

THE HIGHLAND & WESTERN ISLES VALUATION JOINT BOARD
GRIEVANCE POLICY & PROCEDURE

Document Control

Document last saved: 13/11/17

Version	Changes	Author	Date
1.0	First release	M Thomson	13/11/17

Introduction

Every employee has a right to seek redress for grievances relating to their employment.

Grievance procedures provide a mechanism whereby problems in relation to work, the working environment or working relationships can be raised and addressed.

These problems should be dealt with speedily and fairly before they can develop into major problems or, potentially, collective disputes.

This policy and procedure will apply to all employees except the Assessor.

This procedure will also apply to former employees where the grievance is raised within 4 months of cessation of employment.

Where a grievance is raised out with this timescale, it should be referred to the Assessor.

Aims

The aim of this policy is to provide a mechanism for identifying and addressing employee grievances fairly and as quickly as possible.

Principles

All employees must be made aware of the terms of this grievance procedure and have ready access to a copy of it.

Every effort should be made to resolve a grievance or potential grievance using informal mechanisms e.g. discussion with the immediate supervisor, discussion with a senior colleague or through an informal approach by a trade union representative.

If informal methods do not succeed and the aggrieved party remains dissatisfied with the outcome or response, the formal procedure should be used.

All grievances will be dealt with quickly, fairly and within the suggested time limits.

It is neither possible nor desirable to specify precisely all of the issues which may give rise

to a grievance, but the main areas would include

- terms and conditions
- health, safety and wellbeing
- relationships at work
- new working practices
- organisational change
- equal opportunities matters

The following issues are not covered by the grievance procedure:

- disciplinary matters
- issues not related to employment
- taxation, national insurance and pension matters
- collective disputes (generally defined under the Trade Unions and Labour Relations (Consolidation) Act)

Individual and group grievances will be dealt with using the same procedure and including the same stages.

Decisions relating to a grievance will be taken at the lowest appropriate level and will, where possible, involve the use of informal mechanisms to secure a resolution.

Employees have the right to be accompanied at all stages in the grievance process.

Procedure

Every attempt should be made to resolve the matter through informal discussion or through informal representation by a trade union official.

The immediate manager/supervisor or other senior manager must respond as quickly as possible to an informal approach, not necessarily in writing.

If the aggrieved party is dissatisfied with the response or if no response has been forthcoming, within a reasonable period, the employee may initiate the first stage of the formal grievance procedure.

Where a formal grievance is received, the procedure set out at Appendix 1 will be followed.

The employee must be given every opportunity to present evidence in support of his/her grievance and the employee and/or representative can call witnesses, submit additional written information and/or use verbal presentation.

In addition, the nominated senior officer or Assessor or nominee must be given every opportunity to justify a decision which is subject to appeal.

Status Quo Ante

In the event of a formal grievance being lodged in response to a proposed change to terms and conditions of employment and when practicable, where a grievance has been lodged in response to changes to working practices, or organisational structures, no change shall be made to the relevant terms and conditions of employment until the agreed grievance procedures have been exhausted.

Withdrawal

The aggrieved employee may at any stage withdraw from these procedures by giving notice in writing. In these circumstances the employee will be deemed to have abandoned the grievance.

Collective Grievances

Two or more employees who share a common grievance arising from the same circumstances shall be entitled to pursue their grievance in common by means of the procedures outlined above.

Confidentiality

The Board will treat records arising from the grievance process as confidential. Copies of such records will be made available to the employee concerned and to his/her representative and to officers or members involved in the grievance and appeals process.

Stages and Time Limits

Details of grievance stages, appeals and suggested time limits are set out in Appendix 2.

Guidance

Guidance on the conduct of grievance hearings and appeals is set out separately in Guidelines for Managers which is available from Central Admin.

Legislation

The development and application of this policy is guided by:

- Employment Rights Act 1996
- Employment Relations Act 1999
- Employment Act 2008
- ACAS code of practice on disciplinary and grievance procedures

24 November 2017

FORMAL GRIEVANCE PROCEDURE**Stage 1**

The employee should submit a formal written statement of grievance to the nominated senior officer using the attached pro forma (Appendix 3), outlining clearly the nature of the grievance.

The form should include reference to the resolution sought by the aggrieved party.

The nominated senior officer will convene a formal grievance hearing within 10 working days (or otherwise by mutual agreement) of receipt of the written statement of grievance.

The employee will have the right to be represented at the hearing.

The nominated senior officer will respond in writing to the formal statement of grievance within 5 working days after the date of the hearing.

Where the nominated senior officer is the aggrieved party, the formal statement of grievance should be submitted to the Assessor or nominee.

There may be other circumstances where it would not be appropriate for the nominated senior officer to hear the grievance at Stage 1, in which case the grievance should be submitted directly to the Assessor who may appoint a nominee, other than the nominated senior officer to deal with Stage 1.

Stage 2

Should the employee be dissatisfied with the decision of the nominated senior officer there shall be a right of appeal to the Assessor.

A statement of appeal must be submitted in writing within 10 working days of receipt of the nominated senior officer's decision explaining the reasons for continuing dissatisfaction.

The Assessor or nominee will convene a formal appeal hearing within 10 working days of receipt of the written statement of appeal.

The Assessor or nominee shall respond in writing to the aggrieved employee within 5 working days after the date of the hearing.

Stage 3

If the employee remains dissatisfied with the response from the Assessor or nominee there shall be a right of appeal to the Joint Board or a Sub-Committee of the Joint Board.

A statement of appeal must be submitted in writing within 10 working days of receipt of the Assessor or nominee's decision.

A meeting of the Joint Board or a Sub-Committee of the Joint Board will be convened within 20 working days of receipt of the written statement of appeal. Grievances will end at the level of the authority.

Grievance Stages, Appeals and Time Limits

The following table provides and describes the basic stages and time limits within the process.

Stage	Heard By	Suggested Time Limit
1	Nominated Senior Officer	10 working days for formal hearing to take place 5 working days to issue written response
2	Assessor or nominee	Appeal hearing to be heard within 10 working days written response 5 working days to issue written response
3	Joint Board or a Sub-Committee of the Joint Board	Appeal hearing to be heard within 20 working days 5 days to issue written response

CONFIDENTIAL

**THE HIGHLAND & WESTERN ISLES VALUATION JOINT BOARD
GRIEVANCE FORM**

Your name

Your post

Area Office/Location

You should submit this form to the Assessor.

If you wish, you can submit the form through your trade union or other representative.

Please set out details of your grievance below and continue on the reverse of this form if necessary. Remember to sign and date the form.

Nature of Grievance
Resolution Sought

Signature Date

Receipt of this form must be acknowledged

THE HIGHLAND & WESTERN ISLES VALUATION JOINT BOARD DISCIPLINARY POLICY & PROCEDURE

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Introduction

Disciplinary rules and procedures are necessary for promoting good employment relations as well as fairness and consistency in the treatment of individuals. They enable organisations to influence the conduct of employees and deal with problems of poor performance and attendance thereby assisting organisations to operate effectively.

Rules set standards of conduct and performance at work procedures help ensure that the standards are adhered to, and also provide a fair method of dealing with alleged failures to observe them.

The Board recognises that a formal disciplinary procedure will help to promote fairness and equity in the treatment of employees and in the conduct of employee relations. Where possible it aims to encourage improvement in individual conduct and/or performance.

The procedure applies to all Board employees except the Assessor. The term employee includes "workers", i.e. those people who work under a contract of employment, or any other contract to do or perform personally any work or services for the Board, e.g. casual workers, agency workers.

Aims

The aim of this policy is to seek improvement in performance or conduct where any employee's performance or conduct is such as to give rise to serious concern.

Principles

All employees should be made aware of the standards of conduct and performance expected of them. In particular they will be made aware of what constitutes gross misconduct, for example, sexual offences, assault or dishonesty.

All problems involving minor misconduct and poor performance will be dealt with, at least in the early stages, through the use of informal advice, guidance and counselling. All problems of this nature will be fully discussed and support will be provided with the objective of encouraging and helping employees to improve.

Employees will be made aware that support is available at all times even where it has been necessary to take disciplinary action under the Board's procedures.

Where concerns relate to issues of performance the Board's guidance on performance management will be followed.

If disciplinary actions/sanctions are initiated these will normally be accompanied by appropriate support mechanisms.

No disciplinary action will be taken until the matter has been fully investigated and any decision, thereafter, to impose a disciplinary sanction will not be taken by the person who conducted the initial investigation. In addition any appeal will not be heard by the same person who issued the disciplinary sanction.

Apart from gross misconduct, no employee will be dismissed for the first breach of discipline.

There is a right of appeal against all formal disciplinary sanctions.

No disciplinary action will be initiated against a trade union representative until the matter has been discussed with a full-time official of the trade union concerned.

Where an employee is asked to attend any stage of the disciplinary process, including investigatory meetings, he/she will have the right to be represented.

Procedure

Where a disciplinary matter requires to be managed formally, the procedure set out at Appendix 1 will be followed.

Counselling

In order to reduce the possibility of serious disciplinary problems arising it is essential that any incidence of misconduct or failure in performance is dealt with promptly and appropriately. It may be sufficient at this stage for the line manager to offer counselling to the employee in an attempt to avoid repetition of the problem. This would not be appropriate for serious breaches of discipline, or where there has been a repeated recurrence of a problem within a short period i.e. less than 6 months.

The Investigatory Stage

In situations where either a complaint has been received or where an employee's conduct or performance has given cause for concern, the Board will appoint an investigating officer.

There will have been, prior to the appointment, an initial informal inquiry sufficient to decide if a formal investigation is required.

The investigating officer will, if possible, interview all of the parties involved (including the employee in question) and, if appropriate, prepare signed and dated statements from all

of these witnesses.

The investigating officer will produce a report which will enable another representative of the Board (not the investigating officer) to decide whether the matter will be further progressed through formal disciplinary process.

The investigating officer will not have any function at a future disciplinary hearing other than presenting the facts of the investigation to that hearing.

The employee involved will be advised at an early stage, including confirmation in writing, that a complaint or concern has been lodged, of the nature of the complaint, of the process which will be followed and of the right to be represented.

The investigatory process will be conducted as speedily as possible and in a manner consistent with the principles of fairness and natural justice.

The employee will be entitled to be represented at all hearings and meetings as part of the disciplinary process including investigatory hearings but excluding investigatory interviews with other individuals.

In addition the employee whose conduct or performance has given rise to the investigation will normally be interviewed and must be given a clear indication of the nature and purpose of the investigation in writing and the procedures that will be followed at the interview well in advance of any meeting with the investigating officer.

Once the investigation is completed the employee will be advised of the outcome of the investigation which will also be confirmed in writing to the employee.

Where following an investigation, no further action is to be taken in terms of the disciplinary procedures then all references to the investigation will be removed from the employee's personal file and destroyed.

Where 'precautionary suspension' is part of the disciplinary procedure the following principles will apply:-

- Precautionary suspensions will only be used in the most serious cases of misconduct or poor performance or where the employee's presence at the normal place of work could prejudice the investigation or where an employee refuses to carry out a lawful and reasonable instruction issued by an authorised person.
- Consideration must be given to a temporary transfer pending the conclusion of the investigation and any subsequent disciplinary process.
- The precautionary suspension will be on full pay and will not be associated with any assumption of guilt. This is not disciplinary action.

All precautionary suspensions will be reviewed at agreed regular intervals. If an investigatory interview or disciplinary hearing is not arranged within 10 working days of the suspension, the employee will be contacted and the situation explained to the employee and thereafter on a two-weekly basis until a disciplinary

hearing is convened or the suspension is lifted.

- There is no right of appeal against precautionary suspension. At the time of suspension the employee will surrender any items which relate to their work with the Board, for example, keys, ID cards.

The Disciplinary Hearing Stage

A decision to proceed with a disciplinary hearing will be based on the evidence secured during the investigatory stage but will not be taken by the person who conducted the investigation.

Once a decision has been taken to proceed to a disciplinary hearing, the employee will be informed, in writing, about:

- specific details of the allegations
- the date for the hearing
- the procedures to be followed at the hearing
- his/her rights under the disciplinary procedure, and copies of the evidence that will be used during the disciplinary hearing including any written evidence and the names of any witnesses that will be called

The employee will provide the Board with similar written evidence that will be led in his or her defence and the names of any witnesses who will be called within a reasonable time before any hearing, and at least 48 hours before the date of the hearing.

The employee can have witnesses independent of those summoned by the Board.

The Board's Personnel Adviser or his/her representative, must be consulted by the designated officer (see below) who will conduct the hearing, prior to any hearing being arranged.

A representative of the Board's Personnel Adviser, where appropriate, will be present at a disciplinary hearing and will act as adviser to the designated officer.

Where it is possible that a final written warning will be given or punitive disciplinary action taken (including dismissal), the Board's Personnel Adviser or his/her representative must be present at the hearing.

The designated officer conducting the disciplinary hearing will not be the person who carried out the initial investigation. At any time during the hearing the designated officer or either party may ask for a recess in the proceedings in order to consider privately any matters raised.

The officer(s) who carried out the initial investigation will present the facts of the investigation, including the presentation of any written reports, statements and witnesses.

The employee (and/or representative) must be given every opportunity to present his/her case, to provide additional documents for the hearing, to call and question witnesses and to sum up his/her case.

At the conclusion of the hearing, the designated officer will either announce his/her decision (to be confirmed in writing thereafter) or indicate that the decision will be communicated in writing within the agreed time limits including the right of appeal against the decision.

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

Disciplinary Sanctions

All disciplinary sanctions will be recorded in writing and will remain in the employee's personal file during the period of currency of the warning.

In being advised of the disciplinary sanction which is being applied, the employee will be advised also of the improvements which will be expected of them and the availability of appropriate support to allow them to achieve and maintain the improvement.

The following disciplinary sanctions are available:

Formal Oral Warning

This sanction relates to minor breaches of discipline, misconduct or continued poor performance. The oral warning will be confirmed in writing and this written confirmation must include reference to the fact that any further breach of any kind may render the employee open to further disciplinary action.

Written Warning

This sanction relates to more serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a formal oral warning. The employee will be informed that a further breach may result in further disciplinary action.

Final Written Warning

This sanction relates to serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a written warning. The employee will be informed that any further breach of any kind may result in dismissal.

Punitive Disciplinary Sanctions including dismissal

The dismissal sanction relates to serious repeated misconduct or poor performance during the currency of a final written warning or for gross misconduct for which no previous warning exists.

The employee will be informed in writing of the effective date of dismissal and whether the dismissal is summary (in the case of gross misconduct) or with notice (in the case of repeated misconduct or poor performance).

The following punitive sanctions are available in conjunction with a final written warning as an alternative to dismissal:

- demotion, (including a reduction in salary)
- transfer
- suspension of an increment

Where an employee does not agree to the application of the punitive sanction then the Board will have no alternative but to dismiss the employee.

The actions relating to demotion, transfer or suspension of an increment would be applied in cases which, for mitigating circumstances, fall just short of dismissal.

Gross misconduct

Gross misconduct is defined as behaviour of such a nature that the Board is unable to tolerate the continued employment of the employee. The employee's actions have in fact made any further working relationship with the Board impossible.

The following list shows examples of actions which would be considered as gross misconduct but the list should not be considered as exhaustive:

- serious breaches of the Highland Council's policy on the Acceptable Use of Information Systems and Technology
- theft of property belonging to the Board
- theft of property left on Board premises
- serious breaches of the Board's Code of Conduct for Employees
- wilful damage to Board property
- physical assault or threatening behaviour to another employee or to a member of the public while engaged on Board business or outwith normal working hours where this may impact upon the employee's ability to undertake his/her job
- non-disclosure of criminal convictions which were required to be declared on the application form prior to being employed by the Board
- fraud which would involve falsification of expense claims, time sheets (including flexible working hours recording), or any other financial record relating to the Board's finance

- gross breach of Health and Safety Regulations
- failure to disclose details of relevant medical information requested before being employed by the Board
- serious acts of discrimination which breach the Board's Equal Opportunities Policy

A letter confirming the punitive action will detail why the action has been taken and the employee's right of appeal. In cases other than dismissal the letter must advise the employee of the consequences of any other breach of discipline.

Appeals

Employees have the right of appeal against all formal disciplinary sanctions imposed by the Board. Table 1 in Appendix 2 outlines the appropriate level at which sanctions will be applied and appeals will be heard.

A list of designated post holders able to apply different sanctions and hear appeals will be held by the Assessor.

Appeals against Oral, Written and Final Written Warnings

An employee has the right of appeal against a warning and if exercising this right should submit the appeal in writing to the Assessor within 10 working days of receipt of the confirmation of the issue of the warning. The letter should outline the reasons for the appeal.

The appeal will be heard by a designated officer not involved in the original decision, or the Joint Board or a Sub-Committee of the Joint Board, as appropriate.

The designated officer will advise the employee in writing of the date of the appeal, normally giving at least 5 working days' notice.

Appeals against oral, written and final written warnings will end at this level.

In exceptional circumstances, where a warning has been issued by an officer who would normally be the designated officer to hold the appeal and there is no other appropriate designated officer to hear the appeal, the appeal will be heard by the Joint Board or a Sub-Committee of the Joint Board and will end at this level.

Appeals against Punitive Disciplinary Action which may include dismissal.

The appeal shall be heard by the Joint Board or a Sub-Committee of the Joint Board and the appeal shall end at this level.

Representation

At an appeal hearing the employee is entitled to be accompanied by a representative of

his/her choosing.

Appeals Decision

The designated officer or the Joint Board or a Sub-Committee of the Joint Board may confirm, withdraw or amend disciplinary action but cannot impose a more serious form of action than the one originally given.

Following an appeal, if any disciplinary action is withdrawn or modified references to the matter in the employee's personal file will be deleted or amended as appropriate.

Time Limits

Tables 2 and 3 in Appendix 2 outline time limits and durations of warnings that apply.

After the appropriate time limit has been reached the warning will be removed from the employee's record and destroyed.

In exceptional circumstances a file note may be retained e.g. where the employee is receiving training or some form of support, which relates to the sanction imposed. Such retention would be considered with the job holder and his/her representative.

If an appeal is successful and the original disciplinary sanction withdrawn, any written reference will be expunged from the employee's personal file and the employee notified accordingly.

Any disciplinary sanction which has been imposed and which relates to a breach of Financial Regulations, Equalities or Harassment Policies can remain on an employee's file for a longer period of time than defined above. This would be in exceptional circumstances, which would be considered with the job holder and his/her representative.

Criminal Offences

An employee will not be automatically dismissed or otherwise disciplined as a result of being charged or convicted of a criminal offence. However, where it is thought that the employee's action may warrant disciplinary action being taken, an appropriate officer will fully investigate the facts as far as possible.

If the investigation indicates that prompt attention can be given to the matter the designated officer need not await the outcome of criminal investigation or prosecution before taking a fair and reasonable decision on the matter. However, the matter must first be discussed with the Assessor, the Board's Personnel Adviser or his/her representative.

Substance Misuse

The misuse of alcohol, drugs and other substances is recognised as an area of health and social concern which can definitely and repeatedly interfere with an employee's health, conduct and work performance.

Where any disciplinary action is being considered, and there is an indication that the underlying cause of a particular situation may be the regular misuse of alcohol, drugs or

other substances, the Board's guidance on substance misuse must be adhered to.

Trade Union Officials

Where disciplinary action is proposed against an employee holding trade union office the designated officer must contact the Assessor, the Board's Personnel Adviser or his/her representative, prior to convening a disciplinary hearing.

No disciplinary action will be taken against an employee holding trade union office until the circumstances of the case have been discussed with a full-time trade union official of the trade union involved through the Assessor, the Board's Personnel Adviser or his/her representative.

Representation

An employee has the right to be accompanied by a Trade Union representative or any other representative of their choice, who may speak on their behalf.

While it is the responsibility of the employee to arrange the attendance of a representative, they must be reminded of this right.

Appeal to an Employment Tribunal

Nothing in this disciplinary procedure impinges on an employee's statutory rights to appeal to an employment tribunal in appropriate circumstances.

Confidentiality of Records

The Board will treat records arising from the disciplinary process as confidential, though copies of such records, e.g. investigating officer's request, witness statements, will be made available to the employee concerned, and to officers or members involved in the disciplinary and appeals process.

Legislation

The development and application of this policy is guided by:

- Equal Employment Right Act 1996
- Employment Relations Act 1999
- Employment Act 2008
- ACAS Code of Practice on Disciplinary and Grievance Procedures
- Bribery Act 2010

24 November 2017

Disciplinary Hearing Procedure

1. The designated (disciplining) officer commences the hearing by introducing those present and confirms that the hearing is being conducted in accordance with the Board's disciplinary procedures.
2. The designated officer confirms the capacity of the person accompanying the employee and confirms that the investigating officer will present the facts of the investigation for the employer. The advisory role of the Board's Personnel Adviser will also be confirmed.
3. The designated officer confirms the process to be followed.
4. The investigating officer puts the case in the presence of the employee and his/her representative, including calling of witnesses.
5. The employee or representative can ask questions of the investigating officer and any witnesses called.
6. The employee or representative will put the case for the employee in the presence of the investigating officer including calling of witnesses.
7. The investigating officer can ask questions of the employee or the representative and witnesses called.
8. The designated officer and The Board's Personnel Adviser can ask questions of any party at any stage.
9. Witnesses will leave the room after questioning but remain available.
10. Both investigating officer and employee or representative will sum up, introducing no new material, but can include any plea for mitigation.
11. The hearing will be adjourned to let the designated officer, in consultation with the Board's Personnel Adviser, consider the information submitted with a view to reaching a decision. If further information needs to be obtained, then the disciplinary hearing can be adjourned to be reconvened on a date, time and place as appropriate.
12. Where possible, the decision will be communicated verbally to the employee but will be confirmed in writing. This will include information on the right of appeal and how this is activated.

Table 1 – Application of sanctions and hearing of appeals

Employees have the right of appeal against all formal disciplinary sanctions imposed by the Board. The table below outlines the appropriate level at which sanctions will be applied and appeals will be heard.

Sanction	Applied by	Appeal Heard by
Oral warning	Designated Officer	Assessor or representative
Written warning	Designated Officer	Assessor or representative
Final written warning	Designated Officer other than Assessor	Assessor
	Assessor	The Joint Board or a Sub-Committee of the Joint Board for warnings issued by the Assessor
Dismissal	Assessor or other appropriate Designated Officer	The Joint Board or a Sub-Committee of the Joint Board

Table 2 – Duration of warnings

Level of Warning	Time Limit
Oral warning	6 months
Written warning	9 months
Final written warning	12 months

Table 3 – Time limits

Precautionary suspension	10 working days until and between each review and contact with employee
Notification of decision to proceed to disciplinary hearing (including notice of date of hearing)	10 working days notice (minimum) but could be shorter by agreement
Notification of decision following conclusion of disciplinary hearing	5 working days (maximum)
Time limit to lodge appeal	10 working days (maximum) from date of notification of decision of disciplinary hearing
Date of notification of appeals hearing	No later than 20 working days from receipt of notice of appeal
Notification of outcome of appeal	5 working days (maximum)