



11th December 2018

In accordance with Paragraphs 7 & 10(2) (b) of Schedule 12A of the Local Government Act 1972 I hereby summon you to attend a Meeting of **PETERLEE TOWN COUNCIL** to be held in the **Council Chamber**, Shotton Hall, Peterlee, SR8 2PH, on **Monday 17th December 2018 at 6.30pm**

Ian Morris M.C.I.H., P.S.L.C.C

Town Clerk

(Proper Officer of the Council)

Members of the Committee and members of the public are reminded that the public part of the meeting may be recorded in both audio and video, and photographs may be taken.

BUSINESS TO BE TRANSACTED

1. Apologies for Absence

2. Public Participation Session

Will be held to allow Members of the public an opportunity to put questions to the Council. This item of business to last no more than 15 minutes, as per Council Standing Orders.

3. To receive declarations of interest

Members are reminded of the need to disclose any interests in items on this agenda, whether pecuniary or otherwise. Please seek advice from the Town Clerk or Deputy Town Clerk **prior to the meeting** if in doubt. Members are reminded that they can check their published declaration of interests here: <https://bit.ly/2wVyeLA>

4. To Approve the Minutes of the Council Meeting of the 26th November 2018

The minutes of the previous meeting are attached for consideration and approval as a true and correct record.

(attached)

5. The Minutes of the Resources Committee of the 3rd December 2018

The minutes of the meeting of the Resources Committee are attached for Members to note their contents.

(attached)

6. The Minutes of the Community & Environment Committee of the 10th December 2018

The minutes of the Community & Environment meeting are attached for Members to note their contents.

(attached)

7. 2019/20 Budget Headlines

To receive a presentation from the Town Clerk on headline issues for the 2019/20 budget year.

8. Disciplinary Policy

To approve some amendments to the Town Council's staff disciplinary policy

(Report of the Town Clerk, copy to follow)

9. Spokesperson of the North East Party's Report

10. Spokesperson of the Labour Political Party's Report

PETERLEE TOWN COUNCIL

MINUTES OF THE MEETING OF THE TOWN COUNCIL

HELD IN THE COUNCIL CHAMBER, SHOTTON HALL, PETERLEE

ON MONDAY 26TH NOVEMBER 2018 at 6.30PM

PRESENT:- COUN S MEIKLE (CHAIR)

Mesdames:- A C Long, K Hawley, K Liddell, K Duffy, S McDonnell, L Fenwick, & S Simpson

Messrs:- A Wilkinson, T Duffy, G Carne, A Wilkinson, R Kyle, S Miles, C Watkins & A Watson

91. Apologies for Absence
Apologies for absence were offered and accepted from Councillors R Moore.
92. Public Participation Session
A public participation session was held to allow members of the public an opportunity to put questions to the Council. There were no members of the public present at the meeting.
93. To receive declarations of interest
Members were reminded of the need to disclose any interests in items on this agenda, whether pecuniary or otherwise. Councillor Kyle and Miles declared an interest in item 9 – Notes of the Twinning Meeting held on 12th November 2018.
94. POP Success
The Deputy Town Clerk read out a statement from Chief Inspector Lee Blakelock regarding the recent success of the Peterlee Young people's initiative and the POP award success.
95. The Minutes of the Council Meeting of the 15th October 2018 a copy of which had been circulated to each Member, were approved.
Matters Arising

PETERLEE TOWN COUNCIL MINUTES OF THE COUNCIL MEETING OF THE 26TH NOVEMBER 2018

- (i) Minute Number 80 – Fishing at Shotton Hall, Councillor Kyle expressed his concerns about how fishing on an evening would be monitored. It was suggested that nothing would stop unauthorised access to the grounds however it was hoped by allowing controlled access to the lake this would produce positive results.
- (ii) Minute Number 86 - Amendments to Committee membership it be noted that Councillor J Robinson was unable to be part of the Scrutiny & Progress Meeting due to work commitments.
- (iii) Minute No 89 it was reported the litter pick had been held in the Denehouse Area of Castle Eden Dene, not Dene Parks.

RESOLVED the information given, be noted.

96. The Minutes of the Resources Committee of the 6th November 2018 a copy of which had been circulated to each Member, were approved.

97. The Minutes of the Community & Environment Committee of the 12th November 2018 a copy of which had been circulated to each Member, were approved.

Matters Arising

- (i) Minute Number 52 – it was agreed the minute be amended to include “Councillor Cartwright asked for it to be recorded she had been mis quoted in the local press.
- (ii) Minute Number 57 Play Area Investment Strategy – Councillor S McGlen wished to be included as objecting to recommendation 1 contained in the report.

RESOLVED the information given be noted and the amendments as given above, be approved.

98. The Minutes of the Scrutiny & Progress Meeting of the 29th October 2018 a copy of which had been circulated to each Member, were approved.

The updated Terms of Reference were also circulated. **RESOLVED The terms of reference for the scrutiny and progress committee, be approved and accepted for use.**

99. The Notes of the meeting of the Twinning Working Party of the 12th November 2018 a copy of which had been circulated to each Member, were approved.

It was however **RESOLVED the items relating to financial support be considered further at the next Resources Meeting.**

100. Notice of Motion submitted by Councillor A Watson & K Hawley
That the Town Council install acoustic panels in the Pavilion
RESOLVED acoustic panels be installed in the main function room at The Pavilion, and if possible prior to the building being re decorated.
101. Planning Application
Land to the North of Hackworth Road NW Industrial estate gas fuelled capacity mechanism embedded generation plant to support the National Grid
It was reported this application had been refused. Councillor Watson had attended the meeting of the Planning Committee on behalf of the Town Council.
RESOLVED the information given, be noted.
102. Dene Mayor's Award
Members were asked to consider the introduction of this new award at Dene Community School. Members felt this was a fantastic idea and unanimously supported its introduction. It was suggested that perhaps it could be used as a pilot and then rolled out into other schools in the Town. **RESOLVED the Town Council support the introduction of a Mayor/Chairman's Award in conjunction with Dene Community School.**
103. Spokesperson of the North East Party's Report
Councillor A Watson spoke about the Tree Lighting Event to be held on Friday 30th November 2018 he was looking forward to it and said it would be a great night for Peterlee and its residents. **RESOLVED the information given, be noted.**
104. Spokesperson of the Labour Political Party's Report
Councillor Fenwick wished Heather Mills lots of luck with her venture in the former crisp factory. The jobs this development could provide would be welcome.
RESOLVED the information given be noted.

THE MINUTES OF THE MEETING OF THE
RESOURCES COMMITTEE HELD IN THE COUNCIL CHAMBER, SHOTTON HALL,
PETERLEE ON MONDAY 3RD DECEMBER 2018 AT 6.30PM

PRESENT: COUN A WATSON (CHAIR)

Mesdames:- K Hawley, S Simpson, K J Duffy, A C Long, S McDonnell &
M A Cartwright

Messrs:- C Watkins, S P Franklin, R Kyle, G Carne, S Miles, A Wilkinson &
R Moore

47. Apologies for Absence

Apologies had been submitted and accepted from Councillors S Meikle, J Robinson, S McGlen, T Duffy, & L Fenwick. **RESOLVED the Council approve the reasons submitted at the meeting for absence received from the Councillors listed, and their apologies for absence be recorded.**

48. To receive declarations of interest

Members were reminded of the need to disclose any interests in items on this agenda, whether pecuniary or otherwise. Both Councillor Kyle and Miles declared an interest in the item related to Twinning. Councillor S Simpson declared an interest in item 51(b) as she had an interest in the Club in Shotton.

49. The Minutes of the Last Meeting

Members approved the content of the draft minutes of the last meeting of this Committee held on 6TH November 2018 and they were signed as a true and correct record.

50. The Report of the Finance Sub Committee of the 22nd November 2018 a copy of which had been circulated to each Member, was agreed.

In considering payments made reference was made to the invoice relating to the hire of temporary lights for the Bonfire Event. Lighting towers were also hired in for other events

such as The Show. It was **RESOLVED a price be obtained for the installation of flood lights on the building/at the Pavilion.**

51. Town Community Initiative Fund Applications:-

Consideration was given to each of the following requests received for support.

(a) Bright Eyes, Durham Constabulary, to provide high visibility/reflective accessories to primary aged pupils to promote road safety and being visible during their walk to and from school; to reduce the number of child road casualties in County Durham, amount requested £1,000. **RESOLVED further information be obtained in respect of this application.**

(b) Summer Camp, Sho Shin Kai Karate Club, amount requested £800

RESOLVED £100.00 be granted to this Club.

(c) Easington resident, Peterlee Explorer, World Scouts Jamboree in the USA in 2019, amount requested £500.00

RESOLVED no grant be made to this applicant.

Powers used:- Under the power of GPC, The Localism Act 2018, as 1-8.

52. Applications for concessionary use of facilities

(a) Neighbourhood Watch Force Association, use of a meeting room at Shotton Hall, for 2 hours once a month

RESOLVED concessionary use be granted and this use be offered free of charge.

(b) Durham Constabulary, Emergency Services Day, Shotton Hall, 18th August 2018 (retrospective)

RESOLVED concessionary use be granted to Durham Constabulary for this year's event and next year's event.

53. Letter of thanks & appreciation, Little Treasures

The Deputy Town Clerk read out for Members the letter of thanks received from this Group following their grant award by the Town Council from its Neighbourhood Engagement Project . **RESOLVED the information given be noted.**

54. Peterlee Show Layout 2019

Members were asked to consider and agree the layout for the event and the options were circulated prior to the meeting. **RESOLVED the Town Council hold the Show in 2019. FURTHER RESOLVED option B, (with the music stage on the cricket field), be the preferred option with the caveat that all of the areas be filled up.**

55. Twinning 2019

Members were asked to consider the Twinning arrangements further including the financial arrangements and any support from PTC and the notes of the working party of the 12 November 2018 were circulated for reference. There was considerable discussion about the history of the twinning arrangement and it was **RESOLVED the Town Council continue to support and subsidise the 2019 visit by guests from Nordenham, with a host allowance of £10.00 per person per night, up to a maximum of 40 guests along with the cost of the Farewell Evening at the end of the trip, being paid by the Town Council.**

THE MINUTES OF THE MEETING OF THE
COMMUNITY & ENVIRONMENT COMMITTEE HELD IN THE
COUNCIL CHAMBER, SHOTTON HALL,
PETERLEE ON MONDAY 10TH DECEMBER 2018 AT 6.30PM

PRESENT: COUN R MOORE (CHAIR)

Mesdames:- S McDonnell, L Fenwick, K Hawley, S Simpson, K J Duffy & K Liddell

Messrs:- S McGlen, A Watson, T Duffy, G Carne, S Miles & A Wilkinson

The Chairman advised Members of the committee that part of the meeting may be recorded by both audio and video, and it may be that photographs were taken.

59. Apologies for Absence

Apologies had been submitted and accepted from Councillors C Watkins, A C Long, S Kirkup, M A Cartwright & S Miles. **RESOLVED the Council approve the reason submitted for absence received from the Councillors listed, and their apologies for absence be recorded.**

60. To receive declarations of interest

Members were reminded of the need to disclose any interests in items on this agenda, whether pecuniary or otherwise. None were given.

61. Apollo Pavilion – 50th Birthday celebrations

The Chair welcomed representatives of the Apollo Pavilion Community Association, (APCA), Ms A Lister and D J Taylor Gooby and Mr Colin Robson Community Cultural Development Co

Ordinator from DCC who gave a presentation on the activities and exhibits planned to celebrate the 50th Anniversary of the Apollo Pavilion, ranging from a projection piece in March to a community pic nic in July and other events. The representatives explained they would appreciate the support of Peterlee Town Council particularly with the community events. They also appealed for the Town Council for their representation on the APCA Committee. The Chair thanked the representatives and Officer for their attendance.
RESOLVED the information given be noted.

62. To Approve the Minutes of the Last Meeting

Members agreed the attached minutes as a true and correct record of the meeting and they were duly signed.

63. Update on Sports Development Activities

The report of the Sport & Wellbeing Manager providing information for Members about activities, PACES, events, funding, marketing and litter management.

The Sports & Wellbeing Manager was unable to attend the meeting and members were requested to direct any specific questions on the report to the Sports & Wellbeing Manager prior to the meeting. It was suggested that in future if Managers were not able to attend then their reports be deferred until they could attend. **RESOLVED the report be accepted and the information contained in it be noted.**

64. Minutes of the Woodhouse Park Working Party of the 7th November 2018 a copy of which had been circulated, were approved and signed as a true and correct record.

65. Minutes of the Events Working Party of the 21st November 2018 a copy of which had been circulated, were approved and signed as a true and correct record. It was asked that one of the main stage bands be clarified.

66. Review of opening of Town Council Parks, Play Areas and Cemetery review

The report of the Parks Manager providing members with a review of the arrangements for Town Council's Parks, play areas and cemetery Opening. The report concluded that the overall impact on the parks and play areas has been a positive one, and that further work is needed to engage with local residents and users on maintaining the cemetery's high standards of appearance.

RESOLVED:-

- (i) **the contents of the report be noted, including the reduction in issues of damage and misuse of the Parks & Play Areas in Peterlee since the decision was made to open up the sites and not lock from them dusk to dawn;**

- (ii) Officers and local members be authorised to engage with the Edenhill residents group to establish how the Town Council may be able to encourage people to treat the site with more respect and work with the Parks Team to keep it litter and dog mess free
- (iii) the situation with the cemetery be reviewed in another 6 months time.

67. Use of Glyphosate

The report of the Parks Manager, intended to provide Members with a summary of the use of glyphosate across PTC's assets and land and makes a recommendation that the use of this weed-killer is ceased, to be replaced with a seasonal maintenance team.

Following considerable discussion it was **RESOLVED a blanket ban on the use of glyphosate be applied within areas owned and managed by Peterlee Town Council. This being supported with a manual strimming regime, 3 times a year, April, July and October, this cycle being managed with existing team resources. This to be supported with a public information exercise letting residents know of this decision.**

68. Land West of Thorntree Gill

Members were asked to note the planning application had been approved for the erection of a detached building to create amenity room and storage area. **RESOLVED progress be awaited.**

Disciplinary Policy and Procedure



Please think before printing this document.

Where printing is necessary, please ensure that it is printed double sided and in greyscale.

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1 Introduction

1.1 What is the policy about?

Peterlee Town Council (the Council) expects the highest standards from all employees. A disciplinary matter arises when an employee breaches Council rules or fails to meet the required standards with regard to conduct, behaviour or performance.

This policy does not apply to termination of employment on the grounds of ill health, redundancy, the termination or non-renewal of a fixed term contract or situations where probationary employees do not reach required standards of performance. More information about the general standards expected of employees of the Council can be found in the Code of Conduct.

1.2 Who does the policy apply to?

This policy covers all Council employees. Certain conditions of service may include for additional or alternative rules in relation to disciplinary procedures and these should be considered where appropriate.

1.3 Core principles

The Council will treat employees in accordance with the following core principles of reasonable behaviour:

- no disciplinary action will be taken against an employee without full investigation and consideration of the facts;
- the employee will be advised of the nature of the allegation(s) against them and will be given the opportunity to state their case before any decisions are made;
- at all formal stages, the employee will have the right to be accompanied by a representative of their trade union or a work colleague;
- the disciplinary process may be implemented at any stage, dependant on the nature and seriousness of the alleged disciplinary offence;
- no employee will be dismissed for a first breach of discipline, except in the case of gross misconduct;
- employees have the right of appeal against any formal disciplinary sanction;
- all disciplinary matters will be conducted as promptly as possible and all parties will co-operate in avoiding unnecessary delays, in the interest of both the employee and the Council; and
- the policy will be applied consistently and should primarily be used to help and encourage employees to improve, rather than as a way of imposing a punishment.

1.3.1 Misconduct

Misconduct is behaviour that is inappropriate or unacceptable. The following are examples of misconduct:

- unauthorised absence;
- poor time keeping;
- smoking in areas designated as non-smoking;

- insubordination or using abusive language;
- misuse of council facilities including computer facilities (e.g. e-mail and internet);
- refusal or failure to carry out a reasonable lawful management instruction;
- unacceptable behaviour or attitude;
- leaving the workplace without permission or due cause;
- non-compliance with Council policies and procedures and the Code of Conduct

This list is neither exclusive nor exhaustive and each case will be determined on the individual facts. Except in cases of gross misconduct, no employee will be dismissed for a first breach of discipline.

1.3.2 Gross misconduct

Gross misconduct is misconduct that is so serious that the Council can no longer tolerate the employee's continued presence at work. It may justify dismissal without notice, known as summary dismissal. In this circumstance, termination of the contract is immediate.

The following are examples of conduct which may constitute gross misconduct:

- theft or fraud;
- deliberate falsification of documents;
- physical violence or bullying;
- deliberate and serious damage to Council and other property;
- unlawful discrimination, harassment or victimisation;
- serious misuse of the Council, or an associated organisation, property or name;
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination;
- serious incapability at work through drugs, substances or alcohol;
- bringing the Council, or an associated organisation, into serious disrepute;
- gross negligence which causes, or might cause, unacceptable loss, damage or injury;
- a serious breach of health and safety rules;
- criminal or other serious misconduct outside the workplace which affects the employee's suitability for the post;
- knowingly providing false information on any matter relating to the employee's employment;
- a serious data breach or information security breach;
- allegations against another person that are malicious or made for personal gain; and
- criminal or serious misconduct involving children or vulnerable adults.

This list is neither exclusive nor exhaustive and each case will be determined on the individual facts.

1.4 Responsibilities

The Council is committed to implementing the disciplinary policy in a way which promotes the fair and equal treatment of all employees and eliminates discrimination. It is the responsibility of managers and employees to ensure that they implement this policy in a manner that recognises and respects the diversity of the workforce and the different needs of all employees.

All employees have a responsibility to ensure that they comply with this policy and procedure and to conduct themselves to the highest standards at all times and to conform to Council rules, policies and procedures and the Code of Conduct.

Managers are responsible for ensuring that this policy and procedure is fairly and consistently implemented. They must ensure that they deal with any issues equitably, without discrimination, and as quickly as possible. The Council has determined that relevant officers involved have an obligation to seek advice and guidance from the HR Advice and Support Team at Durham County Council when contemplating disciplinary action.

The HR Advice and Support Team at Durham County Council will provide advice and guidance to managers to ensure it is operated in a fair and effective manner.

1.5 ACAS code of practice

This policy complies with the legislative framework and the ACAS (Advisory, Conciliation and Arbitration Service) statutory Code of Practice.

The key factor in the legislative framework is the focus on being procedurally accurate when carrying out disciplinary action; therefore it is essential that when dealing with disciplinary matters this policy is followed.

2 Conduct

2.1 Informal stage

On becoming aware of an employee's alleged misconduct the manager will make initial enquiries about the incident or situation to determine the appropriate course of action. This will usually involve a discussion with the employee to provide them with an opportunity to respond and explain any factors affecting their behaviour or conduct. It may also be necessary to collect evidence or speak to others to ascertain the initial facts of the matter.

Based on the information gathered as part of the initial investigation, the manager will make a decision regarding the appropriate course of action, as described below:

No case to answer

It may become evident that there is no problem or the employee has provided a perfectly reasonable explanation to the concerns. If this is the case, the manager will ensure that it is made clear to the employee that no further action will be taken.

Informal discussion

Minor cases of misconduct are usually best dealt with informally. Where the initial enquiries have established that the matter is not serious enough to warrant proceeding to a formal investigation but concerns remain about the employee's behaviour, the manager may feel it is sufficient to discuss the matter with the employee. During this discussion the manager should ensure that the member of staff understands the concerns and ensure that they are fully aware of the standards expected of them. A note of the discussion should be taken, including details of any improvement required, which will remain on the employee's file. A copy of the notes should be provided to the employee and they may choose to attach their comment to the document.

An informal discussion is not a formal disciplinary sanction and therefore the employee has no right of appeal.

Letter of management advice

Where the initial enquires have established that the matter is not serious enough to warrant proceeding to a formal investigation but the manager feels that it is appropriate for the issue to be recorded in writing, they may decide to issue a letter of management advice.

Following the meeting with the employee, the manager should advise them, in writing, of how their conduct has fallen short of the Council's standards and expectations, the change or improvement that is expected of them and that a failure to achieve the standards in the future may result in disciplinary action being taken. The manager must include a review period for the letter, usually of no more than 12 months. The letter will remain on the employee's personnel file and may be referred to if any further disciplinary incidents occur. It is possible to extend the review period if the manager concludes that the required improvement has not been made. Where a letter of management advice is issued in relation to 'safeguarding' issues, it is necessary and appropriate for this document to remain 'live' and not subject to any particular time limit.

A letter of management advice is not a formal disciplinary warning and, therefore, the employee has no right of appeal.

Further investigation

If the initial enquiries show that there are serious concerns about the employee's conduct, it may be necessary to carry out a formal investigation into the alleged misconduct.

2.2 Formal stage

Where it has been determined that a more detailed investigation is required, an Investigating Officer will need to be appointed to ascertain the facts regarding all relevant issues as fairly and promptly as possible. The Investigating Officer will investigate the alleged misconduct, produce a report and make recommendations to management as to whether a disciplinary hearing is required.

In some circumstances, the manager (Lead Officer) may wish to appoint an Investigating Officer to look into the matter on their behalf. In this situation, after thoroughly investigating the allegations, the Investigating Officer will report their findings back to the Lead Officer who will consider the evidence and make a decision as to whether a disciplinary hearing is required.

Joint investigations should be carried out in line with any partnership agreement in place and there may be circumstances where this includes the appointment of an external investigating officer.

2.2.1 Financial irregularities

If the alleged misconduct is of a financial nature or the circumstances indicate that an investigation by the Town Clerk is required (or in the case of the Town Clerk, by the HR subcommittee) e.g. misuse of the internet, then this will be put in place immediately and resources and equipment will be secured and where appropriate made available to the Police (i.e. in cases relating to pornography/offensive or obscene materials).

2.2.2 Safeguarding and professional bodies

Alleged misconduct related to the protection and safeguarding of children or vulnerable adults will be reported immediately to the Town Clerk before progressing with the disciplinary process.

Where the allegations involve safeguarding concerns, the Disclosure and Barring Service (DBS) will be informed of the outcome of the disciplinary hearing.

In some cases, the Council is required to notify, and possibly provide evidence or information to, the appropriate professional body of investigations, warnings, dismissals or restrictions placed on practice. Depending on the seriousness of the offence, the Investigating Officer may be obliged to inform the professional body at any stage of the formal procedure.

2.2.3 Trade union representatives

Although normal disciplinary standards apply to the conduct of trade union representatives, as employees, disciplinary action against a trade union representative can be construed as an attack on the union if not handled carefully.

No disciplinary action should therefore be taken until the case has been discussed, after obtaining the employee's agreement, with a full-time trade union official. Advice should be sought from the HR Advice and Support Team at Durham County Council if the trade union representative refuses to give consent.

2.2.4 Criminal charges or convictions

If an employee is charged with, or convicted of, a criminal offence not related to work, this is not in itself reason for disciplinary action. Similarly, an employee should not be dismissed solely because they are absent from work as a result of being remanded in custody. Consideration will be given to the criminal conviction and the likely effect upon the employee's ability to carry out his or her duties.

If an employee is subject to a criminal investigation, this will be dealt with separately to any internal disciplinary investigation. The Police should not be asked to conduct any investigation on behalf of the Council.

The Investigating Officer will liaise with the Police to determine whether the disciplinary investigation can proceed in parallel with the criminal investigation. The timescale for the internal investigation will have to be reviewed and the employee will be kept informed of the position by the Investigating Officer.

2.2.5 Resignation during disciplinary investigation

Where an employee submits their resignation before the disciplinary process has been concluded, the manager may continue the disciplinary process so far as reasonably practicable during the employee's notice period.

Where the allegation(s) are of a safeguarding nature, the case must progress to a disciplinary hearing, even if the employee's notice period has ended and the hearing is conducted in their absence. Any sanction issued would be given "if the person had continued to be employed" and reported to the appropriate professional body (see section 2.2.2).

2.2.6 Grievance during disciplinary process

Where an employee raises a grievance during the disciplinary process advice should be sought from the HR Advice and Support Team at Durham County Council. It may be appropriate to deal with the issues concurrently, however, in certain circumstances the disciplinary process may need to be suspended in order to deal with the grievance.

2.3 Suspension

Suspension should only be considered as a last resort and every effort should be made to keep an employee at work where possible. Suspension will only be appropriate where keeping the employee at work poses a risk to the employee, other staff or service users, or their presence at work will impede the investigation.

The following alternatives to suspension should be considered:

- transferring the employee to alternative Council premises, team or department;
- restricting the duties they can carry out whilst the investigation takes place and
- limiting access to resources, such as ICT.

The decision as to whether to suspend is entirely separate from the assessment of conduct. The fact that an employee has not been suspended from work does not prevent their behaviour from being classed as gross misconduct.

Suspension is not a disciplinary sanction and is without prejudice on full pay. It is essential that the period of suspension is kept as brief as possible.

2.3.1 Informing the employee of suspension

The employee should be verbally advised by the appropriate manager of the suspension and the reasons relating to the decision. The employee should be advised that the suspension is without prejudice and that they will receive full pay during the course of the suspension.

The suspension must be confirmed in writing, making the allegations clear, and should be sent out to the employee within 2 working days of the decision to suspend, together with a copy of the disciplinary policy.

During the suspension the employee should remain away from their place of work but must remain available for work during their normal working hours and attend any investigation meetings as appropriate.

It is recognised that the employee needs to communicate with those conducting the investigation and may also need to discuss their circumstances with parties who are assisting them within the process, for example, the person accompanying them to meetings. A suspended employee is not prevented from having any contact with colleagues, however, they should not discuss any aspect of the case with other council employees or other parties connected with the investigation or with any other inappropriate parties.

If an employee does not comply with the terms of their suspension, the Council may revoke their entitlement to receive full pay during the period of suspension.

2.3.2 Communication during suspension

The employee should be provided with a Contact Officer as their first point of contact for any issues regarding work and the investigation.

The role of the Contact Officer is to keep the employee up to date, as appropriate, with the progress and likely timescale of the investigation, however, detailed information relating to the investigation should not be shared with the employee. The frequency of contact will be determined by both the Contact Officer and the employee and dependent upon the length and complexity of the investigation.

2.3.3 Reviewing suspension

It is important that the need to suspend is reviewed and documented, regularly throughout the investigation, as new information may emerge during the course of the investigation which changes the necessity for the suspension. Similarly, it may be that the need to suspend is not obvious initially but during the course of the investigation, suspension may be required.

In all cases, the period of suspension should not be for any longer than necessary and every effort should be made to ensure that it is as brief as possible.

The Contact Officer will notify the employee of the outcome of each review of the suspension.

2.3.4 Sickness and annual leave during suspension

An employee who is suspended must be available for work during their normal working hours and to attend investigation meetings, as appropriate. If an employee becomes ill during their suspension then they will be on sick leave rather than suspension and will be paid in accordance with their normal contractual sick pay entitlements and will be managed using the attendance management policy and procedure. If the employee is well enough to return to work prior to completion of the disciplinary process, it may be necessary to reinstate the suspension or to place the employee on suspension, where this has not previously been in place.

Annual leave can be taken during suspension subject to approval through the normal procedures.

2.4 Investigation

To ensure the fair handling of disciplinary matters, it is essential to carry out a prompt and adequate investigation, which will include:

- Enquiring into the circumstances and establishing the facts of the case;
- Giving the employee a chance to offer an explanation;
- Gathering of evidence relating to the case; and
- Taking a balanced view on whether there are sufficient grounds for an allegation of misconduct.

2.4.1 Investigation meetings

The Investigating Officer will write to the employee informing them that a detailed investigation will be conducted and inviting them to a meeting to discuss the allegations, as part of the investigation.

There is no statutory right for an employee to be accompanied to meetings during the investigation, however, every effort should be made to accommodate a request from an employee. It is up to the employee to arrange for someone to attend any interview(s) in this capacity. If their chosen representative is not available to attend the employee should arrange for a replacement representative to accompany them, or attend on their own. Meetings will not usually be postponed in these circumstances. The individual accompanying the employee must not be someone whose presence would prejudice the hearing or who might have a conflict of interest.

The Investigating Officer will meet with all relevant people and should ensure that witnesses who are prepared to provide statements as part of the investigatory process are fully aware, from the out-set, of the consequences of doing so. This may include the requirement to provide evidence as part of a formal disciplinary hearing or disciplinary appeals process and their statements being provided to a regulatory body.

Should further allegations come to light during the course of the investigation, the Investigating Officer will write to the employee informing them of the additional allegations and the employee will be provided with an opportunity to respond to them during the course of the ongoing investigation.

2.4.2 Final investigation meeting

To conclude the investigation, the Investigating Officer must offer a final meeting with the employee who the allegations were raised against.

The Investigating Officer will use this meeting to:

- Outline the key points of the investigation i.e. who has been interviewed; and
- Allow the employee the opportunity to respond to any additional allegations that have come up during the investigation and that were not covered at the initial meeting.

2.4.3 Concluding the investigation

The Investigating Officer will collate and analyse the evidence gathered and a report of the findings will be prepared setting out whether there are sufficient grounds to merit a referral to a formal disciplinary hearing. Should a recommendation for a hearing be made the employee will receive a copy of the report prior to the disciplinary hearing.

3 Capability

The success of the Council depends on the effective contributions from all employees. It is recognised that the vast majority of its employees meet or exceed the demands of their respective roles, however, performance problems can and do arise and this procedure provides a framework for dealing with cases of poor performance in a fair, supportive and consistent way.

In the first instance, any employee performance issues should be dealt with by the manager through day to day support, advice and guidance. However, where the employee's performance does not improve to the required standard, the manager will commence the informal stage of the procedure.

This procedure should only be followed where it is clear that the failure to perform is not due to ill health or misconduct. Issues concerning poor performance that may result in a potential danger

or a breach of duty of care will be dealt with as a conduct issue under this procedure (see section 2).

3.1 Informal stage

The informal stage should be a positive process, with the aim of helping the employee to resolve performance problems by providing appropriate support to enable them to perform to the standard required.

3.1.1 Initial meeting

The manager will arrange a meeting with the employee, giving them reasonable notice of the date, time and purpose of the meeting. Whilst there is no statutory right for an employee to be accompanied to meetings during the informal stage of the process, every effort should be made to accommodate a request from an employee.

During the meeting the manager will discuss the following:

- The nature of the performance concerns;
- The expected standards of performance;
- The necessary actions required to be carried out by the employee or manager to aid improvement;
- Any timescales for improvement and review dates; and
- The potential consequences of not achieving the required improvement in performance

The employee will also be given the opportunity to express their views on the concerns raised and to provide any explanation for the poor performance.

The agreed actions, targets and programme of support will be pulled together into an action plan, which will be reviewed throughout the agreed timescale.

If at any point it becomes apparent that the poor performance is caused by lack of willingness or refusal to carry out reasonable duties, then this should be dealt with as a conduct issue rather than capability.

3.1.2 Review meetings

Regular review meetings will be held throughout the agreed timescale to discuss and record progress against the agreed action plan. It also provides the manager with an opportunity to give feedback and for the employee to highlight any areas of concern throughout the review period.

At the end of the agreed review period, a final meeting should be arranged with the employee to assess their overall progress. If satisfactory improvement has been made, the employee should be informed of this, in writing, encouraged to maintain the improvement and the matter will be considered closed.

If satisfactory performance has not been achieved within the agreed timescale, the manager will determine whether or not it is reasonable to extend the review period further or to progress the case to the formal stage of the procedure.

3.2 Formal stage

Where the employee has not met the targets set out in the action plan within the agreed timescale, the employee will be informed by their manager that the case will be progressing to a disciplinary hearing.

In the period leading up to the disciplinary hearing, the action plan will continue to be implemented with the employee continuing to be provided with any professional support, advice and guidance, as agreed in the review process. This may include the withdrawal of support when an acceptable level of performance has been reached to test whether this level can be sustained.

Further information regarding the process to be followed at a disciplinary hearing can be found in section 4.

4 Disciplinary hearing

If it is considered necessary to convene a disciplinary hearing, either on the grounds of conduct or capability, the employee will be given at least 7 working days' notice of the date and time to allow sufficient time to prepare and arrange representation. A copy of the Investigating Officer's report will be provided.

4.1 Right to be accompanied

Employees have a statutory right to be accompanied by a work colleague, a trade union representative or an official employed by the trade union at disciplinary hearings. The individual accompanying the employee must not be someone whose presence would prejudice the meeting or who has a conflict of interest.

An employee may ask an official from any trade union to accompany them, regardless of whether or not they are a member or the union is recognised. A trade union representative who is not an employed official must have been reasonably certified by their union as being competent to accompany the employee.

If an employee makes any request to be accompanied by a legal representative at a disciplinary hearing advice should be sought from the HR Advice and Support Team at Durham before a decision can be confirmed.

The representative may play a full part, including addressing the hearing to put and sum up the employee's case, responding on behalf of the employee to any view expressed, asking questions of the witness or witnesses, summing up the employee's case and conferring with the employee during the hearing. However, they should not answer questions that are put directly to the employee.

4.2 At the hearing

The Hearing Officer will hear evidence from both parties at a formal disciplinary hearing and make a decision regarding the outcome of the hearing including what, if any, disciplinary action will be taken. They will conduct the hearing and make their decision in good faith. If the employee becomes upset or distressed during the hearing it is advised that the Hearing Officer should allow

a short break to enable the employee to regain composure before continuing. If the distress is too great for the employee to continue then it may be appropriate to reconvene the hearing on another date.

It may also be appropriate to adjourn the hearing for a short time to allow time to check matters further, particularly if there is a dispute over facts or process. If new facts emerge, consideration will need to be given as to whether to reconvene the hearing on another date to allow time for further investigation.

The Hearing Officer will usually be the Town Clerk. However, there may be times when for some reason the Town Clerk is compromised, either as a witness in the investigation or in some other way (e.g. if it is the Town Clerk who is under investigation). In such cases the Hearing will be held with a panel of three Members of the HR Sub Committee, supported by an advisor from the HR Advice and Support Team. The reference to 'Hearing Officer' in this policy may be substituted for 'Hearings Panel' in such cases.

4.3 Postponing the hearing

The employee must make all reasonable efforts to attend the hearing, including securing the attendance of their representative, but if they are not able to attend, they will be offered one alternative date. This should normally be within 5 working days of the original date, although this can be extended by mutual agreement. If the employee fails to attend the rearranged hearing without explanation the hearing may proceed and a decision reached in their absence.

Similarly, if the employee's chosen representative is not available on the original date for the hearing, the employee has the right to have one postponement, within 5 working days of the original date, although this can be extended by mutual agreement.

The employee can choose to put their case in writing for consideration by the Hearing Officer or an employee's representative may attend and present the case in their absence.

4.4 Outcomes

The Hearing Officer, supported by a member of the HR Advice and Support Team at Durham County Council will hear evidence from all parties present at the hearing and reach a decision based on the 'balance of probabilities' that it is more likely than not that the employee behaved as alleged.

The outcome of the hearing could be:

- No further action – where it is deemed that there is no case to answer;
- Letter of management advice;
- Action plan; or
- Formal disciplinary sanction.

The employee will usually be informed of the decision verbally at the end of the hearing by the Hearing Officer and the decision will be confirmed in writing, by recorded delivery, within 2 working days of the hearing.

4.4.1 Formal disciplinary sanctions

Written Warning

This may be issued if the first offence is serious enough to warrant formal action and will set out the nature of the misconduct and the improvement in behaviour required. It will usually last for a period of twelve months, although this can be extended. A copy of the written warning will be kept on the employee's personnel file.

The written warning will clearly state the performance problem, where improvements are required and the level of continued professional support, advice and guidance to be provided. In cases of capability, the frequency of future reviews, now on a formal basis, will also be outlined at this stage.

Depending upon the severity of the situation, this stage may be omitted in cases of both misconduct or capability.

Final Written Warning

In circumstances where an offence is sufficiently serious to warrant only one written warning, but not serious enough to justify dismissal, a first and final written warning may be issued. Alternatively, where there has been a failure to improve or change behaviour and previous live warnings have not resulted in sufficient improvement, the employee may be issued with a final written warning. It will usually last for a period of eighteen months, although this can be extended. A copy of the written warning will be kept on the employee's personnel file.

The final written warning will clearly state the performance problem, where improvements are required and the level of continued professional support, advice and guidance to be provided. In cases of capability, the frequency of future reviews, now on a formal basis, will also be outlined at this stage.

Dismissal

If the employee's conduct or performance still fails to improve following previous warnings, an employee may be dismissed with notice.

The employee should be provided with written details of the reasons for dismissal, the date on which employment will terminate, the appropriate period of notice and their right of appeal.

An employee should not be dismissed for a first breach of discipline, except in cases of gross misconduct.

Summary dismissal

In very serious cases, where an employee is found guilty of gross misconduct, the employee may be dismissed without notice. In this circumstance, termination of the contract is immediate. More details about what can constitute gross misconduct can be found at section 1.3.2.

Alternatives to dismissal

An alternative to dismissal will be considered where the disciplinary outcome is that a dismissal should take place but there are mitigating circumstances to take into account.

The Hearing Officer may decide to offer to transfer the individual elsewhere within the Council if possible and in exceptional circumstances a demotion may be applied. In cases of demotion there will be no protection of salary.

The transfer or demotion must be offered in writing as an alternative to dismissal and accepted by the employee. If an alternative to dismissal is refused, this should be recorded and the employee will be dismissed.

4.4.2 Time limits

There may be occasions where an employee's conduct is satisfactory throughout the period the warning is live, only to lapse very soon thereafter. Where a pattern of behaviour of this type emerges the employee's full disciplinary record may be used in deciding how long any subsequent warning should last.

There must be sound justification for this decision and under no circumstances should a warning be indefinite, as it is not good employment practice to keep someone permanently under threat of dismissal.

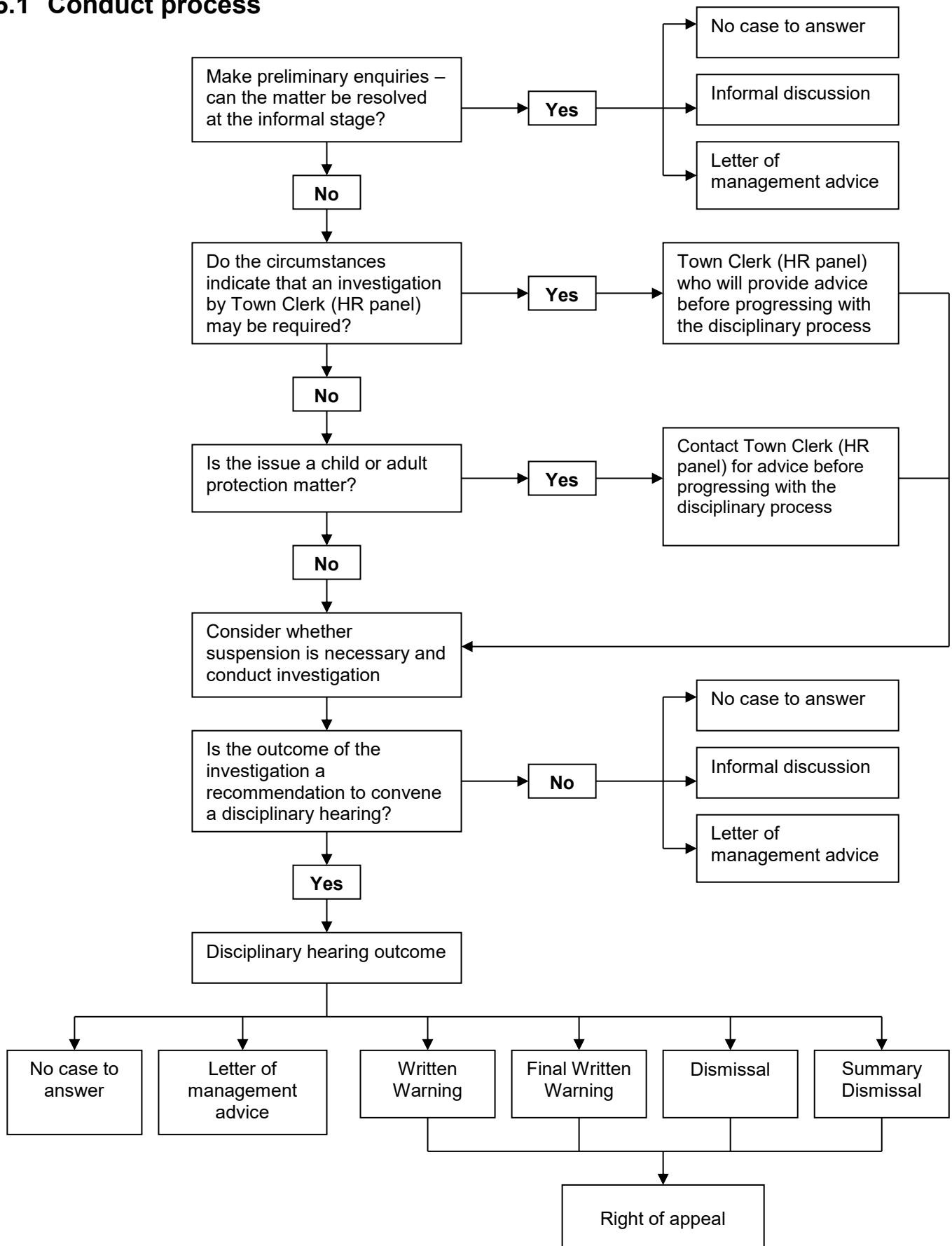
In addition, the fact that a warning has expired does not mean that the misconduct in respect of which the warning was given can never be considered in any subsequent disciplinary process. However, care must be taken in these circumstances and the manager must consult with the HR Advice and Support Team at Durham County Council.

4.5 Right of appeal

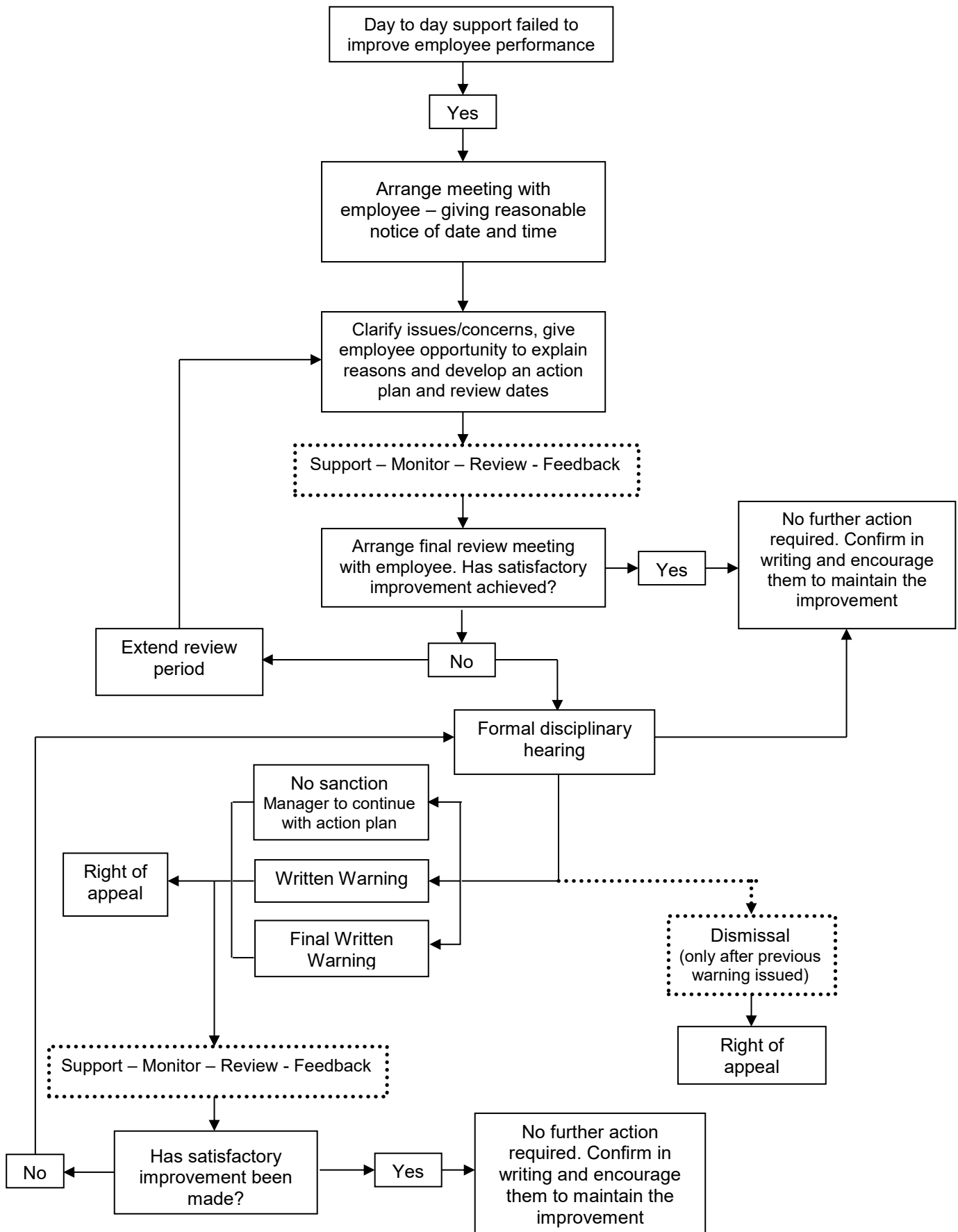
Employees have the right of appeal against any formal disciplinary action taken against them.

5 Flowchart

5.1 Conduct process



5.2 Capability process



6 Supporting documents

The following supporting documents can be obtained from your manger/ cloud storage.

A	Disciplinary Policy – Guidance for Managers
B	Template Letter of Management Advice
C	Suspension Review Form
D	Template Letter confirming Suspension
E	Template Letter from Contact Officer
F	Meeting Record Form
G	Template Invite to Investigation Meeting
H	Template Invitation to Final Investigation Meeting
I	Template Investigation Report
J	Template Action Plan

The following documents associated with this policy and procedure can be obtained from your manager/cloud storage:

Code of Conduct
Disciplinary Policy – Guidance for Managers

7 Further information

7.1 Confidentiality

All information will be handled sensitively and used only for its proper purpose.

Under the Data Protection Act 1998 individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information.

7.2 Dealing with abuses of the policy

Employees who attempt to abuse this policy may face disciplinary action. The Council takes false or misleading accusations very seriously which may result in further action taken through the disciplinary procedure. This will not include ill-founded allegations that were made in good faith.

7.3 Equality and diversity

Peterlee Town Council is committed to promoting equality of opportunity, valuing diversity and ensuring discrimination, harassment or victimisation is not tolerated.

Our policy is to treat people fairly, with respect and dignity. We also comply with legal requirements in relation to age, disability, gender, pregnancy and maternity, marriage and civil partnership, gender reassignment, race, religion or belief and sexual orientation.

7.4 Contact details

If you would like any further advice or would like the document in an alternative format, please contact the Town Clerk (or nominated representative) using the contact details below:

Email: clerk@peterlee.gov.uk
Tel: 0191 586 2491