

The Grampian Valuation Joint Board

Disciplinary Procedure

1. STATEMENT OF POLICY

- 1.1 It is the view of the Grampian Valuation Joint Board that the maintenance of discipline is essential for the effective conduct of the Board's affairs and for the safety and well being of employees and of others affected by the Board's activities.
- 1.2 In order to satisfactorily maintain discipline, the Board expects its employees to conduct themselves within the law, any code of ethics or practice associated with their profession, any rules specifically relating to the employee's workplace or activities and within generally accepted standards of social and moral behaviour.
- 1.3 The Board will assist employees so far as practicable in achieving acceptable standards of conduct by bringing to their attention rules of the workplace and by providing such training as is deemed necessary to assist them in undertaking their work effectively and safely.
- 1.4 The Board will, however, not hesitate in taking appropriate counselling, disciplinary or punitive action if an employee fails to meet required standards of conduct or behaviour generally referred to in 1.2 above. In order to ensure the fair and equitable treatment of employees subject to disciplinary action, the Board has prepared and issued this disciplinary procedure, in consultation and agreement with the appropriate Trade Union. The procedure will be issued as necessary and will apply to all employees within its scope.

2. RESPONSIBILITIES

- 2.1 The Assessor is responsible for the management and discipline of his Department. He must ensure that all employees are made aware of the standards of conduct, safety and job performance required of them and of any disciplinary rules applying to them. He is ultimately responsible for any disciplinary action taken against the employees of his Department and will discuss with the Head of Personnel Services, Moray Council, any proposal to take punitive action, including dismissal.
- 2.2 The Head of Personnel Services shall advise the Assessor on the operation of the procedure, both generally and in specific cases, in order to achieve as far as reasonably practicable a fair and consistent approach to action taken under the procedure.
- 2.3 The Assessor, with assistance as required from the Head of Personnel Services, will be responsible for arranging appropriate training and briefing on the use of the procedure and the maintenance and updating of departmental records, sufficient to facilitate the smooth operation of the procedure.

3. SCOPE OF THE PROCEDURE

- 3.1 The procedure will apply to all employees of the Board covered by the SJC Conditions of Service.
- 3.2 Disciplinary action against a Trade Union Representative can lead to a serious dispute if it is seen as an attack on the Union's functions. Although normal disciplinary standards should apply to their conduct as employees, no formal disciplinary action should be taken until the circumstances of the case have been discussed with a full-time officer of the Union concerned.

4. GENERAL PRINCIPLES

- 4.1 The operation of the procedure in a satisfactory manner will depend upon the adoption of certain general principles, which are in accordance with recognised good personnel practice;
- (a) except in the case of gross misconduct, the principal purpose of disciplinary action should be to counsel the employee to overcome the problem or deficiency complained of;
 - (b) a thorough investigation of all the circumstances of a case should be made before a course of disciplinary action is taken;
 - (c) at all stages, the employee should be given a fair hearing and ample opportunity to explain the reasons for his alleged failure to meet the required standards. A warning should never be given without a disciplinary hearing being held, even if the factual evidence appears indisputable;
 - (d) before any disciplinary hearing is held, the employee must be informed in writing of the complaints against him, be given all relevant evidence and allowed adequate time to prepare a case;
 - (e) both parties to the hearing are entitled to call and question witnesses;
 - (f) the employee should have notice of the right to be accompanied/represented by a Trade Union representative or any other person at all stages of the process;
 - (g) an accurate record of any disciplinary hearing and action taken should be maintained, (subject to the provision of 5.4 relating to the Life of Warnings). Any warnings that are issued will be confirmed in writing within 10 working days;
 - (h) no disciplinary action may be taken against a Trade Union representative until the circumstances of the case have been discussed with a full time official of the Trade Union concerned (UNISON);
 - (i) except in the case of gross misconduct, no employee will be dismissed for the first breach of discipline;
 - (j) it is recognised it is in the interests of all parties that all procedures connected with this process are exercised as expeditiously as possible.

- 4.2 The procedure allows for a series of stages, ranging from counselling and informal warnings through to dismissal. Frequently, a counselling session or the issue of a warning will resolve the problem. In other circumstances it might be necessary over a period of time to pursue several or all of the stages of the procedure in order to resolve the matter. On other occasions an instance of serious or gross misconduct will require the immediate operation of an advanced stage of the procedure, including at times dismissal, which may be with or without notice as appropriate.
- 4.3 The following are examples of types of misconduct which would be expected to involve disciplinary action, short of dismissal, being taken against an employee in the first instance. However, failure to improve to the required standard after counselling, training or warnings as appropriate could eventually lead to demotion, transfer or dismissal. Other acts or omissions by an employee, which do not meet the standards required, may also lead to disciplinary action.
- (i) Unacceptable performance in quality of output of work.
 - (ii) Records of poor attendance and/or time keeping.
 - (iii) Non-compliance with authorised work instructions or procedures.
 - (iv) Breach of any Board Policies or Procedures.
- 4.4 The following are examples of types of gross misconduct which could lead to dismissal without notice.
- (i) Theft of and/or wilful damage to Board property and/or equipment.
 - (ii) Fraud, attempted fraud or deliberate falsification of records.
 - (iii) Reporting for or being at work whilst under the influence of alcohol or illegal drugs.
 - (iv) Violent, abusive, threatening, indecent or otherwise unacceptable behaviour towards another employee or a person in the care of the Board.
 - (v) Serious negligence which causes unacceptable loss, damage or injury.
 - (vi) Gross insubordination.
 - (vii) Unauthorised disclosure of confidential or personal information.
 - (viii) Serious contravention of safety regulations or repeated breach of safety procedures or regulations following a warning.
 - (ix) Bringing the Board into disrepute through actions taken either on or off Board sites in contradiction with the Board's Code of Conduct.
 - (x) Prolonged unauthorised absence.
 - (xi) Serious breach of confidence.

- (xii) Receiving, soliciting or agreeing to receive any inducement or reward in respect of any matter or transaction in which the Board is concerned.
- (xiii) Serious misuse or abuse of e-mail and/or internet facilities provided by the Board.
- (xiv) Breach of any code or ethics/practice associated with the employee's profession or trade.
- (xv) Failure to disclose any information, including a medical condition/history, which has a significant impact upon the ability to undertake contractual duties both prior to and during employment.

This list has been prepared for the purpose of illustration and is not intended to be exhaustive in any way.

- 4.5 The procedure takes account of the guidance contained in the ACAS Code of Practice on Disciplinary Practices and Procedures. In particular it provides for rights of representation at each formal stage of the procedure and for rights of appeal against warnings and punitive action.
- 4.6 Criminal offences outside employment should not be treated as automatic reasons for dismissal regardless of whether the offence has any relevance to the duties of the individual as an employee. The main considerations should be whether the offence is one that makes the individual unsuitable for his or her type of work or unacceptable to other employees. Employees should not be dismissed solely or automatically because a charge against them is pending or because they are absent through having been remanded in custody.
- 4.7 The application of this procedure will not infringe the employee's statutory rights, eg of appeal to an Industrial Tribunal, where they meet the necessary qualifications.

5. THE PROCEDURE

5.1 The procedure consists of a number of stages described more fully in following paragraphs.

5.2 Informal Stages

(a) Counselling

Counselling of employees is the responsibility of all supervisors and should be a regular feature of the employee/supervisor relationship. It is important that any shortcoming in performance or behaviour is brought to the employee's attention at an early stage.

(b) General

Supervisors should develop trusting relationships with their subordinates to encourage them to discuss freely any problems that arise. Wherever possible problems should be resolved without recourse to the formal

procedure. There should be an attempt to get commitment, from the employee, to improve.

No rights of representation or appeal are specified at this stage. For the purposes of this section the term “supervisor” extends to any member of staff responsible for the general supervision of any subordinate member of staff.

5.3 **Formal Stages**

5.4 General

5.4.1 If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, the move to more formal stages will be necessary.

5.5 The Investigation

5.5.1 Before a decision is reached or formal disciplinary action is taken, a thorough investigation of the circumstances of a case should be undertaken. An appropriate Officer will lead the investigation with advice provided by Moray Personnel Services. This Officer will act promptly and the investigation will be completed within 10 working days other than in exceptional circumstances.

5.5.2 The investigation will normally involve interviewing relevant parties at the earliest opportunity in order to establish the facts of the case. Witnesses should be made aware that they may be required to attend any disciplinary hearing called to consider the allegations. Statements provided by witnesses will normally be signed at the time of recording.

5.5.3 Following the completion of the investigation a summary of the findings will be provided to the likely Chair of any disciplinary hearing in order for them to determine whether it is appropriate to convene a hearing. The Chair of any disciplinary hearing should ideally have had no previous connection with the incident/conduct in question.

5.5.4 All aspects of the investigation should be treated as confidential by those involved in the process.

5.6 Disciplinary Hearing

5.6.1 A hearing will be arranged and chaired by a nominated Manager. The employee will be informed of the issues to be considered and the arrangements for the hearing in writing, providing at least 5 working days advance notification. The following individuals will normally attend the hearing for the purpose as detailed:

- (i) the employee under discipline
- (ii) an official of his/her Trade Union or other person of his/her choice
- (iii) the nominated Manager who will chair the hearing
- (iv) a Management representative who will present the case against the employee under discipline

- (v) a representative from Moray Personnel Services may be present in the capacity of adviser to the chairperson
- (vi) any person(s) whom the chairperson decides
- (vii) when the allegation is of gross misconduct a representative from Legal Services may also be present in the capacity of adviser to the chairperson.

5.6.2 In some circumstances it may be appropriate to proceed with the hearing in the absence of one or more of the persons listed.

5.6.3 In advance of the hearing, the chairperson shall consider, in consultation with the interested parties where appropriate, whether or not it is necessary to request the presence of any other person(s) at the hearing.

5.6.4 In the first instance, the outcome should be communicated orally, if feasible, by the chairperson. This shall then be confirmed in writing by the chairperson (using recorded delivery) within 10 working days.

5.6.5 If it is decided that no disciplinary action is to be taken, all references to the case shall be removed from the employee's personal file and destroyed.

5.7 Warnings

5.7.1 The authority to issue warnings is delegated by the Assessor to an appropriate Manager within each service. Only in the more advanced stages of the procedure will the Assessor normally be directly involved. It is important that, in each case, the employee is made fully aware of the reasons for the warning and of the consequence of a repetition or failure to improve to the required standard. Normally a review date within the duration of the warning will be fixed to consider the employee's progress.

5.7.2 Where the employee is issued with a warning following a disciplinary hearing, a copy of the warning letter must be sent by recorded delivery to the employee's home address. A copy should also be sent to Moray Personnel Services for file purposes.

STAGE 1:

5.8 Oral Warning

5.8.1 This will be used where the employee's performance or conduct is unsatisfactory and where either the employee has already been subject to the informal stage or where it is appropriate to advance to the formal stages in the first instance. The warning must include reference that any further breach may render the employee open to further disciplinary action.

5.8.2 A record must be kept of any oral warning and a letter confirming the warning sent to the employee within 10 working days of the hearing, using the model format in Appendix A.

STAGE 2:

5.9 Written Warning

5.9.1 This will be used where the employee has not improved to the required standard or has repeated an act or omission within the time limit of an oral warning, or for a first breach of discipline, which merits a stage beyond an oral warning. Following the hearing the warning should be confirmed in writing within 10 working days, using the model format in Appendix B. The employee must be informed that a further breach may result in further disciplinary action being taken.

STAGE 3:

5.10 Final Written Warning

5.10.1 This will be used where previous warnings have failed to achieve their purpose, or for serious breaches of discipline, misconduct or a failure to improve conduct or performance. The warning should be confirmed in writing without delay, including details of any additional punitive action and within 10 working days of the hearing, using the model format in Appendix B. This written confirmation should leave the employee in no doubt that the consequence of a further breach may result in dismissal.

5.11 Duration of Warnings

5.11.1 Records should be kept, detailing the nature of any breach of disciplinary rules; the employee's defence or mitigation; the action taken and the reasons for it; whether an appeal was lodged and its outcome and any subsequent developments. These records should be carefully safeguarded and held in confidence by the Assessor, with copies thereof passed to the Head of Moray Personnel Services.

5.11.2 Except in exceptional circumstances, these records should be expunged after a specified period of satisfactory conduct. During this period, however, any further breach could lead to action under the next stage of the procedure. This will be clearly explained to the employee. Although the duration of a warning will depend on the circumstances of the case, a warning will normally be expunged after the following periods:

Oral Warning	-	6 Months
Written Warning	-	9 Months
Final Written Warning	-	12 Months

5.11.3 The employee will be notified accordingly in writing, two weeks prior to the expiry of the warning, with a copy passed to the Head of Moray Personnel Services.

5.11.4 In exceptional circumstances where a final written warning is issued either instead of punitive action, or in addition to punitive action short of dismissal, a longer period may be applied, depending upon the case, and the employee notified accordingly.

STAGE 4:

5.12 Punitive Action

5.12.1 Punitive action will be appropriate where warnings have failed to resolve the problem or in the case of serious misconduct where a step beyond a warning is required. In certain cases, where punitive action is a realistic outcome of the disciplinary process, it will be necessary to suspend the employee on full pay pending the completion of investigations into the facts surrounding the complaint. Such a suspension will communicate the severity with which the complaint is viewed and permit enquiries to proceed unhindered by the continued presence of the employee at the workplace.

5.12.2 Punitive Action – Excluding Dismissal

The type of punitive action taken will depend upon the circumstances of the case. Punitive action will only be taken by the nominated Manager, as indicated in Appendix D, following a thorough investigation and disciplinary hearing. Punitive action includes dismissal with or without notice; demotion from a promoted post; suspension without pay for a specified period; transfer to another work location to a similar or different post. Generally, punitive action, short of dismissal, may also be linked with a final written warning. Punitive action must be confirmed in writing within 10 working days of the hearing, with the letter specifying the action taken, the reason for it and the employee's right of appeal.

5.12.2 Punitive Action – Dismissal

For serious repeated misconduct or poor performance during the currency of a final written warning or for gross misconduct for which no previous warning exists, dismissal may be a reasonable sanction. The employee must be informed in writing of the effective date of dismissal and whether the dismissal is summary or with notice. (See model letter in Appendix C).

6. **RIGHTS OF APPEAL**

6.1 Rights of appeal exist against oral and written warnings and punitive action. These rights are indicated in the Table on page 15.

6.2 An appeal against an oral or a written warning (excluding a final warning) should be made to the Assessor.

6.3 An appeal against a final warning should normally be made to the Assessor. In the event of that warning being issued by the Assessor, the right of appeal will be to the Board's General Purposes Sub-Committee.

6.4 An appeal against punitive action should be made to the Board's General Purposes Sub-Committee which shall hear the appeal in the manner specified in the SJC Scheme.

6.5 An employee shall have the right to be presented by a Trade Union representative or any other person at any appeals hearing.

6.6 Should any disciplinary action be effectively withdrawn as a result of reconsideration, any written reference thereto shall be noted accordingly in the employee's record and the employer notified accordingly.

7. LODGING OF APPEALS

- 7.1 An appeal against disciplinary action should be made by the individual or, where appropriate, through the employee's Trade Union Representative in the manner specified in the letter confirming the disciplinary action taken.
- 7.2 An appeal should be lodged in writing within 14 calendar days of receipt of notification of the action.
- 7.3 An appeal hearing shall normally be arranged within 14 calendar days of receipt of the notice of appeal, unless otherwise mutually agreed.

8. ROLE OF THE HEAD OF PERSONNEL SERVICES (MORAY COUNCIL)

- 8.1 The Head of Personnel Services shall be informed of any case which is likely to lead to punitive action, including dismissal. The Head of Personnel Services or a senior nominated representative, shall participate in any enquiries or interviews to the extent that they consider necessary.
- 8.2 The Head of Personnel Services and Personnel Services staff will be pleased to offer advice at any stage on any disciplinary matter.

9. DATE OF IMPLEMENTATION

- 9.1 This procedure will be effective immediately when approved by the Board (20 June 2008).

10. REVIEW PROVISIONS

- 10.1 The operation of the procedure will be reviewed at 3 yearly intervals.
- 10.2 The terms of the procedure shall be subject to review at any time on the service by any party hereto of notice in writing, specifying the parts they wish to see reviewed.

NOTE: The use of the male or female gender within this procedure and management supplement shall apply equally to include the female or male gender as appropriate.

Appendix A

MODEL CONFIRMATION OF ORAL WARNINGS

I now confirm the oral warning given to you on (*Date*) in the presence of (*Departmental or Trade Union Representatives*).

This warning constitutes a formal stage within the terms of the agreed disciplinary procedure, a copy of which is available for reference from. This oral warning has been recorded on your personal file.

You have the right of appeal against this warning/action to the Assessor within 14 calendar days. You also have the right to be accompanied and advised by your own Trade Union Representative or any other person at any appeal.

If your conduct/performance improves within (*the life of the warning*) this disciplinary action will be considered expunged from your record.

Signature (*Depute*)

NOTE: This is a model letter and it is not essential for the confirmation of oral warning to take this precise format.

Appendix B

MODEL WRITTEN WARNING

I now write to confirm the formal/final written warning following your interview on (*Date*) in the presence of (*Departmental and Trade Union Representatives*).

(*Insert here, where appropriate, reference to any punitive action taken in addition to warning*).

This warning constitutes a formal stage within the terms of the agreed disciplinary procedure, a copy of which is available for reference from. The areas of unsatisfactory conduct and/or performance is/are as follows:-

(*Detail events leading to warning, with relevant dates*).

To help you overcome these problems I will arrange for

(*specify if training or other help is to be given*).

Your conduct and/or performance will be monitored during the next () weeks/months and your progress will be reviewed. In the event of subsequent failure you will be liable to (*specify action*). If your conduct/performance improves within (*the life of the warning*) this disciplinary action will be considered expunged from your record.

You have the right to appeal against this warning/action to the Assessor within 14 calendar days. You also have the right to be accompanied and advised by your Trade Union Representative or any other person at any appeal.

Signed (*Depute*)

NOTE: This is a model letter and it is not essential for it to take this precise format. However, it is essential that all the items shown in the model are included.

Appendix C

MODEL LETTER OF DISMISSAL**

I refer to your interview on (*Date*) in the presence of (*Departmental and Trade Union Representatives*).

I now confirm that your employment will terminate with effect from (*Date*).

*You will shortly receive () weeks pay in lieu of notice/and any outstanding holiday pay.

This action is taken within the terms of the agreed disciplinary procedure, a copy of which is available for reference from.

The reasons for your dismissal are as follows:

(Details of recent offence along with previous disciplinary action including dates).

You have the right to appeal against this action to the Grampian Valuation Joint Board General Purposes Sub-Committee by application to the Assessor within 14 calendar days.

You also have the right to be accompanied and advised by your Trade Union Representative or any other person at any appeal.

Signed

Assessor

***Insert as appropriate**

****This is a model letter and it is not essential for it to take this precise format. However, it is essential that all the items shown in the model are included.**

GRAMPIAN VALUATION JOINT BOARD

DISCIPLINARY PROCEDURE: MANAGEMENT SUPPLEMENT

These guidelines are issued, following discussions with UNISON, to clarify the position where an employee is to be suspended on full pay, in accordance with paragraph 5.12.1 of the procedure, to enable enquiries to take place following an alleged breach of conduct or irregularity in behaviour.

Suspension on full pay in this regard is not a form of disciplinary action. It is a provision within the disciplinary procedure which enables enquiries to be carried out unencumbered by the employee's continuing presence at work. It also permits the employee to make arrangements for representation, if he or she so wishes.

Guidelines

1. Suspension on full pay may be undertaken by the Assessor or a Depute acting on his behalf.
2. The Assessor/Depute should inform the employee that he is to be interviewed within the terms of the disciplinary procedure on a matter that could affect his continued employment and suggest that the employee might wish to be represented by a Trade Union Representative or other friend at the interview. (If the matter is of such seriousness that the employee cannot be permitted to remain at the workplace until an interview can take place with representation, then the employee should be instructed to leave the workplace pending the arrangement of such an interview. In these circumstances the employee should be accompanied from the workplace by a nominated senior member of staff).
3. The employee will be interviewed by the Assessor/Depute and informed of the suspension and the reason for it.
4. The Assessor/Depute will also explain the employee's rights of appeal against the suspension and the right of the employee's Trade Union to be informed of the suspension. In this connection, the Assessor/Depute will ascertain
 - (a) whether the employee belongs to a Trade Union, and
 - (b) whether he wishes a copy of the letter confirming suspension to be sent to the appropriate Trade Union official.
5. The suspension with pay will be confirmed in writing to the employee, again setting out the reasons for the suspension. This may include the right to appeal if the suspension is punitive. A copy of this letter will be sent to the appropriate Trade Union official if the employee has confirmed that he wishes this to be done.
6. The Head of Personnel Services will be advised of the suspension on full pay, pending enquiries, and will be sent a copy of the letter confirming suspension.
7. Unless the Trade Union has already been advised, the Head of Personnel Services will inform the appropriate Trade Union official that a suspension has occurred, without naming the employee concerned, as a means of forewarning the Union of a possible enquiry from one of its members.

Notifications to Trade Unions

Where an employee wishes his Trade Union to receive a copy of the letter confirming suspension, the letter should be sent to the appropriate Trade Union.

DISCIPLINARY PROCEDURE

STAGE	ACTION BY	WRITTEN RECORD	RIGHT OF REPRESENTATION*	RIGHT OF APPEAL	APPEAL TO
INFORMAL STAGE: see paragraph 5.2 of Procedure					
Counselling	Immediate supervisor	None	None specified	No	
FORMAL STAGES: see paragraph 5.3 of Procedure					
Oral Warning	Immediate supervisor or Assistant Assessor	Confirmatory note on file and to employee within 7 calendar days.	Yes	Yes	
Formal written warning	Depute	Letter specifying terms of warning and conditions to be sent recorded delivery within 10 calendar days.	Yes	Yes	To Assessor. Hearing to be arranged within 14 calendar days of receipt of notice of intention to appeal.
Final written warning	Assessor	Letter specifying terms of warning and conditions to be sent recorded delivery within 10 calendar days. Copy to appropriate Trade Union official.	Yes	Yes	To Assessor. Hearing to be arranged within 14 calendar days of receipt of notice of intention to appeal. Where the Assessor has issued the final written warning, the appeal will be to the Board's General Purposes Sub-Committee via the Assessor.
PUNITIVE ACTION: see paragraph 6.3 of Procedure					
Punitive Action: eg - Dismissal - Demotion/Relegation - Suspension without pay - Transfer	Assessor/Depute	Letter specifying action, terms and conditions to be sent recorded delivery within 10 calendar days. Copy to appropriate Trade Union official.	Yes	Yes	By application to the Assessor. Hearing to be arranged by the Clerk to the Board within the terms of the Board's Standing Orders.

NOTE

*Representation may be by a Trade Union Representative or other friend.