

HALTON BOROUGH COUNCIL**WHISTLE-BLOWING POLICY****1. INTRODUCTION**

- 1.1 Individuals working within or for an organisation are often the first to realise that there may be something seriously wrong within it. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Whistle-blowing is the term used when someone who works within or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, elected members and contractors who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns.
- 1.4 This policy sets out the ways in which individuals may raise concerns that they have and explains how those concerns will be dealt with. It also gives protection to the person raising concerns.
- 1.5 The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
- 1.6 This policy has been developed taking into account:
- The Public Interest Disclosure Act 1998, which protects whistle-blowers who report concerns, from subsequent harassment, victimisation and other unfair treatment arising out of the disclosure. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concern about, health and safety at work.
 - The sections of the Enterprise and Regulatory Reform Act 2013 relating to protected disclosures.
- 1.7 This policy has been discussed with the relevant trade unions and has their support.

2. AIMS OF THIS POLICY

2.1 This policy aims to:

- encourage individuals to feel confident in raising serious concerns and to question and act upon concerns about practice and procedures;
- provide avenues for individuals to raise those concerns and receive feedback on any action taken;
- ensure that individuals receive a response to their concerns and are aware of how to pursue them if not satisfied;
- reassure individuals that they will be protected from possible reprisals or victimisation from those working within or for the Council if they have a reasonable belief that they have made any disclosure in good faith.

2.2 The Policy of Conduct for Local Government Employees states that

“Employees will be expected through agreed procedures and without fear of recrimination to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.”

2.3 This policy supports that statement.

3. SCOPE OF THIS POLICY

3.1 It is important to know the difference between a ‘Whistle-blow’ and a ‘grievance.’ A Whistle-blow has a public interest aspect to it, as it puts at risk others. A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy.

3.2 This policy is not a substitute for and does not replace other relevant policies within the Council. Where the concerns raised relate to a breach of one of those policies they will be investigated under that policy. This policy is not intended to be used where other more appropriate procedures are available, for example:

- Disciplinary Procedure
- Child and Adult Safeguarding Policies and Procedures
- Dignity at Work Policy
- Grievance Procedure
- Single Equalities Scheme
- Corporate Complaints Policy

3.3 This policy supports the Council's Anti-Fraud and Anti-Corruption Strategy and the Fraud Response Plan. It is intended to help anyone working within or for the Council, if they have major concerns over any wrong-doing within the

organisation, to raise concerns internally rather than overlooking the problem or blowing the whistle externally unless the whistle blower feels that is the most appropriate way. However, the Council will support you in raising a matter externally if you feel this is the best course of action.

- 3.4 Specific examples of concerns that could be raised under this policy, if a reasonable belief that one or more of them may have occurred, could include:

Concerns relating to matters covered by internal Council policies and procedures, such as;

- Actions or behaviour that make you feel uncomfortable in terms of falling below established standards of practice or which amount to improper conduct
- Actions in breach of the Council's Standing Orders and policies;
- Damage to the environment;
- Dangerous procedures or practices risking health and safety, including risks to the public, service users and to other employees;
- Other unethical conduct;

Concerns relating to matters that may, following investigation, need to be dealt with under policies and procedures external to the Council, such as;

- Conduct which is a criminal offence or a breach of the law;
- Disclosures related to miscarriages of justice;
- The unauthorised use of public funds;
- Fraud and corruption;
- Sexual or physical abuse of service users;
- Other unethical conduct;

- 3.5 These are known as qualifying disclosures under the Public Interest Disclosure Act 1998

- 3.6 This list is not meant to be exhaustive but gives examples of potential malpractice. The overriding concern should be that it is in the public interest for the potential malpractice to be corrected and sanctions taken if need be.

4. SAFEGUARDS AND PROTECTION

- 4.1 The Council recognises that the decision to report a concern can be a difficult one to make. The Council will not tolerate any harassment, victimisation (including informal pressures), disadvantage, detrimental action or deliberate failure to act. The Council will take appropriate action to protect you when you raise a concern which you have a reasonable belief to be in the public interest

and has disciplinary policies, including those on Harassment & Bullying at Work, which are designed to protect whistle blowers from all forms of harassment in the workplace.

- 4.2 Any investigation into allegations of potential malpractice will normally not be interrupted by any employment procedures that may already be underway. It is not the Council's intention to delay action taken under the disciplinary or other policies, pending the completion of investigations taken in accordance with this policy, unless the Council considers that the merits of a particular case warrant this, or unless the matter becomes a police matter which prevent further internal processes.
- 4.3 In all cases, the provisions of The Public Interest Disclosure Act (PIDA) will be adhered to. However, the Enterprise & Regulatory Reform Act (ERRA) introduces a Public Interest test requirement on Whistle-blowers. In order to receive the protection of PIDA, whistle-blowers will be required to show that they reasonably believed that the disclosure they are making is in the Public Interest. This should be done through the evidence they present when raising their concern. The procedure for making allegations is set out in Section 7 of this policy. Further information on the ERRA can be found at www.legislation.gov.uk
- 4.4 If you make an allegation that you reasonably believe to be in the public interest, but it is not confirmed by the investigation, no action will be taken against you. If it is found, however, during the investigation that an allegation has been made vexatiously, maliciously or for personal gain, disciplinary action may be taken against you.
- 4.5 As a whistle blower you are also given legal protection by the Public Interest Disclosure Act 1998. If you make what is known as a "qualifying disclosure" under the 1998 Act to your employer or certain other persons/bodies, and you act reasonably and in the public interest, it will be unlawful to subject you to any detriment.
- 4.6 If your case progresses to an Employment Tribunal, compensation may be awarded to you if the Council breaches the 1998 Act, following a successful claim for 'detrimental treatment'. Compensation may be reduced however if the allegation was not made in good faith.

5. CONFIDENTIALITY

- 5.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish (subject to any legal requirements or decisions). This cannot be guaranteed however if you need to come forward as a witness. For example, if a hearing is needed, either by law, or under a Council procedure, the employee disclosing the concern may be required to give evidence.

5.2 The employee disclosing a concern should ensure that they only inform the person(s) identified in part 7 below.

5.3 If the nature of the whistle blow requires disclosure to other people to conduct an investigation, then the employee who originally disclosed this will be informed.

6. ANONYMOUS ALLEGATIONS

6.1 This policy encourages you to put your name to your allegation and receive the protection of PIDA whenever possible. Concerns expressed anonymously are much less powerful but will be considered where there is enough detail to justify further investigation.

6.2 Any anonymous concerns or allegations received under this policy will be referred to the Head of Internal Audit and will be logged and investigated as far as possible under the process outlined in section 8 of this policy.

7. HOW TO RAISE A CONCERN

7.1 As a first step, you should normally raise concerns with your immediate manager or their manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that your own manager is involved, you should approach one of the following:

- Operational Director and Monitoring Officer (Legal and Democratic Services);
- Strategic Director – Policy and Resources
- Head of Internal Audit
- Chair of the Standards Committee (who can be contacted by a letter addressed to the Chair of the Standards Committee and sent to the Municipal Building, Kingsway, Widnes, WA8 7QF)

7.2 These individuals may also provide advice and guidance on matters of concern under this policy.

7.3 Concerns may be raised verbally or in writing. Individuals who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

7.4 The earlier you express the concern the easier it is to take action. Although you are not expected to prove beyond doubt the truth of an allegation, you will

need to demonstrate to the person contacted that there are reasonable grounds for your concern.

7.5 You may invite your trade union, professional association representative or a colleague to be present during any meetings or interviews in connection with the concerns you have raised.

7.6 Wherever possible you should report your concerns or allegations internally. If you are unwilling or unable to report the matter internally there are a number of other agencies you may be able to report your concerns to and which can be accessed at the following link:

[List of prescribed people and bodies](#)

7.7 The full list of prescribed people and bodies is included at Appendix 2 of this policy as published on the intranet.

8. HOW THE COUNCIL WILL RESPOND

8.1 The Council will respond to and investigate your concerns. All allegations and concerns raised under this policy will be formally recorded and logged in a secure register held by the Responsible Officer (or their designated representative) identified in section 9 of this policy.

8.2 Where possible, the matters raised may be:

- Investigated by management
- Investigated by internal audit
- Progressed through the disciplinary process or other internal procedure
- Referred to the Police
- Referred to the external auditor
- The subject of an independent enquiry
- Dealt with via any other appropriate procedure, for example, child protection, abuse of vulnerable adults' procedure.

8.3 In order to protect anybody accused of misconduct, an initial investigation will be made to decide whether a full investigation is appropriate and, if so, what form it should take. If appropriate, Human Resources will be informed.

8.4 If someone is suspended as a result of a concern or allegation, the whistleblower will be informed.

8.5 Some concerns may be resolved following an initial investigation without the need for full investigation.

- 8.6 Within ten working days of your concern being raised, you will be invited to a meeting to discuss your concern.
- 8.7 Following this meeting we will write to you:
- indicating how we plan to deal with the matter
 - giving an estimate of how long it will take to provide a full response
 - telling you whether any initial enquiries have been made
 - Informing you who will be conducting the investigation
 - supplying you with information on staff support mechanisms, for example welfare or Occupational Health
- 8.8 The amount of contact between you and any officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided.
- 8.9 If, following initial investigation, a formal investigation of an allegation is required under this policy, this will be conducted in line with the process set out within the Council Disciplinary procedure. This is attached at Appendix 3 of this policy as set out on the intranet.
- 8.10 The Council will minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure. It is important for whistle-blowers to understand that making a whistle-blowing allegation doesn't give them an automatic right to anonymity, but does give them protection from harassment or victimisation and that the Council will not tolerate any form of this from anyone working within or for the Council.
- 8.11 The Council understands that you need to be assured that the matter has been properly addressed. We will therefore inform you in writing of the outcome of any investigation unless there is a compelling legal reason not to. A meeting will also be arranged to explain the outcome of the investigation if you so wish.
- 8.12 If urgent action is required, for example if there is an urgent health and safety or safeguarding concern, this will be taken before any investigation is conducted.
- 8.13 This process is set out in the form of a flowchart and attached at Appendix 1 of this policy

9. THE RESPONSIBLE OFFICER

- 9.1 The Head of Internal Audit has overall responsibility for the maintenance and operation of this policy and will maintain a record of all concerns raised and any outcomes. This record will be in a form which does not compromise your

confidentiality and may be officially delegated to a named officer to maintain. The Head of Internal Audit will report as necessary to the Council.

10. HOW THE MATTER CAN BE TAKEN FURTHER

10.1 The Council hopes you will be satisfied with any action taken. If you are not satisfied, it is possible to appeal the decision by approaching the Head of Internal Audit. A review of the decision will then be taken.

10.2 If, following this, you are still unsatisfied with the outcome of the further investigation and any action taken and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- the external auditor
- your local Citizens' Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police
- organisations prescribed from time to time by the Secretary of State for the purpose of protected disclosure under the Public Interest Disclosure Act

10.3 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any potential wrongdoing in the workplace. In the majority of cases you should not find it necessary to alert anyone externally.

10.4 The law recognises however, that in some circumstances it may be appropriate for you to report your concerns to an external body, such as a regulator. A list of these agencies and contacts are linked to at paragraph 7.6 and again at Appendix 2 of this policy as published on the intranet.

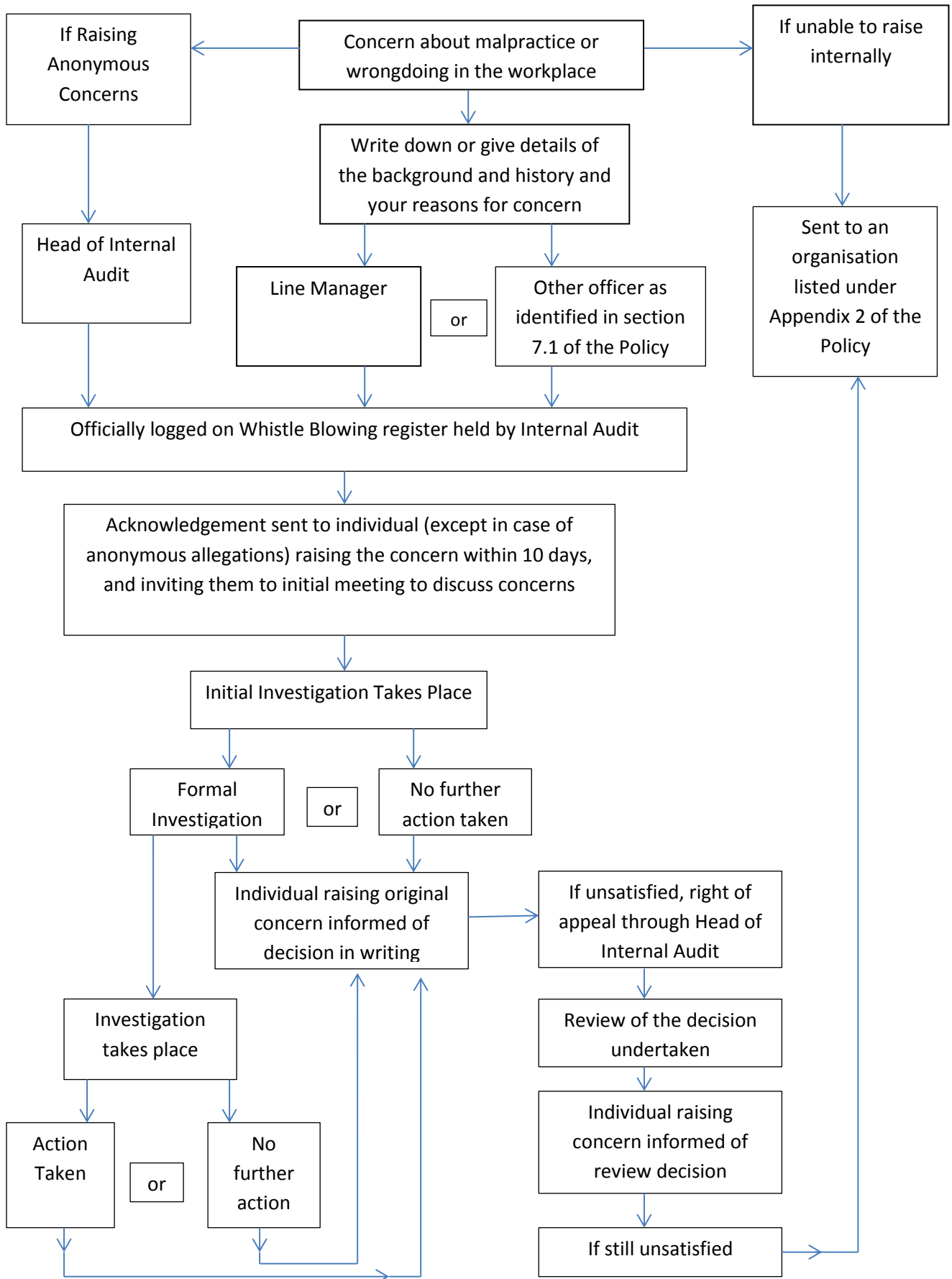
10.5 If you do take the matter outside the Council, you should be careful not to disclose confidential information, for example such as that covered by the Data Protection Act 1998. We strongly advise that you seek advice before reporting a concern externally. The independent whistle blowing charity, [Public Concern at Work](#) operates a confidential hotline (020 7404 6609) and can provide advice as necessary.

11. REVIEW OF THE POLICY

11.1 The Council's Corporate and Organisational Policy Team, located within the Policy and Resources directorate will keep the policy under review and will make changes to the policy as deemed appropriate following necessary consultation with interested parties.

Halton Borough Council Whistle Blowing Policy

Flow Chart



Extract from Halton Borough Council Disciplinary Procedure

7. Formal Procedure

- 7.1 When entering the formal procedure the advice of the Human Resources Division should be sought immediately.
- 7.2 Formal disciplinary action will be necessary when an employee's conduct continually, substantially or grossly falls short of required standards.
- 7.3 In such circumstances management, normally the line manager, may conduct a preliminary, objective interview as soon as possible to gain an understanding of the circumstances of the situation and to ascertain all the facts. This usually includes advising the employee of the allegation(s) and asking for an account of their behaviour. Prior to this interview, the employee will be informed of their right to be accompanied by a trade union representative or fellow employee. These disciplinary arrangements do not preclude this activity, but any preliminary interview must not expand into a disciplinary hearing.
- 7.4 If it is felt, at the conclusion of the preliminary interview that a formal investigation is needed, an Investigating Officer will be appointed. For cases of prima facie gross misconduct, the investigating officer should be appointed from a different department (i.e. under the remit of a different Operational Director). For cases of misconduct, the investigating officer may, be appointed from the same department unless there are circumstances where this would not be appropriate. In agreeing to be an investigating officer, it is accepted that the investigation will be undertaken promptly and with the commitment of their Operational Director that it will be treated as a priority.

The Investigating Officer will establish the facts promptly before recollections fade. Taking into account the statement of the employee and any available witnesses, the investigating officer should keep written statements (which should be signed) of any interviews they undertake. All who take part in the investigation should be informed of their rights to be accompanied at the interview. An Employee Relations Adviser will be assigned to advise the investigating officer throughout the investigation.

- 7.5 Where the Investigating Officer considers, on the evidence available, that a disciplinary hearing should be held the employee will be informed by letter. A date will be set for the hearing and the employee, their trade union representative or fellow employee, will be informed in writing at least five working days before the date. Management must re-arrange the hearing if the date proposed is not convenient to the employee or their representative. However, management reserves the right to convene the hearing if there is undue delay in holding it, without good cause.

- 7.6 The letter will allow five working days notice of the hearing, unless a lesser period has been decided by mutual agreement. The letter will be handed to the employee or sent by first class post.
- 7.7 In the letter informing them of the hearing, the employee will be informed of: -
- the place, date and time of the hearing
 - full details of the alleged offence(s). (It will be considered unfair if further allegations are introduced at the hearing, as the individual and their representative will be unprepared for these. If further complaints arise, the employee should be notified in advance of the hearing and it may be necessary to postpone the hearing to allow the employee time to collect further evidence and to prepare their defence.)
 - the right to be represented by a trade union official or fellow employee of their choice
 - the right to call witnesses (to be notified to the Investigating Officer three working days in advance of the Hearing)
 - the right to produce documentation relevant to the case and the requirement to exchange any written statements that the employee intends to submit, and to supply details of any witnesses that they intend to call, three working days before the hearing
 - the right to receive copies of all evidence directly relevant to the investigation

CONDUCT OF THE DISCIPLINARY HEARING

The manager conducting the hearing will introduce all parties and will satisfy themselves that the employee understands the purpose of the hearing, the nature of the disciplinary issues and possible implications arising from it.

- 1) The Investigating Officer shall put management's case in the presence of the employee and his/her representative and may call witnesses.
- 2) The employee and/or their representative may ask questions of the Investigating Officer and of any witnesses called.
- 3) The Disciplining Officer and Employee Relations Adviser may ask questions of the Investigating Officer and of any witnesses called.
- 4) The employee and/or their representative shall put their case in the presence of the Investigating Officer and may call witnesses.
- 5) The Investigating Officer may ask questions of the employee and/or representative and of any witnesses called.
- 6) The Disciplinary Officer and Employee Relations Adviser may ask questions of the employee and/or their representative and of any witnesses called.
- 7) The Investigating Officer shall have the opportunity to sum up their

case, introducing no new evidence.

- 8) The employee and/or their representative shall have the opportunity to sum up their case, introducing no new evidence.
- 9) The Investigating Officer, the employee, their representative and any witnesses shall withdraw.
- 10) The Disciplining Officer shall, with the Employee Relations Adviser, deliberate in private, recalling only the Investigating Officer, the employee and representative to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding that only one is concerned with the point giving rise to doubt.
- 11) Once the Disciplining Officer has reached their decision then this shall be announced to the employee, their representative and the Investigating Officer, along with the appeal rights of the employee. The decision should normally be announced personally to the parties as soon as it is possible on the day of the hearing. If it is not possible to make a decision immediately, then the parties should be informed of this. In any event a decision must be made within five working days of the hearing.
- 12) The decision of the Disciplining Officer shall be confirmed in writing, signed by the Disciplining Officer and either handed to the employee and their representative, or sent first class post as soon as possible. Such a letter will include the decision of the hearing and the disciplinary action being taken, the reason for this and the right of appeal. In the case of a final warning, the letter will clearly indicate the possibility of dismissal in the event of any further breach of discipline.
- 13) All disciplinary actions will have immediate effect notwithstanding the right of appeal.