

**DISCIPLINARY PROCEDURE**

*This procedure should be read in conjunction with the Disciplinary Guidelines (Managers and Staff).*

**1. INTRODUCTION**

We are committed to ensuring that our employees are treated consistently, fairly and equally in disciplinary situations and our procedure has been developed in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures (2015), with a strong emphasis on informal resolution.

Managers will always, where possible, seek to resolve disciplinary issues informally. However, in situations where that is not possible or informal resolution has resulted in no improvement, the formal disciplinary procedure will be initiated.

All parties concerned will ensure that all disciplinary matters are dealt with as quickly as the circumstances will allow.

Disciplinary matters will be treated in confidence by all parties involved in every stage of the procedure. A record of the proceedings will be maintained in accordance with the ACAS Code of Practice and data protection legislation.

The University reserves the right to start the disciplinary procedure at any level depending on the seriousness of the allegation or where an earlier pattern of unacceptable conduct or behaviour has been established.

Individuals have the right to be accompanied by a Trade Union Representative or work colleague throughout all stages of the disciplinary procedure.

A flowchart of the procedure is available in Appendix 1.

**2. OBJECTIVES OF PROCEDURE**

The objective of this procedure is to provide a framework that:

- encourages informal resolution of issues;
- encourages a working environment where conduct is managed positively and appropriately;
- ensures issues are managed sensitively, fairly and consistently.

**3. MISCONDUCT/GROSS MISCONDUCT**

In cases of alleged misconduct/gross misconduct it may be appropriate to suspend an employee until an investigation has been completed.

Examples of misconduct and gross misconduct are available in the disciplinary guidelines.

## 4. DISCIPLINARY PROCEDURE

### 4.1 Informal Resolution

Our aim is to resolve minor cases of misconduct informally. Wherever possible, all relevant parties will work together at the informal stage in an effort to avoid formal stages of the disciplinary procedure being initiated.

Once an issue has been identified, the Line Manager should arrange to meet with the individual and raise the issue/concern with them. At the meeting, the Line Manager should also discuss ways in which the issue can be resolved and how this will be monitored, if appropriate.

The Line Manager should make notes of any issue raised and discussed informally, including any agreed outcomes and support, storing them securely and confidentially in accordance with data protection principles.

If an informal resolution has not been successful, the Line Manager should seek advice from an appropriate HR Representative to discuss initiating the formal procedure. If so, the manager should inform the individual that formal action is being considered.

### 4.2 Suspension

Following an incident, it may be necessary to remove an employee from their current duties which may involve suspending them on full pay. Suspension is not an assumption of guilt and is not considered a disciplinary sanction.

Suspension is a precautionary measure that should only be considered **if all other alternative options have been explored**, such as redeploying them to other duties or location. The suspension should **initially be for no more than 28 days**, which may be extended if the investigation has not been finalised.

If an incident occurs that may require suspension, the Line Manager must seek advice from an appropriate HR Representative, ideally **before** any decision to suspend an individual is taken.

If it is believed there are grounds for suspension, the Line Manager (and where possible an appropriate HR representative) will meet with the individual at the earliest possible time. Where an appropriate HR Representative is not available, an alternative management representative will attend the meeting.

The individual will be given the opportunity to be accompanied by their Trade Union Representative or work colleague and every effort will be made to accommodate this.

At the meeting, the Line Manager will advise the individual why the suspension is taking place, that it will be with full pay and the likely duration. The individual will be required to remain contactable and available to support the investigation.

The Line Manager will confirm the suspension and reasons for it in writing within 2 working days of the meeting.

The individual and their representative will be issued with notes of the meeting normally within 5 working days of the meeting.

The suspension will be kept under review by a senior member of the HR Team.

The individual has no right of appeal against the suspension.

### **4.3 Investigation**

No formal disciplinary hearing will be arranged until the matter has been fully investigated without unreasonable delay.

An Investigating Officer will be appointed to fully investigate the alleged misconduct and to establish all facts and information in relation to the case, ideally within 28 days.

The Investigating Officer will notify the individual in writing of the investigation, the allegation that is being investigated and who will be carrying out the investigation.

On completion of the investigation, the Investigating Officer will provide a report and any supporting documentation to the Disciplinary Manager, who is responsible for reviewing the report and determining the next steps:

- No further action
- Informal resolution
- Formal Disciplinary Hearing

The Disciplinary Manager will notify the individual of the outcome of the investigation normally within 7 days of them receiving the investigation report.

### **4.4 Notification of Formal Proceedings**

Where the Disciplinary Manager has determined that the formal disciplinary procedure will be initiated, the individual will be invited to attend a Disciplinary Hearing.

The individual will be provided with at least 5 working days' notice of the Disciplinary Hearing and will be notified in writing of:

- the date, time and location of the hearing along with the allegation(s) that will be considered during the hearing
- the Disciplinary Manager chairing the Disciplinary Hearing
- the timescales in which they need to submit any evidence to be considered at the Disciplinary Hearing (2 working days prior to the hearing)
- their right to be accompanied by a Trade Union Representative or work colleague
- their right to call any witnesses
- the possible outcomes, which may include dismissal.

Prior to the hearing, the individual will also receive a copy of the investigation report, along with any appropriate witness statements or supporting documentation relating to the case. Witness statements may be anonymised if appropriate.

Should the individual or their representative/work colleague have any information that they wish to be considered at the hearing, they should submit this to the [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk) at least 2 working days in advance of the hearing.

#### **4.5 The Disciplinary Hearing**

The Disciplinary Manager will be determined in accordance with our **'Authority to Take Action'** guidance (Appendix 4).

The Disciplinary Manager will make appropriate introductions and outline the procedure before presenting the findings of the investigation and if appropriate, calling any witnesses.

The individual will then be invited to state their case and respond to the allegations made against them, which may include calling witnesses or any mitigating circumstances that they would like the manager to take into consideration.

The Disciplinary Manager and the individual will have the opportunity to challenge the evidence provided and to question any witnesses called.

The Disciplinary Manager will carefully consider the evidence presented and any mitigating circumstances before determining the appropriate outcome. They can either do this at the end of the hearing or adjourn and confirm the outcome in writing within 7 days of reaching a decision.

Any formal action will reflect the serious nature of the misconduct and will be either:

- Level 1 – First Written Warning
- Level 2 – Final Written Warning
- Level 3 – Dismissal (including Summary Dismissal) or Action Short of Dismissal

#### **4.6 Level 1- First Written Warning**

A first written warning will set out the nature of the misconduct, the details of the expected change in behaviour and any available support. It will remain on the individual's file for 6 months subject to satisfactory conduct.

The individual will also be notified of their right to appeal (please see section 5: Appeal).

Any further breaches of misconduct may lead to a final written warning or dismissal if the misconduct is sufficiently serious.

#### **4.7 Level 2 – Final Written Warning**

If the individual has a current warning, a further breach of misconduct may warrant a final written warning. This may also be the case where a 'first offence' misconduct is sufficiently serious, but would not justify dismissal.

A final written warning will set out the nature of the misconduct, the details of the expected change in behaviour and any available support. It will remain on an individual's file for 12 months.

The individual will be notified of their right to appeal (please see section 5: Appeal).

Any further breaches of misconduct may lead to dismissal or, Action Short of Dismissal.

#### 4.8 Level 3 – Dismissal or Action Short of Dismissal

In reaching a decision to dismiss, careful consideration of other options will be given. If, on balance other sanctions are deemed inappropriate due to the seriousness of the case, the individual will be dismissed.

Individuals will be notified, in writing, the reason(s) for their dismissal, the date on which their employment will terminate and their right to appeal (please see section 5: Appeal).

Alternatively, depending on the circumstances of the case, other action short of dismissal such as demotion or transfer to another department within the University might be appropriate.

The Disciplinary Manager must ensure that they have taken advice from an appropriate HR Representative prior to confirming dismissal or action short of dismissal. This is to ensure procedures are appropriately adhered to and to advise managers on equitable employment practice and consistency of approach.

An individual dismissed for misconduct is entitled to be given their contractual notice. A decision should be made as to whether the individual will work the period of notice as opposed to being paid in lieu of notice. This decision should be made by giving close consideration to the circumstances of the case.

Cases concerning gross misconduct may warrant summary dismissal without notice, even in the event where the gross misconduct is a first offence. An individual who is summarily dismissed without notice is not entitled to payment in lieu of notice.

### 5 APPEAL

The appeal process provides the individual with an opportunity to put forward their case for appeal and the University to address any unfairness in the original process

The appeal hearing is not a re-hearing of the original hearing but to consider areas where the individual believes there was insufficient consideration, or to consider new evidence.

Individuals have the right to be accompanied by a trade union representative or work colleague throughout the appeal procedure.

The purpose of an appeal hearing is to:

- Provide an opportunity to address any unfairness in the original process, and/or;
- Provide individuals with the opportunity to challenge the original decision by focusing on specific factors which they believe have received insufficient consideration, or for consideration of new evidence that has subsequently become available.

An individual's written outcome letter will include the right to appeal. Should an individual wish to appeal the decision that has been made, they should follow the process outlined below, and as detailed in the Appeal process flowchart (Appendix 3).

#### 5.1 Submission of an Appeal

The individual must submit their appeal to [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk) in writing, using the notification of appeal against disciplinary action form – DA1 form (Appendix 2) within 10 days of receiving their outcome letter.

Ideally, the individual should include any evidence/information that they wish to be considered at the appeal hearing at the time of submission, but must submit it at least 2 working days in advance of the hearing to [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk).

## **5.2 Notification of Appeal Hearing**

The individual will be provided with at least 5 working days' notice of the appeal hearing and will be notified in writing of:

- the date, time and location of the appeal hearing along
- the impartial manager chairing the appeal hearing
- A copy of all available evidence that will be considered during the appeal hearing
- their right to be accompanied by a trade union representative or work colleague
- their right to call any witnesses
- the possible outcomes; appeal upheld, appeal partially upheld or appeal not upheld

## **5.3 The Appeal Hearing**

The individual should note that an appeal hearing is not intended to repeat the full detailed investigation of the original hearing, but to focus on specific factors which they believe have received insufficient consideration, or for consideration of new evidence that has subsequently become available.

All appeals will be chaired by a manager who is impartial, has not been involved in the case at any stage and, where possible, will be more senior than the manager who made the original decision.

An appropriate HR Representative from the Department of People and OD will be present at the appeal hearing to ensure procedures are adhered to, and advise managers on equitable employment practice and consistency of approach.

The individual will be given full opportunity to state the grounds of their appeal, which may include calling witnesses. The manager will have the opportunity to respond to each of the points raised and to make representation to the appeal panel.

When all the evidence has been heard, the appeal hearing will be adjourned to allow the manager / appeal panel to consider the decision. Potential outcome of the appeal hearing will be:

- Appeal Upheld
- Appeal Partially Upheld
- Appeal Not Upheld

The outcome of the appeal will be issued to the individual, in writing, normally within 10 working days of the decision being made.

The appeal decision is final and there is no further opportunity for appeal - the internal process has been exhausted. If the appeal is against dismissal and is upheld, the individual will be re-instated and all back pay, to the date of dismissal, reimbursed and contractual rights reinstated.

Once the internal procedure has been exhausted, and an employee wishes to make a claim to an employment tribunal, they must first notify ACAS and complete an Early Conciliation Notification

Form. ACAS offers conciliation to both parties with the aim of settling the matter without the need for a legal claim to be lodged. [Further information is available from the ACAS website.](#)

## 6 OTHER PROVISIONS

No formal disciplinary action should be taken against accredited Trade Union Representatives until there has been a discussion with the appropriate official employed by the trade union. This is to ensure compliance with the provisions of employment legislation. Suspension during investigation will also be discussed in advance of its use.

Individuals are expected to make every effort to attend a disciplinary hearing and will normally be given the opportunity to attend 2 arranged hearings. If they fail to attend the second hearing without good cause, the Disciplining Manager may make a decision on all of the evidence available in their absence. This decision will then be communicated in writing to the employee and advice should always be sought from an appropriate HR Representative prior to any decision being made in the absence of the individual.

Reasonable adjustments will be made in the application of this procedure for staff or companions who have a disability within the scope of the Equality Act 2010.

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### Official Use

**Procedure Author** – Employee Relations & Performance Adviser

**Procedure Owner** – Director of People and Organisational Development

**Parent Policy Statement** – People and Organisational Development

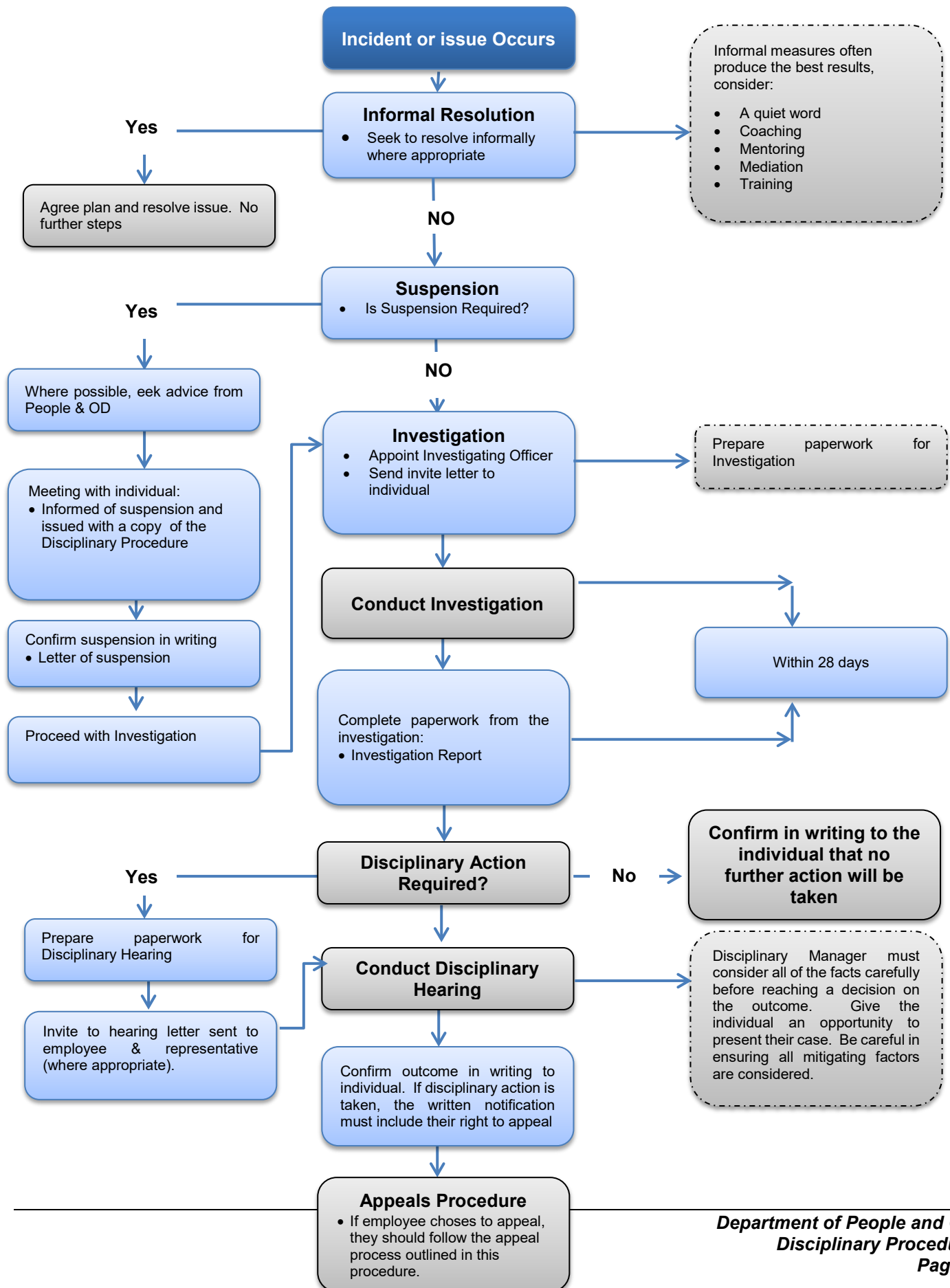
**Public Access or Staff Only Access** – Public

**Version** – Version 7 Approved June 2021

**Changes and Reason for Changes** – Annual People & OD Procedure Update



Appendix 1: Overarching Disciplinary Procedure





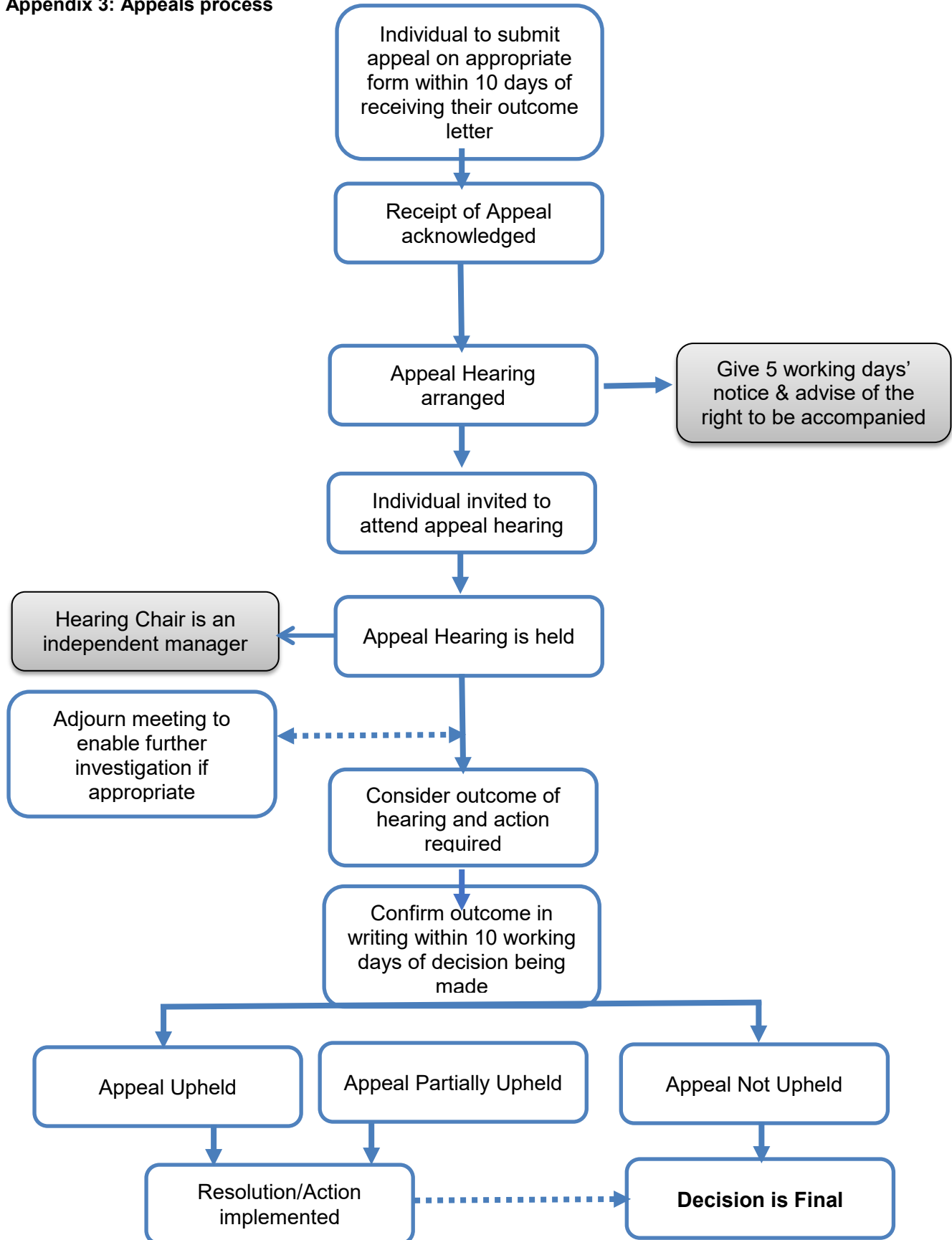
**Appendix 2: Notification of Appeal against Disciplinary Action Form (DA1)**

**Notification of Appeal against Disciplinary Action (DA1)**

This form is to be used when an employee is submitting an appeal against a decision taken against them under the Disciplinary Procedure. The Form should be submitted to [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk).

<b>Notification of Appeal Against Disciplinary Action</b>	
Name:	
Job Title	
Department/School	
Date you received the outcome:	
<b>Grounds of Appeal</b>	
Please set out the grounds of your appeal. Employees should note that an appeal hearing is not intended to repeat the full detailed investigation of the disciplinary hearing, but to focus on specific factors which you feel have received insufficient consideration, or for consideration of new evidence has subsequently become available.	
<b>Signature:</b>	
<b>Date:</b>	
<b>For Office Use only:</b>	
<b>Date Received:</b>	
<b>Name:</b>	

**Appendix 3: Appeals process**



**Appendix 4: Authority to Take Action**

	Professional Support Services Staff		Academic Staff		University Senior Management		Vice Chancellor's Executive Group		Principal	
Disciplinary Penalty	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal
First Written Warning	Appropriate Line Manager	1 Manager senior to line manager or suitable depute	Appropriate Line Manager	1 Manager senior to line manager or suitable depute	Line Manager	Manager senior to line manager or suitable depute	Principal	Court Appeal Committee	Chair of Court	Court Appeal Committee
Final Written Warning	Appropriate Line Manager	1 Manager senior to line manager or suitable depute	Appropriate Line Manager	1 Manager senior to line manager or suitable depute	Line Manager	Manager senior to line manager or suitable depute	Principal	Court Appeal Committee	Chair of Court	Court Appeal Committee
Alternative Sanction	Director, Senior Manager or designated depute	Disciplinary Appeal Panel consisting of 3 members of University Senior Management	Dean of School, Senior Manager or designated depute	Disciplinary Appeal Panel consisting of 3 members of University Senior Management	Line Manager	Disciplinary Appeal Panel University Senior Management	Principal	Court Appeal Committee	Chair of Court	Court Appeal Committee
Dismissal/Summary Dismissal	Director, Senior Manager or designated depute	Disciplinary Appeal Panel consisting of 3 members of University Senior Management	Dean of School, Senior Manager or designated depute	Disciplinary Appeal Panel consisting of 3 members of University Senior Management	Line Manager	Disciplinary Appeal Panel University Senior Management	Principal	Court Appeal Committee	Chair of Court	Court Appeal Committee

**Notes:**

- Appeal Panels for University Senior Management will consist of 1 member of the Vice Chancellor's Executive Group and 2 members of Court.
- Court Appeal Panels will consist of either 3 lay members of Court or the Chair of Court plus 2 lay members (where the Chair has not had previous involvement).
- An appropriate member of People & OD will be in attendance at Disciplinary Appeal Panels and Court Appeal Panels.