

Personnel Committee – 02 December 2019

Employment Policies Review (phase 3)

1. Purpose of the report

1.1 To gain PC approval for the revised and new employment policies (detailed below).

2. Recommendations

2.1 PC is recommended to approve the following employment policies (detailed below).

3. Background Information

3.1 This report covers the revision of 3 existing employment policies, as follows;

a) Disciplinary Policy (revised policy) – (Appendix 1)

b) Appeals Policy (revised policy) – (Appendix 2)

c) Confidential Reporting (Whistleblowing) Policy (revised policy) – (Appendix 3)

In addition the amended Appeals Policy will also need to be reflected in the Model Appeals procedure (Appendix 7), explained in 3.8 of this report.

Aim

3.2 In order to ensure the Council is enabled to deliver against its priorities it is imperative that the council has an effective employment framework of policies, procedures and guidance and that these align to the vision and values of the Council. It has been agreed that the current suite of employment policies be reviewed across the board to provide the opportunity to ensure they are up to date, fit for purpose and support and enable the development of the Walsall Proud Programme (WPP) ensuring a consistent approach that reinforces the councils standards and behavioural framework. This report covers phase 3 of the employment policies review and includes the 3 policies outlined in section 3.1. As part of the review all of the policies have been re-formatted and/or designed to reflect the following principles;

- Alignment with Walsall Proud Programme and vision;
- Clear identification of accountabilities in line with behaviours;
- Clear, consistent and concise policy containing easily identifiable principles and procedure;
- Streamlined detail in the policy document with more in-depth guidance provided in the supporting documents where applicable.

Know

3.3 Policy a), Disciplinary Policy, this is a review of the existing procedure (last updated in 2018) and has been designed in line with the WPP principles.

The policy has been reviewed and updated in accordance with best practice and organisational learning, the main changes are as follows;

- Reference included that confirms the principles contained in the policy can be used to support disciplinary processes for AD, ED & CE to complement JNC handbook and the constitution rules (appendix 1 section 2.2.1)
- Further clarity and definition added regarding breaches of misconduct and gross misconduct including the creation of a separate disciplinary rules document that provides examples of misconduct and gross misconduct (appendix 1 section 3.3) as advised by ACAS code of practice;
- Minimum notice of disciplinary hearings extended from 14 calendar days to 15 working days to allow both management and the employee sufficient time to prepare their case papers for submission (appendix 1 section 3.12);
- The timeframe for submission of case papers has also been increased from 7 calendar days to 10 working days, allowing exchange to take place at 8 working days instead of 5 calendar days, this provides the hearing officer with a wider window to review and seek any clarity required as well as providing the employee with a fair amount of time for preparation. Previously during the review of 2018, these time frames were tightened which has proven difficult on both sides, resulted in union complaints and leads to regular late submissions or new information being presented on the day, potentially resulting in adjournments and delays in the process. (appendix 1 section 3.15, 3.17, 3.18). These new proposed timelines together with a newly introduced final late submission date of three days prior to the hearing offer a practical response to alleviate these concerns and pressures.
- Additional advice has been included in order to provide support and guidance to employees specifically in relation to reasonable adjustments (appendix 1 section 3.37), the Employee Assistance Programme (appendix 1 section 3.25), behavioural expectations (appendix 1 section 3.26), and trade union and HR support (appendix 1 section 3.23);
- Additional detail has been included in line with advice contained within the ACAS code of practice in relation to criminal offences (appendix 1 section 3.33), action against a trade union official (appendix 1 section 3.34) the role of a companion in the process (appendix 1 section 3.10) and rearranging hearings dates (appendix 1 section 3.14);

- Increased and specific GDPR references now included (appendix 1 section 3.22, 3.35, 3.36);
- Guidance added within the principles relating to the interdependencies or not of disciplinary processes and other HR processes e.g. grievance, sickness etc. (appendix 1 section 3.27, 3.28);
- An increased focus on the speed of such proceedings, highlighting swift informal action where appropriate and all formal action to be taken promptly and without delay, including a 5 day timeframe added for confirmation of outcomes (appendix 1 section 3.6, 3.8, 5.1, 6.1) as recommended by ACAS code of practice and supported by case law;
- Procedure strengthened to support managers and employees further when dealing with suspension and the disciplinary investigation and outcomes (appendix 1 section 5.3, 5.4, 5.5) as recommended by ACAS code of practice and supported by case law;
- The disciplinary hearing outcomes have also been revised to remove no case to answer option, following recent case law that suggests employees should not be taken through the full disciplinary hearing process if following investigation there is no case to answer (appendix 1 section 6.0), this is best practice and reduces the risks of potential constructive dismissal claims.
- New section added on the recording of meetings (appendix 1 section 10.0).

3.4 Policy b), Appeals Policy has also been designed in line with WPP principles and updated to reflect recent case law and best practice, the main changes are as follows;

- Further clarity added regarding the remit of the appeals panel in relation to what they can and cannot consider and the policy now states that the appeals panels are unable to consider any financial recompense or any other remedial action moreover than reviewing the decision previously taken (appendix 2 section 3.18);
- Timescales for paperwork submissions brought in line with those proposed in the disciplinary policy above as far as possible and having due regard to the member model procedure, including the introduction of a final late submission date three days prior to the hearing to discourage late submission of documents on the day of the hearing (appendix 2 section 3.7 3.12, 3.13);
- Additional detail has been included in line with advice contained within the ACAS code of practice in relation to the role of a companion in the process (appendix 1 section 3.9) and rearranging hearings dates (appendix 2 section 3.11);

- Additional advice has been included in order to provide support and guidance to employees specifically in relation to reasonable adjustments (appendix 2 section 3.22);
- Increased and specific GDPR references now included (appendix 2 section 3.16, 3.20, 3.21);
- An increased focus on the speed of such proceedings, highlighting formal action to be taken promptly and without delay, including a 10 day timeframe added for confirmation of outcomes (appendix 2 section 3.5, 6.9) as recommended by ACAS code of practice and supported by case law;

3.5 Policy c), Confidential Reporting (Whistleblowing) Policy, this is a review of the existing procedure (last revised in 2014) and has been designed in line with WPP principles and best practice, the main changes are as follows;

- New scope section has been included that refers to maintained schools being in scope, based on the latest audit advice (appendix 3 section 2.0)
- The revised policy strengthens the requirement for disclosures to be in the public interest and further defines what that means including the requirement for them to be reporting on matters of illegal or unethical conduct (appendix 3 section 3.2, 3.6 3.9);
- Now includes a caveat reserving the right not to investigate repeat complaints (appendix 3 section 3.12);
- Additional advice has been included in order to provide support and guidance to employees specifically in relation to reasonable adjustments (appendix 3 section 3.16), the Employee Assistance Programme (appendix 3 section 3.15);
- Increased and specific GDPR references now included (appendix 3 section 3.13, 3.14);
- The revised policy also includes more detail regarding the internal procedural steps and provides further advice to managers on investigating complaints and confirmation of the arrangements for these to be centrally logged and monitored by the council's Monitoring Officer (appendix 3 section 5.2);
- Individual's names have also been removed to prevent the need to update the policy with employee changes/moves each time, however job title and contact numbers remain (appendix 3 section 5.1).

Council corporate plan priorities

3.6 These policy reviews are directly aligned to the internal focus priority within the Corporate Plan, reference I2, developing 'a resilient council'.

Response

- 3.7 Subject to approval, HR will finalise all associated guidance/forms (where relevant) and prepare a workforce communications and implementation plan ready for publication.
- 3.8 Subject to approval of the Appeals Policy, the Model Appeals procedure used by Democratic Services will also need to be updated to reflect the Appeals Policy changes. A draft of which has been created in consultation with Democratic Services and included with this report for information (Appendix 7) and subject to approval of the Appeals Policy (and accompanying Model Appeals Procedure) both will be implemented on the same date.

Review

- 3.9 Employment policies will usually be reviewed on a three yearly cycle, unless legislation or internal organisational need prompt a review earlier.

4. Financial Implications

- 4.1 There are no intended financial implications arising from this report.

5. Legal Considerations

- 5.1 Legal Services have considered the draft policies and there are no issues arising.

6. Risk Management

- 6.1 Relevant equality impact assessments are attached as follows;

EqlA Appeal Policy (Appendix 4)

EqlA Disciplinary Policy (Appendix 5)

EqlA Confidential Reporting (Whistleblowing) Policy (Appendix 6)

7. People

- 7.1 The revised WPP policy principles include a scope section in all employment policies (where applicable) and in each policy clearly sets out who the policy applies to and who it doesn't (reference section 2.0 of Appendices 1-7).
- 7.2 There is no direct impact on our citizens as a result of these policies. However the policies are part of the employment framework that's helps to ensure that the residents of Walsall get the best possible service from council employees.

8. Consultation

- 8.1 The Appeals policy, Disciplinary Policy and Confidential Reporting (Whistleblowing) Policy have all been consulted upon with trade union

colleagues and senior managers across the organisation between 16 October – 08 November.

- 8.2 In addition, other specific colleagues have been consulted for their input including HR, Legal, Information Governance and Democratic Services.
- 8.3 All three enclosed policies have been considered and endorsed by CMT 14 November 2019.

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Appendix 1

Disciplinary Policy



Walsall Council

Version Control

Document title	Disciplinary Policy		
Owner	Human Resources		
Status	Draft	Version	54
Effective from	TBC	Approved on	TBC
Last updated	11/11/2019	Last updated by	HR Strategy and Planning
Purpose	To ensure lawful, fair and effective arrangements exist for dealing with employee conduct and disciplinary issues.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Code of Conduct for Employees
- Email & Acceptable Use Policy
- Information Governance Policy Framework
- Alcohol and Drugs Testing Policy
- Grievance Policy
- Dignity at Work Policy
- Social Media Policy
- Probation Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Appeals Policy
- Sickness Absence Policy
- Health & Safety Policies
- Performance & Ill Health Capability Policy
- Collective Grievance Policy
- Equality & Diversity Protocol
- Flexi-time Scheme
- Confidential Reporting (Whistleblowing) Policy

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services around the needs of service users. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technology investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the Council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council seeks to ensure that lawful, fair and effective arrangements exist for dealing with employee conduct and disciplinary issues. The council's disciplinary policy provides a framework for supporting employees to achieve and maintain acceptable standards of conduct.

2.0 Scope

- 2.1 This policy applies to all council employees including those on fixed term and temporary contracts;
- 2.2 With the exception of;
 - 2.2.1 Assistant Directors, Executive Directors and the Chief Executive (where the JNC Chief Officers handbook applies in conjunction with the Officer Employment Procedure Rules as specified in the Council Constitution – as a general rule the principles contained within this policy should still apply unless specifically stated otherwise in either the handbook or the constitution).
 - 2.2.2 School-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply.

- 2.3 This policy does not apply to contractors, consultants, agency workers, casual workers or any self-employed individuals working for the council.

3.0 Principles

- 3.1 This policy applies to conduct matters only and not to matters of sickness absence, performance, ill health capability or probation for which other policies and procedures apply.
- 3.2 Employees and managers are expected to be familiar with the standards of conduct that apply in the workplace including those detailed in the code of conduct for employees.
- 3.3 Breaches of conduct may be regarded as misconduct or gross misconduct, depending on the nature and severity of the issue. Matters of a serious nature that undermine the trust and confidence of the employment relationship will normally be considered to be gross misconduct. Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the council. For the guidance of managers and employees, the council will determine and maintain a set of disciplinary rules available on the HR intranet pages that provide examples of what might be deemed to be misconduct and gross misconduct. However it is worth noting that any act of misconduct can be considered as gross misconduct if thought to be serious enough or a repetitive act. The list of disciplinary rules will be reviewed from time to time and is not an exhaustive list. Further advice can be sought from HR.
- 3.4 The council will not ordinarily dismiss employees who breach standards of conduct for the first time, except in cases of gross misconduct.
- 3.5 Disciplinary sanctions will be determined having regard to the facts and circumstances of each individual case including, but not automatically determined by, the existence of previously issued, but still valid, sanctions.
- 3.6 Disciplinary procedures should not be viewed purely as a means of imposing sanctions. They are designed to emphasise and encourage improvements in individual conduct. Minor issues should be dealt with informally but where the matter is more serious or persistent then the formal procedure should be used. In deciding whether to move to the formal procedure, managers should have regard to all the circumstances, including the employee's previous record of service and any personal circumstances that may be relevant.
- 3.7 The rules of natural justice should be observed. Employees will be given a full and fair opportunity to present their case before any disciplinary action is taken. The investigation officer will be responsible for the investigation (which may be instigated), the role of hearing officer will be appointed to an individual that has had no prior involvement with the case and the role of appeal hearing officer

will be appointed to an individual that has had no prior involvement in the investigation or the disciplinary hearing stage.

- 3.8 The council will raise and deal with any disciplinary matters promptly and will not unreasonably delay meetings, decisions or confirmations of those decisions.
- 3.9 Formal disciplinary hearings will be heard by appropriately trained managers who have had no prior involvement in the case. The hearing officer will be supported by a HR technical advisor.
- 3.10 Employees have the right to be accompanied at the formal stages (investigation meeting, disciplinary and appeal hearing) of a disciplinary process by an accredited trade union representative or Walsall Council work colleague. Companions are allowed to address the investigation/hearing officer to put forward and sum up the employees case, respond on behalf of the employee to any views expressed at the investigation/hearing and confer with the employee during the investigation/hearing. However, the companion does not have the right to answer questions on the employee's behalf that are personally addressed to the employee during the investigation/hearing, address the investigation/hearing if the employee does not wish it or to prevent management from explaining their case.
- 3.11 There is no right to be accompanied at the informal stages of this procedure.
- 3.12 Employees will be notified in writing in advance of any formal meetings as part of this procedure and will be reminded of their right to be accompanied in the written notification of the invite meeting. Employees will receive at least;
- 15 working days' notice of disciplinary hearings, and;
 - 5 working days' notice of any other formal disciplinary related meetings including investigation meetings (this does not include initial fact finding meetings or any other informal meeting, nor does the notice apply to meetings that may result in suspension).
- 3.13 Employees will be informed in writing of the date, time and location of the disciplinary hearing as well as the date by which all supporting paperwork and the employee's statement of case must be submitted. It is the responsibility of the employee to liaise with any required representative and/or witnesses to ensure they can attend the hearing on the required date.
- 3.14 If the employee or their representative cannot attend on the proposed date, or sickness or other absence prevents an employee attending the disciplinary hearing, the employee/representative must suggest an alternative time and date that is reasonable (to the council in terms of rearranging available attendees) and not more than five working days after the originally proposed meeting/hearing date. If the employee/representative fails to attend any rearranged disciplinary hearing without good cause, the hearing officer will have

the discretion to hear the case in the employee/representative's absence and make a decision based on the information they have available.

- 3.15 Prior to all disciplinary hearings there will be an exchange of relevant paperwork that will include a statement of case from both parties. This will be accompanied by supporting paperwork and details of any representative or witnesses to be called. Both parties must submit their complete set of relevant papers to HR at least 10 working days prior to the date of the hearing. The hearing papers will subsequently be distributed to all parties no later than 8 working days prior to the hearing.
- 3.16 As part of the disciplinary hearing pack, the employee will be given a copy of the investigation report and supporting information. In certain circumstances (for example to protect a witness) some information may be redacted.
- 3.17 New information or evidence (not contained within the statement of case or supporting papers originally submitted) may not be introduced at the hearing stage. Any attempt to introduce new evidence at the hearing stage will normally only be permitted in exceptional circumstances and with the express permission of the hearing officer. Should any new information/evidence become available this should be raised as soon as possible and not left until the day of the hearing to be raised in order for an appropriate decision to be made regarding the appropriateness of the hearing proceeding. If new evidence/information is received within 3 working days of the hearing, the hearing officer may either refuse to admit the evidence, accept the evidence and proceed or may postpone the hearing for a minimum period of 5 working days in order for the evidence to be considered by all parties.
- 3.18 Any prepared statement that the employee is planning to read/present at the hearing should also be provided in advance in writing and included within the employees statement of case, where a statement has not been submitted on time within the pack and an employee subsequently would like to make a statement, the hearing officer has the discretion to decide to accept a written statement as long as it is submitted to HR no later than 3 working days prior to the hearing.
- 3.19 Both parties are entitled to call relevant witnesses to support their case, these should be witnesses to the allegations or a technical expert and not character witnesses. Any witnesses due to be called should have provided a pre-written statement and this should have been submitted as part of the statement of case and supporting papers. Witnesses will only be called to clarify elements of their statement and should not be permitted to raise new information or provide new evidence not previously submitted as part of the statement of case or supporting papers.
- 3.20 Both management and the employee can call and question witnesses; however the questions asked must be relevant to the allegations and/or the investigation.

- 3.21 Employees called as witnesses will be allowed paid time off to attend the disciplinary hearing or will be allowed 'time owing' if not a working day. Where agency staff are requested to attend the appeal hearing as witnesses, they will be paid at plain time for the hours they are in attendance. Due consideration will be given to staff working shift patterns.
- 3.22 In line with GDPR, all correspondence will be forwarded by HR accordingly and will not include the personal details of any individual's e.g. home addresses, names of service users etc.
- 3.23 Employees are encouraged to be a member of a recognised trade union who will support and accompany employees throughout this process. Where employees are not represented by a trade union they will be offered the opportunity to attend a briefing meeting with a representative from HR who will explain the disciplinary policy and process and the format for the disciplinary hearing.
- 3.24 The hearing officer may adjourn the disciplinary proceedings if it appears necessary or appropriate to do so (including for the purpose of gathering further information). The employee will be informed of the likely period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with their companion, to consider the new information prior to the reconvening of the disciplinary proceedings.
- 3.25 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any employee involved in a disciplinary matter. Details of which can be found on the HR intranet pages.
- 3.26 The council recognises that a formal disciplinary procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The council will not tolerate abusive or insulting behaviour from anyone taking part in or conducting disciplinary procedures and will treat any such behaviour as misconduct.
- 3.27 Where disciplinary matters are related to and/or overlap with other ongoing or commenced employment procedures (e.g. redundancy, performance, grievance or sickness absence etc.), the progression of such cases will be made at managements discretion; it may be appropriate to deal with issues concurrently or alternatively wait for one process to be exhausted before another continues / commences. This will be a decision for the manager, who should consult HR for advice.
- 3.28 The council's sickness absence policy will apply for employees subject to the disciplinary procedure. If the employee is absent due to sickness the employee may be referred to Occupational Health for advice on assisting their return to work and/or their participation in the disciplinary process. Whilst an employee may be signed unfit for work, disciplinary issues will not normally be put on hold awaiting an employee's return to work.

- 3.29 An employment investigation may run in parallel to a police, audit and/or child protection or adult abuse investigation as required, and should not be delayed by any such investigations unless considered prejudicial to these. It is not always necessary to await the outcome of any court hearing before deciding on disciplinary action.
- 3.30 Where the matter concerns a safeguarding issue, i.e. there is a concern regarding the conduct of an employee in respect of a child or a vulnerable adult, the manager must notify the relevant safeguarding lead and consider if the relevant professional body should be notified e.g. HCPC/DBS. Employment investigations need not wait until after the resolution of any safeguarding concerns.
- 3.31 If an employee resigns or leaves their employment after the council has commenced any disciplinary investigation or process, the council may continue with the investigation or process depending on the seriousness of the allegations. If the employee has left the council's employment, they will still be invited to participate and informed of any outcome in writing in accordance with this policy.
- 3.32 If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration needs to be given to, what effect the charge or conviction has on the employee's suitability to do the job, to attend work and fulfil their contract of employment and their relationship with their employer, work colleagues and customers.
- 3.33 Disciplinary action should not be taken in respect of trade union representatives until the matter has been first discussed with the appropriate official as designated by the union concerned. Suspension can take place, as this is not a disciplinary action, although wherever practicable this should also be first discussed with the appropriate official.
- 3.34 The council processes personal data collected during informal and the formal disciplinary procedure in accordance with its information governance policies. In particular, data collected as part of the disciplinary procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of addressing matters and conducting the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection arrangements immediately. It may also constitute a disciplinary offence, which will be dealt with under this policy. Managers will retain their own notes relating to any informal procedure and HR will retain records on any formal disciplinary procedure or appeal.
- 3.35 Any matters discussed as part of the disciplinary process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.

- 3.36 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act to enable employees to fully participate.
- 3.37 This policy and accompanying procedure is underpinned by and should be read in conjunction with the disciplinary rules and disciplinary guidance which offers further advice and support to employees and managers in the implementation of this policy.

4.0 Accountabilities

4.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- Ensuring that the process is carried out without undue delay;
- Ensuring the employee(s) is/are informed of the basis of the allegation and give them an opportunity to put their case in response before any decisions are made;
- There is a separate and specific list of roles and responsibilities that are performed throughout the disciplinary process (Appendix 1).

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and should ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Abiding by the Code of Conduct and cooperate with the requirements of this procedure, including cooperation with any investigation and attendance at meetings and hearings;
- Contacting their trade union representative as soon as possible, should they wish to be represented;
- Submitting all required documentation on time in accordance with this policy.

5.0 Procedure

5.1 Informal process

- 5.1.1 It is normal practice for a manager to discuss any matters of concern with their employees on a day to day basis. Such informal discussions will be outside the disciplinary procedure. The aim should be to offer such positive advice, assistance and guidance as will help the employee overcome any shortcomings.

- 5.1.2 Problems should be raised and discussed at the earliest possible moment and resolved whenever possible without recourse to the formal procedure. Sometimes such discussions should be organised in a fairly formal manner, and indeed managers may set expectations for conduct and informally warn employees, confirming such conversations in writing, but nevertheless such warnings fall outside the disciplinary procedure. Whilst managers may make a confidential note of such discussions, these notes will not be placed on an employee's personal file.

5.2 Formal process - preliminary enquiries stage

- 5.2.1 On becoming aware of an employee's alleged misconduct, the line manager will undertake immediate preliminary investigations. This will normally involve a private discussion with the employee to establish if there is an acceptable explanation for the alleged misconduct. There is no notice of, or a right to be accompanied at this discussion.
- 5.2.2 The purpose of preliminary enquiries is for the manager to determine the allegations, how the situation should be addressed (informal/formal), or any other appropriate actions such as suspension or temporary alternative working arrangements. It may become apparent during the discussion that the problem is not a disciplinary matter and that other procedures, e.g. those relating to performance and ill health capability may be more appropriate.
- 5.2.3 The manager should consider whether informal action could quickly and easily be taken to resolve the matter and should seek an early resolution, wherever possible.
- 5.2.4 Managers should take notes of the conversation and record the outcome of the meeting, including any remedial action e.g. additional training recommended. The outcome will be shared with the employee and where this outcome is to progress to a formal disciplinary investigation, this must be confirmed in writing and must clearly detail the specific alleged allegations that are being investigated.
- 5.2.5 Managers must consult HR when considering moving to a formal disciplinary investigation and in cases where suspension or temporary alternative working arrangements are being considered.
- 5.2.6 The manager with advice from HR will commission or conduct a formal disciplinary investigation, for which they should complete an investigation brief, this must detail the specific allegations under investigation and all relevant information obtained to date through the preliminary fact find.
- 5.2.7 The Manager (hereafter 'The Commissioning Officer') will notify the employee of the investigation and the appointment of an Investigating Officer, if applicable. The Investigating Officer (where different) will then communicate directly with the employee regarding dates and times for investigation meetings.

- 5.2.8 Depending on the nature of the allegations, the Commissioning Officer will determine whether the matter requires a strategy meeting. The purpose of a strategy meeting is to take a holistic view of a case ensuring all appropriate experts are present in order to consider all aspects of a case (e.g. safeguarding, fraud, theft, etc.).

5.3 Formal process – suspension / temporary alternative working arrangements

- 5.3.1 Wherever possible an employee should ideally continue to maintain their normal working arrangements during a disciplinary investigation. However in certain circumstances it may be appropriate to consider temporary alternative working arrangements or suspension.
- 5.3.2 Decisions to amend an employee's normal working arrangements or to suspend should not be taken lightly (and should only be taken after the employee has been given the opportunity to initially respond to the allegations), such decisions must be justified and recorded and consider the following;
- Safeguarding concerns;
 - Serious malpractice, theft or fraud that undermines trust and confidence and could fundamentally affect the service or council if allowed to continue;
 - Serious health & safety concerns;
 - Fear of others safety / risk of witness intimidation;
 - Fear of interference with the investigation / tampering with evidence.
- 5.3.3 Suspension is normally a last resort once all other alternative possibilities have been considered e.g. temporarily changing work location, work duties undertaken, home working.
- 5.3.4 The decision to suspend will be taken by a Head of Service or above or a person with delegated authority to suspend, in consultation with HR. Where suspension is considered necessary, the period of suspension will be as brief as possible and will be kept under regular review.
- 5.3.5 Within the context of this policy, suspension from work is not a disciplinary measure in itself and should not be seen as punitive or pre-judging the outcome of any investigation.
- 5.3.6 The employee will remain on full pay for the duration of their suspension or temporary working arrangements. Should a suspended employee be off sick during suspension or temporary working arrangements then normal sick pay arrangements will apply, including welfare meetings, sickness absence procedure stages and half/no pay entitlements.
- 5.3.7 A suspended employee should be instructed to leave the workplace immediately. He/she should be informed that suspension will be on full pay, and should be asked to return keys, ID card and any other Council property as appropriate. A suspended employee may be instructed not to make contact with

other specified employees whilst suspended. Any oral instructions should be confirmed in a letter setting out the reason for the suspension. The employee is expected to be available for interview as part of the investigation throughout the period of suspension.

- 5.3.8 A suspended employee may, by prior arrangement, return to the workplace to collect personal belongings or any 'material' that they may need in the preparation of their case. The examination or removal of any items must be overseen by the commissioning officer or his/her representative and with the exception of personal possessions no item may be removed without the manager's permission. Although under a general instruction not to contact specified employees, a suspended employee may wish to talk to his/her representative. If a suspended employee wishes to interview another employee as a potential witness, this must be with the full consent of the person concerned.

5.4 Formal process - investigation stage

- 5.4.1 The purpose of the investigation is to establish the background and surrounding circumstances of the case and gather all relevant facts relating to the allegations in question.
- 5.4.2 An investigation may involve interviews with other employees, and/or any other persons and may include obtaining statements and/or examining records, documents and any other items.
- 5.4.3 During investigation interviews, notes should be taken. Following the meeting the interviewee should receive a copy of the notes to check and confirm the accuracy. Any proposed amendments to the notes should be agreed with the Investigating Officer or where this is not agreed both copies of the notes should be considered as part of the investigation report.
- 5.4.4 The employee concerned will normally be informed that an investigation is underway, except where to do so would compromise the effectiveness of the investigation of potentially serious issues. [A covert investigation must not be used deliberately to allow or encourage an employee to commit a more serious disciplinary offence]. He/she must be given an opportunity to be interviewed and may be instructed to attend an investigatory interview. If he/she refuses to participate in the interview, that fact must be recorded in writing. No inference may subsequently be drawn from an employee's refusal to be interviewed but at the conclusion of the investigation a course of action will have to be decided upon in the absence of the employee's comments on the issue being investigated.
- 5.4.5 Once the investigation is complete, the Investigating Officer will compile an investigation report which will gather all the facts of the case including all evidence, the employee statement, witness statements and any mitigating circumstances. The Investigating Officer will not draw conclusions from his/her findings and not make recommendations on subsequent actions/decisions

arising from such. The Commissioning Officer (with HR support) will then make an informed decision as to whether there is a case to answer based on the investigation report and will decide accordingly whether the matter should progress to a disciplinary hearing.

5.5 Formal process - investigation outcomes

5.5.1 At the conclusion of the investigation stage, the next steps will be decided by the Commissioning Officer and will be confirmed in writing to the employee (and a copy placed on the personnel file) as soon as possible and normally no later than 5 working days of the Commissioning Officer receiving the completed investigation report. The possible outcomes that can be confirmed at the conclusion of the investigation stage include;

Investigation outcome	Rationale
No case to answer / No further action	<ul style="list-style-type: none"> Where there is no or limited evidence to substantiate the allegations or the resulting allegations do not justify further action
Informal management action	<ul style="list-style-type: none"> Where the allegations warrant informal management action short of progression to a hearing, managers will decide on the appropriate action e.g. the manager may conclude that it would be appropriate to offer assistance such as, guidance or training or other appropriate measures to bring about the change/improvement required or to warn the employee informally. Any future investigations will take into account previous misconduct of a similar nature, which demonstrates a pattern of behaviour, even though no formal disciplinary proceedings ensued.
Formal disciplinary hearing	<ul style="list-style-type: none"> Where, following an investigation, the manager concludes that a formal disciplinary hearing is considered appropriate, arrangements for the hearing will be made by HR. The council aims for disciplinary hearings to be held within 20 working days of the investigation outcome being confirmed to the employee unless circumstances or the complexity of the case prevent this from being possible. Any delays to this timeframe will be communicated to the employee. The investigation outcome and subsequent written invite to the disciplinary hearing should contain sufficient information about the alleged

	<p>misconduct/gross misconduct and the possible outcomes of the hearing.</p> <ul style="list-style-type: none"> • Present at the hearing will be the Hearing Officer, HR Technical Advisor and a note taker. • Also in attendance will be the Commissioning Officer, the Investigating Officer (if appropriate), HR (if appropriate), the employee, the employee's representative and any witnesses.
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6.0 Disciplinary hearing outcomes

6.1 The following hearing sanctions exist and will be confirmed in writing as soon as possible and normally no later than 5 working days and placed on the employees' personnel file:

Hearing outcome	Duration	Note
No formal sanction / Management recommended advice	n/a	<ul style="list-style-type: none"> • Where a minor allegation is fully or partially proven but there are mitigating circumstances, other management action may be considered as an appropriate outcome e.g. training or other appropriate support.
First Written Warning	<p>The warning will be regarded as live for disciplinary purposes for between 6 to 12 months of the hearing date, as determined at the disciplinary hearing.</p> <p>It will not normally be taken into account for disciplinary purposes beyond the live period, except where relevant to a pattern of unacceptable behaviour, i.e. behaviour similar to that covered by the expired sanction.</p>	<ul style="list-style-type: none"> • Where the employee's conduct has fallen below acceptable standards; <p>Or</p> <ul style="list-style-type: none"> • Where the offence is sufficiently serious to justify an immediate formal sanction. <p>Employees will have a right of appeal against this sanction.</p>

Final Written Warning	<p>The warning will be regarded as live for the disciplinary purposes for between 12 to 24 months of the hearing date, as determined at the disciplinary hearing</p> <p>It will not normally be taken into account for disciplinary purposes beyond the live period, except where relevant to a pattern of unacceptable behaviour, i.e. behaviour similar to that covered by the expired sanction.</p>	<ul style="list-style-type: none"> Where the offence is so serious that a final warning is appropriate as a first formal warning; <p>Or</p> <ul style="list-style-type: none"> Where dismissal would normally be appropriate but significant mitigation is accepted; <p>Or</p> <ul style="list-style-type: none"> Where the employee has a live first written warning. <p>Employees will have a right of appeal against this sanction.</p>
Dismissal		<ul style="list-style-type: none"> Dismissal may occur where there has been a single and first act serious enough to constitute gross misconduct; <p>Or</p> <ul style="list-style-type: none"> Where the employee has a live final written warning and further misconduct has taken place. <p>Employees will have a right of appeal against this sanction.</p>

7.0 Dismissal

- 7.1 Dismissal as a result of rolled up misconduct offences will be with contractual notice. We reserve the right to make payments for contractual notice in lieu of notice for rolled up misconduct. Dismissal as a result of gross misconduct, will be summary dismissal and will be without notice or pay in lieu of notice.
- 7.2 All dismissal notices will be in writing and will identify the reason(s) for the dismissal, the date on which the employment will terminate and the employee's right of appeal.

8.0 Appeals process

- 8.1 Employees have the right to appeal against a disciplinary sanction and if they wish to exercise this right, they should submit their appeal in writing on the appropriate appeal form to the Assistant Director HR within 10 working days of the date of the disciplinary outcome letter.
- 8.2 All appeals will be held in accordance with the council's appeals policy. Employees have the right to be accompanied at appeal hearings.

9.0 Referral to other organisations

- 9.1 The council has a legal duty to refer information to the Disclosure and Barring Service (DBS) where it has removed an employee from working or volunteering or has concerns in respect of an individual's contact with children or vulnerable adults. This referral will be the responsibility of the employee's line manager.
- 9.2 There may also be a need to refer the circumstances of a particular case to other professional bodies, e.g. The Teaching Agency or Health Care Professions' Council.

10.0 Recording of meetings

- 10.1 The employee, or any person acting on their behalf, is not normally permitted to record electronically any meeting held by the organisation as part of the disciplinary process. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.
- 10.2 In certain limited circumstances, the council may permit the meeting to be recorded electronically. For example where the employee is disabled, it may be appropriate as a reasonable adjustment under the Equality Act 2010. Where the council permits the meeting to be recorded electronically, it will take responsibility for making the recording.

Appendix 1 - Roles and Responsibilities

The following managerial roles apply in the formal disciplinary policy:

Role	Accountabilities	Position
Informal Stage		
Line manager or alternative manager where appropriate The line manager may also be any of the below with the exception of the hearing officer and appeal hearing officer	<ul style="list-style-type: none"> Investigation Resolution 	n/a
Suspension		
Suspending Officer (may also be the Commissioning Officer, Investigating Officer and/or Contact Officer)	<ul style="list-style-type: none"> Makes decision to suspend (consult HR) Keeps the suspension under review 	A Head of Service or above or those with delegated authority.
Contact Officer	<ul style="list-style-type: none"> Maintains contact with a suspended employee throughout the period of suspension or alternative working arrangements. Appointed by the suspending officer 	

Investigation		
Commissioning Officer (may also be the Suspending Officer, Investigating Officer and/or Contact Officer)	<ul style="list-style-type: none"> • Determines whether a disciplinary investigation should be undertaken and if so, appoints an Investigating Officer (the commissioning officer can also be the investigating officer). • Determines whether suspension should be considered/applied/extended. • Consider whether a strategy meeting is necessary and if so, organise it – can be at any stage. • Complete an investigation brief. • Notifies the employee of formal investigation and the name of the Investigating Officer. • Recommends whether the disciplinary procedures should be triggered or whether other alternative measures are more appropriate. • Decides whether a disciplinary hearing should be held once an investigation has been completed. • Complete investigation summary report, after the investigation is concluded, outlining the findings. • Present findings at a hearing. 	The Commissioning officer is usually the employee's line manager.
Formal stage		
Investigating Officer (may also be the Commissioning Officer, Suspending Officer)	<ul style="list-style-type: none"> • Carries out a thorough investigation of the allegations to establish what evidence there is of the alleged misconduct. • Presents findings in an investigation report and attends any disciplinary hearing with the Commissioning Officer • Attend any required training 	<ul style="list-style-type: none"> • The Investigating officer will normally be the employee's line manager. • In some cases, where it is not appropriate for the line manager to conduct the investigation, an investigating officer will be appointed by the Commissioning Officer.

		<ul style="list-style-type: none"> In exceptional circumstances, an external (to the council) investigator will be appointed.
Hearing		
Hearing Officer (Independent person not involved in the investigation, can be from the same service area)	<ul style="list-style-type: none"> Is the chair of the disciplinary hearing Hears the evidence at a disciplinary hearing. Makes the decision on disciplinary sanctions. Attend any required training Attend and present case at Appeal Hearing 	<ul style="list-style-type: none"> The Hearing officer is appointed by Human Resources from a pool of trained hearing officers. Wherever possible, the same Hearing Officer will be appointed for repeated/ related disciplinary actions. The same Hearing Officer can be appointed to consider allegations at any future hearings, including potential dismissal. -
Appeal		
Appeal Hearing Officer	<ul style="list-style-type: none"> Considers appeal and evidence. Considers appeal response and evidence. Has authority to uphold or not uphold the appeal, can apply a lesser or more severe sanction. 	

The following Human Resources roles apply in the formal disciplinary policy during the hearing stage:

Role	Accountabilities
Human Resources Technical Advisor	<ul style="list-style-type: none"> Attend disciplinary hearings and advise the Hearing Officer as necessary
Human Resources Advisor	<ul style="list-style-type: none"> Confirm the hearing arrangement to all parties

	<ul style="list-style-type: none">• Receive documentation to be presented at the hearing from all parties and distributes documentation packs to all attendees.• Attend any suspension meeting and advise the Suspension Officer• Advise the Commissioning Officer and/or Investigating Officer and other officers as necessary• Attend meetings when necessary
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Appendix 2

Appeals Policy



Walsall Council

Version Control

Document title	Appeals Policy		
Owner	Human Resources	Status	Draft
Version	2.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	06/11/19	Last updated by	HR Strategy and Planning
Purpose	To provide guidance to employees who may need to lodge an appeal under HR procedures		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Code of Conduct for Employees
- Sickness Absence Policy
- Redundancy Policy
- Model Procedure to be adopted for Internal Employment Appeals - Dismissals
- Workforce Strategy
- Behaviour & Standards Framework
- Disciplinary Policy
- Probation Policy
- Grievance Policy
- Collective Grievance Policy
- Performance & Ill Health Capability Policy

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 It is an employee's right to appeal either against a sanction taken against them (including the decision to dismiss them) or the outcome of a formal grievance procedure. This policy should be read and used in conjunction with the appropriate HR policy and procedure. These are as follows;
- Sickness Absence Policy
 - Disciplinary Policy
 - Grievance Policy
 - Collective Grievance Policy
 - Probation Policy
 - Performance and Ill Health Capability Policy
 - Redundancy Policy
- 1.6 This policy is not to be used for appeals against Job Evaluation and Grading decisions as there is a separate and specific appeals policy for Job Evaluation and grading.

2.0 Scope

- 2.1 This policy applies to all council employees, including fixed term and temporary employees;

2.2 With the exception of;

2.2.1 Assistant Directors, Executive Directors and the Chief Executive (where the JNC Chief Officers Handbook applies in conjunction with the Councils Constitution – as a general rule principles contained within this policy should still apply unless specifically stated otherwise in either the handbook or constitution) .

2.2.2 School-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply.

3.0 Principles

3.1 All employees will be notified in writing of their right to appeal following the outcome decision as a result of any one of the policies and accompanying procedures listed in 1.5.

3.2 Employees are only permitted to submit an appeal based on the following grounds;

1) the correct procedure or element of the procedure has not been adhered to;

AND/OR

(2) the sanction/penalty is unduly severe or unfair

3.3 Employees must submit their appeal to the Assistant Director HR using the relevant appeal form and within 10 working days of the date of their outcome/decision/sanction letter. The appeal must clearly indicate which of the grounds (3.2) the appeal is based on and provide sufficient detail to justify and support the claim. The appeal will be limited to these grounds and cannot be added to or changed at a later date.

3.4 The council reserves the right not to consider appeals which are submitted out of time or which do not meet the grounds specified in 3.2. If the basis of the appeal is unclear, additional information will be requested before an appeal is permitted to take place. If the additional information is not provided within 5 working days the appeal will be treated as withdrawn and the employee will receive a letter confirming this.

3.5 The appeal form will be acknowledged upon receipt by the Assistant Director of HR and an appeal hearing will be arranged as soon as practicable and held without undue delay by either party. Appeals will be heard without delay, unless circumstances or the complexity of the case prevent this.

3.6 The purpose of an appeal hearing is to examine the decision making process that took place at the original hearing, it is not an opportunity to conduct a re-

hearing of the case nor can the appeal hearing simply repeat what was considered and deciding upon during the previous stage.

- 3.7 New information or evidence (not previously considered at the original hearing stage) should not be raised at the appeal hearing. Any attempt to introduce new evidence at the appeal stage will normally only be permitted in exceptional circumstances and with the express permission of the appeals panel chair. Should any relevant new information/evidence become available this should be raised as soon as possible and prior to the day of the hearing in order for an appropriate decision to be made regarding the appeal proceeding. If new evidence/information is received within 3 working days of the hearing, the hearing officer may either refuse to admit the evidence, accept the evidence and proceed or may postpone the hearing in order for the evidence to be considered by all parties. In certain circumstances, the original decision may be referred back to the original hearing officer for further review. In such circumstances, the employee would have to submit a further appeal if appropriate following the review of the original decision.
- 3.8 Appeals will be heard by appropriately trained senior managers or elected members who have had no prior involvement in the case. In cases of dismissal, the appeal will be heard by one of the Employment Appeals Committees supported by a Democratic Services Officer and a HR technical advisor who will advise on procedural matters. All other cases (excluding dismissal appeals) will be heard by an Executive Director (or his or her nominated representative) supported by a HR technical advisor (on procedural matters).
- 3.9 Employees have the right to be accompanied throughout the appeal process by an accredited trade union representative or Walsall Council work colleague. Companions are allowed to address the hearing panel to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the worker during the hearing. However, the companion does not have the right to answer questions on the employee's behalf that are personally addressed to the employee during the hearing, address the hearing if the employee does not wish it or prevent management from explaining their case.
- 3.10 In the case of dismissals, the appeal hearing will be coordinated by Democratic Services and employees will be given 3 dates on which their appeal could be considered and will be required to confirm their preferred date within 5 working days of the date of the letter. It is the responsibility of the employee to liaise with any required representative and/or witnesses to ensure they can attend the hearing on the preferred date. If no response is received within the specified date the appeal will be treated as withdrawn and the employee notified in writing. All other cases (excluding dismissals) will be coordinated by the Assistant Director HR (or their representative). Employees will be notified in writing (at least 15 working days prior to the appeal) of the date, time and location of the appeal hearing as well as the date by which all supporting paperwork and the employee's statement of case must be submitted. It is the

responsibility of the employee to liaise with any required representative and/or witnesses to ensure they can attend the appeal hearing on the required date.

- 3.11 If the employee or their representative cannot attend on the proposed/agreed date, the employee/representative must suggest an alternative time and date that is reasonable (to the council in terms of rearranging available attendees) and not more than five working days after the originally proposed/agreed appeal hearing date. If the employee/representative fails to attend any rearranged appeal hearing, the panel will have the discretion to hear the case in the employee/representative's absence and make a decision based on the information they have available.
- 3.12 All appeal hearings will have an exchange of relevant paperwork that will include the complainant's grounds for the appeal and a statement of case from both parties. This will be accompanied by supporting paperwork and details of any representative or witnesses to be called. Both parties must submit their complete set of relevant papers at least 10 working days prior to the date of the hearing. The hearing papers will subsequently be distributed to all parties no later than 5 working days prior to the hearing.
- 3.13 Any prepared statement that the employee is planning to read/present at the hearing should also be provided in advance in writing and included within the employees statement of case, where a statement has not been submitted on time within the pack and an employee subsequently would like to make a statement, the appeal panel has the discretion to decide to accept a written statement as long as it is submitted to HR or Democratic Services (as appropriate) no later than 3 working days prior to the hearing.
- 3.14 Both parties are entitled to call relevant witnesses to support their case. Any witnesses due to be called should have provided a pre-written statement and this should have been submitted as part of the statement of case and supporting papers. Witnesses will only be called to clarify elements of their statement and will not be permitted to provide new evidence on the day of the hearing, not previously provided as part of the investigation or subsequent hearing.
- 3.15 Employees called as witnesses will be allowed paid time off to attend the appeal hearing or will be allowed 'time owing' if not a working day. Where agency staff are requested to attend the appeal hearing as witnesses, they will be paid at plain time for the hours they are in attendance. Due consideration will be given to staff working shift patterns.
- 3.16 In line with GDPR, all correspondence will be forwarded by HR or Democratic Services accordingly and will not include the personal details of any individual's e.g. home addresses of any individual(s), names of service users etc.
- 3.17 The manager presenting the case to the appeal panel or appeal hearing officer will be the hearing officer/manager who made the original decision unless exceptional circumstances prevent them from doing so and where ever possible

they will be supported by the original HR technical advisor to ensure consistency.

- 3.18 The appeals panel can uphold the original hearing decision resulting in the appeal being dismissed, can overturn the decision and issue a lesser or more severe sanction which could include the appeal being upheld and the employee reinstated. The appeals panel are unable to consider any compensatory awards and the appeals process should not be used to request any type of financial settlement and/or any other remedial action. The remit of the panel is purely to review the previously made hearing outcome/sanction based on either or both of the permitted appeal grounds (3.2).
- 3.19 Employees are encouraged to be a member of a recognised trade union who will support and accompany employees throughout this process. Where employees are not represented by a trade union they will be offered the opportunity to attend a briefing meeting with a representative from HR who will explain the appeals policy and process and the format for the appeal hearing. In all cases the appeals panel will provide guidance about the process where appropriate, to enable any unrepresented appellant the opportunity to fully present their case and ask any questions.
- 3.20 The council processes personal data collected during appeals processes in accordance with its information governance policies. In particular, data collected as part of the appeals process is held securely and accessed by, and disclosed to, individuals only for the purposes of addressing matters and conducting the appeal. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection arrangements immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary policy. HR and Democratic Services will retain records on any formal appeals.
- 3.21 Any matters discussed as part of the appeal process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.
- 3.22 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act to enable employees to fully participate.
- 3.23 The panel/appeal hearing officer has the responsibility to deliver the decision of the appeal. This should be done as soon as is reasonably practical and ideally at the close of the appeal hearing. However where this is not possible and depending upon the circumstances (e.g. the panel may need to reconvene to reach their decisions) then the decision may be given in writing following the hearing panel's decision and normally within 10 working days.
- 3.24 This appeal is the final level of appeal within the Council. There is no further right of appeal against this decision.

- 3.25 In cases of dismissal appeals this policy should be read in conjunction with the Model Procedure to be adopted for Internal Employment Appeals - Dismissals.

4.0 Accountabilities

- 4.1 Managers/Hearing Officers/Appeals Panels are accountable for the following;
- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- 4.2 Employees are accountable for the following;
- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
 - Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
 - Submitting appeals as required and on time, clearly identifying the grounds for appeal and detailing the justification / case for this;
 - Liaising with representation and/or witnesses as required and ensuring attendance at appeal hearings;
 - Submitting all required documentation on time and in line with this policy;
 - Complying with the requirements of this policy and procedure.

5.0 Terms of reference

- 5.1 Those hearing an appeal are entrusted with ensuring the fair implementation by management of the respective HR policy and accompanying procedure.
- 5.2 Those hearing an appeal will need to satisfy themselves that:
- (i) the issue(s) was/were properly investigated and substantiated based on a reasonable belief / balance of probabilities;
 - (ii) the relevant procedure(s) was/were correctly and properly followed;
 - (iii) any mitigating circumstances have been given consideration;

6.0 Appeal Hearing Format: Order of Proceedings

- 6.1 Introductions
- 6.2 Explanation of the procedure and any introductory points
- 6.3 **The employee or their representative** to present their case.
- Witnesses may be called to support the case. Witnesses should withdraw from the appeal on completion of questioning.

- **The management representative / technical advisor** shall have the opportunity to ask questions directly of the individual, their representative and witnesses.
- **The members of the appeal panel** shall have the opportunity to ask questions directly of the individual, their representative and witnesses.
- The individual or representative shall have the opportunity to re-examine witnesses on any matter referred to in the examination by management's representative or members of the appeal panel.

6.4 **The management representative** will state the management's case.

- Witnesses may be called to support the case. Witnesses should withdraw from the appeal on completion of questioning.
- **The employee or representative** shall have the opportunity to ask questions directly of the management's representative and witnesses.
- **The members of the appeal panel / technical advisor** shall have the opportunity to ask questions directly of the management's representative and witnesses.
- The management representative shall have the opportunity to re-examine witnesses on any matter referred to in the examination by the individual or their representative or members of the appeal panel.

6.5 **Management's representative will sum up.**

6.6 **The employee or representative will sum up.**

6.7 Both parties will withdraw whilst the panel consider the evidence.

6.8 If possible the panel/appeal hearing officer will recall both parties and outline the decision giving appropriate reasons.

6.9 A letter confirming the decision will be sent to the employee normally within 10 working days.

Appendix 3

Confidential Reporting (Whistleblowing) Policy



Walsall Council

Version Control

Document title	Confidential Reporting (Whistleblowing) Policy		
Owner	Human Resources	Status	Draft
Version	5.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	11/11/2019	Last updated by	HR Strategy and Planning
Purpose	To maintain the highest standards of openness, honesty and accountability by requiring everyone to report appropriate concerns.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Code of Conduct for Employees
- Collective Grievance Policy
- Counter Fraud and Corruption Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Grievance Policy
- Dignity at Work Policy
- Disciplinary Policy

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council is committed to maintaining the highest standards of openness, honesty and accountability. This whistleblowing policy plays a key part in maintaining those standards by requiring everyone to report appropriate concerns. The council's Code of Conduct for Employees makes this a specific obligation for all employees.
- 1.6 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Workers should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of. Any matter raised under this policy will be investigated thoroughly, promptly and confidentially, and the outcome if the investigation reported back to the worker who raised the issue.
- 1.7 This policy enables staff and members to raise concerns about any financial or other malpractice in the council without fear of being subject to victimisation or discrimination for whistleblowing. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern.

2.0 Scope

- 2.1 This policy applies to all council employees, including chief officers and fixed term and temporary employees. The policy also applies to other workers, such as casual workers, agency workers, supply workers, trainees and contractors.
- 2.2 This policy applies to council employees who work in council maintained schools.

3.0 Principles

- 3.1 Everyone, at one time or another, may have concerns about something that is happening at work. More often than not, these concerns are relatively minor and you can probably resolve them informally. However, when those concerns are about unlawful conduct, financial malpractice or dangers to the public or environment, it can be difficult to know what to do. Confidential reporting or whistleblowing is about helping people to raise legitimate concerns or worries without opening themselves up to detrimental treatment or risking their job security for raising their concerns in the normal way.
- 3.2 You should report any serious concerns that are 'in the public interest' (see 3.3) and appear to involve illegal or unethical conduct:-
- a criminal offence or breach of the law
 - a miscarriage of justice
 - a health and safety risk to employees or the public
 - damage to the environment
 - community discrimination
 - unauthorised use of public funds
 - possible fraud or corruption
 - breach of any legal obligation
 - safeguarding children and vulnerable adults
 - deliberately concealing any of the above
- 3.3 A concern is only 'in the public interest' if it goes beyond matters of personal concern to you, that you have reasonable belief of such an act occurring, having occurred or likely to be committed. You should not use this policy to report concerns of a personal nature – for example in relation to a grievance or your salary grade (these should, instead, be pursued through the grievance or job evaluation and grading policy and appeal policies).
- 3.4 Sometimes, a concern may be 'in the public interest' but may also be something in which you have a personal interest. If this is the case, please tell the person that you raise your concern with of your personal involvement.

When should I report my concerns?

- 3.5 The council understands that you may be worried about raising a concern, perhaps feeling that it is none of your business or that it is only a suspicion.

You may also feel that you are being disloyal to your colleagues or the organisation, or worried about reporting things to the wrong person or in the wrong way. If you are not sure whether or not to raise a concern, you should first discuss the issue with your line manager or HR.

- 3.6 However, it is your responsibility to report any concerns as soon as possible and the council would like you to do so at an early stage rather than waiting for 'proof' of any suspicions. Providing that you have reasonable belief that unauthorised activity of an illegal or unethical nature is taking place, then you should report it. Remember that you will not get into trouble for raising genuine concerns and the council will protect you if you raise a genuine concern.

Will the council protect me if I raise a genuine concern?

- 3.7 You will not be at risk of losing your job or suffer any detriment or retribution from the council because you have raised a genuine concern. This will still be the case even if investigations subsequently show that there has been no improper conduct. However, such protection does not apply to you if you raise a concern that you know to be untrue, malicious or vexatious, by knowingly disclosing false information; such instances will be followed up (where applicable) and may result in disciplinary action.
- 3.8 If you are already the subject of disciplinary investigation or action, or your job has been placed at risk of redundancy, these proceedings will not be halted because you have raised a genuine concern, instead they will run concurrently.
- 3.9 The council does not tolerate any discrimination, harassment or victimisation and will take action to protect you if you have used this policy to raise a genuine concern regarding illegal or unethical conduct as described above.
- 3.10 Your identity will remain confidential, it will not be disclosed without your consent. For reporting purposes, you will be identified by a reference number. If the situation arises where the council cannot resolve the concern without revealing your identity (for example, because your evidence is needed in court) this will be discussed fully with you as to whether and how the council can proceed.
- 3.11 All concerns will be investigated including those that are raised anonymously and feedback will be provided where relevant and where contact details have been provided and therefore you are encouraged to identify yourself when you report a concern. The effectiveness of any whistleblowing investigation may be limited where an individual chooses not to be identified.
- 3.12 Repeat complaints / concerns will not normally be reconsidered if the same or similar matter has previously been raised and dealt with under this policy.
- 3.13 When an individual makes a disclosure, the council will process any personal data collected in accordance with GDPR. Data collected from the point at which

the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

- 3.14 Any matters discussed as part of this process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.
- 3.15 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any employee who makes a whistleblowing disclosure. Details of which can be found on the HR intranet pages.
- 3.16 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act to enable employees to fully participate.

4.0 Accountabilities

4.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- Acting on any disclosure brought to their attention, ensuring it is progressed through the appropriate channels and logged with the council's Monitoring Officer;
- Ensuring strict confidentiality is maintained throughout the process;
- Ensuring steps are taken to resolve any breakdown in relationships between employees following a whistleblowing disclosure;
- Ensuring that employees are aware of their responsibilities in accordance with this policy.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Raising any concerns as soon as possible with their line manager in the first instance or through alternative appropriate mechanisms;
- Ensuring that it is made clear the concern is being raised under whistleblowing policy from the outset;
- Complying with the requirements of this policy and procedure.

5.0 Procedure

Please see 5.4 if your concern relates to service users of social care for children or adults.

5.1 Step 1

In many cases, you will hopefully feel comfortable in raising your concern with your own manager, either verbally or in writing. The more information that can be supplied, including dates, times, details and names, the greater the opportunity to establish the facts.

Although you are not expected to prove beyond doubt the truth of the allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for the concern.

You can choose whether to use the form attached at Appendix 1 to report your concerns but in any case it provides a helpful guide on the sort of information that it is helpful to supply when you report your concern.

When raising any concern you must ensure that you clearly state that you are raising concerns under the Confidential Reporting (Whistleblowing) Policy.

If you feel unable to raise the matter with your manager, for whatever reason, please raise the matter with one of the following:

- Assistant Director of Human Resources 01922 655600
- Head of Legal & Democratic Services / Monitoring Officer 01922 654822
- Executive Directors:-

Children's Services	01922 652081
Economy and Environment	01922 652004
Resources and Transformation	01922 655600
Adult Social Care	01922 654700

The above contact list can also be used if you are a contractor or supply goods or services to the council

or

you can use the on line notification form which is available on the internal audit intranet page and enables concerns to be reported in a secure and confidential manner

or

you can use the internal audit 'whistleblowing' hotline on 01922 655880 where you will be able to leave a voice recorded message.

5.2 Step 2

All matters raised under the Confidential Reporting (Whistleblowing) Policy will be centrally recorded by the Monitoring Officer. Whoever receives the

complaint/concern must ensure they log the issue at the point it is raised and provide details of the ensuing investigation/outcome to the Monitoring Officer.

The line manager (or appropriate person) will arrange an investigation into the matter (either by investigating the matter personally or immediately passing the issue to someone in a more senior position). The investigation may involve the worker who raised the concern and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. The worker's statement will be taken into account, and they will be asked to comment on any additional evidence obtained. The line manager (or the person who carried out the investigation) will then report to the Corporate Management Team, which will take any necessary action, including reporting the matter to any appropriate government department or regulatory agency. If disciplinary action is necessary, the line manager (or the person who carried out the investigation) will report the matter to HR and a disciplinary procedure may be initiated. Any disciplinary procedure may also run concurrently with a whistleblowing investigation if necessary. On conclusion of any investigation, the worker will be told the outcome of the investigation and what the Corporate Management Team has done, or proposes to do, about it, where appropriate. If no action is to be taken, the reason for this will be explained.

5.3 Step 3

If you are concerned that the investigating officer has failed to make a proper investigation or has failed to report the outcome of the investigations to the Corporate Management Team, or if you feel that you cannot raise your concern with any of the above, please contact the Chief Executive on 01922 652000, who will arrange for another manager to review the investigation carried out, make any necessary enquiries and make their own report to the Corporate Management Team as in step 2 above.

5.4 If your concern relates to service users of adults or children's social care, the statutory procedure set up to protect the interests of vulnerable service users should be used. In the first instance, such concerns should be directed to CustomerCareTeamSocialCare@walsall.gov.uk

5.5 If you feel it would be helpful to seek external advice you may wish to contact;

- your trade union representative
- Citizens Advice Bureau
- the relevant professional body or regulatory body
- the police
- external auditors

or "Public Concern at Work" (020 7404 6609). Public Concern at Work is a leading independent charity whose main objectives are to promote compliance with the law and good practice in the public, private and voluntary sectors. They are a source of further information and advice at www.whistleblowing.org.uk

Hopefully, this policy will give you the confidence to raise any concerns within the council. However, if you feel unable to do so, the council would much prefer that you raised the matter with an appropriate external regulator than not at all.

- 5.6 The amount of contact between you and those considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the council will seek further information from you. Where any meeting is arranged, off-site if you wish, you can be accompanied by a trade union representative or a work colleague.
- 5.7 Sometimes you might be asked for your opinion on how the matter might best be resolved. Again, if this is a matter in which you have a personal interest, you must say so.
- 5.8 Where appropriate the matters raised may:
- Be investigated by management / internal Audit, and/or result in a disciplinary process commencing
 - Be referred to an external auditor
 - Form the subject of an independent enquiry
 - Be referred to the police
- 5.9 The council will give you as much feedback as it possibly can. If requested, the response will be confirmed in writing. However, sometimes the council will not be able to tell you the precise action taken – for example, if this infringes a duty of confidence owed to someone else.

Remember, malpractice affects everyone and is unacceptable.

Blowing the whistle on it is one way of stamping it out – for good.

Appendix 1

Formal Confidential Reporting (Whistleblowing)

Formal Confidential Reporting (Whistleblowing)	
Employee's name:	
Employee's job title:	
Employee's preferred contact method and details:	
Date:	
Does your public interest disclosure relate to your line manager?	Yes/No
Summary of disclosure:	
<p>Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.</p>	
<p>Please provide the names and contact details of any people involved in your concerns, including witnesses.</p>	

Formal Confidential Reporting (Whistleblowing)**Outcome requested:**

Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.

Declaration:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the organisation taking disciplinary action against me.

Form completed by:	
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Signature:	
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For completion by the organisation:

Date form received by the organisation:	
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Name of recipient and job role:	
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Signature:	
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Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Appeal Policy		
Directorate	Resource and Transformation		
Service	HR Strategy and Planning		
Responsible Officer	Tracey Edwards		
Proposal planning start	October 2019	Proposal start date (due or actual date)	TBC
1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	Yes	Revision
	Procedure	No	N/A
	Guidance	No	N/A
	Is this a service to customers/staff/public?	Yes	Staff
	If yes, is it contracted or commissioned?	No	N/A
	Other - give details		
2	What is the business case for this proposal? Please provide the main purpose of the service, intended outcomes and reasons for change?		
	<p>In order to ensure the Council is enabled to deliver against its priorities it is imperative that the council has an effective employment framework of policies, procedures and guidance and that these align to the vision and values of the Council. It has been agreed that the current suite of employment policies be reviewed across the board to provide the opportunity to ensure they are up to date, fit for purpose and support and enable the development of the Walsall Proud Programme (WPP) ensuring a consistent approach that reinforces the councils standards and behavioural framework.</p> <p>Appeals Policy sets out the mechanism for employees to exercise their right to appeal either against a sanction taken against them (including the decision to dismiss them) or the outcome of a formal grievance procedure.</p>		
3	Who is the proposal likely to affect?		
	People in Walsall	Yes / No	Detail
	All	No	All corporate employees (excluding those on JNC Chief Executives and JNC Chief Officers terms and conditions).
	Specific group/s	No	
	Council employees	Yes	
	Other (identify)		
4	Please provide service data relating to this proposal on your customer's protected characteristics.		
	<p>As of 31 March 2019 the total number of Walsall Council employees (excluding Schools) were 3141. The Council's workforce is made up of 68.51% females. 21.59% of the workforce are classified as minority ethnic. In total there were 138 employees (4.39% of the workforce) who declared they had a disability, as defined by the Equality Act 2010.</p>		

5	<p>Please provide details of all engagement and consultation undertaken for this proposal. (Please use a separate box for each engagement/consultation).</p> <p><u>Update 2019 consultation</u></p> <p>Consultation has taken place with key stakeholders across the council.</p> <p>Senior managers – 25/10/2019- 08/11/2019 Trade Union – 25/10/2019 -08/11/2019</p> <p>The feedback received as part of the October 19 :</p> <p style="padding-left: 40px;">There is a risk the attempting to rerun the original hearing. Handling of new information Timescales of exchanging papers Appeals are to be heard without undue delay Submission of statement prior to hearing</p> <p>As part of the discussions to ensure the policy is applied consistently a series of tools will be developed to sit alongside the policy such as:</p> <ul style="list-style-type: none"> • Guidance • Check lists • Template letters • Training
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	Consultation Activity.			
	Type of engagement/consultation	Senior managers across the council	Date	25/10/2019
	Who attended/participated?	Senior managers across the council		
	Protected characteristics of participants	A range of protected characteristics including, gender, race, age, disability.		
	Feedback As part of the consultation process, the policy was emailed to senior managers across the council welcoming feedback and comments and suggested improvements.			
	Type of engagement/consultation	Trade Union	Date	31/10/2019
	Who attended/participated?	Unison		
	Protected characteristics of participants	A range of protected characteristics including, gender, race, age, disability.		
	Feedback As part of the consultation process, the policy was emailed to trade union colleagues across the council welcoming feedback and comments and suggested improvements, consultation was extended by one day at the request of the trade unions. Please see above section 5			
	6	Concise overview of all evidence, engagement and consultation		
Formal consultation with senior managers across the council and trade unions raised no concerns in relation to protected characteristics and the proposed changes to the procedure.				
7	How may the proposal affect each protected characteristic or group? The effect may be positive, negative, neutral or not known. Give reasons and if action is needed.			
	Characteristic	Affect	Reason	Action needed Yes / No
	Age	Neutral	The policy applies to all employees – no impact foreseen.	No
	Disability	Negative	Potential impact on employees who require reasonable adjustments for communication who do not understand the policy e.g. employees with learning	Yes

			disabilities.	
	Gender reassignment	Neutral	The policy applies to all employees – no impact foreseen	No
	Marriage and civil partnership	Neutral	The policy applies to all employees – no impact foreseen	No
	regnancy and maternity	Neutral	Potential impact on employees who are pregnant or on maternity leave	No
	Race	Negative	Potential impact on employees where English is not their first language as they may not understand the policy.	Yes
	Religion or belief	Neutral	The policy applies to all employees – no impact foreseen	No
	Sex	Neutral	The policy applies to all employees – no impact foreseen	No
	Sexual orientation	Neutral	The policy applies to all employees – no impact foreseen	No
	Other (give detail)	N/A		
	Further information	N/A		
8	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details.			No
9	Which justifiable action does the evidence, engagement and consultation feedback suggest you take?			
	A	No major change required		
	B	Adjustments needed to remove barriers or to better promote equality		
	C	Continue despite possible adverse impact		
	D	Stop and rethink your proposal		
Action and monitoring plan				
Action Date	Action	Responsibility	Outcome Date	Outcome
Day of launch	The policy to be explained/made available to	Employee's line manager should make themselves available to explain the	As and when required	

	employees	policy to ensure understanding and offer support to allow individuals to achieve the requirements		
Day Of launch	The policy to be explained/made available in other languages on request for employees whose first language is not English.	Appropriate liaison as required with the council's Interpretation, Translation, Transcription and Easy Read service (ITTE)	As and when requested	
Day of launch	Alternative formats (audio and Easy Read) for disabled employees to be made available on request.	Liaison as required with the appropriate council procured services; audio formats from Walsall Society for the Blind and Easy Read from the Community, Equality and Cohesion team.	As and when requested	

Update to EqIA	
Date	Detail

Contact us

Community, Equality and Cohesion
Resources and Transformation

Telephone 01922 655797

Textphone 01922 654000

Email equality@walsall.gov.uk

Inside Walsall: http://int.walsall.gov.uk/Service_information/Equality_and_diversity

Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Disciplinary Policy		
Directorate	Resource and Transformation		
Service	HR Strategy and Planning		
Responsible Officer	Tracey Edwards		
Proposal planning start	October 2019	Proposal start date (due or actual date)	TBC
1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	Yes	Revision
	Procedure	No	N/A
	Guidance	No	N/A
	Is this a service to customers/staff/public?	Yes	Staff
	If yes, is it contracted or commissioned?	No	N/A
	Other - give details		
2	What is the business case for this proposal? Please provide the main purpose of the service, intended outcomes and reasons for change?		
	<p>The council seeks to ensure that lawful, fair and effective arrangements exist for dealing with employee conduct and disciplinary issues.</p> <p>The council's disciplinary procedure provides a framework for supporting employees to achieve and maintain acceptable standards of conduct.</p> <p>The review and development of this procedure has been undertaken to ensure it is fit for purpose, user friendly, meets current legislation, demonstrates best practice and importantly free from any form of discrimination.</p>		
3	Who is the proposal likely to affect?		
	People in Walsall	Yes / No	Detail
	All	No	All corporate employees (excluding those on JNC Chief Executives and JNC Chief Officers terms and conditions).
	Specific group/s	No	
	Council employees	Yes	
	Other (identify)		
4	Please provide service data relating to this proposal on your customer's protected characteristics.		
	As of 31 March 2019 the total number of Walsall Council employees (excluding Schools) were 3141. The Council's workforce is made up of 68.51% females. 21.59% of the workforce are classified as minority ethnic. In total there were 138 employees (4.39% of the workforce) who declared they had a disability, as defined by the Equality Act 2010.		
5	Please provide details of all engagement and consultation undertaken for this proposal. (Please use a separate box for each engagement/consultation).		



Consultation March 18-April 18

Feedback from consultation, the policy was revised in 2018 where a number of points were made and addressed as part of the consultation feedback, the main areas considered and introduced were to:

- reduce the procedure,
- to set clear notice periods given to employee around formal and informal meeting,
- the introduction of an informal stage to address concerns at the earliest possible stage,
- Introduction of a strategy meeting to enable sufficient coordination in complex case and to bring into line suspension to meet case law and best practice.

In addition to the above, a hearing officer will be assigned from the same area as the employee subject to the procedure, Trade unions requested for this to be amended, however, given that (1) hearing officers are trained in avoiding subjectivity bias and (2) decision making is facilitated by the knowledge of local processes

The consultation feedback to remove incremental progression as a disciplinary sanction, this was opposed by the trade union and legal advice was that the contract of employment and the pay policy refer to pay progression is gained by years of service to the top of the grade. It was also highlighted that this could have a potential of age discrimination as disproportionate impact on younger employees. Therefore based on advice this recommendation has not been introduced.

Update 2019 consultation

Consultation has taken place with key stakeholders across the council.

Senior managers – 25/10/2019- 08/11/2019

Trade Union – 25/10/2019 -08/11/2019

The feedback received as part of the October 19 consultation has been limited given the revision the previous year, however, the following have been :

- The exchange of papers for hearing is too short, as trade union representatives stated that employees do not have sufficient time to pull together their case. This has been extended
- Trade unions raised concerns regarding hearing officers from the same area as the employee, however, were not able to provide a specific example at the time. There has been no other feedback on this point, however, although this has not been changed this will be monitored.

As part of the discussions to ensure the policy is applied consistently a series of tools will be developed to sit alongside the policy such as:

- Guidance
- Check lists
- Template letters
- Training

Consultation Activity.				
Type of engagement/consultation	Senior managers across the council	Date	25/10/2019	
Who attended/participated?	Senior managers across the council			
Protected characteristics of participants	A range of protected characteristics including, gender, race, age, disability.			
Feedback As part of the consultation process, the policy was emailed to senior managers across the council welcoming feedback and comments and suggested improvements. As the policy had been reviewed in the previous year, feedback was limited, of that received, there were no suggested improvements and no concerns raised.				
Type of engagement/consultation	Trade Union	Date	31/10/2019	
Who attended/participated?	Unison			
Protected characteristics of participants	A range of protected characteristics including, gender, race, age, disability.			
Feedback As above section 5				
6	Concise overview of all evidence, engagement and consultation			
Formal consultation with senior managers across the council and trade unions raised no concerns in relation to protected characteristics and the proposed changes to the procedure.				
7	How may the proposal affect each protected characteristic or group? The effect may be positive, negative, neutral or not known. Give reasons and if action is needed.			
Characteristic		Affect	Reason	Action needed Yes / No
Age		Neutral	The policy applies to all employees – no impact foreseen.	No
Disability		Negative	Potential impact on employees who require reasonable adjustments for communication who do not understand the policy e.g. employees with learning disabilities.	Yes
Gender reassignment		Neutral	The policy applies to all employees – no impact foreseen	No

	Marriage and civil partnership	Neutral	The policy applies to all employees – no impact foreseen	No
	regnancy and maternity	Neutral	Potential impact on employees who are pregnant or on maternity leave	No
	Race	Negative	Potential impact on employees where English is not their first language as they may not understand the policy.	Yes
	Religion or belief	Neutral	The policy applies to all employees – no impact foreseen	No
	Sex	Neutral	The policy applies to all employees – no impact foreseen	No
	Sexual orientation	Neutral	The policy applies to all employees – no impact foreseen	No
	Other (give detail)	N/A		
	Further information	N/A		
8	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details.			No
9	Which justifiable action does the evidence, engagement and consultation feedback suggest you take?			
A	No major change required			
B	Adjustments needed to remove barriers or to better promote equality			
C	Continue despite possible adverse impact			
D	Stop and rethink your proposal			
Action and monitoring plan				
Action Date	Action	Responsibility	Outcome Date	Outcome
Day of launch	The policy to be explained/made available to employees	Employee's line manager should make themselves available to explain the policy to ensure understanding and offer support to allow individuals to achieve the requirements	As and when required	

Day Of launch	The policy to be explained/made available in other languages on request for employees whose first language is not English.	Appropriate liaison as required with the council's Interpretation, Translation, Transcription and Easy Read service (ITTE)	As and when requested	
Day of launch	Alternative formats (audio and Easy Read) for disabled employees to be made available on request.	Liaison as required with the appropriate council procured services; audio formats from Walsall Society for the Blind and Easy Read from the Community, Equality and Cohesion team.	As and when requested	

Update to EqIA	
Date	Detail

Contact us

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Resources and Transformation

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Email equality@walsall.gov.uk

Inside Walsall: [http://int.walsall.gov.uk/Service information/Equality and diversity](http://int.walsall.gov.uk/Service_information/Equality_and_diversity)

Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Confidential Reporting (Whistleblowing) Policy		
Directorate	Resource and Transformation		
Service	HR Strategy and Planning		
Responsible Officer	Tracey Edwards		
Proposal planning start	October 2019	Proposal start date (due or actual date)	TBC
1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	Yes	Revision
	Procedure	No	N/A
	Guidance	No	N/A
	Is this a service to customers/staff/public?	Yes	Staff
	If yes, is it contracted or commissioned?	No	N/A
	Other - give details		
2	What is the business case for this proposal? Please provide the main purpose of the service, intended outcomes and reasons for change?		
	<p>In order to ensure the Council is enabled to deliver against its priorities it is imperative that the council has an effective employment framework of policies, procedures and guidance and that these align to the vision and values of the Council. It has been agreed that the current suite of employment policies be reviewed across the board to provide the opportunity to ensure they are up to date, fit for purpose and support and enable the development of the Walsall Proud Programme (WPP) ensuring a consistent approach that reinforces the councils standards and behavioural framework.</p> <p>The confidential reporting (whistleblowing) policy enables staff and members to raise concerns about any financial or other malpractice in the council without fear of being subject to victimisation or discrimination for whistleblowing. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern.</p> <p>The review incorporates legislation requirements, best practice and case law.</p>		
3	Who is the proposal likely to affect?		
	People in Walsall	Yes / No	Detail
	All	No	All corporate employees (excluding those on JNC Chief Executives and JNC Chief Officers terms and conditions).
	Specific group/s	No	
	Council employees	Yes	
	Other (identify)		
4	Please provide service data relating to this proposal on your customer's protected characteristics.		



	As of 31 March 2019 the total number of Walsall Council employees (excluding Schools) were 3141. The Council's workforce is made up of 68.51% females. 21.59% of the workforce are classified as minority ethnic. In total there were 138 employees (4.39% of the workforce) who declared they had a disability, as defined by the Equality Act 2010.
5	<p>Please provide details of all engagement and consultation undertaken for this proposal. (Please use a separate box for each engagement/consultation).</p> <p><u>Update 2019 consultation</u></p> <p>Consultation has taken place with key stakeholders across the council.</p> <p>Senior managers – 25/10/2019- 08/11/2019 Trade Union – 25/10/2019 -08/11/2019</p> <p>The feedback received as part of the October 19 :</p> <p>Clarity over who is in scope, the policy should include all employees including school based employees Clarification to strengthens the requirement for disclosures to be in the public interest and further defines what that means including the requirement for them to be reporting on matters of illegal or unethical conduct To include internal procedural steps following a disclosure to assist the individual to progress the disclosure and the arrangements for centrally logging and monitoring by the council's monitoring officer</p>

	Consultation Activity.			
	Type of engagement/consultation	Senior managers across the council	Date	25/10/2019
	Who attended/participated?	Senior managers across the council		
	Protected characteristics of participants	A range of protected characteristics including, gender, race, age, disability.		
	Feedback As part of the consultation process, the policy was emailed to senior managers across the council welcoming feedback and comments and suggested improvements.			
	Type of engagement/consultation	Trade Union	Date	31/10/2019
	Who attended/participated?	Unison		
	Protected characteristics of participants	A range of protected characteristics including, gender, race, age, disability.		
	Feedback As part of the consultation process, the policy was emailed to trade union colleagues across the council welcoming feedback and comments and suggested improvements, consultation was extended by one day at the request of the trade unions. Please see above section 5			
	6	Concise overview of all evidence, engagement and consultation		
Formal consultation with senior managers across the council and trade unions raised no concerns in relation to protected characteristics and the proposed changes to the procedure.				
7	How may the proposal affect each protected characteristic or group? The effect may be positive, negative, neutral or not known. Give reasons and if action is needed.			
	Characteristic	Affect	Reason	Action needed Yes / No
	Age	Neutral	The policy applies to all employees – no impact foreseen.	No
	Disability	Negative	Potential impact on employees who require reasonable adjustments for communication who do not understand the policy e.g. employees with learning	Yes

			disabilities.	
	Gender reassignment	Neutral	The policy applies to all employees – no impact foreseen	No
	Marriage and civil partnership	Neutral	The policy applies to all employees – no impact foreseen	No
	regnancy and maternity	Neutral	Potential impact on employees who are pregnant or on maternity leave	No
	Race	Negative	Potential impact on employees where English is not their first language as they may not understand the policy.	Yes
	Religion or belief	Neutral	The policy applies to all employees – no impact foreseen	No
	Sex	Neutral	The policy applies to all employees – no impact foreseen	No
	Sexual orientation	Neutral	The policy applies to all employees – no impact foreseen	No
	Other (give detail)	N/A		
	Further information	N/A		
8	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details.			No
9	Which justifiable action does the evidence, engagement and consultation feedback suggest you take?			
	A	No major change required		
	B	Adjustments needed to remove barriers or to better promote equality		
	C	Continue despite possible adverse impact		
	D	Stop and rethink your proposal		
Action and monitoring plan				
Action Date	Action	Responsibility	Outcome Date	Outcome
Day of launch	The policy to be explained/made available to	Employee's line manager should make themselves available to explain the	As and when required	

	employees	policy to ensure understanding and offer support to allow individuals to achieve the requirements		
Day Of launch	The policy to be explained/made available in other languages on request for employees whose first language is not English.	Appropriate liaison as required with the council's Interpretation, Translation, Transcription and Easy Read service (ITTE)	As and when requested	
Day of launch	Alternative formats (audio and Easy Read) for disabled employees to be made available on request.	Liaison as required with the appropriate council procured services; audio formats from Walsall Society for the Blind and Easy Read from the Community, Equality and Cohesion team.	As and when requested	

Update to EqIA	
Date	Detail

Contact us

Community, Equality and Cohesion
Resources and Transformation

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Textphone 01922 654000

Email equality@walsall.gov.uk

Inside Walsall: http://int.walsall.gov.uk/Service_information/Equality_and_diversity

Model Procedure to be adopted for Internal Employment Appeals – Dismissals**1. Introduction**

- 1.1 This Model Procedure sets out an Order of Proceedings for Employment Appeal Hearings. It may not be varied without good reason, except with the agreement of all parties to the proceedings, the justification of which will be reflected in the Minutes.
- 1.2 The principles of this Model Procedure are generally applicable across all employee groups within the Council but specific provisions, particularly Section 2 'Composition of Appeals Committees' **do not apply** to school-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply, or to employees on Chief Officer or Chief Executive conditions of service for whom different contractual arrangements apply (where the JNC Chief Officers Handbook applies in conjunction with the Councils Constitution – as a general rule principles contained within this policy should still apply unless specifically stated otherwise in either the handbook or constitution).

2. Composition of the Appeals Committee

- 2.1 Appeals shall be heard by one of the Employment Appeals Committees which have been established by the Council with the Delegated Powers to determine Dismissal cases in accordance with its Remit. Any Members involved in Appeal Hearings should not have had any previous involvement or personal interest in the subject matter or outcome of the Appeal. If it is identified that a particular Member has had prior involvement or personal involvement in or is biased in relation to any case, they will not be allowed to attend the hearing.
- 2.2 The Committee is a Committee of the Council for the purposes of the Local Government (Access to Information) Act, 1985. However, the public will be excluded from its meetings because the Committee's business relates entirely to 'exempt information' under that Act.
- 2.3 The Committee is entitled to receive advice from the Assistant Director of Human Resources, or their representative, on any matters relating to Employment and / or relevant Policies or Procedures in the capacity of a Technical Advisor to the Committee. The Committee is also entitled to receive Legal advice from the Head of Legal and Democratic Services, or their representative.
- 2.4 Every Elected Member or Officer of the Authority, who is involved with the Appeals Committee, shall first have received training on their role, Remit and relevant Policies and Procedures applicable in the context of Appeals.

3. Arrangements Prior to the Appeal Hearing

- 3.1 An employee (Appellant) who wishes to lodge an Appeal must inform the Assistant Director of Human Resources in writing (using the relevant appeal form) within 10 working days of the date set out in the letter advising them of the outcome of the decision they wish to Appeal against. If the Appellant appeals outside this timescale, the Appeal may be rejected and, if so, will not be considered by the Committee. **The written notice of Appeal must include a clear statement of their Grounds of Appeal with sufficient detail for the Committee to consider and must fall within the**

Committee's Remit to consider. These Grounds of Appeal will subsequently become the subject of the Appeal Hearing.

The Committee can consider the following Grounds: -

- The Appellant's claim(s) that the correct procedure or element of the procedure has not been carried out correctly*;

AND/OR

- The Appellant's claim(s) that the decision to dismiss is unduly severe or unfair*.

* The above must include details to support the claim(s), clearly indicating which of the above grounds the appeal is based on and provide sufficient detail to justify and support the claim.

The Appeal will be limited to these Grounds and cannot be added to or changed at a later date. The Assistant Director of Human Resources will determine whether or not the Grounds of Appeal fall within the Committee's Remit to consider and may seek clarification if they do not, or if they are not clear in any way. If the basis of appeal is unclear, additional information may be requested before an appeal is permitted to take place. If the additional information is not provided within 5 working days the appeal will be treated as withdrawn and the employee will receive a letter confirming this. Furthermore, the Grounds of Appeal cannot simply repeat what was considered at the previous stage.

Please note that the purpose of an Appeal Hearing is to examine the decision making process and is not to conduct a re-hearing. Should any Ground of Appeal fall outside the Committee's Remit, it will not be taken into account when the Committee makes its decision. Should it be determined by the Assistant Director of Human Resources, in consultation with the Head of Legal and Democratic Services, that the Grounds of Appeal are not properly within the Committee's Remit, then the Appeal will not be considered by the Committee.

- 3.2 Upon receipt of the satisfactory written notice of Appeal, the Assistant Director of Human Resources will acknowledge the Employee's Appeal and forward the Grounds of Appeal to Democratic Services who will arrange a meeting of the Appeals Committee within the timescales prescribed below.
- 3.3 Following consultation with the relevant Officer who made the decision that the Appellant wishes to Appeal against, Democratic Services will offer the Appellant 3 dates on which their Appeal could be considered and seek confirmation of their preferred date within **5 working days** of the date of the letter. It is the Appellant's responsibility to liaise with any representative they may have (i.e. Trade Union representative / work colleague) to ensure that their representative can attend on their preferred dates. If no response is received within this timescale, the Appellant's Appeal will be treated as withdrawn, and the employee notified in writing.
- 3.4 Once a response is received, a date shall be fixed (with no less than a minimum of 15 working days' notice) and all parties informed accordingly. Both parties will be requested to supply a Statement of Case / supporting papers / list of witnesses and / or representatives at least **10 working days** before the agreed date of the hearing. The

hearing papers will subsequently be distributed to all parties no later than 5 working days prior to the hearing. Any prepared statement that the employee is planning to read/present at the hearing should also be provided in advance in writing and included within the employees statement of case, where a statement has not been submitted on time within the pack and an employee subsequently would like to make a statement, the appeal panel has the discretion to decide to accept a written statement as long as it is submitted to Democratic Services no later than 3 working days prior to the hearing.

- 3.5 At the Appeal Hearing the Appellant may be represented by an accredited Trade Union representative or appropriate Walsall Council work colleague. The Management Side will normally be represented by the Manager who took the original decision the Appellant wishes to Appeal against (the Dismissing Officer). They may be assisted by a HR technical advisor. Certain cases may be presented by another Management representative, e.g. where the Dismissing Officer leaves the Council's employment before an Appeal is heard. **It should also be noted that any witness evidence must be confined to matters that are relevant to the Appeal itself (such as matters of procedural correctness or whether the decision to dismiss is unfair or unduly severe) as the Appeal is not a re-hearing. The above applies to both Management and the Appellant equally.**
- 3.6 It is the responsibility of both parties to inform their own witnesses and representatives of the date and time of the Appeals Committee Hearing.
- 3.7 All parties, Members of the Appeals Committee, and the Assistant Director of Human Resources or their representative shall be provided, no later than 5 working days before the date of the Hearing, with the following documents (**if available / where submitted**):-
- (a) Written notification of the date, time and location of the Hearing;
 - (b) A copy of the Committee's Remit;
 - (c) A copy of the Relevant Procedure in question [e.g. Disciplinary Procedure or Redundancy Procedure etc....];
 - (d) A copy of this Procedure;
 - (e) A copy of the Grounds of Appeal;
 - (f) A copy of the Hearing Officer's letter to the Appellant setting out the decision against which the Appellant wishes to Appeal;
 - (g) Such other supporting documentation as has been supplied by the Management and / or Appellant (**Statement of Case**) (see 4 below).
- 3.8 The following facilities shall, **wherever practicable / available**, be made available on the day of the Hearing:-
- (a) An appropriate room where the Appeals Committee may hear and deliberate upon the case in private and undisturbed;
 - (b) A separate room / waiting area to which the Appellant and their representative(s) and / or witnesses may withdraw during adjournments or while waiting to be called

before the Appeals Committee **[wherever practicable / available dependent upon circumstances]**;

- (c) An additional separate room / waiting area to which the Management representative(s) and / or any witnesses may withdraw during adjournments or while waiting to be called before the Appeals Committee **[wherever practicable / available dependent upon circumstances]**.

4. Submission of Documents by Management and/or Appellant's Representatives

- 4.1 All information pertaining to the case shall, wherever possible, be included in the Statement of Case as referred to in Paragraph 3.4 of this procedure.
- 4.2 Documentation submitted after the date under 3.4 above by either side may only be accepted with the Chairman's and / or Committee's agreement. Hearings may be adjourned or deferred when papers are tabled on the day causing inconvenience for all parties concerned. Any late documentation must be submitted no later than 3 working days prior to the hearing for the panel chair to make a decision regarding its acceptance or not.
- 4.3 Where either party presents their case by reading from a previously prepared statement, a copy of that statement must be included within the Statement of Case as referred to above. Any late statements an employee is planning to read/present at the hearing must be submitted to the hearing panel no later than 3 working days prior to the hearing. Where it is not, the meeting will be adjourned whilst the Panel considers its position and decides whether or not to accept the late statement, having sought any objections from the other party.

5. Summary of the Requirements expected of the Appellant

- 5.1 The Appellant is required to submit to the Assistant Director of Human Resources a clear statement of the Grounds of Appeal along with supporting documents (Statement of Case) within the prescribed timescales. Failure to do so may mean that the Appellant is not allowed to refer those documents to the Committee. The Chairman / Committee will make the final judgment on such matters.

To avoid this situation from occurring, the Appellant is required to:-

- 5.1.1. Submit a letter to the Assistant Director of Human Resources setting out their Grounds of Appeal within 10 working days of being notified of the decision they wish to Appeal against. If this deadline is not adhered to, the Appeal may not be accepted;
- 5.1.2 Provide within the timescale set out at **3.4:-**
 - (a) Their Statement of Case and any supporting documents;
 - (b) The name and address of any person who will be acting as their representative (where applicable);

- (c) The name of any person(s) who the appellant will be calling as a witness / witnesses at the meeting (where applicable), along with their pre written statements.

5.1.3 Failure to provide either a Statement of Case or supporting documents or details of any representative / witness(es) may result in the Appeal being heard in the absence of those documents or representative / witness(es), unless there are exceptional mitigating circumstances supported by documentary evidence. The Chairman / Committee will make the ultimate decision on whether or not such documents or representatives / witness(es) will be allowed at the Hearing.

6. Order of Proceedings – Summary

- 6.1 Both parties and their representatives should remain outside the Meeting Room until they are called to the Hearing.

At the Hearing, the Chair, with the help of the Democratic Services Officer and/or the Technical Advisor, shall ensure that the following Order of Proceedings is applied fairly and consistently. The Chair will also decide whether all questions asked at the Hearing are relevant and pertain only to matters that fall within the Committee's Remit for consideration. Should the Appeal become disjointed at any point during the proceedings, the Chair may adjourn the meeting for a short period or until a future date, dependent upon the individual circumstances of the case and the justification for doing so. **The Chairman's judgement on any of these issues is final.**

Order of Proceedings

Key: –

A = Appellant (or their Representative);
M = Management Representative;
TA = Technical Advisor to the Committee.

The Chair Shall: -

- 6.1.1 Ensure that all persons present introduce themselves;
- 6.1.2 Check that both the **Management (M)** and the **Appellant (A)** have received all the relevant paperwork which has been distributed prior to the meeting;
- 6.1.3 Invite the **A** to put their case. The **M, Technical Advisor (TA)** and Committee can then ask questions of the **A**. The **A** may then call any witnesses that they have, if any, as they wish. (Remember; the Appeal is not a re-run of the previous stage) (Note: Witnesses should wait outside the Meeting Room until they are summoned to give evidence. The Chair will ensure witnesses will only be called to answer proposed questions and clarify elements of their statement and will not be permitted to provide new evidence not previously provided as part of the investigation or subsequent hearing).
- 6.1.4 After each of the **A's** witness(es), if any, has given evidence:-
- The **M** may ask questions of the witness(es).

- The Committee may ask questions of the witness(es).
- The **A** may re-examine the witness(es).
- The **TA** may ask Questions of the witness(es).

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.5 After the **A** has finished presenting their case:-

- The **M** may put any further questions to the **A**.
- Members of the Committee may ask further questions of the **A**.
- The **TA** may ask further Questions of the **A**.

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.6 Invite the **M** to put their case. The **A**, **TA** and Committee can then cross examine the **M**. The **M** may then call any witnesses that they have, if any, as they wish. (Remember; the Appeal is not a re-run of the previous stage) (Note: Witnesses should wait outside the Meeting Room until they are summoned to give evidence. The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.7 After each of the **M's** witness(es), if any, has given evidence:-

- The **A** may ask questions of the witness(es).
- The Members of the Committee may ask questions of the witness(es).
- The **M** may re-examine the witness(es).
- The **TA** may ask Questions of the witness(es).

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.8 After the **M** has finished presenting their case:-

- The **A** may put any further questions to the **M**.
- Members of the Committee may ask further questions of the **M**.
- The **TA** may ask further Questions of the **M**.

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

- 6.1.9 Invite the **M** to sum up their case (**no new evidence can be introduced at this stage because it cannot be considered by the Committee. If it was not reasonably available at the previous stage this may result in the matter being referred back to the Dismissing Officer or another nominated officer for review.**
- 6.1.10 Invite the **A** to sum up their case (**no new evidence can be introduced at this stage because it cannot be considered by the Committee. If it was not reasonably available at the previous stage this may result in the matter being referred back to the Dismissing Officer or another nominated officer for review.**
- 6.1.11 Ask both parties if they are satisfied that they have been given sufficient opportunity to present their cases in full.
- 6.1.12 Instruct both parties to withdraw, (except the Advisers to the Committee – the Democratic Services Officer and the Technical Advisor). In some cases, this may also extend to a Legal Officer (where applicable) or a Legal Officer may be called during any adjournment for advice if the Committee deems it necessary.
- 6.2 After both parties have withdrawn, the Committee shall deliberate upon the case. The Committee may recall both parties to clarify any points of uncertainty on the evidence given. If a recall is necessary, both parties must return, irrespective of the fact that the point requiring clarification may only relate to one of the parties (In the interest of Natural Justice). *This may also include witness(es), so please ensure that they are available to return to the Appeal Hearing at any point up until a decision has been reached.* Dependent upon the point which needs clarification, the other party will also be given the opportunity to respond to the issue being raised, where necessary.
- 6.3 After a decision has been reached, both parties shall be called back in to the meeting room and the Chairman shall announce either:-
- The Committee's decision; **OR**
 - That the decision will be communicated to the parties as soon as possible, together with an indication of the anticipated timescale.
- AND**, in either case, that the decision will be confirmed in writing by the Clerk **within 10 working days.**
- 6.4 The Committee's decision will also be recorded by the Clerk in the official Minutes of the Committee. The Minutes are the formal and **sole** record of the Committee's decision, but will not be verbatim, due to their confidentiality, and shall be anonymised accordingly. For this reason, any request to record the proceedings of the meeting by any other means will explicitly be **refused** by the Committee.
- 6.5 The decision of an Appeals Committee shall be final.
- 6.6 Both parties will leave the room at the same time once the decision has been announced and shall not return to the Meeting Room or enter in to any conversation with the Committee or individual Members thereafter.

7. Options available to the Appeals Committee

- 7.1 An Appeals Committee may **Uphold, Overturn or Amend** the Original Decision.

8. Implications of Appeal Decisions

- 8.1 If the Appeal is **Dismissed** (i.e. the Original Decision is upheld) then the Original Decision remains in effect from the date specified when it had been made.
- 8.2 If the Original Decision is **Amended**, then the decision of the Appeals Committee is put in to effect, as far as is practicable, as if the original decision had been made in the amended terms, with effect from the date specified when the Original Decision had been made.
- 8.3 If the Appeal is **Upheld** (i.e. the Original Decision is overturned) then the Appellant will be re-instated or re-engaged, with no loss of continuity of service, and compensated for any loss of pay and allowances which they may have suffered as a consequence of the Original Decision, effective from the date specified when the Original Decision had been made.

N.B. When making a judgement on whether or not the relevant procedure had been applied properly in a particular case, the Committee does not necessarily have to uphold the Appeal in the case of minor infringement(s) where the infringement(s) is / are **not** considered to be reasonably significant as to call into question the validity and / or fairness of the process or resulting decision of the previous stage.

However, the Committee should uphold the Appeal where the infringement(s) is / are considered to be reasonably significant, to the extent where the validity and / or fairness of the process (application of the procedure) and resulting decision of the previous stage is felt to be 'perverse' in the legal sense / resulted in injustice.

N.B The appeals committee are unable to consider any compensatory awards and the appeals process should not be used to request any type of financial settlement and/or any other remedial action. The remit of the committee is purely to review the previously made hearing decision.

9. New / Fresh Evidence

- 9.1 Any new / fresh evidence brought to the Committee's attention, which had not been considered at the previous stage(s) and was not reasonably available at that stage, may result in the matter being referred back to the original Hearing Officer or another nominated Officer for review. Should any new information/evidence become available this should be raised as soon as possible and prior to the day of the hearing in order for an appropriate decision to be made regarding the appeal proceeding. If new evidence/information is received within 3 working days of the hearing, the hearing officer may either refuse to admit the evidence, accept the evidence and proceed or may postpone the hearing for a minimum period of 5 working days in order for the evidence to be considered by all parties which may result in the matter being referred back to the original Hearing Officer.