delete as appropriate*] investigation. Full consideration has been made to the investigation report and as a result it is considered that, there appears to be sufficient evidence that the allegation may constitute misconduct/gross misconduct [*delete as applicable*] behaviour.

It has therefore been decided that a disciplinary hearing should be convened in order to consider the following allegation that has been made against you:

[*list allegation(s)*]

The disciplinary hearing will take place on [*date*] at [*time*] at [location]. Please report to Reception [*if appropriate*] at least 15 minutes before that time.

The disciplinary hearing will be before a panel consisting of three senior officers/a panel of consisting of the Chief Executive, Strategic Director and the HR Group Manager/ a panel consisting of Elected Members and HR Officer [*delete as applicable depending on position of employee].* [*Name and position of note taker*] will also be present to take notes of the hearing.

In accordance with the Council's Disciplinary Policy (copy enclosed) you have the right to be accompanied by your Trade Union Representative or a colleague at the hearing. If you need to approach any Council employees to request information that may assist you at the hearing or who are to speak at the hearing as your witness this should be done through your named contact officer [*add name and telephone number of contact officer*]. You have a right to call on persons other than Council employees as your witnesses.

The disciplinary panel, having heard all the evidence, will then determine what disciplinary action, if any, should be taken. It should be noted that if the act of misconduct/gross misconduct [*delete as applicable*] is founded then the maximum possible outcome from the hearing is a dismissal from your position.

I enclose for your information a copy of the documents that will be referred to at the hearing.

I would be grateful if you could let me know the number of witnesses, if any, you may be calling. I merely ask this in order to ensure that we have allowed sufficient time to hear the matter and also to ensure the comfort of waiting witnesses.

I understand that this may be a particularly stressful time and you may find that the Council’s counselling service could assist you. This service is confidential and independent of the Council. Should you wish to speak to West Wales Counselling and Psychology Services please telephone 01239 615757.

If you require any further assistance or information then please do not hesitate to contact me.

Yours sincerely

**[***HR Officer***]**

**Template Letter 7**

**Letter to a witness to request their attendance at a disciplinary hearing**

Dear [*name of witness*] [Date]

**Disciplinary hearing**

I am writing to inform you that you are required to attend as a witness at the disciplinary hearing of [*insert name of employee*]. The hearing has been scheduled for [*date and time*] to be held at [*location*].

A panel consisting of three senior officers/a panel of consisting of the Chief Executive, Strategic Director and the HR Group Manager/ a panel consisting of Elected Members and HR Officer [*delete as applicable depending on position of employee under disciplinary]* will be hearing the evidence concerning the allegation(s).

I would ask that you confirm to me that you will be attending. If you require any information please contact [*name*] on [*telephone number*] or via e-mail at [*e-mail address*].

Yours sincerely

**[***HR Officer***]**

**Template Letter 8**

**Letter to member of staff to confirm outcome of written warning or final written warning following disciplinary hearing**

Dear *[name of employee] [Date]*

**Outcome of disciplinary hearing**

I refer to the disciplinary hearing held before *[names of panel members*] which you attended on *[date of hearing]* at *[location of hearing].*

The hearing was called to consider the following allegations *[enter details of the allegation]*

After consideration of the evidence presented, the panel decided that the allegations, on the balance of probability, have been wholly proven / have been proven in part [*delete as applicable*]. The findings were as follows:

*[List findings]*

In light of these findings*,* it is concluded that your behaviour constitutes misconduct/gross misconduct [*delete as applicable*] justifying a formal written warning/final written warning [*delete as applicable*].

It is expected that improvement will be made by you through…[*list areas* *of improvement]*.

The likely consequence of further misconduct / insufficient improvement [*delete as appropriate*] is further disciplinary action against you which may result in a final written warning/dismissal [*delete as applicable*].

The warning will be placed on your personal file and remain in force for a period of 12 months/24 months [*delete as applicable*]*.* Subject to the maintenance of satisfactory conduct during this period, this warning will be disregarded for disciplinary purposes, except in cases relating to child protection issues. For the avoidance of doubt this means that this warning will remain in effect until [*insert date*].

You have a right to appeal against this disciplinary decision. Your appeal should be made in writing to myself within 10 working days of receipt of this letter. Your written notice should state the reason(s) for your appeal.

I understand that this may have been a particularly stressful time and you may find that the Council’s counselling service could assist you. This service is confidential and independent of the Council. Should you wish to speak to West Wales Counselling and Psychology Services please telephone 01239 615757.

I should be grateful if you would acknowledge receipt of this letter by returning to me the attached second copy of this letter.

Yours sincerely

**[***HR Officer***]**

[*for second copy*]…….

I acknowledge receipt of this letter

Signed ………………………………………………………… Date …………………….

**Template Letter 9**

**Letter to member of staff to confirm outcome of dismissal following disciplinary hearing**

Dear *[name of employee] [Date]*

**Outcome of disciplinary hearing**

I refer to the disciplinary hearing held before *[names of panel members*] which you attended on *[date of hearing]* at *[location of hearing].*

The hearing was called to consider the following allegations *[enter details of the allegation]*

After consideration of the evidence presented, the panel decided that the allegations, on the balance of probability, have been wholly proven / have been proven in part [*delete as applicable*]. The findings were as follows:

*[List findings]*

In light of these findings*,* it is concluded that your behaviour constitutes misconduct/gross misconduct [*delete as applicable*] justifying dismissal with notice/dismissal without notice or summary dismissal [*delete as applicable*].

You have a right to appeal against this disciplinary decision. Your appeal should be made in writing to myself within 10 working days of receipt of this letter. Your written notice should state the reason(s) for your appeal.

I understand that this may have been a particularly stressful time and you may find that the Council’s counselling service could assist you. This service is confidential and independent of the Council. Should you wish to speak to West Wales Counselling and Psychology Services please telephone 01239 615757.

I should be grateful if you would acknowledge receipt of this letter by returning to me the attached second copy of this letter.

Yours sincerely

**[***HR Officer***]**

[*for second copy*]…….

I acknowledge receipt of this letter

Signed ………………………………………………………… Date …………………….

**Template Letter 10**

**Notice of appeal hearing before Appeals Panel**

Dear [*name of employee*] [*Date*]

**Invitation to attend a staff disciplinary appeal hearing**

Following receipt of your appeal against the [oral warning / written warning / final written warning / dismissal] [*delete as appropriate*] given to you by [*insert name of line manager for oral warning or panel members of disciplinary hearing*] confirmed to you in writing on [*date of letter confirming outcome*] I am writing to invite you to an appeal hearing.

The appeal hearing *[you should specify whether a complete rehearing or an appeal on specific grounds is required]*will take place on *[date]* at *[place]* at *[time]* as agreed. It will be conducted by a panel consisting of a Strategic Director, Senior Manager and HR Officer/Panel of Elected Member [*delete as applicable depending on position of employee and sanction given in disciplinary hearing]*

You are entitled to be accompanied at the appeal hearing by your Trade Union representative or a colleague. Please confirm to me that you will be attending and who will be accompanying / representing you.

You should ensure that a copy or copies of any written submissions upon which you wish to rely at the appeal hearing, are submitted not less than 5 working days before the hearing, together with the names of any witnesses that will be attending on your behalf. The members of the Appeals Panel are:

[*list member of Panel*]

You may object to any member sitting on this Appeal hearing on the basis of evidence that questions their ability act impartially in the circumstances of the case. Your objection must be submitted in writing to the myself.

The appeal hearing is the final stage of the Council’s Disciplinary Policy and the decision of this Appeal Panel is final and there is no further internal right of review. The possible outcomes from the appeal hearing are:

* Uphold the original decision and sanction imposed
* Impose a lesser sanction
* Conclude that no disciplinary action should be taken

If you require any further assistance or information then please do not hesitate to contact me.

Yours sincerely

**[***HR Officer***]**

**Template Letter 11**

**Conclusion of an appeal before a disciplinary appeal hearing**

Dear [*name of employee*] [*date*]

**Confirmation of outcome of disciplinary appeal hearing**

I refer to your attendance at the appeal hearing held before the Appeal Panel on [*date of hearing*] at [*location of hearing*].

You appealed against the decision made at the disciplinary hearing held on [*insert date of original hearing*] when you were [given a w*ritten / final warning*] or [dismissed] [*delete as appropriate*] in accordance with the staff disciplinary procedure.

[Having considered your appeal very carefully and taken into account your representation, the panel decided to uphold the decision of the panel of the disciplinary hearing and retain the [written warning / final written warning / dismissal] [*delete as appropriate*].]

OR

Having considered your appeal very carefully and taken into account your representation, the panel decided to impose a lesser sanction of [oral/written warning/final written warning [*delete as appropriate*].

OR

[Having considered your appeal very carefully and taken into account your representation, the panel decided to allow your appeal and concluded that no disciplinary action should be taken and that all records of the disciplinary hearing and peatly will be removed from our records and your personal file.]

You have now exercised your right of appeal under the Staff Disciplinary Procedure. The decision on the appeal hearing is final and there is no further right of review.

Yours sincerely

**[***HR Officer***]**