



NOTTINGHAMSHIRE COUNTY COUNCIL

DISCIPLINARY PROCEDURE

Title: Disciplinary Procedure			
Aim/Summary: To provide a framework for managing the investigation and consideration of any alleged misconduct by Nottinghamshire County Council employees			
Document type (please choose one)			
Procedure	*	Guidance	
Strategy			
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Subject Areas (choose all relevant)			
About the Council		Older people	
Births, Deaths, Marriages		Parking	
Business		Recycling and Waste	
Children and Families		Roads	
Countryside & Environment		Schools	
History and Heritage		Social Care	
Jobs		Employees	*
Leisure		Travel and Transport	
Libraries			

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Please include any supporting documents	
Review date	Amendments

Disciplinary Procedure

1. Introduction

It is the council's intention that the disciplinary procedure is consistently followed and that all employees are treated in a fair and equitable manner.

2. Purpose/Scope

2.1. In any organisation there are required standards of conduct, behaviour, attendance and performance. This Disciplinary Procedure is designed to help and encourage employees to achieve and maintain the standards of conduct, behaviour and attendance that apply within Nottinghamshire County Council. Separate procedures exist for dealing with absence due to ill health and to issues relating to performance.

2.2. This procedure applies to all employees of the County Council except teachers and all school staff.

2.3 Disciplinary action against the Chief Executive and employees on Chief Officer's conditions of service will use the principles and model procedure in their national conditions of service. Where issues arise which are not covered by the national conditions of service or guidance on statutory officer roles, it is expected that the Council's Disciplinary Procedure should be followed unless this would contradict anything explicit or implicit in national procedures or guidance.

2.4 The maintenance of the required standards and of general conduct is the responsibility of managers who must ensure that their employees are fully aware of these standards. Acceptable standards of behaviour and code of conduct expected of NCC employees will be covered in employee induction. Employees have a responsibility to familiarise themselves with the Code of Conduct and expected standards of behaviour for their role within the organisation.

3. Procedure

3.1 The responsibility for the application of the Disciplinary Procedure rests with the managers of the employee concerned, supported by other colleagues as appropriate.

3.2 No disciplinary action will be taken against any employee until the case has been carefully investigated.

3.3 Although the usual disciplinary standards must apply to trade union representatives, no disciplinary action will be taken against an employee who is an accredited trade union representative, nor will suspension normally be applied until the circumstances of the case have been notified to a full time or other nominated official of the union concerned.

3.4 At the earliest opportunity, where a breach of employment rules has been identified, the manager should meet with the employee to discuss the allegations and to determine the appropriate action.

3.5 In some circumstances minor breaches of conduct can be best dealt with by managers talking to the employees concerned as soon as possible, to give the employee the

opportunity to explain the minor breaches in conduct. Managers can then establish if there are any underlying reasons for the problem, and support them to identify where improvements need to be made. At this stage it may be appropriate for the manager to issue the employee with a caution recorded on their personal file. Please refer to the Disciplinary Flowchart at Appendix 1. This caution should be reviewed within a reasonable timeframe i.e. 6 months – 18months accordingly. There is no right of appeal.

Where a manager suspects there has been a serious breach of conduct, the manager should progress to the formal process.

3.6 Formal process

3.6.1 Depending on the nature of the alleged misconduct, an employee may be suspended from work with full pay pending investigations and a hearing into alleged misconduct. Suspension is not a disciplinary act. Suspension is a neutral act, undertaken to allow full and timely investigations to be concluded. There can be no right of appeal against the neutral act of suspension. Alternatively, if appropriate managers may consider temporary redeployment whilst the investigation takes place.

3.6.2 At this stage an appropriate investigating officer will be identified to conduct a thorough investigation into the allegations. Normally this will involve holding an investigatory meeting with the employee before proceeding to any disciplinary hearing. In this case, the employee should be given a minimum of 5 working days' notice of the meeting. The employee may be accompanied at the meeting by a trade union representative or fellow worker. Refer to the [Investigation guidelines \(insert link\)](#).

3.6.3 Where there is clear evidence and an employee fully admits to the alleged misconduct, it may be deemed appropriate by the commissioning manager that the matter could be concluded without the need for a full disciplinary hearing. In these circumstances an employee will be invited to attend a formal meeting, where the highest sanction that may be issued is a written warning. An employee is required to understand that a full hearing would give them an opportunity to present their response to the alleged misconduct and their right to appeal against the outcome. Through acceptance of responsibility an employee relinquishes their right of appeal and an employee is informed that any further misconduct is liable to result in further disciplinary action.

4.0 Other External Agencies' Investigations

4.1 There will be occasions when employees may be subject to investigation by other outside agencies e.g. Police, Protection Agencies, Registration Bodies. Such investigations may be connected to alleged criminal activity with the right in such circumstances, wherever it deems appropriate, to suspend the employees concerned and to conduct further investigation. Such further investigation shall be undertaken either in NCC's own right or in conjunction with the outside investigating agency concerned. NCC also reserves the right to hold a formal disciplinary hearing, prior to any criminal investigation or criminal charges being brought, or heard and to deal with the resultant consequences on an employee's contract of employment arising from events described above.

4.2 The operation of these procedures will need to have due regard to other procedures negotiated locally e.g. those procedures relating to the protection of vulnerable adults/children.

5.0 Hearing

5.1 Where, upon completion of an investigation there are reasonable grounds to believe an employee has committed an act of misconduct, the commissioning manager should notify the employee in writing, including the nature of the alleged misconduct, at least 10 working days before the proposed date of the hearing.

5.2 The notification or written statement of case, including specific allegations and any documents to be relied upon, will detail a time and venue for the hearing should be sent out 10 working days prior to the date of the hearing. It should also advise the employee of their right to be accompanied at the meeting by a trade union representative or a fellow worker. If the proposed date is not convenient for the employee or their representative, the re-scheduled hearing should take place within 5 working days of the original date. The employee should submit their written Statement of Case in response to the allegations no later than 5 working days before the hearing date.

5.3 The commissioning manager will arrange for a panel to hear the case. The panel will normally be chaired by a senior manager with the delegated authority to take disciplinary action in respect of employees, including the powers to dismiss. Furthermore the panel will include another manager who has not been involved in the investigation and an independent HR Business Partner.

5.4 If the conclusion of the hearing is that misconduct or gross misconduct has occurred, the panel will decide on a course of action commensurate with the severity of the offence.

5.5 A formal written warning will be issued in the case of a first, but more serious breach of conduct or if there has been a repeated minor breach in conduct. The written warning will give details of the offence plus the improvement required and timescale for review which will normally be 12 months.

5.6 A final written warning will be issued if there has been insufficient response to previous warnings and conduct or behaviour is still unsatisfactory. Alternatively a final written warning may be issued in the case of a first, but sufficiently serious, breach of discipline.

5.7 Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given under 5.6 above, the employee may be dismissed with notice or with pay in lieu of notice.

6.0 Gross Misconduct

6.1 An employee will be subject to Summary Dismissal where it has been established that gross misconduct has taken place. Gross misconduct is action that goes to the root of the employment contract, with the result that the employer's trust and confidence in an employee's ability to fulfil the terms of their contract of employment is damaged beyond repair. Examples of gross misconduct are listed in Appendix 2.

6.2 Summary dismissal will not attract any pay in lieu of notice of termination of the contract.

7.0 Appeal

7.1 Appeals may be lodged on the following grounds:

- The decision was unreasonable. This can relate to the severity of the penalty or the rationale for the decision.
- There is new evidence available which wasn't reasonably practicable to present at the previous hearing.

- There was a significant failure to follow relevant policy and/or procedure.

7.2 Appeals should be lodged as instructed on the Appeals proforma within 10 working days of confirmation of formal disciplinary action.

7.3 All appellants will have confirmation of whether their appeal will be allowed within 5 working days of it being lodged.

7.4 Appellants should be notified with the detail of the appeal hearing at least 10 working days before, including the time and venue, management documents to be relied upon at the hearing and should include written details of any witnesses to be called, and how their evidence supports the case.

7.5 Appellants need to make clear the basis of the appeal and the outcome sought. This statement should be submitted at least 5 working days before the hearing and should include written details of any witnesses to be called, and how their evidence supports the case.

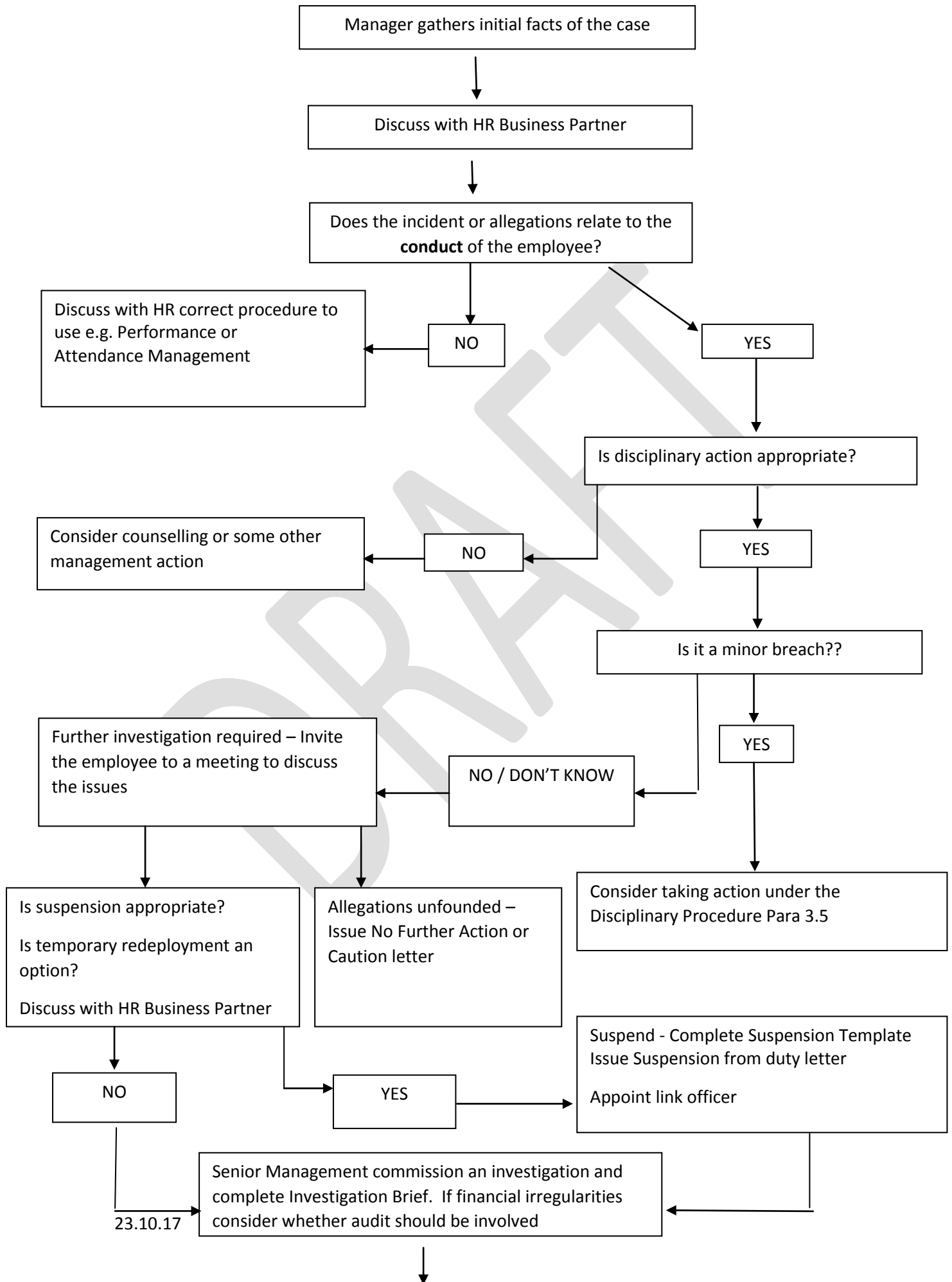
7.6 Appellants will have the right to be accompanied at the hearing by a trade union representative or a fellow worker.

7.7 All appeals shall be heard by an appeals panel chaired by an Independent Senior Manager and another manager not previously involved advised by an HR Business Partner.

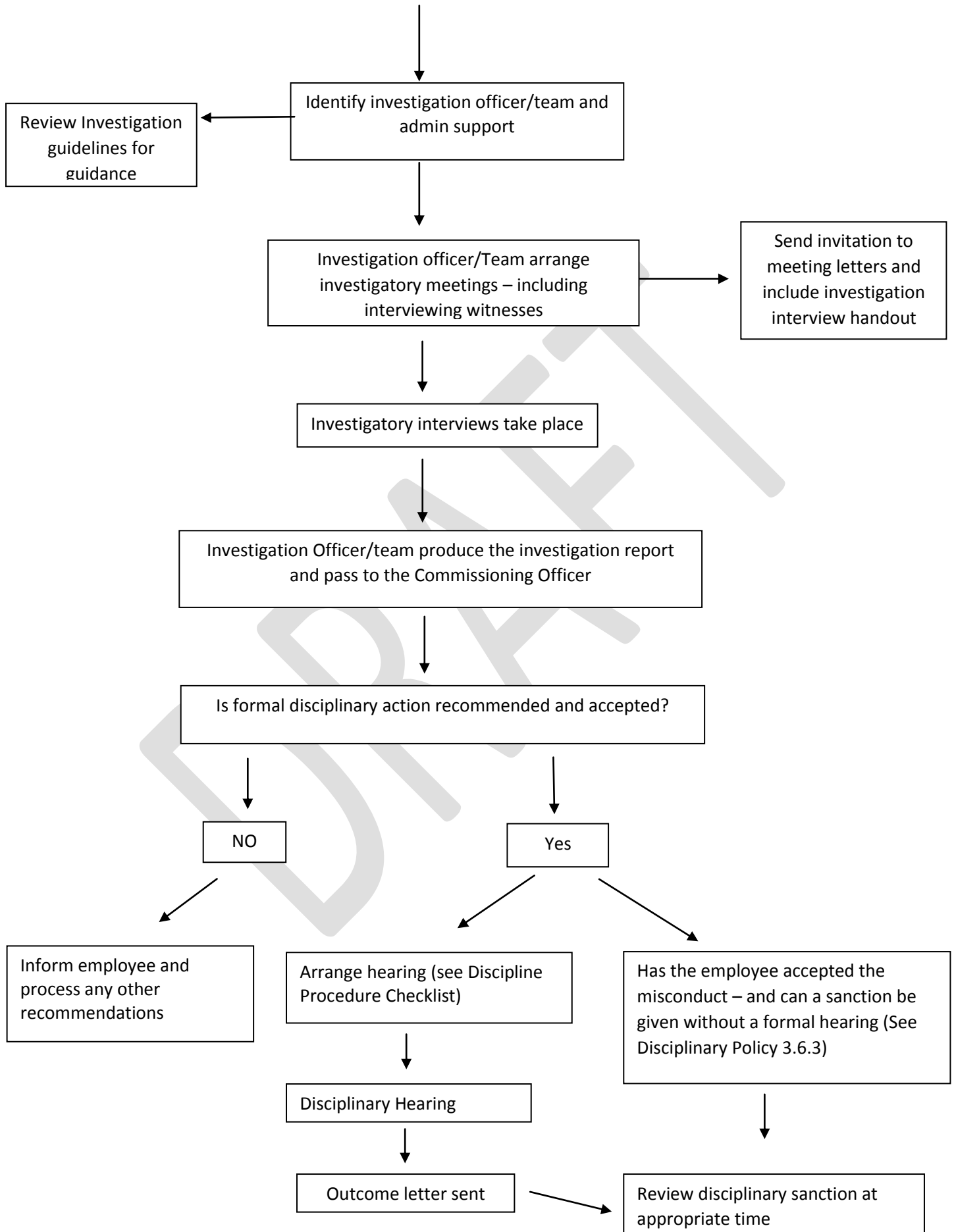
7.8 The decision of the appeals panel will be notified in writing to the employee and the respondents within 5 days of the hearing.

7.9 The appeal is the last stage of NCC's internal procedures and there will be no further right to internal appeal.

Disciplinary Procedure (1/10/2017) - Flowchart - Appendix 1



Disciplinary Procedure Flowchart Sheet 2



Disciplinary Procedure – Examples of Potential Acts of Gross Misconduct

Acts that constitute gross misconduct are those resulting in a serious breach of contractual terms. It would be impossible to itemise all possible or potential acts of gross misconduct.

The following list is not exhaustive but acts of gross misconduct may include;

1. theft, fraud and deliberate falsification of records
2. physical violence
3. serious bullying or harassment
4. deliberate damage to property
5. refusal of a reasonable instruction
6. misuse of the organisation's property or name
7. bringing the employer into serious disrepute
8. serious or persistent incapability whilst on duty brought on by the use of alcohol or illegal drugs
9. serious negligence which causes or might cause unacceptable loss, damage or injury
10. serious or persistent infringement of health and safety rules
11. serious or persistent breach of confidence [subject to the Public Interest [Disclosure] Act 1998]

This list is not intended to be exhaustive in its content in illustrating potential acts of gross misconduct. There will be many others which may be specific to service areas.