MANAGERS GUIDANCE TO DEALING WITH DISCIPLINARY MATTERS

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INTRODUCTION

It is the expectation that in your role as a manager there will be on occasions a need to deal with the conduct of one of your own team member's or another employee of the Council.

This guidance has been compiled to support you step by step through the process. For ease of use the responsibilities have been individually sectioned so that you can understand the requirements expected of you within your designated role.

Section 1 Role of a Commissioning Manager

Section 2 Role of an Investigating Officer

Section 3 Role of a Hearing Manager

At 'a glance' flowcharts are provided accompanied by template letters and guidance scripts to assist you with the process.

Please note that the template letters and scripts are for guidance purposes only and will therefore require adapting to the individual circumstance of the case that is being presented.

Should you have any queries on the content of the guidance, have further queries or wish to simply take advice on how best to proceed with the case please contact the HR Advisory Service for assistance.

Please note this guidance should be read in conjunction with the Warwickshire County Council Disciplinary Procedure to ensure a "reasonable" investigation is conducted.

SECTION ONE

THE ROLE OF A COMMISSIONING MANAGER

1.1. Purpose of the Role

The Commissioning Manager is responsible for *commissioning* an Investigating Officer to undertake the investigation process. They can also hear the case should it proceed to a disciplinary hearing or alternately they can commission a Hearing Manager. Therefore the Commissioning Manager can have a dual role as Commissioning Manager and Hearing Manager.

1.2. Responsibilities

- On notification of the allegation identify whether the Risk and Assurance (formerly known as Internal Audit and Risk Management) needs to be informed. Consider any advice provided by Risk and Assurance prior to commissioning the investigation;
- Undertake or arrange to undertake, any initial fact finding preliminary interviews with the employee to establish whether a formal investigation is required;
- Notify the employee of the allegations to be investigated and the next steps of the process i.e. formal investigation;
- Place the employee on alternative duties or suspend if deemed necessary or arrange for this to be done by for example the line manager;
- Continue to review the appropriateness of the suspension during the period of investigation;
- Commission an Investigating Officer to undertake the formal investigation process;
- > Prepare the Terms of Reference for the Investigating Officer;
- Should the Investigating Officer identify any new information during the investigation, revisit the Terms of Reference and amend where necessary;
- On receipt of the report from the Investigating Officer ensure that it complies with the Terms of Reference;
- On receipt of the investigation report findings determine the appropriate action to be taken;
- Inform the employee concerned of the outcome of the investigation and any subsequent action;
- ➤ If the decision is to deal with the matter informally rather than formally, speak to the employee about what they need to do to improve and in what timescale, or arrange for this to be done by, for example, the line manager. A note of the informal outcome should be recorded on HR-ER.

- ➤ If the decision is not to proceed to a disciplinary hearing communicate the outcome to the employee concerned and place a copy of the written correspondence on the employees HR-ER file.
- Hear the case at a disciplinary hearing or alternatively commission a Hearing Manager;
- ➤ If also designated Hearing Manager please see Section Three for further responsibilities.
- Refer employees to their professional registered bodies e.g. Health and Care Professional Council (hcpc) and also if they have harmed or pose a risk of harm to children and/or vulnerable adults to the Disclosure and Barring Service (DBS).

1.3. Suspension / Temporary Reassignment to Alternative Duties

There can on occasions be situations where the alleged misconduct is of such serious concern that it raises the question to whether the employee's continued presence constitutes a risk to other staff or customers and therefore whether they can remain in their current working environment while a formal investigation is undertaken. Suspension may also be necessary where their continued presence could prevent a full and proper investigation. Placing the employee concerned on suspension should be treated as the absolute last resort with temporary reassignment to alternative duties considered in the first instance. Risks should be immediately assessed of the duties that can be undertaken and the information and equipment that they can access. If it is not possible to eliminate the risk or identify any alternative duties then the employee should be suspended with immediate effect to enable the investigation to be fully and fairly conducted.

In cases where the allegations are related to child or vulnerable adult protection advice should be sought on the appropriateness of the alternative duties and the employee remaining in the workplace while the investigation is undertaken.

In the first instance for all cases where suspension or placing employees on alternative duties may need to be considered, seek advice from the HR Advisory Service.

1.4. Communicating the Suspension / Temporary Reassignment to the employee

- > Explain the allegations to the employee;
- If applicable explain the rationale for the employee being placed on alternative duties, where they will be located and who they are required to report to during the temporary reassignment;

- ➤ If suspending the employee they should be informed that they will continue to receive full salary payment during this period;
- Conditions for receiving full salary payment are that the employee complies with the conditions of the suspension and that they remain available and fully participate in the investigation process;
- ➤ The employee should receive the conditions of suspension / temporary reassignment in writing. Any breach of the conditions will be viewed as a failure to comply with a management instruction and could result in additional disciplinary procedures being instigated;
- ➤ All items belonging to the Council should be immediately returned to enable them to be held for the duration of the suspension;
- ➤ The employee should be advised of what they could expect to be the possible outcomes from the investigation and that they will be kept informed of the progress of the investigation;
- ➤ The employee should be assisted to leave their current working environment with the maximum discretion allowing dignity to be maintained;
- Confidentiality should be maintained with workplace colleagues and teams being advised on a need to know basis that the employee concerned will not be in work. For instance, they should not be advised of the circumstances for the absence or provided with any details of the allegations unless called to give evidence at a witness interview.

1.5. Suspension Script

A serious matter / issue has been brought to my attention which I need to raise with you. It has been alleged that you have *outline allegation*. This is a very serious allegation which will now require a full formal investigation in accordance with the Warwickshire County Council Disciplinary Procedure.

In light of the allegation I am suspending you from employment with immediate effect to allow the investigation to be undertaken. This is a precautionary measure and your

suspension is without prejudice to enable the formal investigation to take place. Your suspension should not be seen as any indication that the allegations made are true and whilst it is part of the disciplinary process it does not constitute disciplinary action.

During your suspension you will continue to receive full pay, on condition of you complying with the conditions of your suspension. Please be advised that the conditions of your suspension are deemed to be a reasonable management instruction.

The allegation/s against you is/are very serious and, if proven, could constitute gross misconduct and result in your dismissal from the Council's employment.

You will be provided during the course of the investigation with the opportunity to respond to the allegations. At any formal interview you will have the right to be accompanied by a fellow worker or trade union representative. You will be kept informed on the progress of the investigation which will be completed as soon as possible.

Name of investigating manager has been commissioned to carry out the formal investigation.

Alternatively

I will be commissioning an Investigating Officer who will be in contact with you shortly.

During your suspension you should not contact any colleagues for work related purposes, other than a fellow worker that is going to accompany you at any formal meetings, or enter your work premises. Any work related to or with Warwickshire County Council should not be undertaken. By contact I also mean contact via Facebook, twitter or any other forum. It is not in your interests to discuss the matter with others as this could prejudice the investigation. If you wish to contact the Council about anything, please do that through me as the Commissioning Manager.

You are required to return your work equipment, security badge and any items belonging to the Council which will be held for the period of the suspension.

If you are a union member I would advise you to contact them as soon as possible to ensure that you obtain some support and advice.

I have a staff care leaflet for your information and you may contact them for counselling support in confidence at any time.

I have a letter/I will send you a letter confirming the detail of your suspension which I have just outlined to you. I also have/will attach/ed a copy of the Disciplinary Procedure for your reference.

Do you have any questions or is there anything that I have outlined that you would like further clarification on at this stage?

1.6. Terms of Reference

Strictly Private and Confidential Disciplinary Investigation Terms of Reference

Manager commissioning the investigation:

HR Advisor supporting Commissioning Manager:

Investigating Officer:

HR Advisor supporting Investigating Officer if different from above:

Allegation (s):

Context:

Scope of investigation:

An investigation is required, in line with WCC Disciplinary Procedure to establish the facts concerning.....

Witnesses/Interviewees:

Interviews should include, but may not be limited to.....

Relevant reference documents

Relevant documents include, but should not be restricted to

Timescales:

It is anticipated that the investigation should take no longer than....

Investigating Officer's role:

- 1. Discharge the investigation in line with the terms of reference
- 2. Invite the parties involved to attend an investigatory interview
- 3. Interview the parties involved and obtain statements
- 4. Interview other relevant parties/witnesses
- 5. Examine any background information
- 6. Obtain all relevant evidence
- 7. Produce a factual report for my consideration
- 8. Recommend whether the facts support the allegation or not
- 9. Present the report and supporting information/evidence at any subsequent disciplinary hearing as required.

Report:

A report is requested outlining the facts of the case relating to the allegations given above for my consideration.

1.7. Police Investigations

If an allegation is brought to your attention that may require police assistance or already has involvement of the police, please contact the HR Advisory Service to seek immediate advice prior to taking any further action.

1.8. Bundle Guidance

On the decision that there is a case to answer at a disciplinary hearing the Investigating Officer's report with any additional documentation and records will need to be collated into a bundle. The bundle will need to be circulated to those who are required to attend the hearing excluding any witnesses who only have a copy of their personal statement taken at the interview.

The bundle should include:

- √ Contents Page
- ✓ Investigation Report
- √ All supporting documentation which has assisted the investigation these will form the appendices
- √ Ensure all pages are clearly numbered including the appendices

1.9. Template example letters for use by the Commissioning Manager in order of sequence

- Notification of Suspension
- Notification of temporary reassignment to alternative duties
- Notification of review of suspension
- Notification of disciplinary investigation
- Further allegations arising prior to investigation interview
- > Further allegations arising from investigation interview
- Outcome of investigation action or no action
- Invite to disciplinary hearing
- > Rescheduled disciplinary hearing date notification

Notification of Suspension Example Letter

Private and Confidential (Name)

(Address)

(Date)

Dear (Name)

Suspension from duty

Further to our meeting on (Date) regarding the above, I am writing to confirm that you are/were suspended from duty, on full pay, with immediate effect whilst the following allegation(s) into your conduct are investigated:

- •
- •

•

The Council reserve the right to change or add to these allegations as appropriate in light of the investigation.

The allegation/s against you is/are very serious and if proven could constitute gross misconduct and result in your dismissal from Warwickshire County Council employment.

An Investigating Officer will be appointed shortly and confirmed to you in writing. As part of the investigation you will be interviewed and will be invited to offer an explanation or comment on the allegations made against you. Your suspension should not be seen as any indication that the allegations made are true and whilst it is part of the disciplinary process it does not constitute disciplinary action.

For any meetings that are part of the investigation and for any subsequent disciplinary hearing that may be arranged you are responsible, and expected to make yourself available to attend.

You have the right to be accompanied by a trade union representative or fellow worker at any formal stage of these proceedings. The investigation will be completed as soon as possible and you will be kept informed of its progress.

During your suspension, you should not contact colleagues for work related purposes and are not required to attend work. However, should you wish to visit your place of work or any other County Council establishment, or contact colleagues on any work related matters, you should do so only by prior permission and arrangement with myself. Failure to seek prior permission may be treated as serious misconduct and a breach of your suspension terms.

All items belonging to the Council should be immediately returned to enable them to be held for the duration of the suspension.

Arrangements will be made for your pay slip to be sent to your home address during the period of suspension. However if this is not convenient, please inform me at the earliest opportunity. Should you fall ill during your suspension, you should comply with the sickness absence reporting procedures in full. Approval should continue to be sought for annual leave in accordance with procedures. Full pay during your suspension is conditional upon complying with the terms of the suspension.

I appreciate that suspension from work can cause concern and that you may want to share your feelings and concerns with someone. You can approach the Staff Care service for confidential support; a copy of their leaflet is enclosed. Please contact the service direct if you wish to take up this offer of support. You can also make you own independent arrangements for support during the investigation by contacting your Union.

I would like to remind you that you are not to discuss any aspect of the investigation with anyone other than myself, the Investigating Officer, staff care or your representative.

The above is in accordance with the County Council's Disciplinary Procedure, a copy of which is enclosed. May I remind you that being suspended from duty is not a disciplinary sanction and is without prejudice.

If you require any advice or clarification on any of the above, please do not hesitate to contact me.

Yours sincerely
Manager commissioning the investigation
Job Title

Enc: Disciplinary Procedure Staff Care Leaflet

Notification of Temporary Reassignment to Alternative Duties - Example Letter

Private and Confidential

(Name) (Address)

(Date)

Dear (Name)

Notification of temporary reassignment to alternative duties

Further to our meeting on (Date) regarding the above, I am writing to confirm that you are/were temporarily reassigned to alternative duties with immediate effect until further notice.

You are to be reassigned to (Insert job) and will report to (insert reporting manager's name). During your reassignment you will be on full pay.

All leave requests and sickness reporting should be done through the above named manager for the period of your reassignment.

Your temporary reassignment is whilst the following allegation(s) into your conduct are investigated:

- •

The Council reserve the right to change or add to these allegations as appropriate in light of the investigation.

The allegation/s against you is/are very serious and if proven could constitute gross misconduct and result in your dismissal from Warwickshire County Council employment.

An Investigating Officer will be appointed shortly and confirmed to you in writing. As part of the investigation you will be interviewed and will be invited to offer an explanation or comment on the allegations made against you. Your temporary reassignment should not be seen as any indication that the allegations made are true and whilst it is part of the disciplinary process it does not constitute disciplinary action.

For any meetings that are part of the investigation and for any subsequent disciplinary hearing that may be arranged you are responsible, and expected to make yourself available to attend.

You have the right to be accompanied by a trade union representative or fellow worker at any formal stage of these proceedings. The investigation will be completed as soon as possible and you will be kept informed of its progress.

I would like to remind you that you are not to discuss any aspect of the investigation with anyone other than myself, the Investigating Officer, staff care or your representative.

The above is in accordance with the County Council's Disciplinary Procedure, a copy of which is enclosed. May I remind you that being on temporary reassignment of duties is not a disciplinary sanction and is without prejudice.

If you require any advice or clarification on any of the above, please do not hesitate to contact me.

Yours sincerely

Commissioning Manager Job Title

Enc: Disciplinary Procedure Staff Care Leaflet

Notification of Review of Suspension -Example Letter

Private and Confidential (Name) (Address)

Dear (Name)

(Date)

Review of Suspension

I am writing to confirm that in accordance with the Council's Disciplinary Procedure a review of your on-going suspension has been undertaken.

Given that the investigation is still on-going and that the allegations at this point of the investigation still constitute gross misconduct it is necessary for the continuation of your suspension.

The suspension will continue to be monitored and if at any stage of the investigation it is felt that the allegations are of a lesser offence than gross misconduct the suspension will be lifted.

You will be notified in due course of the next stage of the procedure.

In the meantime, should you have any queries about the process or the contents of this letter please contact me.

Yours sincerely

Commissioning Manager Job Title

Notification of Disciplinary Investigation – Example Letter

Private and Confidential

(Name) (Address)

(Date)

Dear (Name)

Disciplinary Investigation

Further to the discussion you had with (name) regarding the above, I am writing to confirm that an investigation into the following allegation(s) will be undertaken by (Investigating Officer name and Job Title)

Allegations for investigation:

presented at any subsequent disciplinary hearing.

•

I reserve the right to change these allegations as appropriate in the light of the investigation. Should any additional allegation(s) come to light during the course of the investigation I will advise you in writing that this/these allegation(s) will also be investigated. Any information which is gained during the investigation process may be

During the course of the investigation, you will be interviewed and will be invited to offer explanation or comment on the allegation(s) made. You have the right to be accompanied by a trade union representative or fellow worker at any stage of the proceedings. The investigation will be completed as soon as possible and you will be kept informed of its progress.

I would like to remind you that you are not to discuss any aspect of the investigation with anyone other than myself, the Investigating Officer, staff care and your representative. You will be informed in writing of the outcome of the investigation. The above is in accordance with Warwickshire County Council's Disciplinary Procedure, a copy of which is enclosed.

I appreciate that an investigation can cause concern and that you may want to share feelings and concerns with someone. You can approach the Staff Care service in confidence for support; a copy of their leaflet is enclosed. Please contact the service direct if you wish to take up this offer of support. You can also make you own independent arrangements for support during the investigation by contacting your Union.

If you require any advice or clarification on any of the above, please do not hesitate to contact me.

Yours sincerely

Commissioning Manager Job Title

Enc: Disciplinary Procedure Staff Care Leaflet

Further Allegation Arising Prior to Investigation Interview - Example Letter

Private and Confidential

(Name) (Address)

(Date)

Dear (Name)

Disciplinary Investigation – Further allegation(s) arising

I refer to my letter dated (date of notification of investigation) and write further to advise you that the following additional allegation(s) has/have come to light during the course of the initial investigation which we will need to discuss with you:

•

•

The allegation(s) is/are now formally added to those included in the above mentioned letter.

An investigation into the above additional allegation will be added to your interview which has been scheduled for (date) (time) (location) as per my previous letter dated (insert date of invite letter). I would like to remind you that you are entitled to be accompanied by a fellow worker or trade union representative to this interview. Any information gained during the investigation may be presented at any subsequent disciplinary hearing.

If you require any further clarification on the above please do not hesitate to contact me.

Yours sincerely

Commissioning Manager Job Title

Further Allegation Arising from Investigation Interview – Example Letter

Private and Confidential

(Name) (Address)
(Date)
Dear (Name)
Further allegation arising from Investigating Interview
I write in reference to the investigating interview which took place on (date) with (Investigating Officer name). During the course of the interview, you referred to a matter which has resulted in the following allegation being raised against you:
•
In my letter of (insert date) I reserved the right to change the allegations in the light of the investigation. I am therefore writing to confirm the additional allegation/s requires further investigation and will be included in the matters subject to the investigation process.
The above is in accordance with the County Council's Disciplinary Procedure, a copy of which was provided to you in earlier correspondence.
Yours sincerely

Outcome of Investigation - Action or No Action - Example Letter

Private and Confidential

Commissioning Manager

(Name) (Address)

Job Title

(Date)

Dear (Name)

Outcome of Investigation

I am writing to inform you that the recent investigation into the allegations of (insert allegations investigated) has now been completed.

I can confirm the outcome is that your explanation has been accepted and/or there is no evidence to support the allegation(s) made and there will be no further action. I would like to thank you for your co-operation during the investigation.

Your suspension is now lifted and you should return to work in consultation with your line manager who will be in contact with you shortly.

Or

I am writing to inform you that the recent investigation into the allegations of (insert allegations investigated) has now been completed.

I can confirm that in light of the investigation findings there is evidence to support taking informal action (state details).

Include any improvements that need to be made as identified from the investigation.

I need to make you aware that if any such allegation(s) should arise again, formal action will be considered and reference can be made to this outcome.

Or

I am writing to inform you that the recent investigation into the allegations of (insert allegations investigated) has now been completed.

I can confirm that the outcome of the investigation is that there is a case to answer. The decision therefore, is that the matter will be put before a disciplinary hearing in accordance with the County Council's Disciplinary Procedure and this letter is to serve you with formal notification. The specific allegation(s) which will be considered at the hearing is/are:

- _
- Ī
- You have the right to be accompanied by a trade union representative or fellow worker at the hearing. Confirmation of arrangements for the hearing will be sent to you in due course.

Your suspension will remain in place until further notice.

The above is in accordance with the County Council's Disciplinary Procedure, a copy of which was provided to you in earlier correspondence.

Should you have any queries in relation to the above please do not hesitate to contact me.

Yours sincerely

Commissioning Manager Job Title

Invite to Disciplinary Hearing - Example Letter

Private and Confidential

(Name) (Address)

(Date)

Dear (Name)

Invite to Disciplinary Hearing

I am writing to advise you that a disciplinary hearing has been arranged for your attendance at (venue) on (date) at (time). On arrival please report to (insert details).

The hearing will be conducted in accordance with the County Council's Disciplinary Procedure, a copy of which is enclosed, and is to consider the following allegation(s):

•

I will be the Hearing Manager (if not the Commissioning Manager insert Hearing Managers name), accompanied by (HR Advisor). (Investigating Officer) will present the management case accompanied by (insert name if applicable).

The supporting documentation that will be presented at the hearing is enclosed with this letter.

If you wish to call or request any witnesses to support your case, please let me know the name and job role of the individual by (date) in order that the necessary arrangements can be made. Similarly, I would also ask that you forward any documentation you wish to submit to the hearing by this date.

You have the right to be accompanied at the hearing by a trade union representative or fellow worker. I would ask that you confirm to me your attendance and who will be accompanying you by (date). If your companion is not available to attend, an alternative date can be provided as long as the alternative time proposed is both reasonable and not more than 5 working days after the date originally scheduled Please can you also confirm if you or your representative require any specific arrangements or accommodation requirements to enable the hearing to take place.

Should you fail to attend, the hearing may proceed in your absence. (I must make you aware that / the allegation/s amount to potential gross misconduct and / the outcome

of the hearing could lead to dismissal from Warwickshire County Council employment.) (DELETE AS APPLICABLE)

Should you have any queries do not hesitate to contact me.

Yours sincerely

Commissioning Manager Job Title

Enc. Disciplinary supporting documentation bundle

Rescheduled Disciplinary Hearing Notification – Example Letter

Private and Confidential

(Name) (Address)

(Date)

Dear (Name)

Rescheduled Disciplinary Hearing Notification

I write to inform you that following receipt of your notification that your representative was unable to attend the scheduled disciplinary hearing on xx a further date has been scheduled for (Insert date). The hearing will be held at (insert venue) at (insert time).

As the hearing has been rescheduled at your request I must advise that if you fail to attend on this occasion the Hearing Manager will proceed to hear the case in your absence.

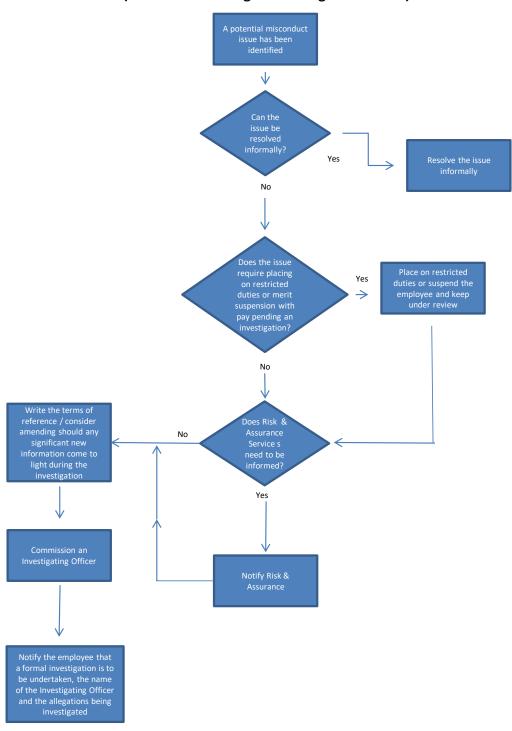
If you are unable to attend personally you are invited to submit your case in writing in advance, and if you wish to do so, please let me have your submission by <insert date>.

Should you have any queries please do not hesitate to contact me.

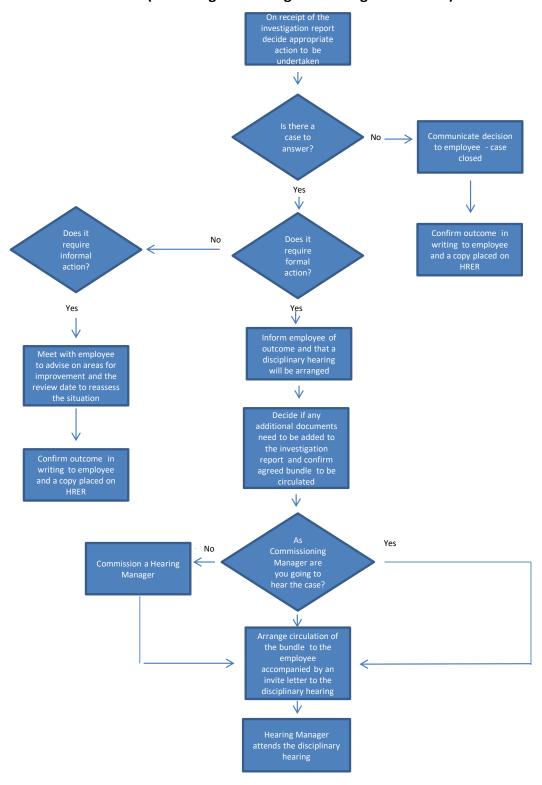
Yours sincerely

Commissioning Manager Job Title

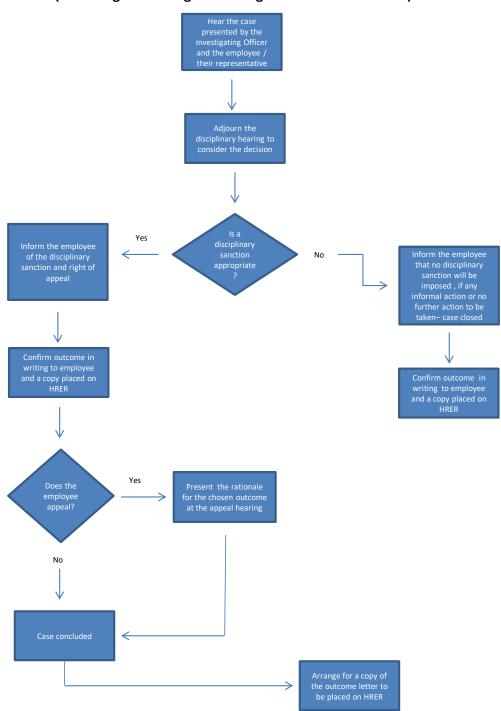
The role of a Commissioning Manager (Prior to an investigation being undertaken)



The role of a Commissioning Manager (Following an investigation being undertaken)



The role of a Hearing Manager (Following an investigation being undertaken continued)



HR Advisory Service Team

The HR Advisory Service is available to provide advice on matters of the law and procedure attending any subsequent interviews and hearings where necessary.

Intranet > Helping You Work > HR > About the HR Service > HR Advisory Service

Disciplinary Procedure

http://www.warwickshire.gov.uk/conduct

ACAS Guidance

www.acas.org.uk

ACAS Code of Practice on Disciplinary and Grievance Procedures (Statutory)

ACAS Conducting Workplace Investigations (Non statutory guide)

ACAS Discipline and Grievance at work (Non statutory guide to good practice)