

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 TWO

THE ROLE OF AN INVESTIGATING OFFICER

2.1. Purpose of the Role

The Investigating Officer is commissioned by the Commissioning Manager to ascertain the facts relating to a situation by undertaking an investigation in a fair and thorough manner. The Investigating Officer should take a balanced and fair view during the investigation so that the facts of the case can be established.

2.2. Responsibilities

- Undertake an investigation in accordance with the Terms of Reference provided by the Commissioning Manager (CM);
- Collate any relevant documentation, records and supporting evidence to assist with establishing the facts to the allegations;
- Identify any relevant witnesses;
- Make interview arrangements
- Liaise with CM to arrange a note taker when required to make written notes of the discussion;
- Prepare questions in readiness for any interview;
- Formally interview employee;
- Interview all witnesses concerned;
- Ensure the witness is briefed to the purpose of the interview, what will happen with the information disclosed and what to expect in the future process;
- Following the interview provide the witness with a copy of the notes taken;
- Invite employee to the formal investigation interview providing sufficient notice to enable them to arrange to be accompanied by a representative who will be from the trade union or a fellow worker;
- Following the interview provide the employee with a copy of the notes taken;
- If during the investigation additional information comes to light discuss this with the Commissioning Manager to enable any relevant amendments to be made to the Terms of Reference;
- At any stage of the investigation should additional information need to be ascertained invite witnesses / the employee concerned to a further interview;
- On completion of the investigation interviews collate all evidence and produce a report on the factual information obtained;

- Provide the Commissioning Manager with the report to enable them to make a decision on how to proceed;
- Should it be decided by the Commissioning Manager that a disciplinary hearing needs to be held then the investigation findings will need to be presented verbally from the original report by the Investigating Officer at the hearing;
- The Investigating Officer will need to be prepared to respond to questions and be constructively challenged by the Hearing Manager and employee / their representative at the disciplinary hearing.

2.3. Interviewing External Witnesses

External witnesses can be called upon during an investigation. However, the witness is under no obligation to attend any interview or provide any statements to aid the investigation should they not wish to do so. They cannot be instructed or forced to participate.

2.4. Script for formal interview with employee under investigation

Introductions made to all those present.

Thank you for attending the interview today.

As shared with you in my invite letter I have been commissioned to investigate an allegation(s) that has been raised against you of **(INSERT ALLEGATION/S)**.

(IF APPLICABLE) I note that you are not accompanied by a representative. You have the right to be represented by a fellow worker or trade union representative. Are you happy to continue this interview without a representative being present?

I do need to advise that notes will be taken of our discussion of which you will be provided with a copy. From the investigation I will be producing a report of which the information you provide in this interview will be used to assist with formulating the evidence. A copy of the notes will be added to the appendices. Should it be found necessary to progress this investigation to a disciplinary hearing then you will be provided with a copy of the report in advance of the hearing inclusive of any notes and supporting documentation that has been collated. You will be requested to attend the disciplinary hearing and given the right to be represented by a fellow worker or trade union representative.

I ask that you are open and honest when responding to the questions and provide a factual account on the incident / event concerned. Should you wish to adjourn at any point for a break please let me know. If you do not understand what I am asking or would like me to repeat or rephrase the question please ask me to do so.

I must advise that this matter is confidential and should not be discussed with anyone outside of this room.

Do you have any questions prior to us proceeding to the interview?

25. Script for interviewing Witnesses

Introductions made to all those present.

Thank you for attending the interview today.

As shared with you in my invite letter I have been commissioned to investigate an allegation that has been raised against **(INSERT NAME OF EMPLOYEE)**. I understand that you may be able to assist with providing information on the alleged incident / event which could support the investigation.

Please be advised that you are being asked to attend this interview as a witness and no allegations have been made against you. However, I do need to advise that notes will be taken of our discussion of which you will be provided with a copy. From the investigation I will be producing a report of which the information you provide in this interview will be used to assist with formulating the evidence. A copy of the notes will be added to the appendices. Should it be found necessary to progress this investigation to a disciplinary hearing then the member of staff concerned will be provided with a copy of the report inclusive of any notes. You may be asked to attend the disciplinary hearing either on behalf of the Council or as requested by the employee concerned where questions may be put to you on the statements that you will provide today. Should your attendance be requested full support and guidance will be provided to you in advance on what you should expect to happen on the day of the hearing.

I ask that you are open and honest when responding to the questions and provide a factual account on the incident / event concerned. Should you wish to adjourn at any point for a break please let me know. If you do not understand what I am asking or would like me to repeat or rephrase the question please ask me to do so.

I must advise that this matter is confidential and should not be discussed with anyone outside of this room.

Do you have any questions prior to us proceeding to the interview?

2.6. Investigation Report Template

CONFIDENTIAL

INVESTIGATION REPORT

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Appendices

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Appendices should be:

- Clearly labelled
- Contain only relevant information to the investigation
- Include any documents reviewed as part of the investigation

DISCIPLINARY INVESTIGATION REPORT

Employee Details:

Name:

Post:

Hours:

Date of Commencement in Post:

Date of Employment with WCC:

Business Unit:

Service:

Team:

Manager:

Investigating Officer:

Commissioning Manager:

SAMPLE LAYOUT OF A REPORT STRUCTURE

Paragraph Numbers	Contents	Appendix (where supporting evidence can be located)
1.	Introduction and Background	
1.1.	Why the investigation was deemed necessary	A

1.2. 1.3.	<p>The terms of reference of the investigation, including allegations. Set out what the actual allegations are, who has made them and in what form they were made. You may refer to a letter of complaint or any other documentation in which the allegations were made.</p> <p>Any relevant factors regarding the organisation or individuals that may help the reader</p>			
2. 2.1.	<p>Methodology</p> <p>The investigator should detail how they went about finding information, perhaps listing all interviewees and job titles, together with a brief rationale as to why they were interviewed. Did the investigator review documentation, or watch tapes, viewed photos- these should all be detailed.</p>			
3. 3.1.	<p>Chronology of Events</p> <p>Set out events briefly, in chronological order, dates and details of the main events including alleged events.</p> <table><tr><td>Date</td><td>Event</td></tr></table>	Date	Event	
Date	Event			
4. 4.1.	<p>Findings</p> <p>You should describe what you have found, how the evidence was evaluated and contributing factors. If there are many points to the allegations you may want to list each one followed by findings and conclusions as you go through the report. Consistencies and inconsistencies should be outlined and explanations given if known. You should also detail why a particular version of events was preferred, where conflicting views were given. Where findings present a risk such as litigation, reputation, financial, H&S, these should be detailed.</p> <p>The investigation findings may identify the facts are not disputed; the employee contests or contradicts other evidence gathered or witnesses statements; the Investigating Officer is unable to substantiate an allegation and they need to consider if a further investigation is a reasonable course of action or</p>			

	whether they should report they are unable to draw a conclusion.	
5.	Conclusions	
5.1.	Refer back to the terms of reference of the investigation. You should then state whether the investigation has been conclusive and what the conclusions are in terms of whether the facts support the allegation/s. If a procedure or process was not followed, or an individual behaved inappropriately then this should be outlined	
6.	Recommendations	
6.1.	As it is the role of a Commissioning Manager to decide how they wish to proceed with dealing with the case following receipt of the investigation report it is preferable that a recommendation is not provided by the Investigating Officer as part of the report. However, should the Investigating Officer feel it is imperative to do so then it should be kept to the simplification of whether the facts and evidence from the investigation has identified a potential case to answer.	

2.7. Allocation of time

It is important to ensure that sufficient time is allocated for the draft investigation report to be reviewed by the allocated HR Advisor and for necessary amendments to be made following the advice received.

2.8. Template example letters for the responsibility of issue by the Investigating Officer in order of sequence

- Invite to investigation interview
- Witness invite to investigation interview
- Witness invite to a hearing

Invite to Investigation Interview Example Letter

Private and Confidential

(Name)

(Address)

(Date)

Dear (Name)

Invite to Investigation Interview

I write further to previous correspondence informing you a disciplinary investigation is to be carried out, under Warwickshire County Council's Disciplinary Procedure. You are invited to attend an investigation interview to discuss the following allegation(s) made against you:

-
-

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

Arrangements have been made for an interview to take place at (time) on (date) at (location). I will be accompanied by (HR Advisor and/or note taker if applicable). You are entitled to be accompanied by a fellow worker or trade union representative. Please contact me directly by (date) to confirm your attendance and who you will be accompanied by, and if you require any reasonable adjustments to enable the interview to take place.

You should note that it is a requirement and in your interest to attend the investigation interview and co-operate with proceedings. If you are unable to attend the interview you must inform me of the reason at the earliest opportunity and beforehand.

Please do not hesitate to contact me should you have any queries.

Yours sincerely

Investigating Officer
Job Title

Enc: Disciplinary Procedure

Witness Invite to Investigation Interview Example Letter

Private and Confidential

(Name)

(Address)

(Date)

Dear (Name)

Invite to Investigation Interview – Witness

I am writing in relation to a disciplinary investigation I am conducting for which you may be able to assist in providing supporting information.

My role as Investigating Officer is to gather factual information about allegations as part of the investigation under Warwickshire County Council's Disciplinary Procedure. Your co-operation in this matter will assist my enquiries and will inform my investigation.

Arrangements have been made for an interview to take place at (time) on (date) at (location). Please contact me directly by (date) to confirm your attendance. I will be accompanied by (HR Advisor and/or note taker if applicable). If you are unable to attend this interview please contact me as soon as possible explaining the reason and if necessary to re-arrange to a mutually convenient date.

Please be aware that you are being asked to attend the interview as a witness and no allegations have been made against you.

The investigation is confidential and should not be discussed with anyone unless in connection with the procedure such as myself. I appreciate that an investigation can cause concern and that you may want to share feelings and concerns with someone. You are entitled to approach the Staff Care service 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 your own independent arrangements for support by contacting your union.

If you require any further information, or should you have any queries, please do not hesitate to contact me.

Yours sincerely

Investigating Officer
Job Title

Enc: Staff Care Leaflet

Witness Invite to a Hearing – Example Letter

Private and Confidential

(Name)
(Address)

(Date)

Dear (Name)

Invite to Disciplinary Hearing – Attendance as a Witness

I write to inform you that on behalf of Warwickshire County Council you are required to attend a disciplinary hearing as a witness. The hearing has been scheduled for (date) at (time) at (location). Upon arrival, please report to (insert details). Please can you confirm your attendance by no later than (insert date).

During the course of the hearing you will be called to provide the information you provided as part of the investigation. You may be asked questions by either myself, the Hearing Manager or/and the employee that is the subject of the hearing or their representative. **You will already have been provided with a copy of your statement taken at your interview during the course of the investigation. However a further copy will be made available to you on the day to refer to.** A copy of your statement will also have been provided to all those present ahead of the hearing.

A guide for witnesses is enclosed for your information. I would also like to remind you that you can contact Staff Care at any time for support. Please contact the service directly if you wish to take up this offer.

In the meantime should you have any queries please do not hesitate to contact me

Yours sincerely

Investigating Officer
Job Title

2.9. Supporting guide for Witnesses attending a disciplinary hearing

A guide for witnesses

You have been called as a witness on behalf of (WCC/ANO) to a disciplinary hearing and the following is a guide which aims to outline what you can expect when you attend on the day. However, if you have any queries please do not hesitate to contact (name and email/phone details).

The venue

Date:

Time:

Location:

A map showing the location of the site, nearby car parks and giving general directions is attached.

Most people find XXX to be the nearest car park and is located about X minutes walk away. Please ensure that you have change with you in order to pay for the parking and retain any receipt in order to claim reimbursement.

When you arrive please report initially to XXX and ask for XXX who will take you to a room where you can wait which is separate from the room that the hearing is being held in. You will be made aware of the facilities such as toilet, drinks etc.

You might find it helpful to bring something quiet to do to help pass the time.

You should be aware that at some time during the course of the day you will meet the member of staff against whom allegations have been made. You will see them at the hearing, but you may also meet informally before the hearing, for instance in the car park, at reception etc. Whilst we do our best to manage the events of the hearing and this includes arrival times, waiting rooms etc we do not have full control over the movements of all parties involved.

The process

The hearing is not formal like a court hearing but there is a procedure to follow.

The hearing will be heard by (name) supported by (name/s and role/s).

In the room you will also see (name/s and role/s).

You have been called as a witness by (name the party). You will be called as a witness into the hearing when your statement /evidence is required. It is not possible to give you a time when you will be called but as far as possible you will be informed of any significant delays.

You will be asked to sit down and (Hearing Manager) will introduce you to everyone that is in the room. Normally your statement will have been read already so it is unlikely that you will be asked to read your statement out but you must be prepared to do so if asked.

A copy of your statement is provided to you at the hearing. It is fine if you want to bring a copy of your statement with you to the hearing to refresh your memory before you go in to give evidence as it might be some time since you were interviewed as part of the investigation.

Whoever has called you as a witness may ask you questions.

You can also be asked questions by the other party and also by the Hearing Manager/panel if they wish to do so.

Advice on questioning

Listen carefully to the question asked.

If you do not hear the question properly or do not understand part of the question then ask for clarification. There is no need to guess what the question is.

Always try to take a couple of seconds to think and then speak clearly.

If you cannot remember something, then say so. Do not guess. If you think there is something in the statement that you made then say so and you will be helped to find it. This is not a memory test.

Be straight in your answer and do not be evasive. If you agree say so. Likewise if you do not agree you can say.

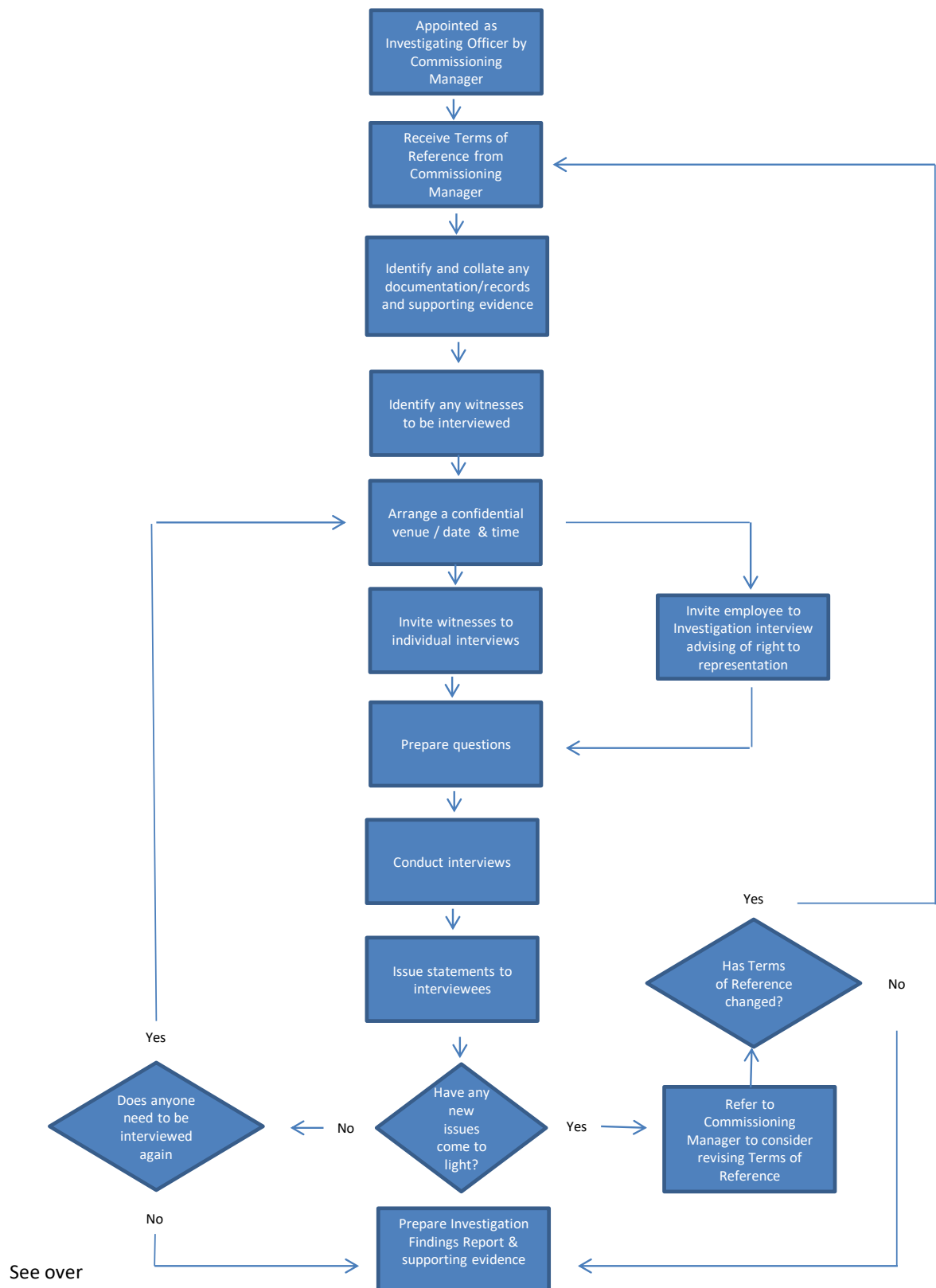
At all times be courteous and at no time should you lose your temper. You can make your point clearly and you should not be shy. It is always a good idea to watch the Hearing Manager/Panel and to pay particular attention to what s/he is saying. You may be asked to wait whilst something is being written down.

Timing

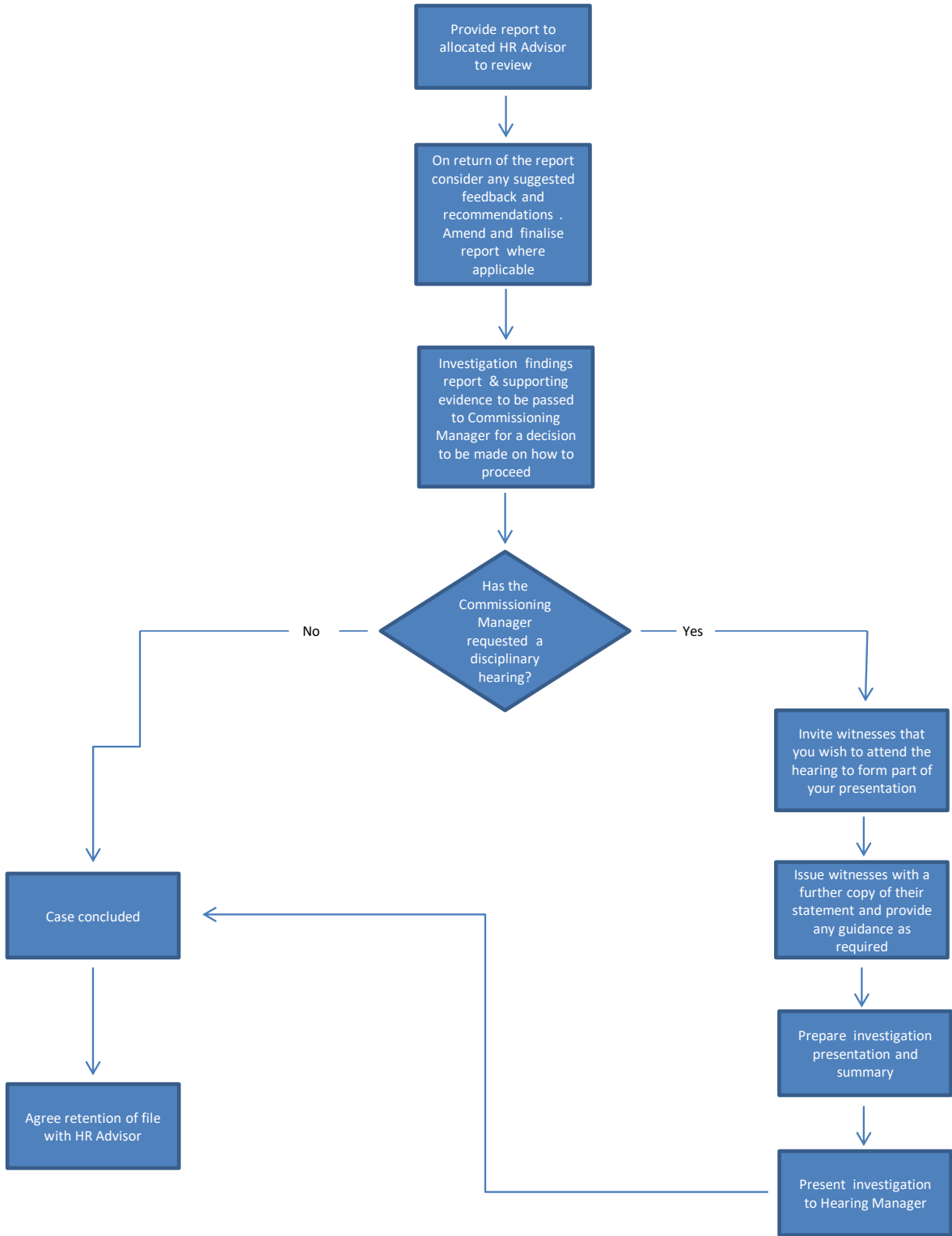
The hearing is planned as far as possible. Normally a hearing will take most of a morning or an afternoon but it is not possible to say exactly how long.

Depending on what happens on the day it is even possible that the hearing will either not go ahead, or be adjourned/postponed to another day. You will be kept informed as far as practicably possible.

The role of an Investigating Officer



The role of an Investigating Officer continued



Sources of Information

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)