

The City of Cardiff Council **Disciplinary Procedure:**

An Investigating Officer's Guide DRAFT

2015



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How to use this guidance

1. This guidance is designed to give you an overview to the Disciplinary Procedure.
2. It should be read in conjunction with the Council's Disciplinary policy 1.CM.035.
3. References to other policies or documents which will provide additional help and guidance can be found on page 35.
4. It is recommended that this guidance is read in conjunction with undertaking other forms of learning e.g. E-Learning, mentorship.
5. Details of training courses: refer to Cardiff Council Academy & Union Learning <http://studentsv3.coursesforyou.com/unionlearningpartnership> .

1. Conducting the Investigation

1. Your Responsibilities

1. Familiarise yourself with the Council's Disciplinary Policy 1.CM.035 and related procedural guidance.
2. As an Investigating Officer your role is to establish the facts concerning the alleged misconduct. You will conduct an investigation that includes:
 - a) Interviewing and obtaining statements from the employee(s) against whom the allegation(s) of misconduct has/ have been levelled and other relevant people.
 - b) Obtaining any other relevant documentary evidence.
 - c) Preparing a comprehensive report that contains all the factual information, relevant documents, and interview records/statements. The report will contain an evaluation of the facts and make recommendations as appropriate, which will include whether or not the matter should proceed to a Disciplinary Hearing.
 - d) Presenting the Management case if the matter proceeds to a Disciplinary Hearing.
3. To conduct the investigation in a timely manner, within the recommended timescales. The progress of the investigation should be regularly reviewed, advising of the reasons for any potential delays.
4. Attend any relevant corporate skills course (s) relating to the Disciplinary policy & investigations, ensuring your knowledge and skills are updated.

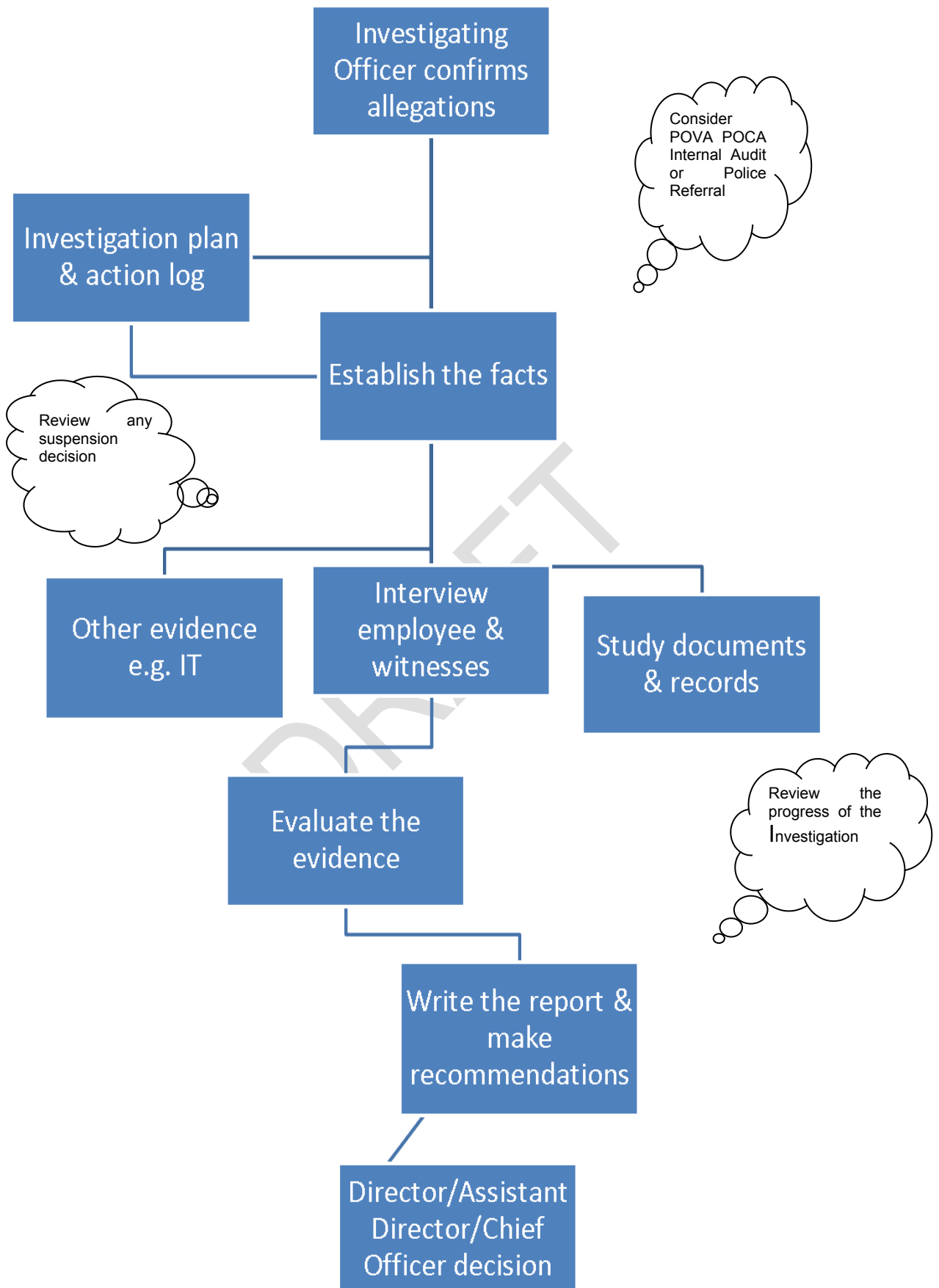
2. Your Judgment

Throughout your Investigation you will need to be:

- a) As objective and impartial as possible, keeping an open mind and not pre-judging the situation or making snap decisions.
- b) Fair, acting in the spirit of natural justice, looking for evidence which supports the employee's case as well as evidence against, and considering whether there are mitigating circumstances.
- c) Thorough and methodical, keeping accurate records and entering information onto Digigov (*refer to How to use Digigov- Disciplinary*).
- d) Maintaining confidentiality at all times and ensuring that the employee and witnesses are aware of their responsibilities to maintain confidentiality .
- e) Achieving proportionality – an Investigating Officer only has to do as much investigation as is reasonable. Exhaustive detail is only required if the investigation is particularly complex.
- f) Balancing the need to gather information with the right for the employee to be treated fairly and reasonably.
- g) Regularly reviewing the appropriateness of the decision to suspend an employee, where applicable. This should be done in conjunction with the manager who made the preliminary assessment for suspension.

HR People Services Role is to:

- a) Assist you to carry out the Investigation and prepare the management case, by attending all formal meetings.
- b) Be available at all stages in the process to advise you on policy and procedure.
- c) Advise you on the preparation of all letters in connection with disciplinary matters (*refer to Additional Guidance & Support: Standard Letters*).



3. Planning and Preparing for the Investigation

1. Clarify the allegation(s), as more information may have come to light since they were first formulated. This is so you know exactly what you are trying to establish, and which part of the Disciplinary rules may have been breached. Your HR People Services allocated caseworker can advise you on this matter.
2. If the allegation is in relation to Fraud /Financial Impropriety, a referral to **Internal Audit** should already have been made by the Manager. Make contact with the Group Auditor (Investigations) to discuss matters, and commence joint planning of the Investigation.
3. If the issue is in relation to a potential criminal matter and there has been a referral to the **Police**, then you should make contact with them to advise that an internal Investigation is proceeding.
4. The Council's own investigations and disciplinary procedures should continue concurrently where possible with any ensuing police investigation. It is for the Council to determine disciplinary action for an employee, and for the police and courts to determine legal action. Where no legal action is pursued by the police, it will still be necessary for you to undertake an internal workplace investigation.
5. The Police may ask you to delay or defer the internal investigation, pending the completion of their criminal investigation. The Council's action is not determined or bound by any police or court decision. Contact the Council's Legal service for advice where there is a possibility that disciplinary investigations may impede the police investigation.
6. If during the course of your Investigation any issue comes to light in relation to **Protection of Vulnerable Adults (POVA)**, contact the POVA team for guidance. If the issue is in relation to **Protection of Children**, contact the Childrens Access Point for guidance.
7. Develop an Investigation action plan to help you set out how you will:
 - a) Obtain the required information and documents.
 - b) Define the order in which the interviews will be conducted.

- c) Identify the witnesses (and/ or members of the general public) that may need to be interviewed.
 - d) Decide the questions you need to ask and the areas to cover.
 - e) Identify and secure the resources necessary to support the investigation, e.g. who will take notes of the interviews, etc.
 - f) Visit a location that may be useful.
 - g) Establish a timeline for completion of various stages of the investigation.
8. Set up a **4 weekly prompt to review** the progress of the investigation (and where appropriate a suspension decision), updating the Chief Officer/ Director/ Assistant Director, and employee under investigation accordingly.
9. Keep a log during the investigation of meeting times & dates, verification of notes and any other relevant activities. A log is available in Digigov, if preferred.
10. It is essential that you maintain confidentiality at all stages of the disciplinary process, by ensuring that only those people who need to know have access to details of the case. You should only discuss the case with your direct line manager and/ or the allocated HR People Services caseworker.

2. Establishing the Facts

1. Securing Evidence

1. It is vital to secure any records and documents that potentially form part of evidence at an early stage.
2. Check with the employee's line manager to see if any evidence was secured prior to your appointment as Investigating Officer. Do not conduct a search of desks /cupboards without inviting the employee and their companion to be present. If that is not practical, then the manager, (or your allocated HR People Services caseworker) should be present to witness the search. It is advisable to make an inventory/list of items you see during your search.
3. If the search reveals a possible criminal offence, then the desk/cupboard should be made secure until the police have been informed and given the opportunity to view it.
4. If a council owned IT asset potentially holds some information that may aid an investigation, then you should make contact with the IT department for guidance and help.
5. If you decide that a period of monitoring the employee under investigation is required, (e.g. covert surveillance), you must read the Codes of Guidance on the Use and Conduct of Covert Surveillance on the intranet, and contact Internal Audit (OM Audit and Risk Management) for advice.

2. Getting Background Information

1. Use the manager's preliminary assessment as a basis for your background information and /or cross reference it in your report.
2. Information of the employee's service history (length of service, job description) will be available in Digigov.
3. The employee's line manager will be able to provide information on the team /service area structure, supervision records, and the employee's knowledge, skills and experience in their job.
4. The employee's training records should be obtainable through the Council Academy or their line manager.

5. Contact the allocated HR People Services caseworker to obtain details of the employee's sickness record with the Council. Obtain details of any current warnings on the employee's disciplinary record. Expired warnings should only be referenced for contextual reasons, and where they are relevant to the current allegations.
6. You must make a detailed and thorough examination and consideration of any relevant Council policies, procedures, work instructions, job descriptions, structure charts, codes of practice, work performance standards or other documents relating to the matter(s) being investigated.
7. List and number all your items of documentary evidence on a spreadsheet, as you proceed with the investigation, as it will help you later on when you are writing the report.

3. Preparing to Interview

1. It is best to try and interview people as early as possible, to gather information before memories fade, including anything the employee concerned has to say.
2. You will need to interview and obtain statements from:-
 - a) The employee and/ or the individual or the general public who made the allegation(s).
 - b) Any known witnesses to the alleged act(s) of misconduct.
 - c) Other individuals where there is a reasonable belief that, although they may not have actually witnessed the act(s) of misconduct complained of, they may nevertheless be able to provide additional, helpful information to the investigation.
3. You should consider whether it is appropriate to interview the line manager and/ or supervisor, of the employee being investigated.
4. Other potential interviewees may come to light during the course of interviewing. You will need to decide on the relevance of interviewing those people, whilst balancing proportionality to the allegation and the need to undertake a reasonable level of investigation.

4. Choosing the Venue for the Interview

1. Select a meeting room that is private, free from interruptions and neutral i.e. preferably away from the employee's place of work, to maintain confidentiality.
2. Meetings rooms at a number of Council venues can be booked on the intranet through the online council booking system. There is no charge for rooms booked through this online system. There will be a charge to the Directorate for rooms booked at City Hall or the Committee Rooms/Council Chamber at County Hall. Meeting rooms for interviews (and especially Hearings) need to be booked well in advance. Your allocated HR People services caseworker, may have experience of using other suitable venues.
3. Consider whether reasonable adjustments should be made to the meeting venue or process, to prevent a disabled employee from being put at a disadvantage. You may also need to make special provisions for any witness whose first language is not English, or who have disabilities or learning difficulties.

5. Planning the Order of Interviews

1. There is no right or wrong order to the interviews, and it is for you as Investigating Officer to decide. These are some advantages and disadvantages:
 - a) Interviewing the employee under investigation first may be advantageous, if you are aware that they may admit to the alleged misconduct, or help you establish any disputed facts.
 - b) However, if this is unlikely, then it would be advantageous to plan to interview other staff members /witnesses first. That way you may learn things that you need to discuss with the employee under investigation, which otherwise would require a second interview.
 - c) Try to plan the order of interviews so that each witness is interviewed only once, although repeat interviews are sometimes unavoidable.
 - d) The employee under investigation, should be given the opportunity to suggest further witnesses they would like you to consider interviewing.

6. Prior to the Interview

1. Having decided on the order of interviews, make contact with all the relevant parties to establish mutually convenient interview dates. These will include:-
 - a) The employee under investigation.
 - b) Witnesses.
 - c) Your allocated HRPS caseworker.
 - d) The employee's line manager (if applicable).
 - e) Internal Audit: Group Auditor (Investigations) (Fraud/Financial Impropriety cases only).
2. The employee under investigation may choose to bring a companion with them. A companion is defined as an employee of the Council, a trade union representative or an official employed by a trade union. As long as their choice is from this list it should be agreed, unless the companion is someone who may be a witness and interviewed independently as part of your investigation. The employee should advise you the name of their chosen companion, and whether they are a fellow worker or a Trade union representative. It is the employee's responsibility to liaise with their companion regarding the date for interview, so ensure that you have advised them of this to prevent any delay. An employee may choose to alter their choice of companion if they wish.
3. Allow a notice period for the interview of **7 calendar days** for the employee under investigation, to ensure that they have sufficient time to prepare for the meeting. If the employee's companion is not available to meet, and cannot supply an alternative date within **7 calendar days** of the original meeting date, you can request that the employee makes alternative choice of companion in order not to prolong the process.
4. You must inform the employee under investigation in writing what is the purpose of the interview, the general nature of the allegations concerned, possible outcomes and their right of representation. There is a standard letter format "**Employee under Investigation – Letter to Attend Investigatory Interview**" available for this purpose. Your allocated HRPS caseworker can advise on wording within a letter, if required.
5. You must ensure that the employee receives a copy of the Council's Disciplinary Policy 1.CM.035 with the letter to attend investigatory interview. Check that they already have a copy of the *Disciplinary Procedure: Guidance for Employees*.
6. Ensure that a copy of the *Disciplinary Procedure: Guidance for Witnesses* is provided to any witness, in advance of the interview. There is a standard letter format "**Invite Witness to Attend Investigatory Interview**" available.

7. You will also need to arrange for a minute taker to be present, to keep detailed records of what is said during interviews. Minute takers would usually be from within your Service Area, they should be able to take accurate minutes of the meeting, and must maintain confidentiality at all times.
8. Establish a list of core questions to cover the main facts that you wish to ascertain. It is likely that you will also ask supplementary questions on points of clarification.

Arranging to record an Interview

1. There may be occasions when you would like to tape record an interview, **or** you have received a request from the employee under investigation, or a witness, to arrange a tape recording.
2. There are advantages to having an interview recorded, as the information captured will be more accurate, and less likely to cause disputes later on. It also negates the need for a note taker to be present at the interview, although a transcript copy would need to be made after the interview.
3. You must respect the employee's rights if they refuse to give their consent. A recording of an individual at work made without that employee's knowledge and consent may constitute a breach of their right to privacy under Article 8 of the Human Rights Act 1998. Although the right to respect privacy is a qualified right, rather than an absolute one, it is unlikely that tape recording a meeting without the employee's consent could be justified as an appropriate and necessary means of achieving a legitimate aim.
4. Firstly, obtain initial verbal consent from all parties. Liaise with your allocated HR People services caseworker, who will provide you with the necessary information, advice and equipment for the tape recording to take place.
5. Matters must proceed in accordance with the Procedure for Recording an Investigatory Interview as there are **strict guidelines to be followed** with regards to the handling of personal data.
6. You must seek the written consent of the employee and their companion to the recording, on the day of the interview and before the meeting begins (**Appendix 1**). Ensure that they have a copy of the procedure, and confirm that they have read and understood it.
7. Two simultaneous recordings of the interview will take place, with one copy sealed and retained as a master copy. The second copy is used for transcription purposes.
8. All data should be handled, stored and destroyed in accordance with the procedural guidance.

7. The Interview

You may like to use a checklist during the interview to cover all the following points (Appendix 2).

At the beginning of the interview you should:

1. Introduce all parties present, explaining their role and purpose.
2. Clarify the role of the Companion (if present) and confirm that the employee is happy to proceed if they do not have one.
3. Confirm with all parties present that confidentiality is essential.
4. Explain the purpose (fact finding) and format of the interview.
5. Advise the interviewees that a record of the interview will be taken, and that a copy of the record will be provided. The interview notes do not need to be a verbatim record but contain sufficient detail to be useful to the investigation. A template for the interview record can be found in **Appendix 3**.
6. You will be asking them to check it for accuracy, and agree and sign that record. If a particular aspect of the note cannot be agreed, then the differing views/versions should be recorded into the note.
7. Advise the interviewees that records will be treated in confidence; however, information of a personal nature is subject to the Data Protection Act. Access to personal data can be granted under the provisions of the Act and requests must be handled in accordance with the Council's Data Protection Act Policy and Procedure.
8. Advise all those witnesses who are interviewed that they may be required to attend a disciplinary hearing to give evidence and that the notes of the interview and/ or any written statements they provide may also feature at a future disciplinary hearing.
9. Advise witnesses that information provided would be subject to disclosure if the individual(s) named within the statement or allegations submit a request for such information.
10. Where a witness is providing details of allegations about more than one person, you must record statements on a case by case basis against each individual and not recorded as one record. This is because the notes would be subject to disclosure if the individual(s) named within the statement or allegations submit a request for such information. **N.B. Recording statements on a case by case basis can take place during one interview.**

11. Inform the interviewee that there may be a need to re-interview them should further information come to light.

8. Questioning

1. An investigatory interview is not a disciplinary hearing and must not be converted into one.
2. Think about the allegations that have been made and what facts you need to gather.
3. The questions you formulate should reflect what you have encountered as a result of previous interviews, and a review of relevant documentation.
4. Your allocated HR People Services officer can help you with this, if required.

9. Your Approach

1. During the interview you should:
 - a) Not be accusatory.
 - b) Not ask leading questions (Questions that attempt to guide the interviewee's answer).
 - c) Challenge, but in a non- adversarial manner.
 - d) Query and probe in order to clarify and obtain full and accurate information.
 - e) Separate fact from opinion.
 - f) Separate direct observation from third part information e.g. "*I heard that..*" as opposed to "*Bill told me that he heard*"
 - g) Be sensitive and responsive, so that if questions do not produce disclosure, ease the pace of questioning.
 - h) Keep an open mind.

10. Types of Questions useful in Investigations

1. **Open questions** (Questions that don't have a yes/no answer) enable the interviewee to elaborate on their experience. They can be useful in situations where there is some reluctance to share experiences.

Examples include “ *In your own words describe everything you can remember about...*” “*What happened next?*” “*Tell me more?*” “*How did that affect you?*”

2. **Closed Questions** (Questions that tend to have a yes/no answer) enable the interviewee to focus and confirm more facts. They are quick and easy to answer and the control of the conversation remains with the Interviewer.

For example “*Have you always worked for this team?*” “*Do you get on with xx ?*”

3. **A challenging question-** “ *Can you think of anything you might be doing to contribute to this situation?*”

11. Interviewing Technique

1. Start the interview with “ice breaking” questions to build rapport.
2. Use open questions to allow the interviewee to tell the story, facts and feelings.
3. Funnel down with more closed questions to ascertain examples, evidence or elaboration of the facts.
4. Summarise at intervals by checking, clarifying and confirming with the interviewee what you have heard “ *So what you have told me is xxx*”.
5. This has the effect of showing the interviewee you are actively listening, ensuring that you have grasped the facts correctly and slowing the pace down if the person is talking too quickly.
6. Establish any mitigating circumstances.
7. Closing questions at the end of the interview should be used to establish exactly what the key issues are “ *so you are convinced x was doing it deliberately.....*”
8. Ask the interviewee at the end if there is anything they would like to add.

12. Further Questioning

After you have finished questioning, invite questions from:-

- a) Your allocated HRPS caseworker.
- b) Internal Audit: Group Auditor (Investigations) (*Fraud /Financial Impropriety cases only*).

13. Dealing with unsigned notes of the interview

Following the issuing of the interview record, where you cannot get a response from the person interviewed, send a letter stating that if no response is received within **7 calendar days**, then it will be assumed that the notes represent a true record and reflection of what took place during the interview.

14. Dealing with failure to attend the interview

1. Contact the employee and find out his or her reasons for failing to attend the disciplinary interview.
2. If the failure to attend is due to short-term illness, postpone the meeting until the employee is well enough to attend.
3. Rearrange the interview at least once, and possibly more than once depending on the employee's reasons for non-attendance. Seek advice from your allocated HR People Service's caseworker.
4. If the employee fails to make any contact, then send a standard letter requesting they attend an investigatory interview once more, adding the following:-

'As you have failed to make contact previously then I must notify you that if you fail to attend the investigatory interview without providing prior notification then it will proceed in your absence'.
5. If there is still no contact, proceed with the interview in their absence, as there is a requirement for a record to be produced.

6. Should the employee not attend the interview, and still fail to make contact then request they attend a disciplinary hearing. They should be advised that their companion could act on their behalf at a hearing in their absence. The following should be added to this letter:

'As you have failed to make contact previously and failed to attend the investigatory interview without providing prior notification then I must notify you that if you fail to attend the disciplinary hearing without providing prior notification then it will proceed in your absence'.

7. Should the employee not attend the hearing then **the Chair** will issue them with a letter for the termination of their employment without notice (See letter Dismissal on the Grounds of Prolonged Unauthorised Absence).

15. Dealing with reluctant or anonymous witnesses

1. There is an expectation that employees observe and abide by the Council's rules, regulations and standards. This extends to an expectation of co-operation with a Disciplinary procedure, including providing a witness statement.
2. Where witnesses have requested to remain anonymous, or are reluctant to participate, you must establish what the reasons for the reluctance are:-
 - a) Is there another way of gathering the evidence other than using witness evidence?
 - b) Consider proportionality- does the seriousness of the allegation(s) warrant that level of investigation?
 - c) Can you obtain corroborating evidence? There may be an ulterior motive for the witness to remain anonymous.
3. If an employee believes distress or harm could be caused by the release of information in their statement ask them to provide a statement to this effect, with evidence which the Council can consider if a subject access request is submitted in the future.
4. Would a Fast Track Disciplinary process be applicable? (Witnesses are not called in this process).

16. The problem with remaining anonymous

1. A witness may not be identified only in exceptional cases. Advice from HR People Services must be sought as to what is considered to be an exceptional case. However, even where the Council agrees to respect the anonymity of witnesses, if the matter led to any subsequent Employment Tribunal proceedings, it is unlikely that they will continue to remain anonymous.
2. It could be considered against the rules of natural justice to deny the employee or their companion (without reasonable cause) the opportunity to question witnesses in a hearing.
3. A witness may agree to be interviewed, and then refuse to sign the statement, and they cannot be compelled to sign it. Unsigned (unvalidated) statements will carry less weight in the hearing.
4. Where reluctant witnesses have been part of an investigation you should recommend the use of mediation to repair any damage to working relationships.

17. Dealing with sickness absence during the investigation

1. The line manager of the employee under investigation has the responsibility for managing their sickness absence, including contact visits.
2. If the reason for the sickness absence is "stress" then in the majority of situations, individuals are likely to be fit to attend an interview. The Occupational Health service states:-

"Even if a person is signed off from work with stress, that does not mean they are unfit to meet, as 'fitness for work' and 'fitness to meet' are different levels of fitness. In the majority of situations, individuals are likely to be fit to meet with management, and that doing so, is in their best interests to facilitate a resolution."

3. As it is in their best interests to facilitate a resolution, you should not delay matters, as this is known to be counterproductive.
4. Establish whether the employee is willing to attend for an Investigation interview.
5. If there are any issues, contact the line manager to request a referral to the Occupational Health Service.

6. The Council's aim is to proceed with all disciplinary matters with the minimum of delay. The disciplinary process may therefore continue during an employee's sickness absence, which will not preclude the Council from starting or completing the process, including the collection of statements, conducting interviews or hearings. However, this will be on an exceptional basis depending on the nature of the illness, and the likely length of the absence.

Refer to Attendance & Wellbeing policy 1.CM.049 for further guidance

18. Dealing with new allegations that come to light during the Investigation

1. If this happens before the Investigation has been concluded, you must:-
 - a) Notify the employee of the new allegation(s).
 - b) The Chief Officer/ Director/Assistant Director will make the decision whether or not to proceed with further investigation into the new allegations.
 - c) Following authorisation, fully investigate any new allegations and undertake a further investigatory interview.
 - d) Inform the employee that the investigation into the new allegations will result in a brief delay in the process.
 - e) All allegations can then be subject of one investigation report.
2. If this happens after the investigation has been concluded, and the investigation report has been submitted to the Director/Chief Officer:-
 - a) The allegations would be the subject of a separate investigation.
 - b) If the new allegations concern other employees, there will be an investigation in respect of those employees. There should be consideration if new allegations concerning other employees could amount to mitigation for the first employee's actions.

3.Reviewing during the Investigation

1. Progress of the Investigation

1. The Service Area is responsible for making arrangements to closely monitor the progress of the investigation.
2. Every **4 weeks** you should review the progress of the investigation and update the Chief Officer/Director/ Assistant Director. Update the employee under investigation of the progress in writing (**Letter: Review of Progress in Disciplinary Investigation**).
3. The investigation must be proportionate to the concerns or allegations being considered, and carried out as quickly as possible. The length of time for the investigation from your appointment as Investigating Officer, to the date of any Disciplinary Hearing deemed necessary should be no more than **16 weeks** (unless you request an extension -**see Delays to the Investigation**).

Delays to the investigation

1. If you anticipates a delay to the progress of the investigation, you should write to the employee informing them of the delay, and the reasons for the delay. Extending the investigation beyond **16 weeks** is allowed, but only in exceptional circumstances, and with reasonable justification. Reasonable justification for a delay could be, for example, police involvement, who can request the temporary halting of an internal investigation in Cardiff Council, pending their criminal investigation. In such exceptional circumstances, you should request an extension to the investigation timescale.

2. Review of a Suspension

1. Suspensions shall not be time limited but there is a clear expectation that all investigations and/ or disciplinary hearings arising from the suspension shall be completed in a timely manner.
2. From the outset, you must carefully monitor and review the suspension decision. You should undertake a review after **4 weeks** (and then at least every **4 weeks**) in consultation with the line manager of the employee under Investigation.
3. The review should take the form of a re-examination of ***the Preliminary Assessment to consider appropriateness of Suspension from Duty***. All alternative courses of action should be appropriately considered, and the decision evidenced by completing a new proforma heading it (First review/ Second review etc.), which you will both sign.
4. Upload the review into Digigov, and send it to the relevant senior manager who authorised the suspension, who will then inform the employee in writing. (**Letter: Review of Suspension from duty without prejudice**).
5. Update the employee's contact officer (who was appointed at the time of the suspension) regarding the progress of the investigation.
6. Where the employee is transferred as an alternative to suspension, the same provisions will apply, i.e. conducting the investigation as quickly as possible, advising of delays, no financial disadvantage, etc. (**See - Temporary Transfer letter**).

4. Evaluating the Evidence

1. Make sure you look into all aspects of the case, whether stated at the outset or discovered whilst undertaking the investigation. If during your investigation you feel you need to speak to unanticipated witnesses or gather physical evidence, then do so. You must be thorough.
2. When you have concluded your investigation, you need to review and evaluate all the evidence that you have gathered. This includes physical evidence such as CCTV footage or computer records for example, as well as witness statements.
3. You need to highlight what is, and is not, in dispute. Different individuals' perceptions of the same event may differ, particularly when emotions are running high. You must be able to take a view on all disputed matters.
4. You need to state where there is no evidence or insufficient evidence.
5. Consider the case on its merits. It is essential to take account of the individual circumstances and people involved. Personal details such as length of service, past disciplinary history and current warnings will be relevant considerations. Any provocation or other mitigation also needs to be taken into account.
6. Finally you need to decide whether there is "a case to answer" i.e. whether it is likely that the misconduct did occur, and it is appropriate for the matter to proceed to a disciplinary hearing to determine the relevant sanction.
7. In employment law, it is sufficient that your opinion is **based on the balance of probabilities, so that you are acting on a reasonable belief, after a reasonable investigation has been conducted.**

1. Tips for weighing up the evidence

1. Direct witness evidence (particularly from eye witnesses) who have no evident reason to be biased either way, will usually be stronger than indirect evidence.
2. **Evidence will be questionable** where:
 - a) It is inconsistent with documents produced at the time.
 - b) Contains contradictions, is vague or omits significant details.
 - c) It is anonymous.

2. Writing the Report

1. You must then prepare a written report for the Chief Officer/ Director/ Assistant Director, marking it private and confidential.
2. There is an Investigation Report Template (**Appendix 4**) available on the intranet 4.C.432 (or on HR People Services A-Z), which should be uploaded into the Digigov record. The template includes more guidance (in italics) on what goes into each section.
3. All pages should be numbered and the contents page should detail where each section of the report, including appendices, can be found.
4. Advice can be provided by your allocated HR People Services caseworker, if there are any areas of clarification needed regarding the information to be provided in the report.
5. The report should:
 - a) Set out, in detail, the allegation(s) investigated and how the allegation(s) came to the attention of the Service Area/ Council.
 - b) Disclose the identity of the individual that made the allegation(s) [if known] subject to any confidentiality requirement that may arise under the Council's Whistle Blowing Procedure.
 - c) Indicate when the investigation began and when you were appointed as Investigating Officer.
 - d) Indicate how the investigation was conducted.
 - e) Personal details of the employee under investigation such as length of service, past disciplinary history and current warnings will be relevant considerations.
 - f) List all the documents examined and relied upon during the course of the investigation.
 - g) List all the individuals who were formally interviewed during the course of the investigation summarising, the key points of their testimony/ evidence. This will include a list of any individuals that the employee and/ or their companion suggested ought to be interviewed but who were not interviewed together with an explanation as to why.
 - h) Attach copies of all statements obtained during the course of the investigation. This must also include statements that the employee could use in their defence.

- i) Show how you have evaluated the evidence and where there is no evidence or insufficient evidence. Any provocation or other mitigation also needs to be taken into account. This section must lead into how the conclusions were drawn.
 - j) Be clear about which findings relate to which allegations.
 - k) Make any recommendations as appropriate which will include whether or not the matter should proceed to a Disciplinary Hearing, and whether the act is misconduct or gross misconduct.
6. The report and accompanying papers must not contain any personal details of individuals (e.g. address, date of birth, etc.), and any service users must be referred to by initials only to maintain confidentiality.
7. Following receipt of your report, the Chief Officer/Director/ Assistant Director will make a determination within **14 calendar days** (unless there are exceptional circumstances) whether or not to instigate disciplinary proceedings against the employee. There will be one of the following outcomes:

Either

- a) You recommend that the allegations are unfounded, and that there is no case to answer, and the Director /Assistant Director/ Chief Officer agrees with you. The employee would then be notified that there is no further action

OR

- b) You recommend that there is sufficient evidence to instigate disciplinary proceedings against the employee, and the Director/Assistant Director/ Chief Officer agrees with you. A disciplinary hearing will then need to be arranged

OR

- c) The Director/Assistant Director/ Chief Officer disagrees with your recommendation. In this case the Director/Assistant Director/ Chief Officer has the final say over the next course of action.

8. Where matters are proceeding to a Disciplinary hearing, you are responsible for making the arrangements.

3. Requesting to Observe at an alternative Hearing

1. If you have not previously attended a hearing, and wish to gain some experience/understanding of one, it may be possible for you to observe another hearing, in advance of the one at which you have to present..
2. Speak to your allocated HR People services caseworker, to see if they are able to suggest a suitable forthcoming hearing that you could apply to attend.
3. Contact the Chair of the nominated hearing with your request to attend at **least 7 calendar days** prior to the hearing date.
4. The Chair must seek the consent of the employee under investigation, prior to the hearing. The Chair has the final say over the number of people attending the hearing in the role of Observer, which would be strictly limited.
5. If your attendance at the hearing is agreed, you should be seated away from the main seating of the hearing, so as to be unobtrusive.
6. During the hearing you are bound by confidentiality, and must neither take notes, nor speak, nor address the hearing.
7. The Chair has the right to refuse admission to the hearing for any Observer who did not seek prior consent.

5. The Disciplinary Hearing

1. Preparing for the Hearing

1. As Investigating Officer, you are responsible for making arrangements for a Disciplinary hearing, as soon as possible after the decision to proceed.
2. A Hearing Chair will be appointed by the Chief Officer / Director / Assistant Director.
3. An HR People services officer will be nominated to support the Chair at the hearing. This will usually be a different officer from the allocated HR People Services caseworker that supported you during the investigation.
4. You should make arrangements for someone from the Service Area to take notes throughout the hearing.
5. Where you intend to call witnesses to the Hearing, ensure that they have a copy of the *Disciplinary Procedure: Guidance for Witnesses*, in advance of the hearing.
6. Prepare for the hearing carefully by considering what explanations may be put forward by the employee. Study any relevant Council policies, procedures, codes of practice, rules etc. (which may have any bearing on the allegations), and have copies available at the Hearing for reference.
7. Prepare a “script” in advance for you to use at the Hearing, as it may not be appropriate for you to read your report word for word.

2. Requesting an Assistant at the Hearing

1. Where you have been dealing with a **very complex** case that has produced large volumes of information, you may make a request to the Chair, **7 days** in advance of the hearing, for you to have an Assistant to aid you with papers during the hearing. The Assistant would be bound by confidentiality, and would not be able to speak, take notes or address the hearing.

2. The Chair must consider the request, and if in agreement, gain the consent of the employee under investigation. The Chair has the right to refuse any person from attending the hearing where prior agreement has not been given, or where the volume of information is insufficient to warrant an Assistant.
3. A companion for the employee under Investigation may also request an Assistant.

3. The Venue

1. You must make arrangements to book the venue for the hearing. You will need to allow plenty of time for booking the rooms, as suitable venues can be in short supply. Refer to section 2.4 of this guidance "*Choosing the venue for the Interview*" for general advice on venues.
2. An additional room will be required to facilitate a break out area for the employee under investigation (and their companion).
3. There should be areas for witnesses to wait, preferably keeping any witnesses called by management separate from any witnesses called by the employee to give evidence.
4. Consideration should also be made, where appropriate, for the provision of reasonable adjustments to accommodate disabled employees. Other circumstances may warrant an interpreter or facilitator if there are understanding or language issues.

4. The Date for the Hearing

1. You must give **at least 14 calendar days** notice of the disciplinary hearing.
2. Once you have options for venue availability, contact all parties (by phone or email) in order to gain feedback as to their available/ unavailable dates to agree a mutually convenient date for the hearing. It is the responsibility of the employee under investigation to liaise with their companion regarding an appropriate date, so ensure that you have advised them of this, to prevent delays.
3. Suggest a provisional date to all parties, where possible suggesting a couple of

alternative dates. Make every effort to accommodate the availability of all parties.

4. If any party cannot attend on any of the proposed dates, then request they provide at least **1 alternative date**, one of which should fall within **7 calendar days of the previous date**.
5. Where possible, in order to provide a positive framework, hearings should be accommodated within these alternatives.
6. Once this process as outlined above has been exhausted, then ask the Chair of the Hearing to provide one final date, which is the final alternative, and only under exceptional circumstances (e.g. away on a pre-booked holiday, in-patient within a medical establishment) will any further alternative be provided.
7. Where fixing the date of the Hearing becomes fraught with difficulty, you can request that an alternative Chairperson, HR People Service representative or companion is sought.
8. Once the date for the Disciplinary hearing has been finalised, confirm the arrangements in writing to all parties. (**Employee Under Investigation – Letter To Attend Disciplinary Hearing & Invite Witness to Attend Disciplinary Hearing**) & (**Letter- Invite Witness to Attend Disciplinary Hearing**).
9. Careful thought must go into the letter to the employee under investigation which details the allegations, as what is detailed in the letter are the only allegations that can be considered at the hearing. Other allegations cannot be brought forward at the hearing.
10. In the letter, list the names of the witnesses that you intend calling to the hearing.
11. You are required to submit a disciplinary pack with this letter. The pack is a bundle of all relevant documents to be used as evidence at the hearing.
12. Notify the employee that they have to submit any documents and names of witnesses **7 calendar days** in advance of the hearing.

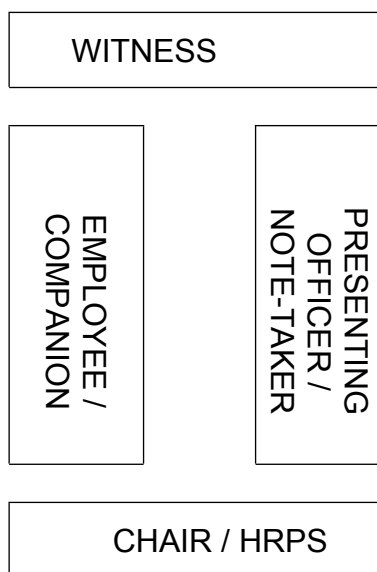
5. The Disciplinary Investigation Pack

1. It is your responsibility to ensure that:-

- a) Where the disciplinary pack contains excessive amounts of information this should be provided to the employee (and their companion) **more than 14 calendar days** in advance of the hearing, wherever possible.
- b) The disciplinary pack should be provided to the Chair of the Hearing between **2 and 5 calendar days** prior to the hearing.
- c) The content of the pack includes all available facts, such as statements from all witnesses, documentary evidence, the employee's personal details such as disciplinary record, current warnings, attendance record, etc.
- d) The pack must not contain any personal details of other individuals (e.g. address, date of birth, etc) and any service users must be referred to by initials only to maintain confidentiality. You **must take care to redact** any personal information from letters sent to employees and witnesses.
- e) It is essential that all packs provided for the hearing have been accurately photocopied, and **are identical in content**.
- f) Ensure that you include in the pack the document "**Key principles for confidentiality and code of conduct for hearings**" (Appendix 5). The chair will check at the hearing that this has been received.

6. Presenting at a Hearing

1. When you arrive at the hearing, you should wait in a separate area until the Chair calls all parties into the meeting room.
2. The seating in the hearing room should be arranged in a non-confrontational manner (e.g. Chairs placed at angles rather than facing each other). You will be invited to sit opposite the employee under investigation.
3. Opposite is an example of a seating arrangement at a hearing, for illustrative purposes only.



4. The Chair will introduce all those present, read out the key principles of confidentiality and the code of conduct, explain the purpose of the hearing and outline the hearing process making sure all present understand. You will be asked to sign an attendance sheet, confirming you understand the key principles.
5. You will then present the Management Case. You will hear the term “Presenting Officer” used for this role.
6. Use your script to begin explaining how it is intended to substantiate the case, and indicate what witnesses you intend to call. Keep this brief and to the point.
7. Confirm to the Chair how you have correctly followed the disciplinary procedure, including outlining the details, and circulating copies of correspondence such as letters instructing attendance at the hearing, and confirming suspension, etc. that you have sent.
8. You then need to present the case using documentary evidence where available. You do not need to read your investigation report word for word, and the Chair may advise you that sections are taken “as read”.
9. Give details of previous unspent disciplinary warnings as part of your presentation. Expired warnings should only be referenced for contextual reasons, and where they are relevant to the current allegations. To be regarded as “spent” the warning must have expired at the date of the further offence, rather than the date of the disciplinary hearing.
10. Call witnesses one by one into the hearing at the appropriate time (or refer to witness statements). You will need to ask the witness to confirm their witness statement and signature.

11. The Chair will ask you and your witnesses questions, and will direct questions from the employee and their companion.
12. Once a witness has given their evidence, they leave the room. The Chair will confirm whether they wish the witness to remain at the venue, in case they are required to clarify anything.
13. The employee and/ or their companion will then present their case, call any witnesses and present any documentation relevant to the defence.
14. You will be invited by the Chair to ask questions of the employee and their witnesses.
15. Following this you will be asked to sum up and conclude your case. No new evidence will be allowed at this stage. Give information on the employee's work record, disciplinary record, any unspent previous disciplinary warnings, any relevant previous reprimands and any mitigating factors.
16. Following the summing up by the employee and/ or their companion, the Chair will then adjourn the hearing to make their decision.
17. No further discussion will be allowed.
18. After the summing up has been completed, both sides withdraw to allow the Chair to deliberate in private. The HR People Services representative can remain to assist the Chair with their deliberations, advise what penalties, if any, are appropriate, and what penalties have been given in similar cases in the Council.
19. If in the course of deliberation, the Chair needs to seek further clarification and/or further information from one side or the other, then in the interests of natural justice, **both** sides will be invited back into the hearing to hear the discussion.
20. The Chair may find that further information is required, and decide to adjourn the hearing. In this case, they will advise both parties of the adjournment and the reasons for it.
21. If the Chair is able to reach a decision you and the employee under investigation (and their companion) will be recalled. The Chair will state whether the allegations are substantiated, what disciplinary action is to be taken and the rationale behind the outcome.
22. The Chair will then advise the employee of their appeal rights and will confirm the decision in writing within **7 calendar days**.

6. Appeals

1. An employee has a right of appeal against the decision of a Disciplinary hearing. Appeals must be made within **7 calendar days** from receipt of the written decision from the original hearing.
2. Appeals will be considered by a higher level of management, who has had no prior involvement in the decision against which the employee concerned is appealing.
3. An Appeal will take the form of a **Review Appeal** or a **Re-Hearing Appeal**, depending on the sanction given at the Disciplinary Hearing.
4. **REVIEW APPEALS** are used for appeals against verbal, written and final written warnings.
 - a) **As Presenting Officer, you are not expected to attend this and the appointed Review Appeal Chair makes the practical arrangements for the Appeal Hearing.**
 - b) No witnesses are called.
 - c) The employee (or their companion) will detail their grounds for appeal against the decision made.
 - d) The Chair of the original hearing will present the reasons and rationale for their decision.
 - e) There are opportunities for questioning and summing up before the Chair makes their decision.
5. **RE-HEARING APPEALS** are used for appeals against dismissal or demotion.
 - a) **As Presenting Officer, you are expected to attend this, and you make the practical arrangements for the Re-Hearing appeal. (Letter-Acknowledgement of Receipt of Appeal and Advising Appeal Arrangements) & (Invite witness to attend Appeal Hearing)**
 - b) The procedure for the Re-Hearing appeal is as per the original Disciplinary hearing and runs in the same way.
6. The Appeal decision is confirmed in writing to the employee as soon as is reasonably practicable. The Chair of the Appeal's decision will be final and there are no further appeal rights within the Council .

Frequently Asked Questions

1. What if the employee or companion object to the person appointed as the investigating officer or Hearing Chair?

Where this happens they must provide full details of the reason for the objection. The Chief Officer/ Director/ Assistant Director who allocated the investigating officer or hearing chair will fully consider the information provided, and if appropriate reallocate an alternative person.

2. Must a disciplinary hearing be held during an employees working hours?

There are no statutory requirements in relation to the timing of disciplinary hearings only that meetings should be held "without unreasonable delay" and that employers and employees "should make every effort to attend the meeting". Wherever possible meetings should be held within an employee's contracted hours. However, if you cannot make arrangements for this then they can be required to attend a meeting outside their contracted hours.

3. What happens when an employee raises a grievance during the disciplinary procedure?

If an employee raises a grievance during a disciplinary process then either the disciplinary process will be temporarily suspended or where they are related it may be appropriate that they are dealt with concurrently. Advice should be sought from HR People Services.

4. What if an employee offers to resign during the disciplinary process?

In cases of alleged theft, it may be appropriate to continue with the process so that a clear and transparent procedure and outcome remains recorded on the individual's file. In matters relating to child protection and vulnerable adults where an employee resigns in circumstances that could have led to dismissal a referral to the Disclosure and Barring Service (and in some cases to the General Teaching Council for Wales or the Care Council for Wales) must take place and it is appropriate to continue with the process so an outcome can be recorded. Once the individual has left our employment they may not attend or cooperate with any future proceedings and letters inviting them to any investigatory interview or disciplinary hearing should state that if they fail to attend without providing prior notification then the meeting will proceed in their absence. Where any employee resigns during a process then a note should be placed on their file to this effect to ensure that this is taken into account for any future reference requests.

Additional Guidance & Support

1. Standard Letters and Documents

1. General

- a) Disciplinary letters, forms, etc will be produced by Service Areas, with advice from HR People Services.
- b) Letters confirming disciplinary action must be signed by the Chair of the hearing and copied to the HR People Services.
- c) The Chair of the Disciplinary or Appeal Hearing will receive copies all documents that both sides will rely upon at the hearing at **2-5 days** ahead of the hearing date.
- d) Copies of all disciplinary letters will be retained in Digigov.
- e) Where standard letters contain sections/ words to be deleted the appropriate words should not be struck through but should be omitted from the letter. Italics in the documents show where details need to be added.
- f) Copies of all letters to employees will be provided to the companion (Trade Union representative) where this has been requested by the employee.

2. Employee under Investigation – Letter to Attend Investigatory Interview

A copy of Council's Disciplinary Policy and Procedures should be attached to this letter.

3. Invite Witness to Attend Investigatory Interview

This letter should be sent to witnesses to attend an investigatory interview. It notifies them that they will be required to either sign a note of the meeting or provide a written statement and that they may be required to attend a disciplinary hearing as a witness.

4. Employee under Investigation – Letter to Attend Disciplinary Hearing

- a) At least **14 calendar days** notice must be given of a disciplinary hearing.

- b) Careful thought must go into the detail of the allegation as what is detailed in this letter are the only allegations that can be considered at the hearing and other allegations cannot be brought forward at the hearing.
- c) Any documents to be used as evidence at the hearing should be attached, and the names of any witnesses listed.
- d) Employee to be notified that they have to submit any documents and names of witnesses **7 calendar days** in advance of the hearing.

5. Invite Witness to Attend Disciplinary Hearing

This letter is self explanatory.

6. Temporary transfer as an alternative to suspension

Alternative options to suspensions should be reviewed **4 weekly** during the investigation.

7. Letter: Review of Progress in Disciplinary Investigation.

- a) This letter confirms that a review has taken place.
- b) It also states when the anticipated date for completion of the investigation is, and whether there is any potential delay to the process.

8. Letter: Review of Suspension from duty without prejudice

- a) This letter confirms that a review has taken place.
- b) It confirms whether the suspension remains valid or whether there are no options for alternatives to suspension.
- c) Where suspension continues, it reminds the employee of the terms and conditions of the suspension.

9. Acknowledgement of Receipt of Appeal and Advising of Appeal Arrangements

At least 14 calendar days must be given of an appeal hearing.

10. Invite Witness to Attend Appeal Hearing

This letter is self explanatory

2. Associated Policies

- ◆ 1.CM.049 Attendance & Well Being Policy
- ◆ 1 CM.120 Fraud, Bribery & Corruption Policy
- ◆ 1.C.015 Whistleblowing Policy
- ◆ 2.AS.ACM.021 Wales Adult Protection policy and Procedure – Summary
- ◆ All Wales Child Protection procedure 2008
- ◆ 5.HR.026 Guidance for Safer working practice with Children, Young People and Vulnerable Adults
- ◆ Data protection Policy and Procedure
- ◆ Data Protection Requests for Information Policy

3. Additional Guidance

- ◆ Discipline & Grievances at Work: An ACAS guide
Available from Cardiff Improvement System, Intranet
- ◆ POVA: VA1 referral form 4.AS.ACM.001Y
- ◆ POVA Guidance VA1 5.AS.ACM.GN.002
- ◆ Request for Disclosure Data Protection Act 1998 s 29 or 35
- ◆ Privacy Impact Assessment Guidance
- ◆ Data Protection Employee Code of Practice
- ◆ Cardiff Council Disciplinary Procedure: A Manager's Guide
- ◆ Cardiff Council Disciplinary Procedure: Guidance for Witnesses
- ◆ Cardiff Council Disciplinary Procedure: A hearing Chair's Guide

Appendix 1: Consent for Recording a Disciplinary Interview

1. I confirm that I have been provided with a copy of the Procedure for Recording an Investigatory Interview.

2. I confirm that I have read and understood this procedure, and am fully aware of how the data from the interview will be handled securely, including arrangements for storage and disposal.

3. I consent to the recording of the Investigatory Interview that will take place on: *(insert date)*

(All parties present at the interview to sign below)

1. SIGN:

PRINT NAME:

2. SIGN:

PRINT NAME:

3. SIGN:

PRINT NAME:

4. SIGN:

PRINT NAME:

5. SIGN:

PRINT NAME:

Date:

Appendix 2: Checklist for use during interviews (if desired)

1. If the interview is to be tape recorded, ensure that the Procedure for Recording Interviews has been followed, and consent from the employee obtained.
2. Ensure that mobile phones are switched off/ silent and phones diverted, to limit interruptions.
3. Water should be available for all parties.
4. Provide a draft of the core questions to the note taker and HRPS officer.
5. You may choose to provide a copy of the core questions to the employee under investigation/ companion.
 - Welcome and introduction of all parties present, explaining what their role and purpose is. Clarify the role of the companion, if present, or confirm the employee is happy to proceed if they are not represented.
 - Confirm with all parties present that confidentiality is essential, and must be maintained by all present.
 - Explain the purpose of the interview and check that they have received a copy of the Disciplinary policy and had been able to read it.
 - Explain what the format of the interview will be and that a break can be taken if required.
 - Advise the interviewee that a record of the interview will be taken, and that a copy of the record will be provided. You will be asking them to check it for accuracy, and agree and sign that record. If a particular aspect of the note cannot be agreed, then the differing views/ versions should be recorded into the note.
 - Advise the employee/witnesses that the notes of the interview and/ or any written statements they provide will feature at any potential future disciplinary hearing. Any statement/record that is unsigned will usually be given less weight at any hearing.
 - Advise witnesses that information provided would be subject to disclosure if the individual(s) named within the statement or allegations submit a request for such information.
 - Advise that records will be treated in confidence, and only circulated to authorised personnel. Information of a personal nature is subject to the Data Protection Act. Access to personal data can be granted under the provisions of the Act.

- Check how they would like to receive the copy of the record and confirm how you would like to be communicated with.
- Inform the interviewee that there may be a need to re-interview them should further information come to light.
- Explain what happens next and, if possible, the timescale of the investigation.
- Any Questions?

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Appendix 3 :

Record of Interview template for Employees & Witnesses

Date:	
Allegations being investigated:	
Employee/Witness being interviewed:	
Investigating Officer:	
Others Present:	
Start time of Interview	
End time of interview	
Include information read out at start of interview	
<u>Details of interview</u>	
<ul style="list-style-type: none">◆ Include the interview questions asked (numbered)◆ Answers given◆ Whether there were any breaks◆ Confirm arrangements for return of notes	

I confirm these are an accurate record of the meeting and that I may be called (as a *witness*) to a disciplinary hearing.

Signed (employee): _____ Date: _____

Appendix 4

PRIVATE AND CONFIDENTIAL

INVESTIGATING OFFICER'S REPORT (4.C.432)

To be used for Disciplinary Investigations.

- *Words in italics are for guidance and should be deleted from actual report.*
- *Number all paragraphs, number all pages and include a contents list detailing the report and all appendices.*

INTRODUCTION

1. As a result of an allegation made by (*complainant – name and job title*) against (*respondent – name and job title*), an investigation was undertaken in accordance with the Council's/School's Disciplinary Investigations Policy and Procedure.
2. The investigation was carried out at the request of (*Name*) and was supported by (*Name of HR People Services Officer*), and (*Name of person taking minutes*). The complaint was received by the investigating officer on *DATE*.
3. When conducting this investigation all employees were informed of their right to be represented by up to two trade union representatives or a work colleague.

BACKGROUND INFORMATION

Describe employment history – where employed, dates of employment, post title etc.

Give details of any current disciplinary warnings on file/record.

THE ALLEGATIONS

Details of the specific allegations/complaints. Number each allegation for ease of cross referencing with the details of the investigation, the findings and recommendations. Allegation 1, Allegation 2 etc.

THE EVIDENCE

All documentary evidence and statements referred to in this report are listed on the attached contents summary. Examples are:

- *Names and post titles of witnesses*
- *Detail all relevant policies and/or Codes of Practice*
- *Notes of relevant meetings*
- *Relevant correspondence*
- *Job Descriptions/Work performance standards*
- *Training records*
- *Absence records*
- *Work Instructions*
- *Risk Assessments*
- *Room Layouts*
- *Photographs*

Allocate each document an appendix number for cross referencing. All appendices should be referred to and some point in the report and the investigating officer should explain why they are relevant to the issues under consideration.

INVESTIGATION FINDINGS

Here describe what the investigator found, how the evidence was evaluated, and what are believed to be the contributing factors to the situation. If there are mitigating factors that have contributed in some way to the situation, they should be described in full, and relevant contribution evaluated. Say if a particular version of events was preferred by the investigator when conflicting views were given, AND why. Outline consistencies and inconsistencies and give explanations if known. Where the findings present risks to the Council/school then these should be detailed. Risks could be legal, reputational, financial, health and safety, employee relations.

For each specific allegation state whether or not the complaint is supported, whether by inference or fact, with full reasons:

From interviews and statements from the complainant, respondent and witnesses, and the consideration of all documentary evidence available to the investigator, on the balance of probability, the findings are as follows:

Allegation 1. It is found that, on the evidence available,

Include reference to the relevant specific evidence that supports each finding

CONCLUSION AND RECOMMENDATIONS

Make a concluding statement that is relevant to the individual case and the complainant.

Deal with each allegation and state whether, following the findings the investigation is conclusive or not, and what the conclusions are. Include any specific recommendations for each allegation i.e. if a policy is needed, training of staff etc....

If fault is to be attributed, it should be outlined here. If a process or procedure was not followed, or an individual behaved inappropriately, this is where the investigator should outline exactly what went wrong and what should have happened instead. The investigator should make it clear what is believed to have happened. Any management actions considered necessary should be reflected.

All those who gave evidence and support with documentation and their time are thanked for their cooperation and assistance.

I have reached a genuine belief based on reasonable grounds and on the balance of probabilities, after having carried out as much investigation into the matter as was reasonable in the circumstances

It is recommended based upon the investigation that this matter (proceed to a disciplinary hearing/ be dealt with under the informal counselling stage of the disciplinary procedure/ be disregarded as it is felt the allegations were not substantiated)

Signed: (Investigating Officer)

Date:

Appendix 5:

Key principles for confidentiality and code of conduct for disciplinary hearings

Confidentiality

1. This hearing is confidential, and a record will be made of the discussion, which is subject to access requests under the Data Protection Act 1998
2. All parties should ensure that the minutes are retained in a confidential and appropriately restricted manner.
3. Information discussed within this hearing is strictly confidential and must not be disclosed to third parties.

Code of Conduct during the hearing

1. We understand and act in accordance with the Council's Core values of being Open & Honest, Fair & Together, as defined in the Employee Charter.
2. The Council has a duty of care to its staff, and is responsible for ensuring that the behaviour and conduct of its staff in the course of their work is acceptable.
3. We act with dignity, and treat all others with courtesy and respect, to ensure that the behaviour of all parties attending the Disciplinary Hearing is appropriate, and normal social courtesies are observed.
4. **Unacceptable behaviour** is any behaviour or language that unjustifiably causes distress, patronises, offends, belittles or insults an individual. All parties should not get involved in raised voices, arguments, physical contact, or gestures which could be misinterpreted. Inappropriate behaviour or conduct will not be tolerated.
5. This hearing will be adjourned if there are incidents of unacceptable behaviour or a high level of individual distress. Dependant on circumstances, I, as the Chair of this hearing will have the final decision when to reconvene the Hearing.

By signing the attendance sheet all parties are agreeing to abide by these principles.

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