



**THE MORAY COUNCIL
EDUCATION AND SOCIAL CARE**

**DISCIPLINARY PROCEDURE –
TEACHING STAFF AND
ASSOCIATED PROFESSIONALS**

8 December 2011

THE MORAY COUNCIL

DISCIPLINARY PROCEDURE – TEACHING STAFF AND ASSOCIATED PROFESSIONALS

1.0 SCOPE OF THE PROCEDURE

- 1.1 The procedure will apply to all Teachers and Associated Professionals within the Council covered by the Scottish Negotiating Committee for Teachers [SNCT]. This comprises Music Instructors, Educational Psychologists, Senior Educational Psychologists, Depute Principal Educational Psychologists, Principal Educational Psychologists, Education Support Officers, Quality Improvement Officers and Quality Improvement Managers.
- 1.2 In agreeing to the introduction of this procedure, both the Council and the Trade Unions have taken account of the provisions of the revised disciplinary framework, provided by the SNCT.
- 1.3 Hereinafter, the term “teachers” will encompass all those staff detailed in para 1.1 above.

2.0 STATEMENT OF POLICY

- 2.1 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 teachers, pupils and others affected by the Council's activities.
- 2.2 In order to maintain discipline, teachers are expected to conduct themselves within the law and in compliance with the General Teaching Council for Scotland [GTCS] Professional Code for Registered Teachers, The Moray Council Code of Conduct and any agreed rules, policies and guidance specifically relating to the work place or activities.
- 2.3 The Council will assist teachers 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.
- 2.4 The disciplinary policy is designed to support and encourage teachers who are failing to achieve and maintain professional standards of conduct and job performance and to ensure consistent and fair treatment to all staff.

3.0 RESPONSIBILITIES

- 3.1 Head Teachers are responsible for the management and discipline of the school and have a shared responsibility for any disciplinary action taken against the teachers of the school. They must ensure that all teachers are made aware of the standards of conduct, safety and job performance required of them, and of any disciplinary rules applying to them.
- 3.2 Head Teachers must consult with Departmental Directorate and Human Resources in the event of any investigation or disciplinary hearing being proposed. Human Resources shall advise Head Teachers on the operation of the procedure

throughout, both generally and in specific cases, in order to achieve a fair and consistent approach.

3.3 Departmental Directorate and Human Resources in advising Head Teachers will do so in consultation with Legal Services where appropriate.

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

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 personnel practice and guidance provided by the Advisory Conciliation and Arbitration Service (ACAS). Performance issues must comply with the GTCS Code of Practice on competence:

- (i) Except in the case of gross misconduct, the principal purpose of disciplinary action should be to support and encourage improvement by teachers whose conduct, attendance or standard of work is unsatisfactory.
- (ii) The teacher 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. Wherever practicable, the investigation should be undertaken by a member of staff other than the Head Teacher.
- (iv) At all stages, the teacher should be given the opportunity to respond to the 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 teacher must be informed in writing of the complaints against them, be given all relevant evidence, and allowed adequate time to prepare a case. Both parties to the hearing are entitled to call and question witnesses.
- (vi) An accurate written record of disciplinary hearings and any action taken must be maintained and a copy provided to the employee. Any warnings that are issued will be confirmed in writing within ten working days.
- (vii) 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.
- (viii) Except in the case of gross misconduct, no teacher will be dismissed for a first breach of discipline.
- (ix) 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 an informal 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 normally would be expected to involve disciplinary action, short of dismissal, being taken against a teacher 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 a teacher, which do not meet the standards required, may also lead to disciplinary action.
- (i) Unacceptable performance in quality 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
- 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 Council property and/or equipment
 - (ii) Fraud or attempted fraud, and 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 Authority
 - (v) Material breach of the GTCS Professional Code for Registered Teachers.
 - (vi) Material breach of The Moray Council Code of Conduct.
 - (vii) Serious negligence which causes unacceptable loss, damage or injury
 - (viii) Gross insubordination
 - (ix) Unauthorised disclosure of confidential and/or personal information.
 - (x) Serious contravention of safety regulations or repeated breach of safety procedures or regulations following a warning
 - (xi) Bringing the Council into disrepute through actions taken either on or off Council sites either whilst working or outwith work.
 - (xii) Prolonged unauthorised absence
 - (xiii) Serious breach of confidence

- (xiv) Receiving, soliciting or agreeing to receive any inducement or reward in respect of any matter or transaction in which the Council is concerned
- (xv) Serious misuse or abuse of e-mail and/or internet facilities provided by the Council

These lists are 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. The main consideration should be whether the offence is one that makes the individual unsuitable for his/her type of work. 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. Teachers 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 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 I, and described more fully in the following paragraphs.

INFORMAL STAGES

- 5.2 General

Head Teachers should develop trusting relationships with their teachers 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 or informal warnings (In the form of advice, support and guidance)

Promoted staff are responsible for the counselling of, or informal warnings to, teachers. This should be a feature of the teacher/management relationship. It is important that any shortcoming in performance or behaviour is brought to the teacher's attention at an early stage. Problems should be addressed with the objective of encouraging and supporting the teacher to improve. It is important that the teacher understands what needs to be done, what support is available, how performance or conduct will be reviewed and over what period. The teacher should also be made aware of what action would be taken if he/she fails to improve. Records of counselling/informal warnings and any support measures should be added to the teacher's file as a point of reference for either the teacher or the manager. A copy should also be given to the teacher. Such records shall 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.

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

FORMAL STAGES

5.4 General

Before a decision is reached or any disciplinary action is taken as described in the following paragraphs, a thorough investigation of all circumstances of a case should be undertaken and the teacher should be informed in writing of the allegations. The Head Teacher in consultation with Human Resources will appoint an Investigating Officer. Following the investigation, the Investigating Officer will produce a written report, which will enable Management to decide whether the matter should be progressed through the formal disciplinary process. The right of representation should be made clear to individuals subject to investigation.

5.5 The Investigation

5.5.1 An appropriate manager of the service concerned will normally lead the investigation with advice provided by Human Resources. This officer will act promptly and the investigation will be completed within ten 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 Chairperson of any disciplinary hearing in order for them to determine whether it is appropriate to convene a hearing. The Chairperson 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 In addition to the general principles outlined in Section 4 of these procedures, the following points should be adhered to under all formal stages of the disciplinary procedure.

5.6.2 A hearing will be arranged and chaired by the Head Teacher or a nominated representative of the Corporate Director [Education and Social Care] or the Corporate Director [Education and Social Care] as appropriate. The following individuals should attend the hearing for the purpose as detailed:

- i) the teacher under discipline
- ii) an official of his/her professional association, or other person of his/her choice, other than an Elected Member of the Council. In cases as detailed in paragraph 6.6 below, a legal representative may also attend. The attendance of a legal representative must be discussed with Legal Services in advance of the hearing.
- iii) the Head Teacher or the nominated representative of the Corporate Director [Education and Social Care] or the Corporate Director [Education and Social Care] who will chair the hearing

- iv) a management representative who will present the case against the teacher under discipline
- v) a representative from Human Resources who will be present in the capacity of personnel adviser to the Chairperson
- vi) any person(s) whom the Chairperson decides in terms of (5.6.3) below
- vii) when a transgression 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 Services should also be present in the capacity of legal adviser to the Chairperson

5.6.3 The Chairperson, before the disciplinary hearing, shall consider, in consultation, as appropriate, with the interested parties, whether or not it is necessary to request the presence of other appropriate person(s) at the hearing. The Chairperson will have the final decision of who attends.

5.6.4 The format of the disciplinary hearing should be based upon the structure as outlined within Appendix VII.

5.6.5 The outcome should be communicated orally in the first instance by the Chairperson. This shall then be fully confirmed in writing by the Chairperson (using recorded delivery) within ten 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 teacher'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.

5.7.3 Formal counselling designed to support the member[s] of staff to maintain appropriate standards of performance/discipline

5.7.4 Oral Warning

This will be used where the teacher's performance or conduct is unsatisfactory and where either the teacher 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 teacher open to further disciplinary action. A record must be kept of an oral warning and a letter confirming the warning sent to the teacher within ten working days of the hearing, using the model format in Appendix II.

5.7.5 Written Warning

This will be used where the teacher 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 without delay and certainly within

ten working days, using the model format in Appendix III. The teacher must be informed that a further breach may result in further disciplinary action being taken.

5.7.6 Final Written Warning

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 and certainly within ten working days of the hearing, using the model format in Appendix IV. This written confirmation should leave the teacher in no doubt that the consequence of a further breach may result in dismissal.

5.7.7 Punitive Action

Punitive action normally means action, which imposes a demotion, transfer of the teacher, 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 teacher 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 teacher at the workplace. Suspension on full pay is not itself punitive action however.

5.7.8 Punitive Action – Excluding Dismissal

The type of punitive action taken will depend upon the circumstances of the case. Punitive action will only be taken following a full 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 ten working days of the hearing, with the letter specifying the action taken, the reason for it and the teacher's right of appeal. (See model letter in Appendix V).

5.7.9 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. The teacher 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 VI). In cases involving performance issues, the GTCS Code of Practice on Competence should be followed at all times. Before taking action for dismissal the Corporate Director [Education and Social Care] or nominee must ensure that the Code has been followed.

5.7.10 Punitive Action - Warnings

Overall responsibility and authority to issue oral and written warnings (excluding final written) rests with the Head Teacher. The issuing of final written warnings and dismissal rest with the Corporate Director [Education and Social Care] or nominee. It is important that, in each case, the teacher 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. In cases involving performance issues, the GTCS Code of Practice on Competence should be followed at all times. Before taking action for dismissal, the Head Teacher/ Corporate Director [Education and Social Care], or nominee, must ensure that the code has been followed. Normally a review date within the duration of the warning should be fixed to consider the teacher's monitored progress. Two copies of the warning letter must be sent by recorded delivery to the teacher's home

address. A copy must also be sent to the Head of Human Resources for file purposes.

5.7.11 Duration of Warnings

Records should be kept, detailing the nature of any breach of disciplinary rules; the teacher'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 school concerned, with copies thereof passed to the teacher and to the Head of Human Resources.

Except in special 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 teacher. The following time limits will apply:

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

The Head Teacher will notify the teacher accordingly in writing, two weeks prior to the expiry of the warning, with a copy passed to the Head of Human Resources.

5.7.12 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 teacher notified accordingly.

6.0 RIGHTS OF REPRESENTATION

6.1 The Disciplinary Procedure provides for the right of teachers 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 (ERA) 1999 to be accompanied at disciplinary hearings.

6.3 A teacher and/or Trade Union representative 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 teacher before and after the hearing.

6.4 The representative should be allowed to participate as fully as possible in any disciplinary hearing and be allowed to address the hearing and ask any questions.

6.5 Where a chosen companion is not available to attend on the date proposed for the hearing, an agreed alternative date should be arranged as expeditiously as possible.

6.6 In all cases where disciplinary proceedings may result in action which could affect the ability of the teacher to continue to practice, the teacher has a right to legal representation at the disciplinary hearing. Advice should be sought from Legal Services at an early stage in all cases where it is believed that this right may arise. Such a right would arise where action to revoke the teacher's registration with the

GTCS or similar professional body is a possible outcome of the disciplinary process. The right does not arise however simply because it may be difficult to secure further employment following a dismissal.

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 raised, 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.

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

In the event of the long term sickness absence of the employee subject to disciplinary, 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.

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

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 should 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 warnings and punitive actions. These rights are detailed in the table in Appendix I. In the case of an oral and written warning, however, the right of appeal will end at the Corporate Director [Education and Social Care] 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 The Corporate Director [Education and Social Care] or nominee will consult with Human Resources before hearing any appeal and a representative from Human Resources shall attend appeal hearings in an advisory capacity. The format of an appeal hearing shall be as detailed in Appendix VIII.

8.3 In the case of a final warning, punitive action or dismissal, the right of appeal will be to the Educational Services Grievance and Disciplinary Appeals Sub-Committee which shall hear the appeal in accordance with agreed procedures. Any such appeal should be lodged with the Head of Legal and Democratic Services or equivalent. Any such appeal must specify if new evidence is available.

- 8.4 A teacher shall have the right to be represented by a Trade Union representative, any other person other than an Elected Member of the Council. In cases as detailed in paragraph 6.6 above, a legal representative may also attend. The attendance of a legal representative must be discussed with Legal Services in advance of the appeal hearing.
- 8.5 The appeal hearing will involve consideration of whether the investigation and procedures have been carried out fairly and properly. It will also involve consideration of 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 ["new evidence"] not canvassed at Stage 1 or Stage 2 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 teacher's record.

9.0 LODGING OF APPEALS

- 9.1 An appeal against disciplinary action should be made in writing by the teacher or on his/her behalf by a Trade Union or other representative within ten working days of notification of action, in the manner specified in the letter confirming the disciplinary action taken. Consideration will be given to late appeals in exceptional cases, if there is good cause.
- 9.2 Agreement shall normally be reached within ten 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 2012.

11.0 REVIEW OF PROCEDURE

- 11.1 The Disciplinary Procedure may be reviewed at any time by The Moray Council Local Negotiating Committee for Teachers following notification from any party to this agreement, specifying the parts they wish to see reviewed.

DISCIPLINARY PROCEDURE

<u>Stage</u>	<u>Action By</u>	<u>Written Record</u>	<u>Right of Representation</u>	<u>Right of Appeal</u>	<u>Appeal To</u>
Informal Stage Counselling/ Informal Warnings	Appropriate Manager	Keep notes of any counselling and provide a copy to the teacher.	NO	NO	N/A
Formal Stages Formal counselling	Appropriate Manager	Keep notes of any counselling and provide a copy to the teacher.	NO	YES	In writing to the Corporate Director [Education and Social Care] within ten working days of receipt of notification
Oral Warning	Appropriate Manager	Confirmatory note on file and to teacher within ten working days of the hearing. Copy to Head of Human Resources. <i>Use Model in App. II.</i>	YES	YES	In writing to the Corporate Director [Education and Social Care] within ten working days of receipt of notification
Written Warning	Appropriate Manager	Confirmatory note on file and to teacher within ten working days of the hearing. Copy to Head of Human Resources Services. <i>Use Model in App. III.</i>	YES	YES	In writing to the Corporate Director [Education and Social Care] within ten working days of receipt of notification
Final Written Warning	Corporate Director [Education and Social Care] or Nominee	Confirmatory note on file and to teacher within ten working days of the hearing. Copy to Head of Human Resources. <i>Use Model in App. IV.</i>	YES	YES	The appropriate Moray Council committee by application in writing to the Head of Legal and Democratic Services or equivalent within ten working days of receipt of notification. Hearing to be arranged by the Head of Legal and Democratic Services or equivalent as expeditiously as possible.
Punitive Action – Demotion/ Transfer	Corporate Director [Education and Social Care] or Nominee	Letter specifying action, terms and conditions to be sent recorded delivery, within ten working days of the hearing. Copy to Head of Human Resources. <i>Use Model in App. V.</i>	YES	YES	The appropriate Moray Council Committee by application in writing to the Head of Legal and Democratic Services or equivalent within ten working days of receipt of notification. Hearing to be arranged by the Head of Legal and Democratic Services or equivalent as expeditiously as possible.
Dismissal	Corporate Director [Education and Social Care] or nominee	Letter specifying action to be sent Recorded Delivery within ten working days of the hearing. Copy to Head of Human Resources. <i>Use Model in App. VI.</i>			

MODEL CONFIRMATION OF ORAL WARNING

Dear

I refer to the disciplinary hearing which took place on (Date) in the presence of when you were given a formal oral warning for the following reason(s):-

This warning constitutes a formal stage within the terms of the agreed Disciplinary Procedure and has been recorded on your personal file.

You have the right of appeal against this warning to your (next level of management) within ten working days. 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.

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

Yours sincerely

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

MODEL WRITTEN WARNING

Dear

I write to confirm the outcome of the disciplinary hearing held on in the presence of when we discussed the complaints about your conduct and/or work performance.

The specific nature of the complaint was that (insert details of events leading to warning, with relevant dates).

You will recall that it was agreed that to rectify this situation, you must take the following actions. (List actions to be taken to improve conduct and work performance including any actions/training to be taken by the department).

This warning constitutes a formal stage within the Council's disciplinary procedure and has been recorded on your personal file. It will remain in force for a period of nine months, during which time a considerable and sustained improvement in your work performance, as outlined above, will be expected.

Your conduct and/or work performance will be monitored over this period and provided the necessary improvements are made, no further action will be taken after this time. However, I must advise you that failure to achieve the improvements specified will be likely to lead to further disciplinary action.

I would like to assure you that the Council will make every effort to provide you with any support you might require to achieve the improvement required.

You have the right to appeal against this warning to the Corporate Director [Education and Social Care] within ten working days. You also have the right to be accompanied and advised by your Trade Union representative or any other person, other than an Elected Member of the Council, at any appeal hearing.

Yours sincerely

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

MODEL FINAL WRITTEN WARNING

Dear

I write to confirm the outcome of the disciplinary hearing held on in the presence of when we discussed how, over the past months, you have failed to meet the standards required by the Council in the following respects (List areas in which performance or conduct has fallen below the required standards).

As discussed with you, we have agreed to give you until (insert date) to meet the required standard. This means that you will need to take the following actions (List actions to be taken to meet the required standard of performance).

This warning constitutes a formal stage within the Council's Disciplinary Procedure and has been recorded on your personal file. It will remain in force for a period of twelve months during which time a considerable and sustained improvement in your conduct/work performance, as outlined above, is expected.

Your conduct and/or work performance will be monitored over this period and I must advise you that, in view of the previous warnings you have been given, if you fail to achieve the standard of performance/conduct required by the Council by the above date, this will lead to further disciplinary action being taken, including dismissal, if appropriate.

You have the right to appeal against this warning to the appropriate committee of the authority through the Head of Legal and Democratic Services or equivalent within ten working days. You also have the right to be accompanied and advised by your Trade Union representative or any other person, other than an Elected Member of the Council, at any appeal hearing.

Yours sincerely

NOTE: The above format has been worded for specific purposes. Where it is felt that the format is inappropriate, departments should consult the Head of Human Resources.

MODEL LETTER OF PUNITIVE ACTION SHORT OF DISMISSAL

Dear

I refer to the disciplinary hearing held on (date) in the presence of(departmental and Trade Union representatives).

I now confirm that with effect from (date) you will be demoted/downgraded/ suspended without pay/transferred to

The reasons for taking this action are as follows:-

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

This action is taken in terms of the Council's Disciplinary Procedure and a similar act or omission by you will result in your dismissal from the Council's employment. This letter will remain on your file for an indefinite period.

You have the right to appeal against this decision by writing to the appropriate Moray Council committee through the Head of Legal and Democratic Services or equivalent within ten working days of receipt of this letter. You are also reminded of your right to be represented at any appeal hearing by your Trade Union representative or any other person other than an Elected Member of the Council.

Yours sincerely

NOTE: The above format has been worded for specific purposes, although punitive action would invariably be combined with a final written warning. Where it is felt that the format is inappropriate, departments must consult the Head of Human Resources.

MODEL LETTER OF DISMISSAL

Dear

I refer to the disciplinary hearing held on (date) in the presence of(departmental and Trade Union representatives).

I now confirm that with effect from (date) you will be dismissed. (With immediate effect/with effect from (date)

The reasons for taking this action are as follows:-

(details of recent offence(s) along with previous disciplinary action including dates).
This action is taken in terms of the Council's Disciplinary Procedure. This letter will remain on your file for an indefinite period.

You have the right to appeal against this decision by writing to the appropriate Moray Council committee through the Head of Legal and Democratic Services or equivalent within ten working days of receipt of this letter. You are also reminded of your right to be represented at any appeal hearing by your Trade Union representative or any other person other than an Elected Member of the Council. You may also have a right to legal representation.

Yours sincerely

Corporate Director [Education and Social Care]

DISCIPLINARY HEARING PROCEDURE

<u>Action</u>	<u>Action by</u>
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 procedure of the hearing	Chairperson
Presentation of the Management case against the teacher	Management representative
Questioning of Management on the content of their presentation by Chairperson	Chairperson
Questioning of Management on the content of their presentation by Trade Union representative/teacher	Trade Union Representative/Teacher
Management may add further comments to conclude their case	Management representative
Presentation of the employee response to management complaint	Trade Union Representative/Teacher
Questioning of Trade Union representative/teacher on the content of their presentation by Chairperson	Chairperson
Questioning of Trade Union representative/employee on the content of their presentation by management representative	Management representative
Trade Union representative/teacher may add further comments to conclude their case	Trade Union Representative/Teacher
Management will provide a summing up statement	Management representative
Trade Union representative/teacher will provide a summing up statement	Trade Union Representative/Teacher
Chairperson may ask final questions and then conclude the initial part of the hearing	Chairperson
Adjournment to consider evidence presented	Chairperson/ Human Resources/ Legal 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 a number of appropriate stages of the process.

DISCIPLINARY APPEAL HEARING PROCEDURE

<u>Action</u>	<u>Action by</u>
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 procedure of the hearing	Chairperson
Presentation of the appeal case	Trade Union representative or Teacher
Questioning of Teacher on the content of their presentation by Chairperson	Chairperson
Questioning of Teacher on the content of their presentation by Management	Management representative
Teacher may add further comments to conclude their case	Trade Union representative or Teacher
Presentation of the management response to Teacher appeal	Management Representative
Questioning of Management representative on the content of their presentation by Chairperson	Chairperson
Questioning of Management representative on the content of their presentation by Trade Union representative or Teacher	Trade Union representative or Teacher
Management representative may add further comments to conclude their case	Management Representative
Management will provide a summing up statement	Management representative
Trade Union representative/teacher will provide a summing up statement	Trade Union Representative/Teacher
Chairperson may ask final questions and then conclude the initial part of the hearing	Chairperson
Adjournment to consider evidence presented	Chairperson/ Human Resources/ Legal 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 a number of appropriate stages of the process.