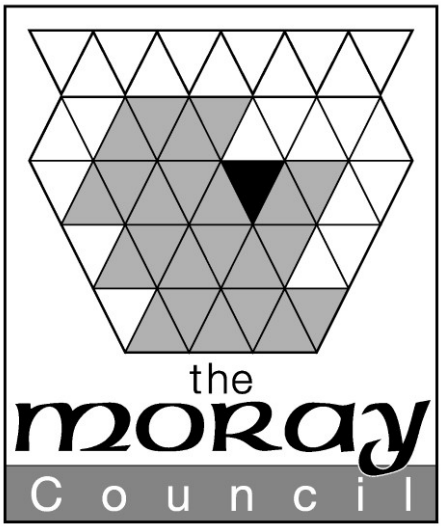

THE MORAY COUNCIL

DISCIPLINARY PROCEDURES

THE MORAY COUNCIL

DISCIPLINARY PROCEDURES

1.0 STATEMENT OF POLICY

1.1 The Council recognises that the maintenance of discipline is essential for the conduct of the Authority's affairs and for the safety and well being of employees and others affected by the Council's activities.

1.2 In order to maintain discipline, employees are expected to conduct themselves within the law; any code of ethics or practice associated with their profession or trade; any rules specifically relating to the work place or activities; and within generally accepted standards of social and moral behaviour.

1.3 The Council will assist employees in achieving the required standards of job performance or conduct, by bringing to their attention the rules of the workplace and by providing such training as is necessary to assist them in carrying out their work effectively and safely.

1.4 The disciplinary policy is designed to help and encourage employees failing to achieve and maintain professional standards of conduct and/or job performance. The aim is to ensure consistent and fair treatment to all staff.

2.0 RESPONSIBILITIES

2.1 Heads of Department are responsible for the management and discipline of their Department and are ultimately responsible for any disciplinary action taken against the employees of the department. They 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.

2.2 Departmental Managers must consult with Human Resources in the event of any investigation or disciplinary hearings being proposed. Human Resources shall advise Managers on the operation of the procedure throughout, both generally and in specific cases, in order to achieve a fair and consistent approach.

2.3 Human Resources in advising Managers will do so in consultation with Legal & Democratic Services where appropriate.

2.4 Departmental Managers and Human Resources will be responsible for arranging appropriate training and briefing on the use of the procedures and the maintenance and updating of records, both departmental and central, sufficient to facilitate the smooth operation of the procedure.

3.0 /

3.0 SCOPE OF THE PROCEDURE

3.1 The procedure will apply to Chief Officers, Scottish Joint Council employees and Craft Operatives.

4.0 GENERAL PRINCIPLES

4.1 The satisfactory operation of the procedure depends upon the adoption of general principles, which are in accordance with recognised good practice and guidance provided by the Advisory Conciliation and Arbitration Service (ACAS):

(i) Except in the case of gross misconduct, the principal purpose of disciplinary action should be to help and encourage improvement by employees whose conduct, attendance or standard of work is unsatisfactory

(ii) The employee should be given notice of the right to be accompanied/represented by a Trade Union representative or any other person other than an Elected Member of the Council at all formal stages of the process.

(iii) A thorough investigation of all circumstances of a case should be made before disciplinary action is taken. Advice should be sought from Human Resources prior to commencing any investigation.

(iv) At all stages, the employee should be given the opportunity to explain the reasons for his/her alleged failure to meet the required standards. A formal warning under this procedure should never be given without a disciplinary hearing being held, even if the factual evidence appears indisputable.

(v) Before any disciplinary hearing is held, the employee must be informed in writing of the complaints against them, be given all relevant evidence, and allowed adequate time to prepare a case.

(vi) Both parties to the hearing are entitled to call and question witnesses.

(vii) The employee should also be given notice of the right to be accompanied/ represented by a Trade Union representative or any other person other than an Elected Member of the Council at all stages of the process.

(viii) An accurate written record of disciplinary hearings and any action taken must be taken and a copy provided to the employee. Any warnings that are issued will be confirmed in writing within 10 working days.

(ix) 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 union concerned.

(x) Prior to any disciplinary action being taken, the Chair of the Hearing, must be satisfied on the balance of probability that the allegations are upheld.

(xi) Except in the case of gross misconduct, no employee will be dismissed for a first breach of discipline.

(xii) It is recognised that 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 according to the circumstances of each case. 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 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 with regards to standard or 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 Council Policies and Procedures

(v) Aggressive or offensive behaviour

(vi) Failure to observe safety regulations, policies or procedures.

(vii) Any of the types of conduct listed at 4.4 which fall short of being sufficiently serious to constitiute gross misconduct.

4.4 The following are examples of types of gross misconduct, which could lead to dismissal without notice:

(i) Theft or Fraud
(ii) Physical violence or bullying
(iii) Deliberate and serious damage to property
(iv) Serious misuse of the Council's property or name
(v) Deliberately accessing internet sites containing pornographic, offensive or obscene material
(vi) Serious insubordination

(vii) Unlawful discrimination or harassment
(viii) Bringing the Council into serious disrepute
(ix) Serious incapability at work brought on by alcohol or illegal drugs
(x) Causing loss, damage or injury through serious negligence
(xi) A serious breach of health and safety rules
(xii) A serious breach of confidence.
(xiii) Professional incompetence

These lists have been prepared for the purpose of illustration and are not intended to be exhaustive in any way.

4.5 Criminal charges or convictions outside employment must 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 consideration should be whether the offence is one that makes the individual unsuitable for his/her type of work or unacceptable to other employees. In all cases, the facts must be considered and a decision made as to whether the conduct is sufficiently serious to warrant initiating the disciplinary procedure. Employees must not be dismissed or penalised solely or automatically because a criminal charge against them is pending or because they are absent through having been remanded in custody.

4.6 The need to suspend employees as part of the Disciplinary Procedure will be very carefully considered. Suspension may be appropriate in circumstances where there are allegations made of gross misconduct. However, before a decision to suspend is taken, consideration must be given to all aspects of the situation including the potential consequences for the employee: e.g. professional reputation and future career prospects, particularly where the allegations may not be upheld following investigation. Alternative measures should be considered before deciding to suspend and the rationale for such a decision documented. 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. Suspension of an employee should always be discussed with Human Resources prior to any decision being taken.

4.7 The procedure takes account of the guidance contained in the ACAS Code of Practice on Disciplinary Procedures. In particular, it provides for rights of representation at each formal stage of the procedure and for rights of appeal against disciplinary action.

5.0 THE PROCEDURE

5.1 The procedure consists of a number of stages, as set out in the Table in Appendix 1, and described more fully in the following paragraphs.

INFORMAL STAGES

5.2 General

5.2.1 Managers should develop trusting relationships with their employees to encourage them to discuss freely any problems that arise. Wherever possible, problems should be resolved without recourse to the formal procedure.

5.3 Counselling / Informal warnings (In the form of advice, support and guidance)

5.3.1 Counselling employees is the responsibility of all Managers / Supervisors and should be a regular feature of employment. It is important that any shortcoming in performance or behaviour is brought to the employee's attention at an early stage. Problems should be discussed with the objective of encouraging and helping the employee to improve. It is important that the employee understands what needs to be done, how performance or conduct will be reviewed and over what period. The employee should also be made aware of what action would be taken if he/she fails to improve. Records of counselling and any support measures should be added to the employee's file and a copy given to the employee as a point of reference for either party. A copy should also be given to the employee. Such records will be expunged after three months of the counselling/support measures ceasing to have effect. Mediation may also be considered as a means to a resolution.

5.3.2 No rights of representation or appeal are specified at this stage.

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 of the service concerned will normally lead the investigation with advice and support provided by Human Resources . Human Resources should be made aware of all formal disciplinary matters before any investigations are undertaken. The employee concerned will be advised in writing if the allegations and of the date and time of the investigatory meeting. Employees should be given reasonable notice of the investigatory meeting. 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 be sent to them for signature.

5.5.3 Following the completion of the investigation a summary of the findings will be provided to the nominated manager 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 (see Appendix 1). 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 other than an Elected Member of the Council

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 Human Resources may be present in the capacity of adviser to the chairperson

vi) any person(s) whom the chairperson decides (see para. 5.6.3 below)

vii) clerical/administrative support as necessary to record proceedings

viii) when the matter is of such seriousness that disciplinary action which might result in a final written warning, punitive action or dismissal is being considered, a representative from Legal and Democratic Services may also be present, at the discretion of the Head of Service, in the capacity of legal 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 at 5.6.1.

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. The Chairperson will have the final decision of who attends.

5.6.4 The employee concerned has the right to call witnesses and should advise the Chair of the Disciplinary Hearing of the names of witnesses in advance of the hearing in order that arrangements can be made for witnesses to attend.

5.6.4 The format of the hearing should be based upon the framework outlined within **Appendix 8**.

5.6.5 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.

5.6.6 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 Possible Outcomes

5.7.1 Following a disciplinary hearing, there is a range of possible outcomes as detailed below.

5.7.2 No further action taken (use model letter Appendix 2)

5.7.3 Formal counselling designed to support the employee to maintain appropriate standards of performance/conduct.

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. A record must be kept of an 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 3.

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 4. The employee must be informed that a further breach may result in further disciplinary action being taken.

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 5. This written confirmation should leave the employee in no doubt that the consequence of a further breach may result in dismissal.

5.11 Punitive Action

5.11.1 Punititve action normally means action, which imposes a demotion, transfer of the employee or termination of employment with or without notice. It 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.

5.11.2 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 5**, following a thorough investigation and disciplinary hearing. 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. (See model letter in **Appendix 6**)

5.11.3 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 7).

5.12 Duration of Warnings

5.12.1 The authority to issue warnings is delegated by the Corporate Director to an appropriate Senior Manager within each service. Only in the more advanced stages of the procedure will the Corporate Director 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.

5.12.2 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 Human Resources for file purposes.

5.12.3 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 within the department concerned, with copies thereof passed to the Head of Human Resources & ICT.

5.12.4 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

5.12.5 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 Human Resources & ICT.

5.12.6 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.

6.0 RIGHTS OF REPRESENTATION

6.1 The Disciplinary Procedure provides for the right of employees to be accompanied/represented by a Trade Union representative or any other person other than an Elected Member of the Council at all stages of the procedure, including the investigation.

6.2 This satisfies the statutory right provided for by the Employment Relations Act 1999 to be accompanied at disciplinary hearings.

6.3 An employee and/or trade union official who has been requested to accompany/represent a colleague, should be permitted to take a reasonable amount of paid time off to fulfil this responsibility. The time off should not only cover the hearing but should also allow a reasonable amount of time off for the accompanying person to confer with the employee before and after the hearing.

6.4 Where a chosen companion is not available to attend on the date proposed for the hearing, the employee can offer an alternative time and date so long as it is reasonable and falls before the end of the period of five working days beginning with the first working day after the day proposed by the employer. Regard should also be had for
the availability of the relevant Manager and others required at the hearing.

6.5 Under the Employment Relations Act, the companion/representative can address the hearing to put the employee's case, sum up their case and respond on the employees behalf to any view expressed at the hearing.

6.6 The companion/representative may not answer questions on the employee's behalf or address the hearing if the employee does not wish them to do so. The companion/representative may not prevent a manager from explaining his or her case or prevent any other person from making their contribution.

6.7 The companion/representative should not be somebody who is directly involved in the incident leading to the hearing.

7.0 TIMESCALES

7.1 In the interests of fairness to all parties involved in any disciplinary matter and in order to ensure a speedy resolution to the issues rasied, it is important that the timescales outlined in the procedures are adhered to. However, it is accepted that there may be occasions when, in exceptional circumstances, this may not always be possible.

7.2 The disciplinary hearing should be held normally within six weeks of commencement of the disciplinary procedure on a mutually agreed date.

7.3 In the event of the long term sickness absence of the employee subject to the disciplinary procedures, their chosen representative shall by agreement represent them at any meeting and/or hearing unless the employee is fit to attend for the purpose of trying to resolve the matter albeit not fit to attend normal duties. Where an employee chooses not to be represented, they will have the opportunity to submit any information in writing to the person responsible for holding the meeting/hearing.

7.4 In the event of the long term absence of the relevant manager, another manager within the department who is familiar with the issues involved on the disciplinary matter shall attend the meeting/hearing on their behalf.

7.5 In the event of the sickness absence of any witness involved in the disciplinary process, a decision will be made by the person responsible for holding the meeting/hearing as to whether the witness is material to the case. This decision will be taken in consultation with Human Resources. If the witness is material to the case, then their evidence/information shoud be presented by their chosen representative, or submitted in writing to be considered at the meeting/hearing. If not, then the meeting/hearing should proceed in their absence.

8.0 RIGHTS OF APPEAL

8.1 Rights of appeal exist against all formal stages of the disciplinary procedure. The rights and responsibilities are detailed within **Appendix 1**. In the case of an oral and written warning, however, the right of appeal will end at the Corporate Director or nominee, unless the warning is given by the Director, in which case the right of appeal will end at the Chief Executive.

8.2 Managers will consult with Human Resources before any appeals hearing and a representative from Human Resources will attend the hearing in an advisory capacity.

8.3 An appeal against punitive action may be made through the Head of Legal & Democratic Services to the Councils Appeals Committee who will hear the appeal in accordance with agreed procedures.

8.4 An employee shall have the right to be represented by a Trade Union representative or any other person other than an Elected Member of the Council at any appeal hearing.

8.5 The purpose of the Appeal Hearing is to consider whether the investigation and procedures have been carried out fairly and properly. It will also consider whether the Manager acted reasonably in taking the disciplinary action, given the evidence before him/her. Such submissions shall refer only to information or matters previously mentioned during the previous stages. In particular, it shall be possible to introduce new information or matters not canvassed at earlier stages of the procedure only where it was not reasonably practicable to introduce the new evidence sooner. The Chairperson shall have the sole discretion as to whether to permit introduction of new evidence.

8.6 Should any disciplinary action be effectively withdrawn as a result of reconsideration, any written reference thereto shall be expunged from the employee's record.

9.0 LODGING OF APPEALS

9.1 An appeal against disciplinary action should be made in writing by the employee or on his/her behalf by a Trade Union or other representative within 10 working days of notification of action, in the manner specified in the letter confirming the disciplinary action taken. The letter should outline the reason and grounds for the appeal. Consideration will be given to late appeals in exceptional cases, if there is good cause.

9.2 Agreement shall normally be reached within 10 working days on the date of an appeal hearing. Such hearings shall be arranged as expeditiously as possible taking account of the agreed Committee cycle.

10.0 IMPLEMENTATION

10.1 This procedure will operate with effect from 1 January 2013.

11.0 REVIEW OF PROCEDURE

11.1 This Disciplinary Procedure may be reviewed at any time by the Head of Human Resources & ICT Services in consultation with the appropriate Trade Unions.

January 2013

APPENDIX 1

Stage	***Action By**	**Written Record**	**Right of Representation**	**Right of Appeal**	**Appeal To**
Informal Stage Counselling	Appropriate Manager	Keep notes of any counselling and put a copy in employee's file.	NO	NO	N/A
Formal Stages Formal counselling	Appropriate Manager	Keep notes of any counselling and provide a copy to the employee	NO	YES	In writing to the next tier of management within 10 working days of receipt of notification
Oral Warning	Appriopriate Manager	Confirmatory note on file and to employee within 10 working days of the hearing. Copy to Head of Human Resources & ICT. *Use Model in App. 3.*	YES	YES	In writing to the next tier of management within 10 working days of receipt of notification
Written Warning	Appropriate Manager	Confirmatory note on file and to employee within 10 working days of the hearing. Copy to Head of Human Resources & ICT. *Use Model in App. 4.*	YES	YES	In writing to the Head of Service within 10 working days of receipt of notification
Final Written Warning	Head of Service or Nominee	Confirmatory note on file and to employee within 10 working days of the hearing. Copy to Head of Human Resources & ICT. *Use Model in App. 5.*	YES	YES	In writing to the relevant Corporate Director or Senior Nominee within 10 working days of receipt of notification
Punitive Action – Demotion/Transfer	Head of Service or Senior Nominee	Letter specifying action, terms and conditions to be sent recorded delivery, within 10 working days of the hearing. Copy to Head of Human Resources & ICT. *Use Model in App.6.*	YES	YES	To Appeals Committee of Council by application in writing to the Head of Legal & Democratic Services within 10 days of receipt of notitifcation. Hearing to be arranged by the Head of Legal & Democratic Services as expeditiously as possible.
Dismissal	Head of Service or Senior nominee	Letter specifying action to be sent Recorded Delivery within 10 working days of the hearing. Copy to Head of Human Resources & ICT *Use Model in App.7.*			

* those specified in this table must have received appropriate training in the disciplinary process

Template letters are in place for use for all stages of the process

Each Head of Service or Nominee will decide those Managers authorised to carry out each level of disciplinary action and will provide delegated authority to do so where required.

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APPENDIX 2

TEMPLATE LETTER FOR NO DISCIPLINARY ACTION FOLLOWING DISCIPLINARY INVESTIGATION

Dear Name

Outcome of Disciplinary Investigation

I write to formally advise you that the disciplinary investigation into allegations made against you has been concluded. The allegation(s) was/were that:

- Detail allegation(s) as per investigatory letter
-

Having fully considered the Investigation Report I take this opportunity to advise you that there is insufficient evidence to uphold the allegations and therefore no further disciplinary action will be taken.

You will understand that it is crucial that the Moray Council investigates allegations of misconduct fully to obtain all the facts and to determine whether it is appropriate to progress to a disciplinary hearing and on this occasion, as a result of the full investigation, there is no case to be considered. I would like to thank you for your co-operation throughout this investigation.

I understand that being involved in an investigation can cause distress and would like to take this opportunity to remind you that Time for Talking provide a 24 hour confidential independent counselling service on behalf of the Moray Council and can be contacted on 0800 970 3980.

Yours sincerely

APPENDIX 3

TEMPLATE LETTER FOR ORAL WARNING

Dear Name

Outcome of Disciplinary Hearing – Oral warning

I refer to the disciplinary hearing which took place on (Date) in the presence of (names and job titles). (You declined the right to be accompanied by a Trade Union representative, friend or work colleague) The purpose of the hearing was to address allegations made against you, namely that:

- detail allegation/allegations as per hearing letter.

After considering all of the information presented at the hearing, it was decided that the allegations made against you were upheld for the following reasons:

- Detail reasons for upholding the allegations

Under the Moray Council's Disciplinary Policy (Section 4.3) this is considered to be (state reason e.g. unacceptable performance, poor attendance, non-compliance with authorised work instructions or procedures, breach of Council policies and Procedures) and is viewed as misconduct. I confirm that you have been issued with an oral warning.

This warning constitutes a formal stage within the terms of the Council's agreed Disciplinary Procedures and has been recorded on your personal file. It will remain in force for a period of 6 months during which time a considerable and sustained improvement in your work performance/conduct, as outlined below, will be expected. (Detail the standard of conduct/performance that is expected, any training that has been identified and any timescales that have been set)

You have the right of appeal against this warning to your (next level of management) within 10 working days of the date of this letter, stating the grounds of your appeal. You also have the right to be accompanied and advised by your own Trade Union Representative or any other person, other than an Elected Member of the Council at any appeal hearing.

Your performance/conduct will be monitored over this 6 month period and provided necessary improvements are made, no further action will be taken after this time and the warning will be removed from your record. I must warn you however, that failure to achieve the improvements specified may result in further disciplinary action being taken against you.

I understand that this process may have been difficult and take this opportunity to remind you that Time for Talking provide a free 24 hour, independent and confidential, counselling service on behalf of the Moray Council. They can be co[illegible]

APPENDIX 4

970 3980.

Yours sincerely

TEMPLATE LETTER FOR WRITTEN WARNING

Dear Name

Outcome of Disciplinary Hearing – Written Warning

I refer to the disciplinary hearing which took place on (Date) in the presence of (names and job titles). (You declined the right to be accompanied by a Trade Union representative, friend or work colleague) The purpose of the hearing was to address allegations made against you, namely that:

- detail allegation/allegations as per hearing letter.
-

After considering all of the information presented at the hearing, it was decided that the allegations made against you were upheld for the following reasons:

- Detail reasons for upholding the allegations
-
-

Under the Moray Council's Disciplinary Policy (Section 4.3) this is considered to be (state reason e.g. unacceptable performance, poor attendance, non-compliance with authorised work instructions or procedures, breach of Council policies and Procedures) and is viewed as misconduct.

Detail any previous warnings which have not expired and relate to the outcome of this hearing.

I confirm that you have been issued with a written warning. This warning constitutes a formal stage within the terms of the Council's agreed Disciplinary Procedures and has been recorded on your personal file. It will remain in force for a period of 9 months during which time a considerable and sustained improvement in your work performance/conduct, as outlined below, will be expected. (Detail the standard of conduct/performance that is expected, any training that has been identified and any timescales that have been set)

You have the right of appeal against this warning to your (insert Head of Service name) within 10 working days of the date of this letter, stating the grounds of your appeal. You also have the right to be accompanied and advised by your own Trade Union Representative or any other person, other than an Elected Member of the Council at any appeal hearing.

Your performance/conduct will be monitored over this 9 month period and provided necessary improvements are made, no further action will be taken after this time and the warning will be removed from your record. I must warn you however, that failure to achieve the improvements specified may result in further disciplinary action being taken against you.

I understand that this process may have been difficult and take this opportunity to remind you that Time for Talking provide a free 24 hour, independent and confidential, counselling service on behalf of the Moray Council. They can be contacted on 0800 970 3980.

Yours sincerely

TEMPLATE LETTER FOR FINAL WRITTEN WARNING

Dear Name

Outcome of Disciplinary Hearing – Final Written Warning

I refer to the disciplinary hearing which took place on (Date) in the presence of (names and job titles). (You declined the right to be accompanied by a Trade Union representative, friend or work colleague) The purpose of the hearing was to address allegations made against you, namely that:

- detail allegation/allegations as per hearing letter.
-

After considering all of the information presented at the hearing, it was decided that the allegations made against you were upheld for the following reasons:

- Detail reasons for upholding the allegations
-
-

Under the Moray Council's Disciplinary Policy (Section 4.3) this is considered to be (state reason e.g. unacceptable performance, poor attendance, non-compliance with authorised work instructions or procedures, breach of Council policies and Procedures) and is viewed as misconduct.

Detail any previous warnings which have not expired and relate to the outcome of this hearing.

I confirm that you have been issued with a final written warning. This warning constitutes a formal stage within the terms of the Council's agreed Disciplinary Procedures and has been recorded on your personal file. It will remain in force for a period of 12 months during which time a considerable and sustained improvement in your work performance/conduct, as outlined below, will be expected. (Detail the standard of conduct/performance that is expected, any training that has been identified and any timescales that have been set)

You have the right of appeal against this warning to your (insert Head of Service name) within 10 working days of the date of this letter, stating the grounds of your appeal. You also have the right to be accompanied and advised by your own Trade Union Representative or any other person, other than an Elected Member of the Council at any appeal hearing.

Your performance/conduct will be monitored over this 12 month period and provided necessary improvements are made, no further action will be taken after this time and the warning will be removed from your record. I must warn you however, that failure to achieve the improvements specified may result in further disciplinary action being taken against you.

I understand that this process may have been difficult and take this opportunity to remind you that Time for Talking provide a free 24 hour, independent and confidential, counselling service on behalf of the Moray Council. They can be contacted on 0800 970 3980.

Yours sincerely

APPENDIX 6

TEMPLATE LETTER FOR PUNITITVE ACTION SHORT OF DISMISSAL

Dear Name

Outcome of Disciplinary Hearing – Punitive Action

I refer to the disciplinary hearing which took place on (Date) in the presence of (names and job titles). (You declined the right to be accompanied by a Trade Union representative, friend or work colleague) The purpose of the hearing was to address allegations made against you, namely that:

- detail allegation/allegations as per hearing letter.

After considering all of the information presented at the hearing, it was decided that the allegations made against you were upheld for the following reasons:

- Detail reasons for upholding the allegations

Under the Moray Council's Disciplinary Policy (Section 4.4) this is considered to be (state reason) and is viewed as gross/serious misconduct.

Detail any previous warnings which have not expired and relate to the outcome of this hearing.

I confirm that with effect from (date of hearing or other effective date) you will be demoted/downgraded/suspended without pay/transferred to

This action constitutes a formal stage within the terms of the Council's agreed Disciplinary Procedures and has been recorded on your personal file. It will remain in force for an indefinite period/ set period (state time) permanent change). Detail terms of review where appropriate.

You have the right of appeal against this action to the Appeals Committee within 10 working days of the date of this letter, stating the grounds of your appeal. You also have the right to be accompanied and advised by your own Trade Union Representative or any other person, other than an Elected Member of the Council at any appeal hearing.

Your future performance/conduct will be monitored and provided necessary improvements are made, no further action will be taken after (state period of time agreed) and the details of the action taken will be removed from your record. I must warn you however, that any similar act or omission by you may result in your dismissal from the Council's employment.

I understand that this process may have been difficult and take this opportunity to remind you that Time for Talking provide a free 24 hour, independent and confidential, counselling service on behalf of the Moray Council. They can be contacted on 0800 970 3980.

Yours sincerely

TEMPLATE LETTER FOR DISMISSAL

Dear Name

Outcome of Disciplinary Hearing – Dismissal

I refer to the disciplinary hearing which took place on (Date) in the presence of (names and job titles). (You declined the right to be accompanied by a Trade Union representative, friend or work colleague) The purpose of the hearing was to address allegations made against you, namely that:

- detail allegation/allegations as per hearing letter.
-

After considering all of the information presented at the hearing, it was decided that the allegations made against you were upheld for the following reasons:

- Detail reasons for upholding the allegations
-
-

Under the Moray Council's Disciplinary Policy (Section 4.4) this is considered to be (state reason) and is viewed as gross/serious misconduct.

Detail any previous warnings which have not expired and relate to the outcome of this hearing.

I confirm that with effect from (date of hearing where summary dismissal, or in the case of dismissal with notice – the date of expiry of notice) you will be dismissed from your post of (post title).

This action has been taken in accordance with the Council's agreed Disciplinary Procedures.

You have the right of appeal against the decision to dismiss you from your employment to the Appeals Committee within 10 working days of the date of this letter, stating the grounds of your appeal. You also have the right to be accompanied and advised by your own Trade Union Representative or any other person, other than an Elected Member of the Council at any appeal hearing.

Yours sincerely

APPENDIX 8

CONDUCT OF A DISCIPLINARY HEARING

Action	**Action by**
Introduce all those in attendance	Chairperson
An initial explanation of the reason for the hearing/ a summary of the allegations	Chairperson
A summary of the proposed conduct of the hearing	Chairperson
Presentation of the Management case against the employee	Management representative
Questioning of Management on the content of their presentation by Trade Union Representative/ employee	Trade Union Representative/ employee
Questioning of Management on the content of their presentation by Chairperson	Chairperson
Management may add further comments to conclude their case	Management representative
Presentation of the employee response to Management complaint	Trade Union Representative/ employee
Questioning of Trade Union Representative/ employee on the content of their presentation by Management representative	Management representative
Questioning of Trade Union Representative/ employee on the content of their presentation by Chairperson	Chairperson
Trade Union Representative/ employee may add further comments to conclude their case	Trade Union Representative/ employee
Chairperson may ask final questions	Chairperson
Management will provide a summing up statement	Management representative
Trade Union Representative/ employee will provide a summing up statement	Trade Union Representative/ employee
Chairperson then conclude the initial part of the hearing	Chairperson
Adjournment to consider evidence presented	Chairperson/ Human Resources/ Legal & Democratic Services (as appropriate)
Meeting recommences for Chairperson to indicate his conclusions and deliver findings	Chairperson
Chairperson concludes the hearing	Chairperson

Please note that witnesses can be called and questioned at the appropriate stages of the process.