Shotton Parish Council

DISCIPLINARY PROCEDURE

1. INTRODUCTION

1.1 The following procedure has been adopted by all Shotton Parish Council for dealing with disciplinary matters relating to employees of the Council.

1.2 The Council recognises that disciplinary rules are necessary for promoting fairness in the treatment of individuals and in the conduct of good industrial relations. An employee may be liable to formal disciplinary action where it has been established by thorough investigation that their conduct is not acceptable. Incompetence, incapability or other poor performance at work which is considered not to be attributable to a wilful disinclination by the employee to carry out his/her duties efficiently or effectively but which is thought to be attributable to a lack of skill or aptitude, or to health or any physical or mental quality, should be dealt with under the separate capability procedure.

1.3 The goal of any effective disciplinary process is not to punish but to effect an improvement in the employee's behaviour or performance, but it is recognised that discipline is essential for the conduct of the Council's affairs and for the safety and wellbeing of its employees. It is equally the intent of the Council that disciplinary action be considered on a merit basis and applied fairly, equitably and in a prompt manner.

2. APPLICATION

2.1 This procedure applies to all employees of the Council except:-

2.2 The procedure does not apply in the following situations:-

- Where employment is terminated on conclusion of a fixed term contract
- Termination of a temporary appointment where the reason for termination is that the need for the employees' services has expired
- Termination of employment by reason of redundancy, although right of appeal remains
- Resignation by the employee, or other termination by mutual consent
- Unsuitability of an employee within the 6 month probationary period

The above matters are dealt with in the Council's supplementary dismissal procedure.

2.3 In summary the general approach to disciplinary matters will be:-

- Initial consideration of whether matter appropriate for informal resolution;
- Investigation if appropriate and reconsideration of whether formal or informal action appropriate;
- If formal action, convene disciplinary hearing by written notification;
- Undertake disciplinary hearing;
- Confirm outcome of disciplinary hearing in writing detailing any penalty or other action to be taken and advise right of appeal;
- Undertake appeal if made.

2.4 This approach will be adopted in respect of all disciplinary matters. See Appendix 1. For the avoidance of doubt where more than one disciplinary allegation arises, whether out of the same facts or different facts, at or about the same time or otherwise where expedient, all such matters may be dealt with at the same hearing, subject to compliance with written notification requirements of this procedure.

3. INVESTIGATIONS

3.1 All disciplinary matters will be investigated as appropriate to the nature of the allegations before a decision as to whether a formal disciplinary hearing is necessary. This may involve collecting statements from witnesses and assembling relevant documents depending upon the particular matter(s) involved. In cases which appear to involve serious misconduct, an employee may be suspended (for usually not more than fifteen working days), with full pay, during such a period.

3.2 Suspension will be considered where, for example the presence of the employee could impede the investigation; in order to avoid a repetition of the alleged misconduct; or would cause embarrassment or offence to management or other employees.

3.3 Such suspension is a neutral act intended to facilitate a fair investigation, protect staff, preserve evidence or otherwise as may be reasonable in the circumstances. Save for the employee not being permitted to attend work, all of the employee's usual terms and conditions of employment will continue to apply during any period of suspension.

3.4 A suspended employee should not make contact with other employees, Elected Members or persons associated with the case, or return to the workplace unless instructed to do so. The Parish Clerk should be the point of contact with the employee for the period of suspension. The employee may of course contact his/her trade union representative.

3.5 The investigation would begin with a fact finding meeting. The purpose being to determine what has happened and for the Parish Clerk to decide if he/she believes this is a matter to be dealt with through the disciplinary procedure or in serious cases to inform the employee he/she is suspended pending further investigation.

3.6 Trade Union Representatives are expected to observe the same standards of conduct as all other employees. However, no formal action under the Disciplinary Procedure shall be taken against an accredited trade union representative until the circumstances of the case have been discussed with a senior representative or full time official of the union concerned.

4. DISCIPLINARY HEARING

4.1 If the Parish Clerk in consultation with the Chairman of the Parish Council decides that this is a disciplinary matter, he/she will write to the employee giving a minimum 5 working days notice of a hearing when the allegation will be fully aired. The letter should include a list of the allegations of misconduct, copies of the witness statements and any other documents to be relied on at the hearing.

4.2 An employee has the right to be accompanied at all disciplinary meetings by another employee of their choice or by a Trade Union Representative. The Parish Clerk will arrange for a third party to be present to give procedural advice and act as a witness to the proceedings. Detailed notes of the hearing must be kept for future reference.

4.3 The employee will have the opportunity to fully state their case and produce witness evidence (whether in person or in written statements) and documents - in support of their case before a decision is made. It is however the responsibility of employees to arrange for witnesses, statements and documents supporting their case to be available to the Parish Clerk prior to the disciplinary meeting. No new evidence or information should be produced at the meeting that has not been considered by both parties. Where new evidence is available, then a short adjournment would ensure that employee and Parish Council have had sight of all the information to be relied on at the meeting. Disciplinary meetings may also be adjourned to allow the Parish Council more time to come to a fair and consistent decision. If misconduct is not proven the matter ends there and then although the outcome of the disciplinary hearing, whatever that might be, will be confirmed or notified (as appropriate) to the employee in writing after the hearing has concluded. In the event that a disciplinary penalty is imposed, the letter will advise the employee of the right of appeal set out in the next sub-section.

4.4 Every employee has the right to appeal against the decision taken by his or her Parish Council following a disciplinary meeting. The details of the appeal procedure are set out in section 7.

5. DISCIPLINARY WARNINGS

5.1 Where an employee's work, conduct or omissions are such to warrant disciplinary action (as opposed to no action taken or advice/counselling) the Parish Clerk would usually give a warning to the employee. Warnings can take different forms depending on the severity of the disciplinary offence. They will cease to be active following the specified period of satisfactory conduct and will be disregarded for future disciplinary purposes. Spent warnings will be removed from personal records.

5.2 Verbal Warning

In some cases it is appropriate to begin with a Verbal Warning. The objective is to help the employee recognise that he/she is responsible for meeting performance expectations or behaviours, and the meeting should focus on re-stating and clarifying expectations and communicating deficiencies. The verbal warning should be confirmed in writing and a copy kept in the employee’s file. **The Verbal Warning will remain current for 3 months.**

5.3 Written Warning

In the event of an employee committing a similar or subsequent offence, performance/behaviour deficiencies continue, or the Parish Clerk feels that the offence is serious enough to warrant omission of the above stage, then it will be appropriate for the Parish Clerk to issue a Written Warning. The purpose of this will be to try to secure improvement in the conduct complained of and the letter should specify the unacceptable behaviour, identify what is expected to put it right and ask for a commitment from the employee to change the deficient behaviour or performance with appropriate review dates. It should state that if improvement or change does not occur then further disciplinary action might result**. A Written Warning will be valid for 6 months.**

5.4 Final Written Warning

In the case of more serious offences then the initial warning may be a final warning, or in cases where previous warnings have been ineffective then a final warning will be issued which again will be in writing.

5.5 The warning should set out the same matters as referred to at section 5.3 above save that it should make it clear that if improvement or change does not occur then termination may result. It should also ask for the same commitment from the employee to change the deficient behaviour or performance with appropriate review dates.

5.6 Once again, the final warning should be documented with a copy to the employee and copy to their personnel files. **A Final Written Warning will be valid for 12 months**. A further breach during the specified period may lead to dismissal.

5.7 Examples of general misconduct may include:

- Poor performance and/or behaviour
- Persistent lateness or absenteeism
- Recurring work errors
- Failure to respond adequately to previous warnings
- Negligence

6. DISMISSAL OR OTHER SANCTIONS

6.1 If the employee has received a final written warning further misconduct or poor performance may warrant the consideration of a penalty short of dismissal. This may include a disciplinary transfer, demotion or loss of seniority. Any penalty will be confirmed in writing.

6.2 **I**n the case of procedural dismissal (as identified above), the employee will be entitled to notice or payment in lieu of notice.

6.3 The procedure for disciplinary action may be implemented at any stage, if the employee's alleged misconduct warrants such action. An example of where the procedures of verbal or written warning may be by-passed may include:

- A single act of negligence, where the consequence of such an act could be serious.

6.4 **GROSS MISCONDUCT**

Where certain types of gross misconduct may have been committed a Parish Council may decide to dismiss without previous warnings. Below are some examples of actions, which could be construed as Gross Misconduct. Please note that this list is not exhaustive:-

- Time Recording:-
  - Registering time when not at work
  - Registering time for other staff
  - Knowingly allowing another member of staff to register time for him/her.
- Physical assault
- Serious incapability at work brought on through the influence of alcohol/narcotics abuse.
- Sexual misconduct or offences
- Racial, religious, sexual or age related harassment/discrimination or bullying
- Bringing the Council into disrepute
- The use of work time to solicit sales or products or services for personal gain, or solicit other employees for religious or political purposes
- Deliberate or malicious damage to property - Council/colleagues/customers
- Theft - Council/colleagues/customers
- Breach of confidentiality - disclosing Council information
- Dishonesty leading to loss - Council/colleagues/customers
- Indecent behaviour
- Malicious act
- Refusal to comply with the accepted terms and conditions of employment
- Improper use or application of Council property
- Soliciting or accepting money, loans, credits, prejudicial discounts, trips, entertainment, favours or services from present or potential suppliers or customers that might influence, or appear to influence, purchasing/business decisions.
- Gross insubordination - refusal to comply with a reasonable instruction
- Any act which puts the health and safety of an employee, or other employees or members of the public at risk

- Falsification of records

6.5 This is not meant to be an exhaustive list of circumstances that may warrant instant dismissal, but a guide to staff of the type of offence considered by the Council to be gross misconduct.

6.6 In the event of dismissal of an employee for gross misconduct, the employee will be notified in writing the grounds for termination. An employee is not entitled in this instance to notice or payment in lieu of notice. Although the employee may appeal against this decision in the manner stated in the dismissal notice.

7. RIGHT OF APPEAL

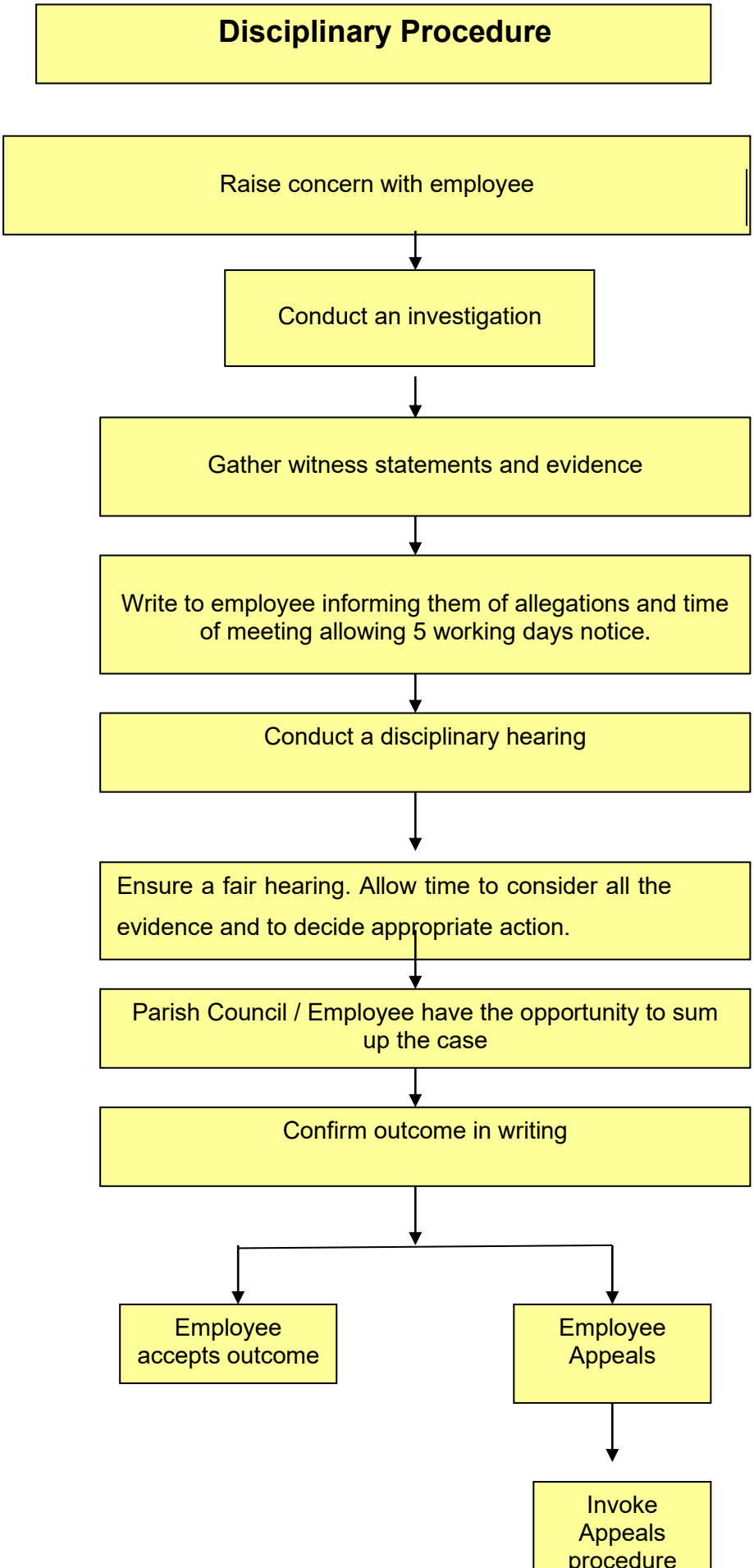
7.1 An employee who receives a formal warning or dismissal has the right to appeal. This appeal must be made in writing within seven calendar days of him/her receiving written confirmation of the warning or termination of his/her employment. The letter of appeal must set out the grounds of appeal to be relied upon and be sent to the Parish Clerk. The Parish Clerk Unit will arrange an appeal hearing usually within 28 calendar days of notification of the Appeal. The Appeal will be heard by the Appeals Committee. The employee should be given not less than 7 calendar days notice of the date, time and venue of the appeal hearing.

7.2 The Appeals Committee will have plenary power to deal with the appeal and shall not be restricted to consideration of the employee's written grounds of appeal only.

7.3 The employee will have the right of appearing before the Appeals Committee accompanied by a trade union or a work colleague, and will be able to call witnesses and produce relevant information. Documentary evidence to be produced will be made available for the information of either party in advance of the hearing and in sufficient time to allow each party to prepare responses. The employee is responsible for producing such witness evidence and documents as (s)he may wish to call (including the attendance of witnesses as appropriate).

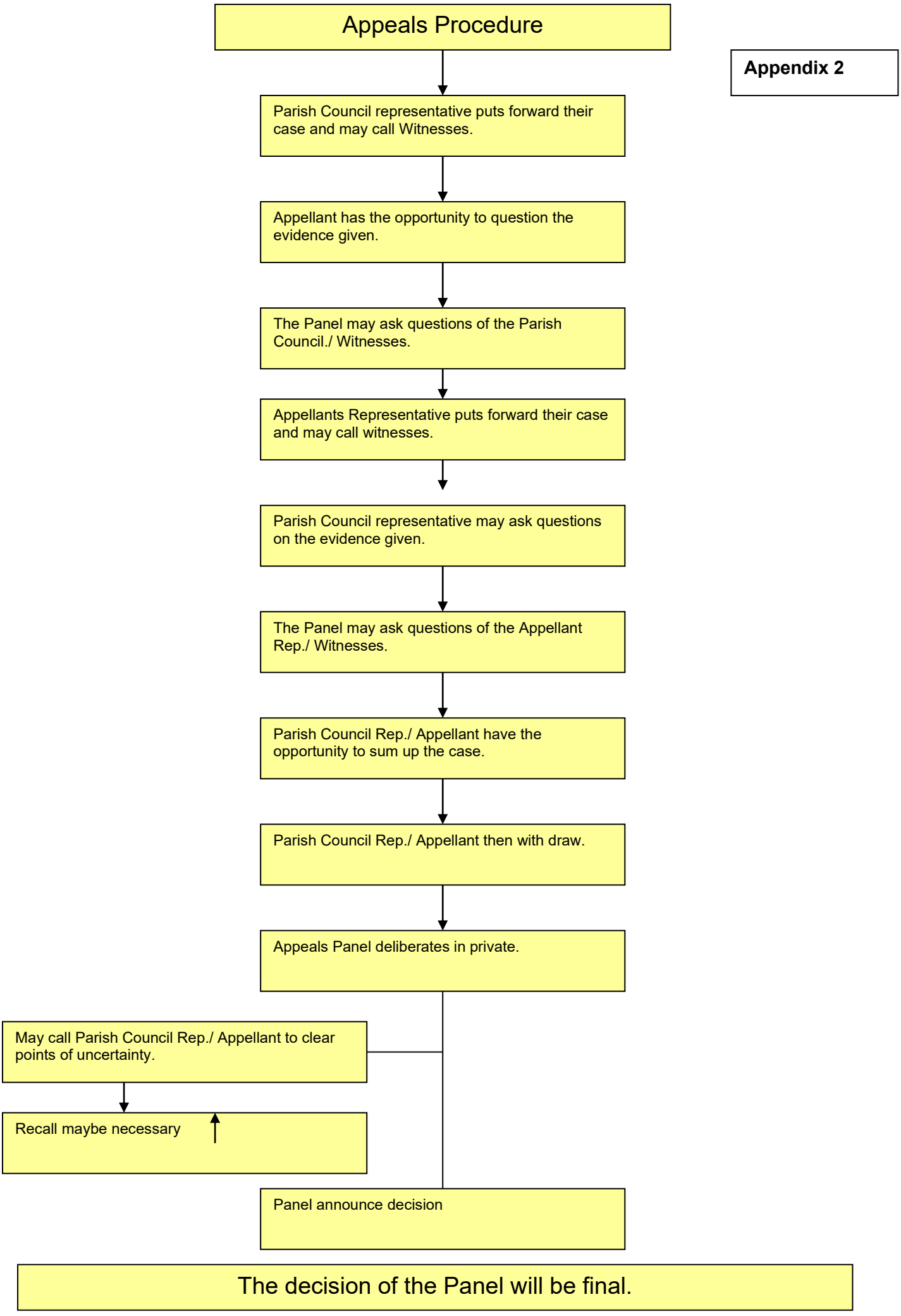
7.4 The decision of the Appeals Committee will be communicated to the employee in writing as soon as practicable, and a copy will be forwarded to his/her representative as appropriate. The decision of the Appeals Panel will be final. The Appeal Procedure is shown in appendix 3. Whilst the decision of the Appeals Panel is final in terms of local procedures, an employee may (if eligible) submit a claim to an employment tribunal.

Appendix 1


Disciplinary Procedure
Raise concern with employee
Conduct an investigation
Gather witness statements and evidence
Write to employee informing them of allegations and time of meeting allowing 5 working days notice.
Conduct a disciplinary hearing
Ensure a fair hearing. Allow time to consider all the evidence and to decide appropriate action.
Parish Council / Employee have the opportunity to sum up the case
Confirm outcome in writing
Employee accepts outcome
Employee Appeals
Invoke Appeals procedure

Appeals Procedure

Appendix 2



The decision of the Panel will be final.