
Disciplinary Policy



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Disciplinary Policy

1. Introduction

- 1.1. B3 will through its induction process, the volunteer handbook and the Code of Conduct's, which are set within this policy and procedure, ensure that you are aware of the expected standards of conduct and that you are supported in achieving these.
- 1.2. Cases of potential misconduct will be investigated promptly, fairly and consistently. Where misconduct is proven, the options available to managers following discussion with the Board of Trustees will include:
 - 1.2.1. Informal counselling;
 - 1.2.2. Coaching and training; and
 - 1.2.3. Formal disciplinary sanctions.
- 1.3. In the case of allegations of bullying or harassment any investigation will be conducted under the Dignity at Work Policy.
- 1.4. All misconduct issues will be addressed in a constructive manner and any disciplinary sanction will be proportionate to the circumstances of the specific case.
- 1.5. At all times, those who are authorised to take disciplinary action under this policy will take account of the potential effects of disciplinary allegations, investigations and hearings on our employees, service users, partner agencies, stakeholders and visitors, particularly those directly involved in the process.
- 1.6. Every step will be taken in order to maintain a positive working environment, whilst dealing with issues of misconduct in a fair and effective way.
- 1.7. Reference to manager throughout this policy and procedure implies a member of B3 staff with responsibility for managing other staff, for example: Service Manager, etc.
- 1.8. The purpose of this policy is to establish a fair and consistent approach for dealing with issues of misconduct, to help you to achieve and maintain expected standards of conduct and to ensure that all employees are aware of their rights and obligations.
- 1.9. It is your responsibility to ensure that you are familiar with the organisations requirements (please refer to your contract and B3 policies). B3 will ensure that the standards of conduct are clearly communicated and accessible to all, along with the process for dealing with any breach of these standards.
- 1.10. This policy is consistent with current employment legislation, ACAS guidelines and recognised best practice.
- 1.11. This policy applies to all B3 employees, regardless of length of service and contractual status.

2. Role Of The Board Of Trustees

- 2.1. The role of management is to provide information to you on this policy. They are also responsible for ensuring that there is a clear understanding of this policy and when it should be used within the organisation.
- 2.2. The role of the Board of Trustees is to provide advice and support to the manager investigating the allegations. They will also ensure that the policy and procedure is followed.
- 2.3. The Board of Trustees representative will advise all concerned parties on process and documentation and will assist the manager hearing the disciplinary. This will include them being in attendance at any formal meetings.
- 2.4. Management will remind you of your right to access the Employee Assistance Programme for support and counselling. The contact telephone number for the EAP is 0800 030 5182. It is available 24/7 and can be contacted to provide you with advice, information and support.

3. Principles

- 3.1. It is expected that all employees of B3 will conduct themselves in a manner that promotes good working relationships with their colleagues and managers. In addition to this, you are expected to present a professional image to our service users, partner agencies, stakeholders, commissioners and visitors.
- 3.2. All employees are expected to report any issues of misconduct to their line manager.
- 3.3. Where a potential disciplinary issue relates to job performance, full consideration will be given to dealing with the matter as a capability issue for which a separate policy and procedure exists. Where it is considered that you are capable of performing the duties in question, the matter will be dealt with via the disciplinary procedure as a matter of misconduct.
- 3.4. This policy provides for there to be a fair, consistent and objective consideration of any allegation(s).
- 3.5. All allegations of misconduct will be fully investigated by your immediate line manager (Investigating Officer). The role of the Investigating Officer is to establish the facts promptly before recollection fades and to gather any documentary evidence. The Investigating Officer may interview any available witnesses and/or take statements from them. They may also interview and/or take a statement from you as part of their investigation. An Interview is a conversation in which one person (interviewer) elicits information from another person (interviewee); a transcript of such an account is called an Interview. A Witness Statement is a document recording the evidence of a person which is signed by that person to confirm the contents of the statement are true and should include what the witness saw, heard or felt. All statements should be signed and dated to confirm that they represent a true record of the discussion.

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- 3.6. The Board of Trustees must be informed when the issue first arises and then kept updated as the investigation progresses. They will also be able to appoint an investigating officer in circumstances where it is not appropriate for the matter to be investigated by your line manager.
 - 3.7. Following a thorough and complete investigation, the investigating officer will make a recommendation based on the following:
 - 3.7.1. That there is a case to be heard at a formal disciplinary hearing.
 - 3.7.2. That the matter can be dealt with informally through supervision.
 - 3.7.3. That there is no case to answer.
 - 3.8. You will be entitled to be accompanied by a trade union representative or work colleague at the formal stages of the procedure i.e. any disciplinary hearing or appeal. Your representative will have the right to address the hearing, to put forward your case and to sum up your case, if you require. There is no right to be accompanied at the informal stage i.e. during the fact finding investigation.
 - 3.9. If the decision is taken to proceed to a formal disciplinary hearing, you will be advised of this in writing. The letter will contain details of the alleged offences and the date, time and location of the scheduled hearing. Any available evidence will usually accompany the letter, including that which does not support the management case. In exceptional circumstances, witness statements may be withheld or made anonymous. In these cases, you and your representative will be given an outline of this evidence.
 - 3.10. B3 will attempt wherever possible to ensure that any manager involved in the formal stages of the procedure, has had no prior involvement in the issue.
 - 3.11. A representative from the Board of Trustees will normally be involved in advising at each stage of the procedure and will be present at any formal meetings.
 - 3.12. You will be informed of the outcome of the disciplinary hearing in writing, usually within five working days. This letter will include the reason why disciplinary action has been taken.
 - 3.13. You will have the right to appeal against any disciplinary sanction imposed.
 - 3.14. If the decision is taken to dismiss you from B3's employment, any outstanding annual leave will be calculated and included in your final salary payment, up to the date that the dismissal takes effect.
 - 3.15. The disciplinary procedure may be enacted at any stage if your alleged misconduct warrants such action.
 - 3.16. Notes and records of matters dealt with under the disciplinary procedure will be held in accordance with current Data Protection legislation. All paperwork related to grievances will be handled on a confidential basis and will be stored securely.

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- 3.17. If you or your representative has a disability, this will be taken into account and reasonable provision will be made to ensure that you and your representative can participate fully.
 - 3.18. Where your first language is not English, an interpreter may be arranged at your request.
 - 3.19. If a grievance or a Dignity At Work complaint is received from you whilst disciplinary proceedings are taking place, the investigating manager should seek advice from the Board of Trustees.

4. Suspension

- 4.1. No employee may be suspended from work until prior consultation has taken place with the Board of Trustees.
- 4.2. Suspension is intended as a neutral act and is not to be regarded as a disciplinary sanction. The purpose of a suspension is to allow the investigating officer to fully investigate allegations of potential gross misconduct.
- 4.3. During the suspension meeting, you should be offered the opportunity of being assigned a buddy. This person will normally be a colleague who is not involved in the investigation. Their role will be to keep you informed of work related issues in a weekly phone call made from their place of work. This will help you to feel supported and not isolated from the work place and to ensure that your return to work (where appropriate) is a smooth transition. Where an appropriate work colleague cannot perform this role, advice should be sought from the Board of Trustees.
- 4.4. During your suspension from work you will be paid as normal.
- 4.5. Whilst you are suspended from work, you must not attend B3 premises (unless arranged through the manager who suspended you or at the request of the investigating officer). You must not contact any B3 members of staff, partnership agencies, commissioners, service users or other stakeholders without the express and prior consent of the manager who suspended you from work. This will not prevent you from contacting your representative or your designated buddy.
- 4.6. Your suspension will be confirmed to you in writing, along with the reasons for the suspension and details of the process that will be followed.
- 4.7. During your suspension, the investigating officer will maintain regular contact with you so that you are kept fully aware of the progress of the investigation.

5. Criminal Offences Or Legal Proceedings

- 5.1. When your alleged misconduct relates to a criminal offence, or if legal proceedings arise from or have any bearing on the employment relationship, the following points should be taken into account before deciding if you should be suspended during the investigation:

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- 5.1.1. The investigating officer should not delay carrying out the investigation until the outcome of the criminal case is known, except in circumstances where the court hearing is immediate.
 - 5.1.2. As in any other situation, before any decision is taken to proceed to a formal disciplinary hearing, reasonable grounds should be established as to whether you have committed the offence. This will normally require an investigation to be carried out. If you are in custody then it may be necessary to conduct the investigation by letter.
 - 5.1.3. In relation to criminal offences or legal proceedings where the police are called in, they are not to conduct the disciplinary investigation on behalf of B3, nor should they be present at any investigation interviews.
 - 5.1.4. When coming to a decision as to whether there is a case to answer, the investigating officer does not have to establish beyond reasonable doubt that you are in contravention of B3's accepted levels of conduct, but whether you are, on the balance of probability.
 - 5.1.5. A conviction for an offence which is not connected with or relevant to performance of your duties shall not necessarily imply disciplinary action. However, if you are charged and convicted for an offence that is relevant to your performance, this will give grounds for disciplinary action. This action may include dismissal if it is a proportionate and appropriate sanction.

6. Disciplinary Rules

6.1. Misconduct

- 6.1.1. The following is a non-exhaustive list of examples of misconduct, falling short of gross misconduct:
 - Unauthorised absence from work.
 - Unsatisfactory time keeping.
 - Minor damage to B3 property.
 - Failure to submit a self certificate or doctors' statement in accordance with the Attendance Management policy and procedure, or when requested by your manager.
 - Obscene or offensive language.
 - Time wasting.
 - Minor contravention of health and safety regulations.
 - Disruptive behaviour.
 - Unauthorised, persistent use of the telephone for personal use.

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- Minor breaches of IT policies (for example, inappropriate usage of computers, email or the internet).
 - Unauthorised smoking on B3 or partner/stakeholders' premises.
 - Speaking to the media without prior and express consent.

6.2. Gross Misconduct

- 6.2.1. Gross misconduct is where your conduct amounts to a breach of trust or is of such a serious nature that no reasonable employer can be expected to continue to employ you.
- 6.2.2. The following is a non-exhaustive list of examples of offences that would amount to gross misconduct that may warrant dismissal (either summary or with notice):
 - Theft, fraud and/or deliberate falsification of records/claims.
 - Physical violence.
 - Bullying or harassment.
 - Deliberate and major damage to B3 property.
 - Serious insubordination.
 - Serious misuse of B3's name or property.
 - Gross breaches of IT policies (for example, serious inappropriate usage of computers, email or the internet).
 - Downloading, storing, printing and/or displaying pornographic and offensive material including that which relates to individuals' protected characteristics (i.e., age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).
 - Bringing the organisation into disrepute.
 - Gross negligence.
 - Any criminal offence and/or legal proceedings, which make you unsuitable for employment with B3.
 - Persistent breach of misconduct rules where you have received previous formal warnings regarding your conduct.
 - Unauthorised use or disclosure of confidential information in breach of current Data Protection legislation.
 - Serious contravention of health and safety regulations.
 - Sale and/or consumption of alcohol on B3 premises without authority (this will not normally be given for service premises).

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- Being under the influence of alcohol, breaching the Drug and Alcohol policy.
 - Dealing in and/or taking illegal substances, breaching the Drug and Alcohol policy.
 - Sleeping whilst on duty unless in accordance with your normal duties as outlined in your job description.
 - Violent, abusive or intimidating behaviour or any act that violates acceptable standards of behaviour.
 - Failure to comply with lawful and reasonable instructions.
 - Serious breach of the Staff Code of Conduct

6.2.3. There may be occasions when dismissal is warranted but where no examples of gross misconduct have occurred. This type of dismissal would typically come under the definition of 'some other substantial reason' and notice would be paid. The following is a non-exhaustive list of where this may occur:

- Where police clearance has not been granted, or if it has been withdrawn.
- If your DBS is renewed whilst you are in B3's employment and the outcome is unsatisfactory.
- If you have been barred through the DBS scheme.
- If you lose your driving licence and you are required to drive as part of your role.
- If it would be illegal to continue to employ you.
- Where there are serious personality clashes or a complete breakdown in the working relationship which did not amount to gross misconduct.

6.2.4. In some of the circumstances listed in 6.1.1, it may be possible for B3 to seek suitable redeployment. Where this is feasible, this will be normal practice.

7. Disciplinary Hearing

- 7.1. Once the investigating officer has completed their investigation their report will be submitted to a Hearing manager who will make a decision as to whether the case should proceed to a formal disciplinary hearing if there is a case to answer. Contained in the report will be all of the relevant evidence, a summary of the allegations and any supplementary information, such as witness statements.
- 7.2. The manager chairing the hearing will notify you in writing of the intention to hold a disciplinary meeting. You will be given reasonable written notification and

wherever possible, at least five working days' notice. The letter will contain the following information:

- The time, date and location of the hearing.
- The name of the Board of Trustees representative who will be present to advise the manager during the hearing.
- A description of the allegations to be discussed in the hearing with an indication of how serious the allegations are.
- A copy of all of the evidence obtained during the investigation will be provided. This will include any evidence that does not support the management case. In exceptional circumstances, witness statements may be withheld or made anonymous. In these cases you and your representative will be provided with an outline of the witnesses' evidence.
- A copy of the procedure that will be followed during the hearing (as set out in Appendix A).
- Your right to be accompanied at the hearing by either a trade union representative or a work colleague.

7.3. No other misconduct other than that set out in the letter advising you of the hearing will be discussed during the disciplinary hearing.

7.4. The hearing will be recorded using a Dictaphone, or a minute taker will be present. Following the hearing, a copy of the audio or the transcript will be provided to you at your request.

7.5. At the hearing you will be given the opportunity to respond to the allegations with the assistance of your representative.

7.6. Wherever possible, agreement should be reached between all parties as to what took place and the facts of the case.

7.7. If further investigation is required, the hearing should be adjourned and this will be confirmed to you in writing.

7.8. Following the presentation of the evidence and cross-examination of witnesses, you will be given the opportunity to sum up your case. The investigating officer will do the same.

7.9. Your representative has the right to address the hearing at the beginning and at the end. They will also have the right to respond to views expressed; however, this does not entitle them to answer questions on your behalf.

7.10. When the chair of the disciplinary hearing is considering all of the available evidence, no involved parties will be present. The Board of Trustees representative and the person taking the minutes (if applicable) will remain in the room.

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- 7.11. When the chair has reached their decision, they will call the parties involved back into the room and will notify them both of the outcome. This will be confirmed to you in writing within five working days.
- 7.12. If the chair requires more time to consider their decision, the involved parties will be called back into the room and will be advised that the decision will be provided in writing within five working days.
- 7.13. The written decision letter will contain the following information:
- Details of the allegation(s).
 - The decision and the reason(s) for that decision.
 - Any mitigating circumstances that have been taken into account.
 - The disciplinary sanction imposed, the length of time that it will remain recorded on your personal file.
 - Your right to appeal the decision.

8. Disciplinary Sanctions

- 8.1. There are five levels of disciplinary sanctions, which can be taken under this policy and procedure. The length of time that a disciplinary sanction remains active will vary upon the circumstances and the severity of the allegations. Below is an outline of the five different sanctions and the period of time that each one will remain live and recorded on your personal file:

Disciplinary Sanction	Length Of Time Live
Verbal warning	6 months
First written warning	12 months
Final written warning	18 months
Dismissal (with notice)	n/a
Summary dismissal (without notice)	n/a

- 8.2. In cases of misconduct, it would be normal practice for two or three warnings to be given before a dismissal would occur. For minor misconduct, a verbal warning or a first written warning will be given and confirmed to you in writing. For a second or third minor offence, or for more serious allegations, a final written warning will be given and confirmed to you in writing.
- 8.3. Warnings for different types of misconduct may be aggregated.
- 8.4. In certain circumstances, the decision may be made to downgrade or redeploy you, should there be a suitable vacancy. This may have an impact on your terms and conditions of employment, including your pay. This would normally take place as an outcome falling short of dismissal. This may be a standalone sanction or may happen in conjunction with a warning, where there have been

specific concerns raised that, if repeated, could lead to further disciplinary action.

9. Termination Of Employment

- 9.1. In cases of gross misconduct, you may be summarily dismissed without notice. A summary dismissal does not negate the requirement for a full investigation and a disciplinary hearing and this process must be followed before a decision to terminate your employment is taken.
- 9.2. If there are sufficient grounds to warrant dismissal then you will be advised in writing that dismissal may be a possible outcome of the hearing. A Board of Trustees representative will be present at the hearing to advise on policy, procedure and relevant employment legislation.
- 9.3. If following your disciplinary hearing, the chair considers (after full consultation with the Board of Trustees representative) that dismissal is an appropriate sanction; this will be confirmed to you in writing. The letter will be sent within five working days of the hearing and will set out the reason(s) for your dismissal, any mitigating circumstances that were taken into account and your right to appeal.

10. Right To Appeal

- 10.1. In all cases of a formal disciplinary sanction, you will have the right to appeal against the decision of the chair of the disciplinary hearing.
- 10.2. You will be provided with details of how to appeal in your letter confirming the outcome. Appeals must be set out in writing, containing the reason for your appeal and be sent to the Chair of the Board of Trustees. Any appeal must be received within ten working days from the date of the letter confirming the decision.
- 10.3. Management will arrange for an independent person to chair your appeal hearing. The chair will be supported by a Board of Trustees representative. Neither the chair nor the Board representative will have had any previous involvement in your case.
- 10.4. Any appeal against dismissal will be heard by the chair of the Board of Trustees.
- 10.5. Your appeal hearing will be convened as soon as reasonably practicable, preferably within ten working days.
- 10.6. You will be advised in writing of the date, time and location of the appeal hearing. You will also be reminded of your right to be accompanied.
- 10.7. You will be provided with a copy of the procedure to be followed at the hearing (see Appendix B).
- 10.8. The appeal hearing will be recorded using a Dictaphone, or a minute taker will be present. Following the hearing, an audio file or the transcript of the meeting will be provided to you at your request.

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- 10.9. In the event that the Chair of the Board of Trustees takes the decision to reinstate you after dismissal, you will not lose your continuous service. You will have your pay reinstated subject to a deduction based on an assessment of any income that you may have received whilst not employed by B3.
- 10.10. Appeal hearings will be conducted in accordance with the following terms of reference:
- To review whether the matter under consideration was adequately investigated and substantiated.
 - To review whether B3's procedures were correctly and fairly implemented.
 - To consider whether the disciplinary sanction was reasonable under the circumstances known to management at the time of the disciplinary hearing.
 - Any new evidence that has come to light but was not available at the time of the original investigation.
- 10.11. There is no further right of appeal and any decision made at this stage will be final.

11. Confidentiality And Record Keeping

- 11.1. A written record of the disciplinary process will be kept. This record will contain the following information:
- Your name and job title.
 - Details of the allegation(s).
 - The date when the matter was initially raised.
 - If you were suspended from work and if so, the date that this occurred and the length of your suspension.
 - The date that the investigation commenced and who conducted that investigation.
 - The date of the hearing and who chaired the meeting.
 - The findings and the outcome of the hearing.
 - Whether an appeal was received and the date of the appeal letter.
 - The date of the appeal hearing and who chaired the meeting.
 - The findings and the outcome of the appeal hearing.
 - Any subsequent developments.
- 11.2. All records in respect to disciplinary matters will be treated as confidential and will be kept in accordance with current Data Protection legislation. You will be entitled to obtain access to these records, except in circumstances where

information has been provided by a third party who has requested that it is not disclosed.

- 11.3. A copy of any verbal or written warning, together with any appeal documentation will be placed on your file and will remain active for the period of time as stated in 8.1. above. When the active date expires, the disciplinary sanction will be disregarded for the purposes of any further disciplinary proceedings.
- 11.4. All parties who are involved in disciplinary proceedings must maintain confidentiality at all times. During the investigation, it may be necessary for the investigating officer to devolve details of the disciplinary to other parties where it is relevant to obtaining evidence.

12. Sickness Absence During Disciplinary Proceedings

- 12.1. It is in your best interests for the disciplinary hearing to be held as quickly as possible. However, if you become unfit for work due to sickness during disciplinary proceedings, a doctor's statement must be obtained and submitted to management.
- 12.2. If your sickness is for a prolonged period of time, the Board of Trustees will seek advice from B3's occupational health provider as to whether you are fit enough to proceed with the disciplinary hearing or not. This will most likely mean that you will be asked to attend an occupational health appointment.
- 12.3. If you are not able to attend the initial hearing date, a second date for the hearing will be arranged as soon as reasonably practicable but not within five working days of the original date. You will be advised in writing of the details of the rescheduled hearing and you will be given at least five working days notice of it.
- 12.4. If you have been unable to attend both disciplinary hearings due to ill health, the hearing may be held and a decision made in your absence. In such circumstances you will be asked to send in a written statement answering the allegations or you may ask your representative to attend the hearing on your behalf.

13. Referral To Other Agencies

- 13.1. We may be obliged to provide the outcome of disciplinary action taken against you, should this be relevant to professional or governing bodies outside of B3, which may include in response to a reference request regarding your employment. Alternatively, if an investigation into allegations about you could not be completed as a result of you leaving, we may be obliged to disclose the allegations, again, where relevant.
- 13.2. There may be exceptional circumstances when the grounds for dismissal are so serious that B3 takes the decision that the details of the case are referred to the individual's professional body, to the DBS or to other relevant authorities. The decision to take such action will be made by the Hearing Manager in conjunction with the Board of Trustees only once the full process has been completed.

14. Format Of Disciplinary Hearing (Appendix A)

- 14.1. The disciplinary hearing will be recorded either by digital recorder, or there will be a minute taker present.
- 14.2. The chair of the panel will introduce all parties present at the hearing. They will explain the purpose of the hearing and they will confirm how it will be conducted.
- 14.3. Your representative will be allowed to address the hearing, should they so wish.
- 14.4. The investigating officer will outline the case and, as part of their investigation, will gather statements from any relevant witnesses in support of the case.
- 14.5. You and/or your representative can respond to the allegations and put forward your case. You may also ask any relevant witnesses to give statements in support of your case.
- 14.6. The investigating officer may make a closing statement.
- 14.7. You and/or your representative may make a closing statement.
- 14.8. The investigating officer, along with you and your representative will withdraw from the room while the chair considers the evidence that has been presented to them. They will remain accompanied by the Board of Trustees representative who will advise and assist them with this process. If there is a minute taker present, they will also remain in the room.
- 14.9. The chair may recall either party to allow them to clarify evidence or to seek further information. If a recall is necessary, both parties will be asked to return to the room.
- 14.10. Following deliberation, both parties will be asked to return to the hearing to be informed of the outcome. This will be confirmed to you in writing within five working days. In some circumstances, it may be necessary for the chair to deliberate for a longer period of time, in which case the decision will be communicated to you directly in writing.
- 14.11. You will be advised both verbally and in writing of your right to appeal the decision.
- 14.12. Adjournments can take place throughout the hearing, wherever necessary.

15. Format of Appeal Hearing (Appendix B)

- 15.1. The appeal hearing will be recorded either by digital recorder, or there will be a minute taker present.
- 15.2. The chair of the panel will introduce all parties present at the hearing. They will explain the purpose of the hearing and they will confirm how it will be conducted.

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- 15.3. You and/or your representative will set out why you consider the case to be unfounded or the sanction imposed as unreasonable. You may ask any relevant witnesses to give statements in support of your case.
 - 15.4. The management representative, the chair and the Board of Trustees representative may question you on the information provided.
 - 15.5. The management representative will set out how they reached their decision and why they decided on the sanction imposed. If required, the management representative may refer to statements to support their case.
 - 15.6. The chair, the Board of Trustees representative, you and/or your representative may question the management representative on the information provided.
 - 15.7. You and/or your representative may make a closing statement.
 - 15.8. The investigating officer may make a closing statement.
 - 15.9. The management representative, along with you and your representative will withdraw from the room while the chair considers the evidence, which has been presented to them. They will remain accompanied by the Board of Trustees representative who will advise and assist them with this process. If there is a minute taker present, they will also remain in the room.
 - 15.10. The chair may recall either party to allow them to clarify evidence or to seek further information. If a recall is necessary, both parties will be asked to return to the room.
 - 15.11. Following deliberation, both parties will be asked to return to the appeal hearing to be informed of the outcome. This will be confirmed to you in writing within five working days. In some circumstances, it may be necessary for the chair to deliberate for a longer period of time, in which case the decision will be communicated to you directly in writing.
 - 15.12. There is no further right to appeal and any decision made at this stage will be final.