

Agenda Item

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AGENDA ITEM 6

CENTRAL SCOTLAND VALUATION JOINT BOARD

Subject: GRIEVANCE POLICY
Meeting: CENTRAL SCOTLAND VALUATION JOINT BOARD
Date: 29th SEPTEMBER 2017
Author: PETE WILDMAN, ASSESSOR & ERO

1.0 INTRODUCTION

- 1.1 Central Scotland Valuation Joint Board as an employer is required to have a suitable framework for employee's to raise a grievance and for that grievance to be dealt with in an appropriate way.
- 1.2 The Board's current policy has been in force for some time. There is an ongoing review of HR Policies and it has been identified that the existing policy should be replaced with a new updated policy.

2.0 BACKGROUND

- 2.1 The current policy does not clearly reflect the organisation's structure. It also does not make express provision for a grievance being made against the Assessor.
- 2.2 The existing policy has a number of stages to be followed which does not facilitate a quick resolution of any grievance.

3.0 NEW GRIEVANCE POLICY & PROCEDURES

- 3.1 The aim of these documents are to set out a clear policy and procedure which follow the model proposed by ACAS of a two stage grievance process.
- 3.2 The new policy and procedures closely align with those currently in use at Clackmannanshire Council.

3.3 In accordance with office practice the Staff Consultation Forum has been consulted on the new policy and procedures and has no objection to them.

4.0 RECOMMENDATION

I ask that the Board approves the new ‘Grievance Policy and Procedures’.

.....
Assessor & ERO

Appendix 1 – Grievance Policy and Procedures - proposed

Central Scotland Valuation Joint Board

Grievance Policy

September 2017

1 INTRODUCTION

- 1.1 Many problems and concerns can be settled as a matter of course within the workplace. Working together to seek a resolution at the earliest opportunity and in the least formal way will give the best chance of a good outcome for all. Where this does not prove possible, the Board recognises that employees who have problems or concerns about their work need to have access to a Grievance Procedure through which they can raise these with management. It is important that fairness and transparency are an integral part of the process.
- 1.2 Many potential grievance issues can be resolved informally and this should be considered in all cases. A mediation service, harassment advisers and a confidential counselling service are available to provide assistance. Only when it is not possible to resolve the issue informally (or the matter is so serious or complex that informal resolution is not considered possible) should it be progressed through the formal procedure.
- 1.3 This policy, which has been developed in consultation with management and the staff consultation forum, ensures that the Board's employee relations procedures operate within and comply with the legal framework of employment law.
- 1.4 It is based on and in compliance with the ACAS statutory Code of Practice on discipline and grievance.
- 1.5 The procedure which accompanies this Policy sets out in detail:
- the Board's commitment to achieving a working environment where grievances are managed positively and appropriately,
 - the practical steps which will be taken to address problems or concerns,
 - examples of the types of problems or concerns which fall within the scope of this policy,
 - the roles and responsibilities of individuals involved in managing the grievance process.

2 POLICY STATEMENT

- 2.1 The Board as the employer is committed to working with employees to resolve any problems in the workplace at the earliest opportunity and in the least formal way possible. It is important that clear policies and procedures which set out the arrangements for dealing with grievances at work are in place. These have mutual benefit to both the Board as the employer and to employees. They are open to all employees and inform them of how they should raise these problems and concerns at work. This assists the organisation to address these effectively as well as ensuring fairness and consistent treatment.

3 SCOPE AND RESPONSIBILITY

- 3.1 To ensure fairness and consistency, the grievance policy encompasses all employees employed by the Board, irrespective of their length of service, status or number of hours worked. Minor procedural modifications will apply to the Assessor, and Assistant Assessor, the principles will however remain the same.
- 3.2 Individuals who are not employees but who carry out work for or on behalf of the Board, for example external secondees, agency workers or contractors are not covered by this policy but the Board will co-operate with any investigation into problems or matters of concern referred by the agency or organisation which employs them.
- 3.3 The grievance policy and related procedures form part of the terms and conditions of employment with the Board and managers are required to bring these to the attention of new employees. Reference will also be made to the grievance policy and procedure in the employee's statement of particulars.
- 3.4 All individuals involved in administering or managing the grievance process must ensure that they are aware of the grievance policy, understand what their roles and responsibilities are and follow the process set out in the policy, procedures and the supporting checklists.

4 PRINCIPLES

- 4.1 The key ethos of the grievance policy is to ensure that problems or concerns about work can be raised by employees and that these are dealt with in a fair, effective and consistent manner.
- 4.2 Matters considered to be of minor concern should be addressed informally.
- 4.3 It is the responsibility of both employees and managers to raise and deal with issues promptly and not unreasonably delay meetings, decisions or confirmation of decisions.
- 4.4 Mediation should be used wherever possible prior to moving to the formal procedure.
- 4.5 Employees should consider carefully what would resolve their issues / concerns for them and explain this on the Grievance Submission Form. It is important that it is within the authority of the Board to put these in place, for example while the Board will look into any issues raised in relation to members of the public or employees of other bodies, its authority to deal with issues via the grievance procedure can be limited.
- 4.6 Consequently, any manager chairing a grievance hearing should ensure they have the authority to implement any potential outcome which could resolve the grievance to avoid raising false expectations.
- 4.6 Employees have a right to be accompanied by a companion at every stage in the formal process:
- Investigatory Meetings
 - Grievance Meetings
 - Appeal Hearings
- 4.7 Before a grievance meeting is convened, an employee will be notified in writing

and provided with:

- reasonable notice prior to the meeting
- details of the time and location of the meeting
- if an investigation has been undertaken, sufficient information to allow the employee to prepare for the meeting, including written details of supporting evidence and any witness statements
- information about their right to be accompanied

4.8 Where an Investigating Officer is appointed, he/she will not be permitted to sit on or chair any grievance cases which he or she has already investigated.

4.9 Employees will be given a written explanation of the decision taken.

4.10 Employees have the right to appeal against a grievance outcome.

4.11 Any grievance meeting will be held promptly, in the shortest time possible after the issue is raised. The timescales may vary depending on the nature of the matter and whether an investigation is required.

4.12 Open, honest and timely communication from all parties is required throughout the process.

5 IMPLEMENTATION, MONITORING AND REVIEW

5.1 Human Resources at Clackmannanshire Council, in consultation with Legal Services at Clackmannanshire, will keep the policy under review to ensure that it continues to comply with current legislation.

5.2 Human Resources at Clackmannanshire Council, in consultation with the Senior Management Team and the Staff Consultation Forum will review and where necessary revise this policy every 2 years.

5.3 The effective date of implementation will be 29 September 2017.

Central Scotland Valuation Joint Board

Grievance Procedures

September 2017

DRAFT

1 INTRODUCTION

- 1.1 These procedures should be read in conjunction with the Board's Grievance Policy.
- 1.2 The procedures set out a step by step guide to the actions which should be taken and the timescales which should be followed to ensure that the grievance process is fair, consistent and concluded as quickly as possible.
- 1.3 These procedures are accompanied by appendices which provide guidance and information for both Managers and Employees on the process. Checklists of roles and responsibilities, template letters, and flowcharts on how to follow the procedure correctly have been provided for ease of reference.
- 1.4 Open, honest and timely communication is essential to the successful application of these grievance procedures. Managers must ensure that the Employee, and where applicable their representative, is kept informed at every stage. Similarly there is an obligation on the Employee and where applicable their representative to maintain contact with their Manager or other nominated person throughout the process.

2 DEFINITIONS

- 2.1 Throughout this document reference to "Assistant Assessor" shall include the Assessor or the Clerk to the Board as appropriate.
- 2.2 The term "grievance" refers to concerns, problems or complaints which employees raise with the Board as their employer.
- 2.3 There are a number of different reasons why grievances might arise. Issues which may cause grievances include:
 - terms and conditions of employment
 - health and safety
 - work relations
 - bullying and harassment
 - new working practices
 - working environment
 - organisational change
 - discrimination

It should be noted that this grievance procedure cannot be used to resolve issues related to grading (whether job evaluation or job sizing) which are dealt with under separate procedures.

3 INFORMAL ROUTE TO ADDRESSING CONCERNS

- 3.1 The focus in the ACAS code is on trying to resolve issues at an early stage while the employment relationship is still intact. The Board encourages the parties involved to work together to try to find an informal resolution and will provide support for this approach e.g. mediation, harassment advisers.
- 3.2 Employees should always raise concerns at an early stage and be willing to work with their manager (and where appropriate colleagues) to obtain a resolution to their concerns. Notification of such concerns should be made on **FORM 1** a copy of which is contained in **Appendix 1(A)** to this document.
- 3.3 More guidance on the informal route can be found in **Appendix 1** attached.
- 3.4 There will however be circumstances when the issue is considered to be sufficiently serious or complex that it needs be escalated to the formal procedure, even when informal resolution has not been sought.
- 3.5 Details of the Formal Grievance Procedure are detailed below.

4 THE GRIEVANCE PROCEDURE: PRELIMINARY MATTERS

- 4.1. Before a Manager deals with a case under the grievance procedure, he/she should ensure that they are familiar with and adhere to the statutory and policy requirements. The Manager must follow the principles set out in the policy, these procedures and the associated appendices. It is the responsibility of managers to comply with the procedures at all stages. Failure to follow the procedure may affect the outcome of the case. Managers should consult Human Resources at Clackmannanshire Council, where appropriate, during the process.
- 4.2 **Chief Officer:** Where a grievance is raised by a Chief Officer guidance must be sought from the HR Service Manager, who will provide guidance with reference to Joint Negotiating Committee for Chief Officials of Local Authorities Conditions of Service.
- 4.3 **Trade Union Official:** Where a grievance relates to the actions of an employee acting in their capacity as a Trade Union official, discussion will take place with a Senior Official or Full Time Official prior to the grievance being progressed.

4.4 **Confidentiality:** The Board recognises that very sensitive issues may be raised and that Employees have a right to confidentiality. At all stages, information discussed will be held in the strictest confidence by all parties and the Board will deal with any malicious or careless disclosure, by any party, under the Disciplinary Procedure.

4.5 **Representation**

4.5.1 Employees have a right to be accompanied by a companion at every stage in the formal process:

- Investigatory Meetings
- Grievance Hearings
- Appeal Hearings

4.5.2 The chosen companion may be a fellow CSVJB worker, a trade union representative, or an official employed by a trade union. (A trade union official who is not an employed official must have been certified by their union as being competent to accompany a worker) It would not be reasonable for workers to insist on being accompanied by anyone whose presence would prejudice the case.

4.6 **Grievances raised during the disciplinary process**

Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended to deal with the grievance. However, where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently. Where managers are unsure, they should seek advice from Clackmannanshire Council HR.

4.7 **Health Issues arising during the grievance process**

Where an employee raises health issues during the grievance process, consideration should be given to referral to Occupational Health for advice and guidance. There is not necessarily a need to delay the process but each case must be assessed individually with regard to the type and seriousness of the health issues. Indeed, in some cases completion of the process may assist in resolving these.

4.7.1 There are a number of options available to provide support during the grievance process where this would be helpful to the employee(s) involved – e.g. Harassment Adviser, or Mediation. Advice is available from Clackmannanshire Council HR.

4.7.2 Where in the course of the grievance process, conduct or behaviour is identified which is considered unacceptable or inappropriate, it is open to the Chairperson to instigate the Board's Disciplinary Procedure in respect of the relevant individual.

Whilst the Disciplinary Process is distinct from the Grievance Process, if the issues identified are so closely connected to the substance of the grievance then the Chairperson can put the Grievance Process on hold pending the outcome of any disciplinary proceedings. In such cases it may then be that the outcome of the disciplinary process effectively resolves the grievance, in which case the formal grievance can be abandoned. If however the employee considers that there are still outstanding matters to be addressed then the Chairperson shall recommence the Grievance Process as quickly as possible.

4.8 Collective Grievance

- 4.8.1 Where a number of employees wish to raise concerns about the same issues then this can be dealt with by way of a Collective Grievance. Such a grievance will be subject to the same provisions as an individual grievance and the procedure and guidance should be read as equally applying to collective grievances.
- 4.8.2 Where a group of employees raises a concern or a formal grievance then they should designate a nominated spokesperson. This person shall be the nominated point of contact in terms of receiving correspondence and communications in respect of the process and shall also present the case. This does not prevent the group being represented by a Trade Union representative and similarly does not prevent each member of the group from presenting any evidence at a formal hearing or appeal.

4.9 "Status quo ante" provision (maintaining the previous position)

Where a grievance or concern relates to changes to an individual's terms and conditions of employment (with the exception of those negotiated and implemented at an organisational level) then where possible the previous position as regards terms and conditions should be maintained until the grievance process has been completed.

5 WORKING ARRANGEMENTS DURING THE GRIEVANCE PROCESS

- 5.1 A change of work arrangements or location for anyone involved in the grievance process should only be considered in circumstances where it is considered not possible for parties involved to work together during the process. This may be, for example, because it would not be practical for the investigation to be carried out thoroughly or because of serious difficulties in working relationships. A decision that any party should work from home or remain away from work should only happen in exceptional circumstances and after careful consideration has been given to alternative measures. Such arrangement should be for the shortest period possible. In all of the above circumstances, the decision to take such action must be taken at Assistant Assessor or Assessor level. Advice should be sought from Clackmannanshire Council HR. Guidance on interim alternative work arrangements, together with a checklist for managers and pro forma letters are

contained in **Appendix 3**.

- 5.2 In determining what alternative work arrangements are to be put in place, the manager must take into account the circumstances and particular sensitivities of each case as well as the requirements of the service. Where possible, first consideration should be given to alternative work arrangements for the individual regarding whose alleged behaviour the grievance has been raised. If alternative work arrangements are put in place for any individual it should be made clear that this action in no way presupposes responsibility for the issue or concern or prejudices the outcome of the grievance process.
- 5.3 The period of alternative work arrangements should be as brief as possible and the initial period should not exceed one calendar month. Where it is necessary for the investigation process to continue beyond one calendar month, the period may only be extended following consultation with the Assistant Assessor and Human Resources. In these circumstances, the employee and their representative, if known, must be advised of the reasons for the delay and the likely extended timescales.
- 5.4 When an individual is away from their normal place of work, a manager will be nominated as their point of contact during this period. A checklist for the Nominated Point of Contact is detailed at **Appendix 3**.

6 THE INVESTIGATION PROCESS

- 6.1 Before a decision on whether a grievance hearing should take place, consideration must always be given to whether informal resolution is still possible. If this is not considered possible, an investigation must be carried out prior to any formal hearing. Normally, the Assistant Assessor, in consultation with the employee's line manager will allocate an appropriate officer ("the Investigating Officer") to investigate the case.
- 6.2 The Assistant Assessor will give the Investigating Officer the terms of reference for their investigation, that is, the purpose, scope and remit of the investigation.
- 6.3 The Investigating Officer should conclude the investigation within one calendar month from receiving their remit. There may however be circumstances where it will not be possible to conclude the investigation within this timescale (for example where potential witnesses are unavailable due to holidays/ sickness; or where the case is particularly complex either due to the number or nature of the issues raised; or where a number of parties are involved). Where the timescale cannot be complied with, the Investigating Officer must notify the Assistant Assessor who will agree an alternative extended timescale. The employee shall be advised of the new timescales and shall be notified of the reasons.

- 6.4 The procedure for carrying out an investigation, together with a checklist for the Investigating Officer, is detailed in **Appendix 4** attached.
- 6.5 The Investigating Officer shall prepare a report in accordance with the template at **Appendix 4(C)** attached and submit this to the Assistant Assessor who shall decide what action is required to resolve the situation.
- 6.6 If the manager receiving the report is satisfied that they have sufficient information to enable them to make a decision in respect of the grievance they shall do so in writing within 5 working days of receipt of the Investigation Report. An individual has a right of appeal following on from this decision in accordance with the Board's procedures. More detailed guidance regarding appeals is contained in **Appendix 6**.
- 6.6 If the Assistant Assessor considers that they need to hear further from the parties or any witnesses, or requires further evidence or information, then they shall convene a formal hearing. More detailed guidance on the conducting the Grievance Hearing is contained within **Appendix 5**.

7 THE GRIEVANCE HEARING PANEL

- 7.1 The Assistant Assessor shall arrange, for an appropriate Officer to Chair the hearing - the "Chairperson". When appointing the Chairperson consideration should be given to the level of officer required to conduct any subsequent appeal.
- 7.2 The Chairperson will be a manager at an appropriate level and with the delegated authority to make a decision on the outcome which is sought. In more complex cases, the Chairperson may be advised by an officer from Human Resources.
- 7.3 Where the Assistant Assessor raises a grievance or is the subject of a grievance, the case can be heard by the Assessor.
- 7.4 Where the Assessor raises a grievance or is the subject of a grievance the case can be heard by the Clerk to the Board.
- 7.4 In keeping with the Board's policies on equality, where possible, the constitution of all hearing panels will recognise an appropriate gender balance.
- 7.5 The Chairperson will usually be from the same team as the employee. Where this is not practicable or where there is the potential for any conflict of interest, the HR Manager at Clackmannanshire Council should be consulted and an alternative Chairperson appointed if appropriate.
- 7.6 The Chairperson is responsible for convening and running the grievance hearing. **Guidance for the Chairperson is contained within Appendix 5.**

8 GRIEVANCE HEARING (Formal: Stage 1)

- 8.1 Where the Assistant Assessor decides that a formal grievance hearing is necessary, the hearing should be convened as quickly as possible and within one month of receipt of the investigation report.
- 8.2 If there are good reasons why a hearing cannot or should not be convened within the timescale (for example pre-booked holidays or absence through illness of the employee, Investigating Officer or a material witness), then an alternative date shall be fixed and the parties notified.
- 8.3 Notice of the grievance hearing will be issued in writing to the parties and their representatives not later than 5 working days prior to the date of the hearing. Along with this, the parties must also receive:
- The Investigation Report
 - All witness statements
 - A list of witnesses whom the Investigation Officer intends to call
 - Any other relevant documents which will be referred to at the hearing

These documents will be issued by the Chairperson

- 8.4 The parties, or their representatives, shall provide copies to the Chairperson of any documentation they intend to refer to during the hearing and a list of the witnesses they intend to call not later than 2 working days prior to the date of the hearing.
- 8.5 These timescales may be extended by mutual agreement in more complex cases.
- 8.6 No additional witnesses or documentary evidence will be allowed after this time unless the Chairperson decides that to exclude it would be prejudicial to either party. In such circumstances the Chairperson also has discretion to adjourn the hearing to allow parties to consider any additional evidence.
- 8.7 The procedure for conducting a grievance hearing, together with a checklist for the Chairperson, is detailed at **Appendix 5** attached.
- 8.8 Once the Chairperson has heard representations from the parties s/he shall make their decision. Where possible this should be conveyed verbally to the parties but must be issued in writing within 5 working days of the Hearing together with details as to the right of appeal.

9 APPEAL PROCESS (Formal - Stage 2)

9.1 The respective parties to the grievance have the right to appeal against the decision of either the Manager who has made the decision at Stage 1 or the Chairperson where there has been a formal grievance hearing. This must be done in writing within 10 working days of the date of the decision.

9.2 An appeal can be lodged on any of the following grounds:-

- that the decision was unfair or unreasonable
- that any proposed measures are inappropriate or unreasonable
- that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision
- that they consider that the grievance procedure was not followed properly and as a result they were disadvantaged in some way

9.3 An Appeal Hearing is not a rehearing of the original case. It is an opportunity to review the decision of the relevant manager or Chairperson of the original panel.

9.4 Once an appeal has been submitted an Appeal Hearing shall be convened within 15 working days of receipt of the appeal. Where it is not possible, then the relevant manager appointed to hear the appeal ("Appeal Officer") must notify the parties of the date of the hearing and the reason(s) why the 15 working day timescale requires to be extended.

9.5 The procedure for an appeal, together with a Checklist for the Appeal Officer is detailed in **Appendix 6** attached.

9.6 This is the final stage in the process.

10 RECORDING GRIEVANCE INFORMATION

10.1 It is important that any decision of the process and any measures to be put in place as part of that decision, are recorded on file. This information requires to be properly recorded for several reasons.

- 1) to ensure that measures are, in fact, implemented and enable the manager to monitor the effectiveness of the measures in resolving the issue
- 2) to provide ;-
 - a) the employee who has raised the grievance with a clear framework and timescale for the implementation of measures,

which can then be referred to and relied upon in the event that measures are proving ineffective in addressing the original issue(s).

b) The employee whose behaviour or practice has been the subject of concern a clear framework and timescale for implementing the measure(s); and

c) The manager with an appropriate timescale for monitoring the situation to identify if measures have or have not been effective in resolving issues and where necessary, changing behaviours in the workplace

- 3) to enable the organisation to monitor workplace issues in general terms and measure the effectiveness of the Board's Grievance Policy and Procedure in resolving issues and to provide relevant statistical data for submission to appropriate external agencies.

It should be noted that these measures are **not disciplinary sanctions** and should not be viewed as such. The Policy and Procedures makes provision for dealing with disciplinary issues should they become apparent in the course of a grievance investigation and it is important that managers keep both processes distinct.

- 10.2 The grievance decision and any subsequent measures, where they are relevant to the individual shall be recorded on the individual's file as this is the appropriate place for such information to be recorded. All information held must comply with Data Protection legislation and therefore only information which is relevant and necessary shall be maintained on file or held centrally within HR for monitoring purposes.

The particular timescales are stated below and are determined by the nature of the measures that are required to be put in place. In general the level of intervention reflects the nature or complexity of the issue. More complex or serious issues require a higher level of intervention and accordingly a greater timescale for implementation and monitoring.

Accordingly the outcome of any investigations and a note of any measures applied will be recorded as follows:

- 1) Low level intervention : shall be noted on the individual's file for a period of 6 months or for a period of three months following completion of the action (whichever is the greater).

- 2) High level intervention : shall be recorded on the individual's file for a period of 12 months or for a period of three months following completion of the action (whichever is the greater).

11 MONITORING AND REVIEW OF GRIEVANCE PROCEDURES

- 11.1 The Assistant Assessor is responsible for monitoring the progress of grievance cases within the organisation, on an ongoing basis, to ensure that the timescales contained in this policy are adhered to.
- 11.2 Human Resources and representatives from the Staff Consultation Forum will meet annually to review the outcomes of cases concluded in the previous year (with due regard to the need for confidentiality for the individuals concerned) and consider any lessons learned from them, which could improve future practice.
- 11.3 These procedures will be Equality Impact Assessed and subject to the Board's equalities monitoring arrangements.
- 11.4 The Senior Management Team in conjunction with Human Resources and Legal Services at Clackmannanshire Council will keep these procedures under review to ensure that they continue to comply with current legislation and best practice.
- 11.6 The Senior Management Team in conjunction with Human Resources and Legal Services at Clackmannanshire Council and the Staff Consultation Forum will review and where necessary revise these procedures every 2 years.

APPENDIX 1 (A)

GRIEVANCE POLICY AND PROCEDURE - PRELIMINARY PROCEDURE

NOTIFICATION OF CONCERNS

Name of Employee.....

Team.....

Contact number.....

Contact E-mail address.....

Line Manager.....

Does this form part of a collective concern? **yes** ☐ **no** ☐

If "yes" please provide details of the other employees on a separate sheet and attach it to this form.

Where the concern is a "collective" concern please identify the spokesperson for the group.

(name)..... (contact no.)

To assist you in completing this form please refer to the Guidance and Checklist contained within Appendix 1 to the Board's Grievance Procedure.

Once you have completed this form you should pass it to your Line Manager unless your concerns are directly related to his or her management or conduct. If this is the case then this form should be passed to his or her manager for attention.

ISSUES OF CONCERN *(please give as much information as possible as to the nature of your concerns and details of any other parties involved etc)*

POSSIBLE OUTCOMES FOR RESOLUTION *(please tick those actions which you think may help resolve your situation at this stage)*

- ☐ **meeting / discussion with line manager**
- ☐ **meeting / discussion with Harassment Adviser**
- ☐ **workplace mediation**

- ☐ counselling / training for self
- ☐ counselling / training for others

Any other suggestions:

.....
.....
.....

SIGNED (EMPLOYEE)

DATE

LINE MANAGER'S COMMENTS / OBSERVATIONS (provide details of any relevant information obtained / discussion with other parties etc)

Is this an issue more appropriately dealt with under the Dignity at Work policy?

If "Yes" - please specify date and time to meet with employee to discuss.

.....
Is this an issue more appropriately dealt with under the policy for Reporting Concerns at Work?

If "Yes" - please specify date and time to meet with employee to discuss.

.....

PROPOSED ACTION

For example

- 1) training need to be addressed via the Appraisal process
- 2) Meeting with (*specify parties*) arranged for (*date*)
- 3) Workplace Mediation arranged between (*specify parties*) for (*date*)

SIGNED (LINE MANAGER)

SIGNED (EMPLOYEE)

DATE.....

OUTCOME (provide details of outcomes of actions detailed above)

FURTHER ACTION REQUIRED

For example:

- 1) Matter resolved - No further action required
- 2) Proceed to formal Grievance Procedure

SIGNED (LINE MANAGER)

SIGNED (EMPLOYEE)

DATE.....

APPENDIX 1 (B)
NOTIFICATION OF CONCERN: CHECKLIST FOR MANAGER

		√	ACTION REQUIRED	DATE
1	Have you read and understood the Board's Grievance Policy and Procedure? (Available on the intranet)			
2	Has the employee submitted FORM 1 - Notification of Concern?			
3	Do you understand what the employee's concerns are?			
4	Do they fall to be dealt with under another of the Board's policies, i.e. - <ul style="list-style-type: none"> • "Whistleblowing" • Dignity at Work (if yes refer back to the Grievance Policy and Procedure)			
5	Do the concerns relate to the behaviour / practice of another employee?			
6	Has the employee suggested any measures for addressing the concerns?			
7	Do you consider these suggestions appropriate?			
8	What is your proposed action?			
9	Have you advised the employee who has raised the grievance?			
10	What was the outcome of the measures taken in terms of addressing the concerns?			
11	Is further action required?			
12	Is the matter now resolved?			
13	Has the employee confirmed this?			

GRIEVANCE PROCEDURE: APPENDIX 2

GUIDANCE: FORMAL GRIEVANCE PROCEDURE

1. It is the policy of the Board that issues or concerns within the workplace are resolved as quickly as possible and with minimum formal intervention.
 2. Swift action on the part of both employee and manager to address concerns can prevent unnecessary escalation of issues to a formal hearing.
 3. Employees are expected in the first instance to raise their concerns with their line manager or other relevant manager if appropriate by submitting FORM 1 - Notification of Concerns.
 4. The employee should clearly state what their concerns are, focussing on conduct and behaviour as opposed to personalities. The notion of "taking out a grievance" against a person is unhelpful and counterproductive in terms of finding a resolution, as parties can become entrenched and lose sight of the real issues.
 5. Focussing on the concerning behaviour allows parties to separate out and properly identify the real issues causing the grievance from "personality clashes" between parties. This is helpful in terms of identifying actions for resolving the issue. It is important that the action taken to resolve a situation is **'balanced'** to the issue.
 6. Before instigating the formal grievance process the line manager should first establish if a FORM 1 - Notification of Concerns has been submitted and the outcome of that process.
 7. It may be however, that due to the nature or the complexity of the concern, resolution through the informal mechanism is not possible or appropriate. In such cases it is open to the employee or the line manager to address the issue via the Formal Grievance Procedure.
 8. The employee should raise a formal grievance by completing and submitting FORM 2 (which is contained at Appendix 2(A)). As with the informal process, the emphasis is on resolving issues and the grievance should focus on behaviour and conduct as opposed to personalities.
1. It may be that the concerns raised should be more appropriately dealt with under other procedures of the Board such as the Dignity at Work Policy or the Board's policy and procedure regarding Reporting Concerns at Work ("whistleblowing"). Employees should check these policies prior to instigating the grievance procedure. Similarly when a line manager receives a Notification of Concern then s/he should

determine whether any other procedure is more appropriate for addressing the specific issue.

2. "Harassment" is described as:

"Conduct that is unwanted, unreasonable and offensive to the recipient and that creates an intimidating, hostile or humiliating work environment."

Examples of harassment include:

- **Physical Conduct**
- **Verbal Conduct**
- **Non-Verbal**
- **Bullying and Intimidation**

If you think that the concern falls into one or more of the above categories then you should consider contacting one of the Board's Harassment Advisers. A list of Advisers **and** more detailed information can be obtained by accessing the Board's Dignity at Work Policy via this link

11. The Board's policy and procedure on Reporting Concerns at Work (or "Whistleblowing Policy" as it is commonly referred to) is in place to deal with serious concerns of malpractice or negligence which may fall under one (or more) of the following categories:

- a criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- danger to the health and safety of an individual;
- damage to the environment; and
- the deliberate concealment of information tending to show any of the above matters.

The whistleblowing procedure is not intended as a means of dealing with minor complaints or personal grievances.

If you are not sure whether the concern you wish to raise falls into one of the above categories then you should contact the Assistant Assessor or Assessor.

More detailed information can be obtained in the policy and procedure for Reporting Concerns at Work via this link.

12. As stated above it is also important that the employee gives thought to what action(s) could be taken which might help resolve their concerns. It may be the case that action falling short of a full formal hearing may be appropriate, even at this stage of the process. Examples of action that could help resolve the concerns may include:

- discussion with manager (and any other party)
- training or counselling
- workplace mediation

13. Mediation is an informal but structured process which seeks to resolve disagreements and find a solution that is acceptable to all parties, outside the formal grievance procedure. Mediation will offer assistance through stages of guided intervention by an impartial third party – the mediator.

More information regarding mediation can be obtained by accessing the Board's Policy and Procedure on Conflict Resolution/Workplace Mediation. A copy of the Policy and Procedure is can be found via this [link](#).

14. Where concerns are such that, following discussions with the employee and any other relevant party (for example the employee whose behaviour or practice is the subject of the grievance), the relevant manager is satisfied that the issue can be resolved by low level action (e.g. mediation / counselling / training) and that a formal hearing is unnecessary or inappropriate then s/he can make a decision without further formal process. The Manager must issue such a decision within 15 working days. If for whatever reason this timescale requires to be extended (for example relevant parties / potential witnesses etc being off on annual leave or sick leave) then the manager must notify the employee in writing of the reasons for the delay and a revised timescale for decision. Where the employee or any other relevant party are dissatisfied with that decision then they have a right of appeal in accordance with the procedure. A template decision letter is contained in **Appendix 2(B)**.

15. Where the concerns are such that lower level actions (e.g. mediation or counselling) are not appropriate, or the issue is particularly serious or complex then the manager must instigate a full investigation as quickly as possible.

The line manager should nominate an appropriate Officer to conduct the investigation ("Investigating Officer"). The investigation should be concluded within one month. If circumstances are such that the timescale for the investigation needs to be extended then this can only be done following consultation with the Assistant Assessor. The employee and any other relevant party should be advised of the revised timescale and the reasons for the extensions in writing. More detailed guidance as regards conducting an investigation are contained in **Appendix 4**.

16. Once the Investigation Officer has completed the investigation, s/he shall submit his report to the relevant manager or Assistant Assessor who instructed it. The report should indicate whether there appears to be evidence to substantiate the grievance in part or in whole and give a recommendation as to potential actions for resolving the grievance. Please note that the Investigating Officer is simply giving a recommendation as to what s/he considers to be an appropriate action to resolve the situation. It is ultimately for the Line Manager / Assistant Assessor considering the grievance to make the decision.
17. The manager should consider the conclusion of the investigation report and determine what action is required to resolve the matter. Only if s/he considers that it is necessary to hear further from the parties or any witnesses, shall a hearing be convened.
17. Where in the course of the grievance process, conduct or behaviour is identified which is considered unacceptable or inappropriate, it is open to the Chairperson to instigate the Board's Disciplinary Procedure in respect of the relevant individual. Any disciplinary action will be taken in accordance with the Board's Disciplinary Policy and Procedure.
18. Whilst the disciplinary process is distinct from the grievance process, if the issues identified are so closely connected to the substance of the grievance then the Chairperson can put the grievance process on hold pending the outcome of any disciplinary proceedings. If the Chairperson decides that this is appropriate the employee must be advised of this and kept informed throughout.
19. In such cases it may then be that the outcome of the disciplinary process effectively resolves the grievance, in which case the formal grievance can be abandoned. If however the employee considers that there are still outstanding matters to be addressed then the Chairperson shall recommence the grievance process as quickly as possible.
20. If the manager considers that a hearing is necessary, a date for the hearing shall be fixed as soon as possible. All relevant parties shall be required to attend and there shall be an opportunity to call witnesses where appropriate. Further guidance in respect of the Grievance Hearing itself is contained within the Guidance for the Chairperson attached at **Appendix 5(A)**.
21. In making his/her decision the Chairperson must identify what action requires to be taken or measures put in place to resolve the grievance. The emphasis is on enabling all parties to resume normal working relations as soon as possible.
22. Where for whatever reason, normal working relations cannot be resumed, the Chairperson will then be required to identify alternative measures to move the situation forward. Such measure could include training or changes to reporting arrangements through to potential redeployment where relations have broken down irretrievably.

23. It is important that the measures put in place are the least disruptive possible to achieve resolution, for example if the situation could be resolved by making a simple change to an individual's reporting arrangements it would be inappropriate to decide to redeploy that person.
24. Redeployment under the Grievance Policy and Procedure must only be considered as a last resort where no other options for resolution can be identified. Prior to any decision to redeploy being taken the Chairperson should first consult with HR and Legal Services at Clackmannanshire Council to ensure that the measure is lawful and reasonable and where appropriate the redeployment should be secured by way of a legal agreement between the Board and the relevant party.
25. The respective parties have a right of appeal against the decision of the Chairperson.
26. The grounds for appeal are as follows:
 - a) that the decision was unfair or unreasonable
 - b) that any proposed measures are inappropriate or unreasonable
 - c) that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision
 - d) that they consider that the grievance procedure was not followed properly and as a result they were disadvantaged in some way

Further guidance as regards the appeal process is contained within **Appendix 6.**

- 27 It is important that the effectiveness of these measures is recorded, both in terms of the individual grievances and from the broader perspective of effectiveness of the policy in terms of the wider organisation. Accordingly the outcome of any investigations and a note of any measures applied will be recorded as follows:
 - 1) Low level intervention shall be recorded on the personnel file of each of the relevant parties for a period of 6 months or for a period of three months following completion of the action (whichever is the greater).
 - 2) High level intervention shall be recorded on the personnel file of each of the relevant parties for a period of 12 months or for a period of 3 months following completion of the action (whichever is the greater).

- 3) Details of the measures applied will also be recorded centrally within HR for the purposes of assessing the effectiveness of the policy in more general terms. All personal data held for assessment purposes shall be processed in accordance with the Data Protection Act 1998.

FORM 2

GRIEVANCE POLICY AND PROCEDURE: APPENDIX 2 (A)

NOTIFICATION OF FORMAL GRIEVANCE

Name of employee.....

Team.....

Contact number.....

Contact E-mail address.....

Line Manager.....

Employee Trade Union / Representative Details.....

Does this form part of a collective grievance? **yes** ☐ **no** ☐

If "yes" please provide details of the other employees on a separate sheet and attach it to this form.

Where the grievance is "collective please identify the spokesperson for the group.

(Name)

(Contact no.)

To assist you in completing this form please refer to the Guidance and Checklist contained within Appendix 2 and to the Board's Grievance Procedure.

Once you have completed this form you should pass it to your Line Manager unless your concerns are directly related to his or her management or conduct. If this is the case then this form should be passed to his or her manager for attention.

PRELIMINARY MATTERS

1. Have you previously submitted a Notification of Concerns Form to your line manager/other relevant manager?

YES ☐

NO ☐

2. If "NO" - please explain why this part of the procedure has not been followed:

.....

.....

.....

3. If "YES" please give the date that you submitted the form:

.....

4. What was the outcome of that process? Give details:

.....

.....

.....

DETAILS OF YOUR GRIEVANCE *(please give as much information as possible as to the nature of your concerns and details of any other parties involved etc)*

POSSIBLE OUTCOMES FOR RESOLUTION *(please tick those actions which you think may help resolve your situation)*

- ☐ meeting / discussion with line manager or any other relevant person
- ☐ meeting / discussion with Harassment Adviser
- ☐ workplace mediation

- ☐ counselling / training for self
- ☐ counselling / training for others
- ☐ formal grievance hearing

Any other suggestions:

.....
.....
.....

SIGNED (Employee).....

DATE.....

LINE MANAGER'S COMMENTS / OBSERVATIONS (provide details of any relevant information obtained / discussion with other parties etc)

Is this an issue more appropriately dealt with under the Dignity at Work policy?

If "Yes" - please specify date and time to meet with employee to discuss.

.....

Is this an issue more appropriately dealt with under the policy for Reporting Concerns at Work?

If "Yes" - please specify date and time to meet with employee to discuss.

.....

PROPOSED ACTION

For example:

1. Workplace mediation arranged between *(parties)* on *(date)*.
2. Instruct formal investigation to be carried out by *(name)* to be completed by *(date)*.

SIGNED (Line Manager).....

SIGNED (Employee).....

DATE.....

OUTCOME (provide details of outcomes of actions detailed above or the conclusions of the investigation process):

FURTHER ACTION REQUIRED

For example:

- 1) Matter resolved - No further action required
- 2) Formal Hearing to be convened on (date)

SIGNED (Line Manager).....

SIGNED (Employee).....

DATE.....

APPENDIX 2(B)

TEMPLATE LETTER GRIEVANCE PROCEDURE - OUTCOME LETTER (No further action - decision by manager)

PRIVATE AND CONFIDENTIAL
Name
Address
Postcode

Contact:
Direct Tel:
Email: email@email
Our Ref:
Your Ref:
Date:

Dear *(insert name of Employee)*

I refer to your Notification of Grievance dated (>>>>>) and to our subsequent meeting dated (>>>>). At that meeting we discussed the nature of your concerns and your views as regards resolving matters.

The concerns raised within your grievance were: *(give details)*

- 1)
- 2)

In my discussions with you, we agreed that I would speak with the relevant parties to help me decide what further action if any requires to be taken.

I have now met with the following people:

(provide details of relevant parties/witnesses that were spoken to)

- 1) name/designation
- 2) name/designation
- 3) etc

Having considered all of the information obtained

* I am not satisfied that your grievance can be substantiated and accordingly I do not propose any further action.

Or;

* I am satisfied that the matter has now been resolved and there is no need for any further action to be taken.

(insert reasons for decision)

You have a right to appeal against this decision where you consider that one or more of the following apply:

- that the decision was unfair or unreasonable
- that any proposed measures are inappropriate or unreasonable
- that new and relevant evidence or information has come to light that was unavailable at the time the grievance was considered, which if it had been available at the time would have impacted upon the decision
- that you consider that the grievance procedure was not followed properly and as a result you were disadvantaged in some way

Your appeal must be made in writing to ***(insert name and contact details of Appeal Officer)*** with 5 working days of receipt of this letter, detailing the grounds for your appeal.

Yours sincerely,

cc

Human Resources

APPENDIX 2(B)(i)

TEMPLATE LETTER GRIEVANCE PROCEDURE - OUTCOME LETTER (no hearing - following investigation by manager)

PRIVATE AND CONFIDENTIAL
Name
Address
Postcode

Contact:
Direct Tel:
Email: email@email
Our Ref:
Your Ref:
Date:

Dear *(insert name of employee)*

I refer to your Notification of Grievance dated (>>>>>) and to our subsequent meeting dated (>>>>). At that meeting we discussed the nature of your concerns and your views as regards resolving matters.

The concerns raised within your grievance were: *(give details)*

- 1)
- 2)

In my discussions with you, we agreed that I speak with the relevant parties with a view to addressing your concerns and moving matters forward without the need for a protracted formal process.

I have now met with the following people:

(Provide details of relevant parties/witnesses that were spoken to)

- 1) name/designation
- 2) name/designation
- 3) etc

Having considered the circumstances and the nature of the grievance and taking into account the willingness on the part of all those involved to work together to resolve the issue, I am of the opinion that a formal grievance

hearing is not necessary. Accordingly I consider that the matter can more appropriately be resolved by putting in place the following measure (s):

(Provide details of actions / measures to be put in place - for example;-

- 1) The parties shall meet with me on (Time/date) at (Venue) to discuss the concerns that have been raised and to ensure a mutual understanding of responsibilities and expectations.
- 2) The following training will be arranged for you (details) by (date).
- 3) It has been identified and decided that appropriate training and support will be provided for (Name).
- 4) Regular monitoring meetings will take place between (name) and (name) for the purposes of.....
- 5) The parties have agreed to participate in formal mediation in order to.....

Please note that the above does not constitute a disciplinary sanction but are measures which I consider appropriate and necessary to resolve the present situation.

I trust that you will agree that it is better for all concerned if we can resolve these matters as quickly as possible and without the need for formal proceedings. It is important that parties take on board the actions noted above and commit to ensuring that working relationships are positive and productive.

For the purposes of monitoring the effectiveness of the measures and ensuring that measures are implemented, the above actions will be recorded on the relevant individual's file for a period of 6 months or for a period of three months following completion of the action(s) (whichever is the longer). Details of the measures will also be recorded centrally within HR for the purposes of assessing the effectiveness of the policy in general terms.

I have also scheduled a meeting for (time) (date) at (place) which all parties are required to attend on order to confirm that the above action(s) have been implemented and ensure that the matter has been resolved. If you are unable to attend this meeting please advise me as soon as possible in order that the hearing can be rescheduled.

You have a right to appeal against this decision where you consider that one or more of the following apply:

- that the decision was unfair or unreasonable
- that any proposed measures are inappropriate or unreasonable

- that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision
- that you consider that the grievance procedure was not followed properly and as a result you were disadvantaged in some way

Your appeal must be made in writing to ***(insert name and contact details of Appeal Officer)*** with 5 working days of receipt of this letter, detailing the grounds for your appeal.

Yours sincerely,

cc

Human Resources

APPENDIX 2(B)(ii)

TEMPLATE LETTER GRIEVANCE PROCEDURE - OUTCOME LETTER (No hearing - following formal investigation)

PRIVATE AND CONFIDENTIAL

Name

Address

Postcode

Contact:

Direct Tel:

Email: email@email

Our Ref:

Your Ref:

Date:

Dear *(insert name of employee)*

I refer to your Notification of Grievance dated (>>>>>).

As you are aware (Name of Investigating Officer) was appointed to investigate the issues raised within the grievance and to report back to me with his/her findings.

In the course of the investigation, as well as interviewing you, the Investigating Officer also interviewed the following people;-

(provide details of relevant parties/witnesses that were spoken to)

1) name/designation

2 name/designation

3 etc

Having considered the report, I am of the opinion that a formal grievance hearing is not necessary. I have taken into account the views of the relevant parties as regards the issues and potential mechanisms for resolving the present situation. Accordingly I consider that the matter can more appropriately be resolved by putting in place the following measure (s);-

APPENDIX 3(A)

ALTERNATIVE WORKING ARRANGEMENTS: CHECKLIST FOR MANAGER

		✓	ACTION REQUIRED	DATE
1	Have you read and understood the Board's Grievance Policy and Procedure?			
2	Have you read the Guidance regarding Alternative Work Arrangements?			
3	Do you understand the nature of the grievance?			
4	Should the issues raised more appropriately be dealt with under the Board's "Whistleblowing" Procedure or Dignity at Work Procedure?			
5	Have you met with the employee to discuss the concerns raised within the grievance?			
6	Has an Investigating Officer been nominated?			
7	What is the likely timescale for completion of the investigation?			
8	Are you satisfied that Alternative Work Arrangements are necessary? - On what grounds?			
9	Have you considered all options?			
10	Is the option chosen the least disruptive possible?			
11	Do you have authority to alter the work arrangements of the employee?			
12	Have you consulted your HR Adviser?			
13	Have you advised the Assessor?			
	Have you arranged to meet with the employee to formally discuss alternative			

14	arrangements?			
15	Have you advised them that they can bring a colleague or a Trade Union representative to the meeting?			
16	Have you explained that the action is not a disciplinary sanction and why you consider that alternative work arrangements are necessary?			
17	Have you identified a nominated contact person for the employee?			
18	Have you explained the details of the alternative work arrangements e.g. <ul style="list-style-type: none"> ➤ contact arrangements ➤ access to the workplace if on home leave ➤ timescales for the alternative arrangements 			
19	Does the employee need to hand back their ID badge / door pass / work mobile phone/ laptop etc? (this should only be considered in exceptional cases)			
20	Have you given the employee the opportunity to collect any personal belongings?			
21	Have you advised the employee of the terms of the alternative working arrangements in writing with 5 working days?			
22	Have you reviewed the alternative arrangements throughout the investigation process?			
23	Are the arrangements still necessary?			
24	Does the timescale require to be extended?			
25	Have you informed the employee and their TU representative of the extended timescale and the reasons?			

(Provide details of actions/measures to be put in place - for example;-

The parties shall meet with me on (Time/date) at (Venue) to discuss the concerns that have been raised and to ensure a mutual understanding of responsibilities and expectations.

It has been identified and decided that (Name) requires appropriate training and support

You are required to undertake the following training (details) by (date)

- Regular monitoring meetings will take place between (name) and (name) for the purposes of.....
- The parties will engage in formal mediation in order to.....
etc.)

Please note that the above does not constitute a disciplinary sanction but are measures which I consider appropriate and necessary to resolve the present situation.

I trust that you will agree that it is better for all concerned if we can resolve these matters as quickly as possible and without the need for formal proceedings. It is important that parties take on board the actions noted above and commit to ensuring that working relationships are positive and productive.

For the purposes of monitoring the effectiveness of the measures and ensuring that measures are implemented, the above actions will be recorded on the relevant individual's file for a period of 6 months or for a period of three months following completion of the action(s) (whichever is the longer). Details of the measures will also be recorded centrally within HR for the purposes of assessing the effectiveness of the policy in general terms.

I have also scheduled a meeting for (time) (date) at (place) which all parties are required to attend on order to confirm that the above action(s) have been implemented and ensure that the matter has been resolved. If you are unable to attend this meeting please advise me as soon as possible in order that the hearing can be rescheduled.

You have a right to appeal against this decision where you consider that one or more of the following apply:-

- that the decision was unfair or unreasonable
- that any proposed measures are inappropriate or unreasonable
- that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision

- that you consider that the grievance procedure was not followed properly and as a result they were disadvantaged in some way

Your appeal must be made in writing to ***(insert name and contact details of Appeal Officer)*** with 5 working days of receipt of this letter, detailing the grounds for your appeal.

Yours sincerely

cc

Human Resources

APPENDIX 3(B)(i)
TEMPLATE LETTER: ALTERNATIVE WORK ARRANGEMENTS
(person whose behaviour/practice may be subject of grievance)

Telephone: Fax:

Contact:

Direct Tel:

Private and Confidential

Email:

Our Ref:

Your Ref:

Date:

Dear *(name of employee)*

GRIEVANCE PROCEDURE: ALTERNATIVE WORK ARRANGEMENTS

I refer to our meeting of *(date)*. At that meeting I explained to you (and your representative) that I had received formal notification of a grievance which relates to behaviour/practice/conduct on your part, namely:

- (1) *details of concerns raised*
- (2)

As I emphasised at the meeting the focus of the grievance procedure is conflict resolution and the purpose of the process is to identify what, if any action needs to be taken or measures applied, in order to resolve any issues and ensure that positive working relations are resumed as quickly as possible.

Given the nature of the issues raised and the present circumstances, I consider that it would benefit the parties in reaching resolution if, in the interim period, alternative work arrangements were put in place.

Accordingly I have decided that for a short period:

(Insert details of arrangements such as

- *alternative reporting arrangements*
- *temporary redeployment to another location within the service*
- *temporary redeployment elsewhere within the organisation*

- *working from home*
- *paid home leave)*

I would stress that this is not a disciplinary sanction but is simply a management arrangement to facilitate investigation of the grievance. This measure in no way presupposes that the grievance is or will be substantiated.

The period of the alternative work arrangements shall run, in the first instance, for one calendar month from the date of this letter. It is hoped that by that date the investigation will have been completed. If for any reason this is not the case, we shall meet to discuss the matter further.

Whilst these alternative arrangements are in place, it is very important that lines of communication are kept open. I have nominated *(insert name of contact person together with their telephone number and email address)* to be your designated point of contact.

*** (If employee on paid home leave, insert:)*

I would also ask that you make yourself available during normal work hours to receive telephone calls and to attend meetings as required during the investigation process. If for any reason you are unable to do so, you must contact *(point of contact)* to enable alternative arrangements to be made. ****

It is in everyone's interests that the investigation is completed as soon as possible and I trust that you will co-operate with the Investigation Officer during the process.

Should you have any questions, please do not hesitate to contact either *(point of contact)* or myself.

Yours sincerely,

cc

Human Resources – Business Partner

APPENDIX 3(B)(ii)
TEMPLATE LETTER: ALTERNATIVE WORK ARRANGEMENTS
(person who has raised the grievance)

Telephone: Fax:

Contact:

Direct Tel:

Private and Confidential

Email:

Our Ref:

Your Ref:

Date:

Dear (*name of employee*)

GRIEVANCE PROCEDURE: ALTERNATIVE WORK ARRANGEMENTS

I refer to the formal Notification of Grievance which you submitted and to our subsequent meeting of (*date*).

As I emphasised at the meeting the focus of the grievance procedure is conflict resolution and the purpose of the process is to identify what, if any action needs to be taken or measures applied, in order to resolve any issues and ensure that positive working relations are resumed as quickly as possible.

Given the particular circumstances of the grievance I consider that it would benefit the parties in reaching resolution if, in the interim period, alternative work arrangements were put in place. In deciding what these alternative arrangements should be I have taken into account:

(*Give details of the considerations, e.g.*

- *health / wellbeing of the person*
- *needs of the service*
- *practicality of arrangements*
- *any particular sensitivities*
- *etc*)

Accordingly I have decided that for a short period:

(*insert details of arrangements such as*

- *alternative reporting arrangements*
- *temporary redeployment to another location within the service*

APPENDIX 3(B)(iii)
TEMPLATE LETTER: Alternative Work Arrangements -
extension of timescales

Telephone: Fax:

Contact:

Private and Confidential

Direct Tel:

Email:

Our Ref:

Your Ref:

Date:

Dear *(name of employee)*

Alternative Work Arrangements - extension of timescales

I refer to my letter of *(date)* setting out the Alternative Work Arrangements that were to be put in place pending investigation into the grievance submitted on *(date)*.

In that letter I indicated that the initial period of these alternative arrangements would be for one calendar month. Unfortunately the Investigating Officer has been unable to complete the investigation within that timescale.

(Insert reasons for the delay - e.g. witnesses unavailable / complexity of case / number of witnesses etc).

I have emphasised to the Investigating Officer the importance of completing the investigation as soon as possible but I am sure that you would agree he / she needs to interview all the relevant parties to ensure that the process is thorough and fair. It is therefore necessary to extend the period during which these alternative work arrangements will remain in place until *(insert date)* to allow the investigation to be completed.

I would stress once again that this is not a sanction in any way but simply a management arrangement to facilitate the proper investigation of the grievance. These measures in no way presuppose that the grievance is or will be substantiated.

I would remind you that, whilst these arrangements are in place, it is very important that lines of communication are kept open and I would encourage you to keep in touch with your nominated Contact Officer and be available during normal work hours to receive telephone calls to attend meetings as required during the investigation process.

I would be grateful if you could call me on *(tel no.)* to confirm that you accept the revised timescales for these arrangements. If you have any concerns however I

APPENDIX 3(B)(iv)
TEMPLATE LETTER: Alternative Work Arrangements -
return to normal arrangements

Telephone: Fax:

Contact:

Direct Tel:

Email:

Our Ref:

Your Ref:

Date:

Dear (*name of employee*)

Alternative Work Arrangements

I refer to my letter of (*date*) setting out your Alternative Work Arrangements in accordance with the Board's Grievance Policy and Procedure.

I would advise you that the Investigation Officer has completed the investigation and submitted his/her report to me. Having considered the report I consider that measures can now be taken to resolve the issues raised in the grievance.

Accordingly, the alternative work arrangements are no longer necessary and you should return to your usual arrangements as of (*date*).

**insert any specific arrangements for return and the designated manager who will meet with the employee to support these.*

I would like to thank you for your co-operation throughout the investigation process.

Should you wish to discuss any matters please do not hesitate to contact me on (*tel no.*)

Yours sincerely

Cc

Human Resources

APPENDIX 4 FORMAL GRIEVANCE PROCEDURE FOR CARRYING OUT AN INVESTIGATION

1 The Investigating Officer

- 1.1 The Investigating Officer will normally be a manager from within the organisation so that they have an understanding of any professional or technical matters associated with the case. This also ensures that the Assistant Assessor can maintain regular contact with the Investigating officer and has the authority to expedite the case where necessary.
- 1.2 There may be circumstances e.g. a grievance against the Assessor or Assistant Assessor where it is not possible or appropriate to nominate an Investigating Officer from within the organisation. Where this is the case, the Assessor/Clerk to the Board should ensure that the Investigating Officer nominated has sufficient knowledge of any professional or technical matters associated with the case.
- 1.3 The Investigating Officer's role is to carry out an impartial investigation on behalf of the Assistant Assessor / Line Manager to allow the facts to be assessed. Where the employee or any other party relevant to the grievance process (i.e. the person whose behaviour/practice/conduct is the subject of the concerns), considers that the appointment of a particular individual as Investigating Officer presents a conflict of interest which could prejudice the outcome of the investigation, he/she or their representative should present their concern and any evidence to support this to the relevant Assistant Assessor/Line Manager who shall consider the matter in consultation with Human Resources at Clackmannanshire Council and make a decision.

2 Time Limits

- 2.1 The Investigating Officer should conclude the investigation as quickly as possible and normally within one month.
- 2.2 However, in certain circumstances (e.g. complex cases or where a potential witness is unavailable) an extension may be granted by the Assistant Assessor who has initiated the investigation.
- 2.3 Where the timescales are to be extended, then the parties and their representative shall be notified of the extended timescale and the reason for the extension.
- 2.4 Where the issues raised relate to financial irregularities, or possible illegality, this should be reported to the Assistant Assessor and Clackmannanshire Council internal audit / the Treasurer, immediately. Further specialist investigation may be considered necessary.

3 Investigatory Meeting

- 3.1 The Investigating Officer shall meet with the employee who has raised the grievance as soon as practicable in order to gather detailed information as regards their concerns and obtain details of any witnesses whom the employee considers relevant. A letter advising of the date and time of the interview meeting shall be sent out to the employee.
- 3.2 Where the grievance relates to the behaviour or practice of another employee then that individual must be interviewed. He or she has the right to be accompanied by a trade union representative or work colleague. The individual shall receive a letter advising of the date and time of the interview meeting and details of the concerns which are the subject of the investigation. The letter must give at least three working days notice in order to enable the individual to prepare for the meeting.
- 3.3 The individual shall provide the Investigating Officer with as much information as possible in response to the concerns together with details of any witnesses whom he/she considers relevant to the issue.
- 3.4 The Investigating Officer should meet with the employee and, where applicable, the individual whose behaviour/practice is the subject of the concern, prior to obtaining any other witness statements. This should enable their respective positions to be put to the relevant witnesses and minimise the need for witnesses to be re-questioned.
- 3.5 The Investigating Officer should make it clear to the parties that this is an information gathering process.
- 3.6 If either party is unable to attend the arranged meeting due to circumstances beyond their control then an alternative meeting date should be arranged soon as possible.

4 Interviewing witnesses

- 4.1 In highly sensitive cases (e.g. allegation of harassment) the Investigating Officer may allow the witness to be accompanied by a work colleague or Trade Union representative.
- 4.2 It is important to stress that the investigation is an information gathering process being carried out in accordance with the Board's Grievance Policy and Procedure.
- 4.3 At the outset the Investigating Officer should advise the witness of the purpose of the investigation but ensure that they are aware of the need for confidentiality, therefore they should not discuss the matter with any other individual.

- 4.4 The Investigating Officer should ask open questions designed to elicit as much relevant information as possible in respect of the issues being investigated.
- 4.5 The Investigating Officer must advise witnesses that they may be called to a hearing if convened and that their statement will likely be shared with the parties.
- 4.6 All witness statements should be signed and dated by the individuals.
- 4.7 If a witness refuses to sign a statement then whilst it does not invalidate the evidence, consideration must be given as to the weight attached to that particular evidence.
- 4.8 If the witness has real concerns, for example fear of recrimination in bullying/harassment cases, then this must be dealt with sensitively and the Investigation Officer should consult with Human Resources at Clackmannanshire Council.
- 4.9 If the matter is to proceed to a Grievance Hearing then the parties should be given a copy of each witness statement unless it would be prejudicial to the witness to do so (for example - a genuine fear of reprisal etc). If this is the case the copy of the original statement should be provided to the Chairperson and an annotated version without reference to the identity of the witness should be circulated to the parties.

5 Investigation Report

- 5.1 The Investigating Officer shall prepare a report in the standard form (see template at Appendix 4(C)) and present this to the Assistant Assessor/Line Manager who instigated the investigation.
- 5.2 The report should contain the following information:
- Details of the relevant parties to the grievance
 - Statement of the issues(s) raised
 - The statement of the employee who has raised the grievance
 - The statement of the individual whose behaviour is the subject of the grievance
 - How the investigation was conducted
 - Details of witnesses interviewed (unless advised by HR on exceptional grounds of detriment/prejudice) together with a note of why they were considered relevant to the case)
 - A note of any other relevant documentary or other relevant information which you have gathered
 - the Investigating Officer's assessment of the information gathered in terms of:

- Is there evidence to potentially substantiate the grievance, in whole or in part?
- To what degree?
- Does the evidence merit consideration of other action?
- Any recommendations for action which may resolve the grievance

Note: it is not the responsibility of the Investigating Officer to decide whether the grievance should be upheld. However, the Investigating officer should summarise the main points with reference to any options for resolution for consideration by the manager receiving the report.

- 5.3 The Investigating Officer shall submit his report to the Assistant Assessor/Line Manager who shall decide what further action, if any, is required.
- 5.4 Where in the course of the investigation the Investigating Officer identifies behaviour or conduct which appears to be contrary to the Board's Disciplinary Policy then he/she must advise the Assistant Assessor/ Line Manager who instructed the investigation who will then decide how matters are to proceed.

Other Useful Pullouts

1. Checklist for Investigating Officer
2. Template Letter: Inviting Employee to Investigatory Meeting
3. Template Investigation Report

would be happy to meet with you and/or your representative to discuss this matter further.

Yours sincerely,

cc

Human Resources

- *temporary redeployment elsewhere within the organisation*
- *working from home*
- *paid home leave)*

I would stress that this is a management arrangement to facilitate investigation of the grievance. This measure in no way presupposes that the grievance is substantiated.

The period of the alternative work arrangements shall run, in the first instance, for one calendar month from the date of this letter. It is hoped that by that date the investigation will have been completed. If for any reason this is not the case, we shall meet to discuss the matter further.

Whilst these alternative arrangements are in place, it is very important that lines of communication are kept open. I have nominated (*insert name of contact person together with their telephone number and email address*) to be your designated point of contact.

** (Where party on home leave, insert:)

I would also ask that you make yourself available during normal work hours to receive telephone calls and to attend meetings as required during the investigation process. If for any reason you are unable to do so, you must contact (*point of contact*) to enable alternative arrangements to be made. **

It is in everyone's interests that the investigation is completed as soon as possible and I trust that you will co-operate with the Investigation Officer during the process.

Should you have any questions, please do not hesitate to contact either (*point of contact*) or myself.

Yours sincerely,

cc

Human Resources Business Partner

APPENDIX 4A

CHECKLIST FOR INVESTIGATING OFFICER

Action	√	Date
1 Have you been given a clear remit on your role? - if not speak with the Assistant Assessor /Line Manager who has instructed the investigation		
2 Have you read and understood the Board's grievance policy and procedure?		
3 Have you given the employee adequate notice in writing that you wish to meet with them and ensured that they know that they can be accompanied? <ul style="list-style-type: none"> • See template letter at Appendix 4B. Where possible, the letter should either be handed to the employee or be sent by recorded delivery and first class mail. 		
4 Have you decided on the questions that you are going to ask? <ul style="list-style-type: none"> • ask open ended questions to seek information • ask closed question to seek verification • ask follow up questions for clarification as required 		
5 Have you arranged to conduct the interview in a private location, free from interruptions? Have you diverted the telephone, switched off your mobile phone?		
6 Who is your HR Business Partner and do you need to consult with them?		
7 Arrange for a note taker to be present if possible. In serious and complex cases, this is essential.		
8 Have you explained to the employee that this is an investigatory meeting for the purpose of listening to their issues, gathering further information and / or seeking clarification?		
9 Have you checked that the employee has been given a copy of the grievance policy and procedure or has had access to these documents electronically?		

10	Is the employee accompanied? If not, have you checked that they knew that option was available to them?		
11	Have you explained the purpose and format of the meeting, and dealt with any procedural issues that may arise?		
12	Is the employee experiencing difficulties which could be supported by e.g. Occupational Health, Counselling via their G.P.? Are they aware of these options?		
13	Are there any other factors which should be taken into account?		
14	Has the employee actually answered your questions? Do you perhaps need to probe further?		
15	What does the employee consider to be most relevant to the issue?		
Interviewing Witnesses			
16	Have you explained the purpose and nature of the meeting and confirmed that it is being carried out under the Board's Grievance Policy and Procedure and remind all regarding the confidential nature of the investigation?		
17	Is the case highly sensitive (e.g. allegation of harassment)? If so is it appropriate that the witness be accompanied by a colleague?		
18	Is the witness aware of the facts and circumstances of the investigation?		
19	Have you advised the witness(es) they may be called to a hearing if convened?		
20	Has the witness checked over your note of their statement?		
21	Has the witness dated and signed their statement?		
22	Are they aware that this will be copied to the employee should this go to a hearing?		

23	Have you given the witness a copy of their statement?		
Preparing the report			
24	Do you consider that there is substance to the issues raised?		
25	<p>If so on what basis? Consider :-</p> <ul style="list-style-type: none"> • What information / evidence do you have? • What witnesses are relevant? • Are the witnesses credible? • Is there conflicting opinions / evidence? • Do you have the complete picture? 		
26	Can the issue be dealt with informally? Consider possible options.		
27	Do you consider that a grievance hearing is necessary? If so, why?		
<p>Note - it is not your responsibility to decide whether the grievance should be upheld. That responsibility lies with the Assistant Assessor or Line Manager. However, you can state that you do not believe there is evidence to take the matter further or you believe that under the Board's Grievance Policy and Procedure there is evidence to potentially support the grievance in whole or in part.</p> <p>28 Has the investigation raised concerns which require to be dealt with under the Board's Disciplinary Policy & Procedure?</p> <p>29 Have you advised the relevant manager?</p>			
29	Have you prepared your report in accordance with the standard template (see Appendix 4(C))?		

APPENDIX 4 (B): TEMPLATE LETTER

INVITING EMPLOYEE TO INVESTIGATORY MEETING

Dear *(name of Employee)*

Investigation Process

I refer to your previous discussions with *(insert name of relevant manager)* regarding concerns that have been raised in accordance with the Board's Grievance Procedure.

The NOTIFICATION OF GRIEVANCE dated (>>>>) raised the following issues;-

- 1) provide details of the issues raised
- 2)

I have been asked to carry out an investigation into these issues and as part of that process, I require to meet with you to discuss the matter.

It is my role to gather all relevant information and to report back to *(insert name of Assistant Assessor/Line Manager)* as to whether or not I consider that there is / are substance to the complaint(s) which require further action to be taken.

The purpose of my report is to provide an independent assessment of the situation to assist the Assistant Assessor/ Line Manager to identify what measures require to be put in place in order to resolve the situation. Whilst I may provide an opinion as to whether or not the grievance has merit or make a recommendation as regards potential measures for resolution, it is not my role to make the decision. It is for the relevant manager / chairperson to determine whether the grievance is substantiated in whole or in part and to decide what, if any measures require to be put in place.

It is very important therefore that I hear your views as regards the issues which have been raised.

You will have been advised by the Assistant Assessor / Line Manager that you must make yourself available during normal work hours for the purposes of meetings and telephone calls as part of the investigation process. I would be grateful therefore if you could meet with me at *(place)* on *(date)* at *(time)*.

At the meeting I will be accompanied by *(insert name of HR Business Partner if appropriate)* who is providing me with advice and guidance to ensure that the process is fully compliant with the Board's Policy & Procedures. I would advise you that you have the right to be accompanied

either by your Trade Union Representative or a work colleague at the meeting.

If you have any documentary evidence that you would like me to consider as part of the investigation then please bring that along with you to our meeting. Similarly if there are any witnesses that you wish me to speak to then please provide me with their contact details.

As you have been advised, you are expected to co-operate fully with the investigation and to take all reasonable steps to attend any investigatory meetings. If you have a genuine reason which means that you cannot attend our meeting, you must contact me immediately and we can rearrange to a more convenient date. I would advise you however that should you simply fail to attend or demonstrate good reason for not attending then I will have to make my decisions without your input. It is very important therefore that you make every effort to attend our meeting.

Should you have any further questions about this part of the process please do not hesitate to contact me on the telephone number above and in the meantime I would be grateful if you could call me to confirm your attendance at the meeting.

Yours sincerely

cc

Human Resources Business Partner

APPENDIX 4(C)
TEMPLATE INVESTIGATION REPORT

Report to: <i>insert name of Assistant Assessor / Line Manager</i>
Employee: <i>insert name of individual who has submitted Notification of Grievance</i>
Prepared by: <i>insert name of Investigation Officer</i>
Date:

1 INTRODUCTION

This report details the investigation into issues raised in the Notification of Grievance Form submitted by *(employee)*. The areas of concern were:

- (1) give details*
- (2) give details*
- (3) give details*

2 INVESTIGATION

2.1 In the course of the investigation into the above issues, statements and information were obtained from the following:

- (a) name / designation or relationship*
- (b) name / designation or relationship*
- (c) name / designation or relationship etc*

Copies of the statements are annexed and marked Appendix 1 (a) to (?) respectively.

2.2 The following documentation was also considered: - (for example)

- (i) Letter from X dated...*
- (ii) report by Y dated*
- (iii) email from Z dated etc*

Copies of which are attached and marked Appendix 2 (a) to (?)

2.3 The following investigatory interviews were carried out in accordance with the Board's Grievance Policy and Procedure:

1) Interview held on (date). In attendance:-

- (i) Employee*
- (ii) Trade Union representative or colleague*
- (iii) HR Representative where appropriate*

2) Interview held on (date). In attendance:-

- (iv) Employee*

(v) *Trade Union representative or colleague*

(vi) *HR Representative where appropriate*

Etc

3 BACKGROUND

Give details of background to grievance including relevant dates etc.

4 INVESTIGATION FINDINGS

Issue 1: (give details)

Findings:

*(a) give brief summary of what information has been obtained
which is relevant to the allegation*

*(b) details of the source of the information with references to the
relevant witness statement / document*

*(c) your assessment as to whether there is sufficient information
to substantiate the allegation in whole or in part*

[Repeat this for each of the allegations]

5. CONCLUSION

- Confirm whether in your opinion the grounds for the grievance appear to be substantiated.
- Make recommendation(s) as to possible actions / measures which could be put in place to resolve the situation.
- Identify where relevant any issues which may require to be dealt with separately under the Board's Disciplinary Policy.

Signed

NAME

DESIGNATION

DATE

APPENDIX 5

FORMAL GRIEVANCE HEARING - GUIDANCE FOR THE CHAIRPERSON

1 Preliminary matters

- (a) Introduce those present to the Parties and explain why they are there.
- (b) If individuals are not represented then confirm that they were given this option.
- (c) Explain that the purpose of the hearing is to consider whether the grievance(s) raised are substantiated and to identify actions for resolving the issues.
- (d) Explain how the hearing will be conducted (as set out in the letter calling the hearing).
- (e) Deal with any procedural issues which have been identified (e.g. late evidence / failure to comply with process etc.).
- (f) Ensure that all of the Parties have been provided with the relevant witness statements and documents that have been submitted.

2 Format of Hearing

- Presentation of evidence by Investigation Officer
- Questions from each of the Parties / Representative
- Questions from Chairperson / Panel

- Presentation of evidence by employee who has raised grievance (optional)
- Questions from other party
- Questions from Chairperson / Panel

- Presentation of evidence from Employee who is the subject of the grievance
- Questions from Employee / Representative
- Questions from Chairperson / Panel

- Summing up by Investigation Officer
- Summing up by party who is the subject of the grievance
- Final Statement by Employee who raised grievance / Representative (optional)

- Deliberations by Chairperson / Panel
- Decision

Where possible the Chairperson shall deliver a decision on the day but in some cases the Chairperson / Panel may require to adjourn for deliberations to enable the Chairperson to reach a decision.

3 Making the decision

- (1) The Chairperson shall consider the facts and evidence presented in an objective and impartial manner and with the principles of natural justice in mind.
- (2) The Chairperson must decide:-
 - (i) If the grievance is substantiated; and
 - (ii) What action(s) are required to resolve the conflict and move the situation forward.
- (3) When making your decision you must consider the following:-
 - Whether a fair and adequate investigation has been carried out.
 - Whether the grievance procedure has been properly followed up to this point.
 - Any explanation or mitigating circumstances offered by the employee whose behaviour or practice is the subject of the grievance. For example, health or domestic problems, provocation, ignorance of the rules or standards involved or inconsistent treatment in the past.
 - Any behaviour or conduct of the party raising the grievance which may have contributed to the conflict (eg their behaviour / practice / attitude).
 - The existing relations between the parties (this may impact on options for moving forward).
 - The action taken in similar cases in the past (you may need to consult with your HR Business Partner).

4 Possible outcomes

- 4.1 It should be remembered that the focus of the hearing is conflict resolution and it is for the Chairperson to decide what action requires to be taken or measure put in place to enable all parties to move forward and resume, wherever possible, normal working relations.
- 4.2 In some cases a simple acknowledgement that the grievance has been substantiated may be enough to enable the Employee with the grievance to move forward without the need for further measures to be prescribed.

4.3 It may be that the Chairperson considers that additional support or measures require to be put in place to assist the parties such as:

- training
- counselling
- mediation
- prescribed monitoring / supervision

4.4 Where the circumstances are such that resuming working relations in their previous form is not appropriate or not possible, for whatever reason, the Chairperson may need to consider other options such as alternative working arrangements for one of the parties. Such arrangements could include:-

- change to work remit of either of the parties
- change in reporting / managing structures
- redeployment within the service either on a temporary or a long term basis
- redeployment elsewhere within the Organisation either on a temporary or a long term basis

4.5 Where alternative working arrangements require to be put in place then the emphasis should be on making the least possible change to achieve the resolution. For example: It would not be appropriate to redeploy a person to another part of the organisation if simply changing their direct line manager was an option which would ease the difficulties.

4.6 Where the grievance process has identified conduct or practice contrary to the Board's disciplinary policy, the Chairperson can also decide to instigate separate proceedings in respect of a party, under the Board's Disciplinary Policy and Procedures.

4.7 The Chairperson shall issue their decision letter to the relevant parties within 5 working days of the hearing. The decision letter should advise the respective parties of their right to appeal the decision and the timescales and mechanism for doing so.

5 Recording Information

5.1 It is important that any decision of the process and any measures to be put in place as part of that decision, are recorded on file. It is also important that the relevant parties are aware of this fact.

5.2 You should advise relevant parties that this information requires to be properly recorded for several reasons:

- 1) To ensure that measures are, in fact, implemented and enable the manager to monitor the effectiveness of the measures in resolving the issue.

2) To provide:-

- a) The Employee who has raised the grievance with a clear framework and timescale for the implementation of measures, which can then be referred to and relied upon in the event that measures are proving ineffective in addressing the original issue(s).
- b) The Employee whose behaviour or practice has been the subject of concern a clear framework and timescale for implementing the measure(s): and;
- c) the manager with an appropriate timescale for monitoring the situation to identify if measures have or have not been effective in resolving issues and where necessary, changing behaviours in the workplace.

3) to enable the organisation to monitor workplace issues in general terms and measure the effectiveness of the Board's Grievance Policy and Procedure in resolving issues and to provide relevant statistical data for submission to appropriate external agencies.

- 5.3 It should be noted that these measures are **not disciplinary sanctions** and should not be viewed as such. The Policy and Procedures make provision for dealing with disciplinary issues should they become apparent in the course of the grievance investigation and it is important that Managers keep both processes distinct.
- 5.4 The grievance decision and any subsequent measures, where they are relevant to the individual shall be recorded on the individual's file as this is the appropriate place for such information to be recorded. All information held must comply with Data Protection legislation and therefore only information which is relevant and necessary shall be maintained on file or held centrally within HR for monitoring purposes.
- 5.5 The particular timescales are stated below and are determined by the nature of the measures that require to be put in place. In general the level of intervention reflects the nature or complexity of the issue. More complex or serious the issues require a higher level of intervention and accordingly a greater timescale for implementation and monitoring.
- 5.6 Accordingly the outcome of any investigations and a note of any measures applied will be recorded as follows:

- 1) Low level intervention: shall be noted on the individual's file for a period of 6 months or for a period of three months following completion of the action (whichever is the greater).
- 2) High level intervention: shall be recorded on the individual's file for a period of 12 months or for a period of three months following completion of the action (whichever is the greater).

APPENDIX 5(A)
FORMAL GRIEVANCE HEARING - CHECKLIST FOR
CHAIRPERSON

ACTION	✓	Date
<p>PRELIMINARY MATTERS</p> <ol style="list-style-type: none"> 1 Have you written to the relevant parties / representatives inviting them to the Hearing within the timescales and in accordance with the template letter (see <u>Appendix 5B)</u> 2 Have all relevant parties received a copy of the Investigation Report and any supporting documentation? 3 Did you receive witness lists and all documentation being relied on by the parties in accordance with the timescales? 4 Have you shared witness lists / documentation with the relevant parties? 5 Introduce the parties. 6 If relevant parties are not represented have you confirmed that they were given that opportunity? 7 Explain the purpose and format of the hearing. 8 Are there any procedural issues being raised? If so, deal with these first. 9 Keep the approach formal and polite, but encourage both parties to speak freely in order to establish the facts. Remember that the purpose of the hearing is to identify measures for resolving the conflict. 10 Whilst there may be a certain amount of "letting off steam", you must not accept abusive language or threatening conduct. If the situation becomes heated take a brief adjournment to allow parties to "cool down" and remind them of the purpose of the hearing. 11 It is the role of the employee's companion / representative to address the hearing in order to put forward the employee's case. It is not their role to answer questions on the employee's behalf, make sure that all questions are addressed directly to the employee. 		

HEARING

- 12 Ask the Investigation Officer to present the evidence gathered in respect of the allegations.
- 13 Allow the Investigation Officer to call their witnesses.
- 14 After each witness each of the relevant parties and the Panel has an opportunity to ask questions.
- 15 Each of the relevant parties and the Panel then has an opportunity to ask questions of the Investigation Officer.
- 16 Give the employee / representative who has raised the grievance the opportunity to state his/her concerns.
- 17 Allow the employee who has raised the grievance to present evidence and call any supporting witnesses.
- 18 After each witness has given their evidence the Investigation Officer, the employee whose conduct is the subject of the concerns (where applicable) and the Panel may ask questions.
- 19 The Investigation Officer, employee whose conduct is the subject of concerns and the Panel may also ask questions of the employee who raised grievance.
- 20 The employee whose conduct is the subject of the concerns is then given an opportunity to respond and state their position.
- 21 The employee whose conduct is the subject of the concerns can then lead any witnesses.
- 22 After each witness the other employee, Investigating Officer and Panel may then ask questions.
- 23 The other employee, Investigating Officer and Panel may then ask questions of the employee whose conduct is the subject of the concerns. (Use this as an opportunity to clarify any points or establish whether there are any mitigating circumstances which should be taken into account).
- 24 If you consider that you need further information from any party (e.g. Documentation/ correspondence / a particular witness) and are of the opinion that such information is material to the case, then you should agree an adjournment to allow the party to produce the relevant information.
- 25 After questioning is completed, then each of the parties should be

<p>invited to make a closing submission.</p> <p>26 Ask the parties if they have any suggestions as to possible measures which could be put in place to resolve the issue(s).</p> <p>27 Canvass opinion from the relevant parties as regards any other options for resolution that you consider appropriate.</p> <p>MAKING THE DECISION</p> <p>28 You must decide:-</p> <p style="padding-left: 40px;">a) If the is grievance substantiated; and b) What action(s) are required to resolve the conflict and move the situation forward?</p> <p>29 Factors to consider:-</p> <ul style="list-style-type: none"> • Whether a fair and adequate investigation has been carried out. • Whether the grievance procedure has been properly followed up to this point. • Any explanation or mitigating circumstances offered by the party whose behaviour or practice is the subject of the grievance. For example, health or domestic problems, provocation, ignorance of the rules or standards involved or inconsistent treatment in the past. • Any behaviour or conduct of the party raising the grievance which may have contributed to the conflict (e.g. their behaviour / practice / attitude). • The existing relations between the parties (this may impact on options for moving forward). • Any views or suggestions as to possible measures for resolution. • The action taken in similar cases in the past (you may need to consult with your HR Business Partner). <p>29 Can you give a decision now?</p> <p>30 If so, advise parties of decision and inform them of the right of appeal.</p> <p>31 If not, then adjourn the hearing so that you can consider the evidence presented and make your decision.</p> <p>32 Confirm your decision and provide information as to the rights of appeal in writing within 5 working days.</p>		
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APPENDIX 5(B)

TEMPLATE LETTER: INVITATION TO GRIEVANCE HEARING

[Mark top of address as Private and Confidential]

Dear (name of employee)

GRIEVANCE HEARING

I refer to the recent investigation in respect of the concerns raised under the grievance procedure, which was carried out by (insert name of the Investigation Officer). Having considered his/her report I am satisfied that it is necessary to convene a formal hearing to seek a resolution to the grievance.

Accordingly I am inviting you to attend a hearing which will take place at **(place)** on the **(date)** at **(time)** where the following issues will be examined with a view to identifying an appropriate course of action for resolution:-

1. *provide details of the pertinent issues*
- 2.

You have the right to be accompanied at the hearing by your Trade Union Representative or by a work colleague.

I enclose for your information and assistance a copy of the Investigation Report which is an objective assessment of the issues which were raised.

Should you wish to submit any correspondence or documentation in support of your position, please provide me with copies of these no less than 2 working days prior to the hearing.

If you wish to call witnesses in support of your case you / your representative are responsible for organising this. You must provide me as the Chair with a witness list no less than 2 working days prior to the hearing.

Please be advised that it will be open to the Investigating Officer and any other party who is relevant to the proceedings to call witnesses and submit documentation. They too are required to advise me as Chairperson of the details within the same timescales as apply to you. Once all lists and documents have been provided to me I shall notify all parties as soon as possible and prior to the hearing.

Failure to supply your documentation or witness list within the timescales will likely result in that evidence or witness being excluded.

For your information the format at the Grievance Hearing will be as follows:

- Presentation of evidence by Investigation Officer

- Questions from each of the Parties / Representative
- Questions from Chairperson / Panel

- Presentation of evidence by Employee who has raised grievance (optional)
- Questions from other party
- Questions from Chairperson / Panel

- Presentation of evidence from Employee who is subject of grievance
- Questions from Employee / Representative
- Questions from Chairperson / Panel

- Summing up by Investigation Officer
- Summing up by party who is subject of grievance
- Final Statement by Employee who raised grievance / Representative (optional)

- Deliberations by Chairperson / Panel
- Decision

Please contact me to confirm your attendance at the hearing.

I would advise you that you are expected to attend the hearing as arranged and should you fail to attend without good and compelling reasons, the hearing will proceed and a decision will be taken in your absence. If you have a genuine reason why you are unable to attend then you should contact me upon receipt of this letter in order that an alternative date can be arranged.

I trust that this explains the process to you satisfactorily but should you have any further queries please do not hesitate to contact me on **(direct dial)**.

Yours sincerely

APPENDIX 5(B)(i)

TEMPLATE LETTER
GRIEVANCE HEARING - OUTCOME LETTER
(No further intervention)

[Mark top of address as Private and Confidential]

Dear *(insert name of employee)*

Grievance Hearing

I refer to the Grievance Hearing held on (date). At that hearing the following issues were discussed with a view to resolving the situation which has arisen ***between you and (name) / or within the team / or within the organisation** (insert as appropriate).

In particular we discussed the following concerns:-

- (1) (insert details)
- (2)

At that Hearing the following were in attendance:-

- (a) *list names of those in attendance including any witnesses*
- (b) *etc*
- (c)

Having considered all of the evidence presented to me in the course of the Hearing and the representations made by all parties, I am satisfied that the issues raised within the grievance have been substantiated. Given the positive discussion that took place however and the commitment given by all the parties to ensuring positive working relations are resumed and maintained I have decided not to prescribe any particular further formal actions at this time, but shall instead ask that (insert name of relevant line manager) monitors the situation informally over the next three month period.

For the purposes of monitoring the effectiveness of the measures and ensuring that measures are implemented, the above actions will be recorded on the relevant individual's file(s) for a period of 6 months or for a period of three months following completion of the action(s) (whichever is the longer). Details of the measures will also be recorded centrally within HR for the purposes of assessing the effectiveness of the policy in general terms.

You have a right to appeal against this decision where you consider that one or more of the following apply:-

- that the decision was unfair or unreasonable.

- that any proposed measures are inappropriate or unreasonable.
- that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision.
- that you consider that the grievance procedure was not followed properly and as a result you were disadvantaged in some way.

Your appeal must be made in writing to ***(insert name and contact details of Appeal Officer)*** with 5 working days of receipt of this letter, detailing the grounds for your appeal.

Yours sincerely

APPENDIX 5 (B) (ii)
TEMPLATE LETTER
GRIEVANCE HEARING - OUTCOME LETTER
(Low level intervention)

[Mark top of address as Private and Confidential]

Dear *(insert name of employee)*

Grievance Hearing

I refer to the Grievance Hearing held on (date). At that hearing the following issues were discussed with a view to resolving the situation which has arisen ***between you and (name) / or within the team / or within the service** (insert as appropriate).

In particular we discussed the following concerns:-

(Insert details)

At that hearing the following were in attendance:-

List names of those in attendance including any witnesses, etc.

Having considered all of the evidence presented to me in the course of the hearing and the representations made by all parties, I am satisfied that the issues raised within the grievance have been substantiated and that action requires to be taken in order to resolve the present situation and move things forward.

Accordingly I have decided that:

(Provide details of actions/measures to be put in place - for example:-

- 1) (Name) will undertake X training by (date) in order to addressetc
- 2) Regular monitoring meetings will take place between (name) and (name) for the purposes of.....
- 3) The parties will engage in formal mediation in order to.....
- 4) Etc.)

Please note that the above does not constitute a disciplinary sanction but are measures which I consider appropriate and necessary to resolve the present conflict.

For the purposes of monitoring the effectiveness of the measures and ensuring that measures are implemented, the above actions will be recorded on the relevant individual's file(s) for a period of 6 months or for a period of three months following completion of the action(s) (whichever is the longer). Details of the measures will also be recorded centrally within HR for the purposes of assessing the effectiveness of the policy in general terms.

I have also scheduled a meeting for (time) (date) at (place) which all parties are required to attend on order to confirm that the above action(s) have been implemented and ensure that the matter has been resolved. If you are unable to attend this meeting please advise me as soon as possible in order that the meeting can be rescheduled.

It is important that everyone takes on board the above measures to move towards more harmonious and effective working. If anyone fails or refuses to comply with the measures, further action may be taken which could include proceedings under the Board's Disciplinary Policy and Procedures.

You have a right to appeal against this decision where you consider that one or more of the following apply:-

- that the decision was unfair or unreasonable.
- that any proposed measures are inappropriate or unreasonable.
- that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision.
- that you consider that the grievance procedure was not followed properly and as a result you were disadvantaged in some way.

Your appeal must be made in writing to ***(insert name and contact details of Appeal Officer)*** with 5 working days of receipt of this letter, detailing the grounds for your appeal.

Yours sincerely

APPENDIX 5(B) (iii)
TEMPLATE LETTER
GRIEVANCE HEARING - OUTCOME LETTER
(Higher level intervention)

[Mark top of address as Private and Confidential]

Dear *(insert name of employee)*

Grievance Hearing

I refer to the Grievance Hearing held on (date). At that hearing the following issues were discussed with a view to resolving the situation which has arisen ***between you and (name) / or within the team / or within the service** (insert as appropriate).

In particular we discussed the following concerns:-

(Insert details)

At that hearing the following were in attendance:-

List names of those in attendance including any witnesses, etc.

Having considered all of the evidence presented to me in the course of the hearing and the representations made by all parties, I am satisfied that the issues raised within the grievance have been substantiated and that action requires to be taken in order to resolve the present situation and move things forward.

In deciding what measures are appropriate I have to take all of the present circumstances into account. Given the nature of the grievance and from the evidence presented to me, I consider that the relationship between *(*the parties / you and (name) / you and your present colleagues / etc)* are such that changes require to be made to your / (others) existing work arrangements.

Accordingly I have decided that:

(Provide details of actions/measures to be put in place - for example:-

- 1) (Name) will now be line managed by (name).
- 2) You shall be required to undertake (x training) and be subject to a monitoring and review process for a period of (insert timescale).
- 3) (Name) will be temporarily redeployed to (x) within the Service and the situation reviewed within (timescale).
- 4) Etc.

(Note: training/counselling and any other appropriate support can also be put in place for any of the parties alongside the above measures).

Please note that the above does not constitute a disciplinary sanction but are measures which I consider appropriate and necessary to resolve the present conflict.

For the purposes of monitoring the effectiveness of the measures and ensuring that measures are implemented, the above actions will be recorded on the relevant individual's file(s) for a period of 12 months or for a period of three months following completion of the action(s) (whichever is the longer). Details of the measures will also be recorded centrally within HR at Clackmannanshire Council for the purposes of assessing the effectiveness of the policy in general terms.

I have also scheduled a meeting for (time) (date) at (place) which all those involved are required to attend on order to confirm that the above action(s) have been implemented and ensure that the matter has been resolved. If you are unable to attend this meeting please advise me as soon as possible in order that the meeting can be rescheduled.

It is important that everyone takes on board the above measures move towards more harmonious and effective working. If anyone fails or refuses to comply with the measures, further action may be taken which could include proceedings under the Board's Disciplinary Policy and Procedures.

You have a right to appeal against this decision where you consider that one or more of the following apply:-

- that the decision was unfair or unreasonable.
- that any proposed measures are inappropriate or unreasonable.
- that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision.
- that you consider that the grievance procedure was not followed properly and as a result you were disadvantaged in some way.

Your appeal must be made in writing to ***(insert name and contact details of Appeal Officer)*** with 5 working days of receipt of this letter, detailing the grounds for your appeal.

Yours sincerely

APPENDIX 6

GUIDANCE: APPEALS AGAINST THE DECISION OF A GRIEVANCE HEARING

1 Submitting an Appeal

- 1.1 An appeal must be submitted in writing to the manager specified in the decision letter within the 10 working days of the date of the decision letter.
- 1.2 The appeal letter should state full reasons and grounds for appeal and detail where appropriate any additional information or evidence which the employee will be seeking to rely on in support of their appeal, enclosing where appropriate copy documentation and a note of any witnesses that s/he wishes to call.
- 1.3 Where an employee at Assistant Assessor level or above wishes to appeal against the decision, this should be submitted to the Head of Human Resources at Clackmannanshire Council within the same timescale.
- 1.4 An appeal can be submitted on the following grounds:
 - that the decision was unfair or unreasonable.
 - that any proposed measures are inappropriate or unreasonable.
 - that new and relevant evidence or information has come to light that was unavailable at the time of the grievance hearing, which if it had been available at the time would have impacted upon the decision.
 - that they consider that the grievance procedure was not followed properly and as a result they were disadvantaged in some way.

2 Time limits for hearing Appeals

- 2.1 Appeals which are not lodged within the prescribed time limit will not be heard.
- 2.2 The senior officer receiving the appeal ("Appeal Officer") will send a copy of the appeal letter together with any supporting documentation and witness list to the Chairperson of the original panel and the Head of Human Resources at Clackmannanshire Council, on the day of receipt.

- 2.3 Confirmation that an appeal has been received will be issued to the employee by the receiving manager not later than 5 working days after it has been received.
- 2.3 Appeals which are lodged within the time limit will be heard as soon as is practical and this will normally be done within 15 working days of the date of receipt of the appeal letter.
- 2.4 Where these timescales cannot be adhered to (e.g. certified sickness absence) the time limits may be extended. In such circumstances the Assistant Assessor shall discuss the matter with the relevant parties and once an extended period has been agreed the parties should be notified in writing of the amended timescale and the reason why the extension is necessary.

3 Hearing an Appeal

- 3.1 Appeals will normally be heard by an officer who is at a more senior level to the officer who took the original decision and who has had no involvement in the original hearing or decision.
- 3.2 Where this is not possible or practical, then the Appeal Officer appointed will, as a minimum, be a peer of the original Chairperson. The Appeal Officer will be advised by a member of the Human Resources Team at Clackmannanshire Council.

4 Appeals by Chief Officers

- 4.1 Appeals by Chief Officers shall be heard by the Clerk to the Board or the Appeals Committee of the Board as appropriate.

5 Format of an Appeal Hearing

- 5.1 The format of an Appeal Hearing is as follows:-
- The Appeal Officer shall make introductions and outline the procedure.
 - The employee or his / her representative shall state the grounds and reasons for the appeal.
 - Where the employee is seeking to rely on **new** evidence which was previously not available then s/he shall be permitted to call witnesses in support of this new information. Witnesses who attended the original grievance hearing will not be required to attend as an appeal is not a rehearing of the case - unless they are considered relevant to support / refute the new evidence being submitted.
 - Where witnesses are called, the relevant officer who heard the grievance hearing, and the Appeal Panel may then ask questions of

any witnesses.

- The officer who heard the Grievance Hearing will be given an opportunity to explain the reasons for their decision and to respond to the grounds of appeal.
- The officer may lead witnesses and documentary evidence which is necessary to refute the grounds of appeal.
- The employee or their representative and the Appeal Panel may then ask questions of the officer and of any witnesses.
- The Appeal Panel may then ask any further questions of either party.
- The officer will then be asked to make a final statement.
- The employee or their representative will then be invited to make a final statement.
- The Appeal Panel will then adjourn to consider the issues and the Appeal Officer shall make the decision.

6 Outcome of Appeal

6.1 Having considered all of the relevant issues the Appeal Officer may:-

- Uphold the appeal in full (thereby removing any actions / measures imposed).
- Uphold the appeal in part (in which case Appeal Officer can amend the actions / measures previously imposed)
- Dismiss the appeal (in which case the previous actions / measures remain in place).

6.2 The Appeal Officer where appropriate may give his decision verbally on the day but shall issue his decision to the parties in writing within 10 working days of the hearing.

6.4 The decision of the Appeal Officer is final and there is no further internal process available to the employee.

APPENDIX 6(A)

CHECKLIST FOR APPEAL OFFICER

ACTION	√	DATE
<p>Preparation</p> <ol style="list-style-type: none"> 1 Has the employee submitted his/her appeal in writing within the correct timescales? 2 Have you confirmed receipt and advised when appeal will be heard? 3 Have you arranged an appropriate venue for the appeal to be heard? 4 Have you invited the relevant parties to the hearing? <p>Hearing</p> <ol style="list-style-type: none"> 5 Explain format of hearing to parties - Emphasise that this is <u>NOT A REHEARING</u> of the original case, if the appeal is against a decision of a hearing. 6 Invite employee to state the grounds and reasons for their appeal. 7 Are there any witnesses? Are they relevant to the grounds of appeal? If so they may be led and there must be an opportunity for the other side and panel to ask questions. 8 Invite officer who heard the Grievance Hearing to respond to the employee's case. 9 Are there any relevant witnesses? If so - Evidence & questions. 10 Any questions from Panel? 11 Closing submission from officer who heard grievance. 12 Closing submission from employee. 13 Adjourn to consider. 14 Decision - can you give this verbally on the day? 15 Have you confirmed decision in writing within timescales? 		

APPENDIX 6(B)

TEMPLATE LETTER: INVITATION TO APPEAL HEARING

[Mark top of address as Private and Confidential]

Dear *(insert name of employee)*

NOTICE OF APPEAL HEARING

I refer to your letter of appeal dated *(insert date)* against the decision following the Grievance Hearing held on *(date)*.

You are appealing against the decision on the ground(s) that;

(1) (insert details)

In accordance with the Board's Grievance Policy and Procedures I have been appointed to hear your appeal.

The Appeal Hearing shall take place at *(place)* on *(date)* at *(time)*.

I would advise you that you have the right to be accompanied by a Trade Union Representative or a work colleague.

Should you wish to submit any correspondence or documentation in support of your position, please provide me with copies of these no less than 3 working days prior to the hearing.

If you wish to call witnesses in support of your case you/your representative are responsible for organising this. You are however obliged to provide me as the Chair with a witness list no less than 3 working days prior to the hearing.

The format of the Appeal Hearing shall be as follows:-

- (1) Introductions by me and overview of process to be followed at hearing.
- (2) You or your representative shall state the grounds and reasons for the appeal.
- (3) The relevant officer who heard the Grievance Hearing and I will then be permitted to ask you questions.
- (4) Where you are seeking to rely on new evidence which was previously not available then you will be permitted to call witnesses in support of this new information. (Witnesses who attended the original grievance hearing will not be required to attend as an appeal is not a rehearing of the case.)

- (5) Where witnesses are called the relevant officer who heard the Grievance Hearing and I may then ask questions of any witnesses.
- (6) The officer who heard the Grievance Hearing will be given an opportunity to explain the reasons for their decision and to respond to the grounds of appeal.
- (7) You or your representative and I may then ask questions of the officer.
- (8) The officer may lead any witnesses who have any evidence which is directly relevant to the grounds of appeal.
- (9) You or your representative and I may then ask questions of any witnesses.
- (10) I may then ask any further questions of either party.
- (11) The officer will then be asked to make a final statement.
- (12) You or your representative will then be invited to make a final statement
- (13) I will then adjourn to consider the issues and make a decision. Where possible I will do that verbally on the day but a decision will be issued in writing within 10 working days.

In determining the appeal the following options are available to me having considered all of the evidence presented to me:-

- Uphold the appeal in full (thereby removing any actions / measures imposed).
- Uphold the appeal in part (in which case Appeal Officer can amend the actions / measures previously imposed).
- Dismiss the appeal (in which case the previous actions / measures remain in place).

I would advise you that my decision is final and there is no further internal process available to you.

Please telephone me upon receipt of this letter to confirm your attendance at the hearing.

Yours sincerely

APPENDIX 6 (B) (i)

TEMPLATE LETTER: OUTCOME OF APPEAL HEARING

[Mark top of address as Private and Confidential]

Dear *(insert name of employee)*

APPEAL HEARING

I refer to the Appeal Hearing held on **(date)** to consider your appeal against the decision following on from Grievance Hearing held on **(date)**.

You appealed against the decision on the following grounds:

(Insert details)

At that Hearing the following were in attendance:-

List names of those in attendance including any witnesses, etc.

Having considered all of the evidence presented to me in the course of the Appeal Hearing and the representations made by both parties I have decided to:

Insert details and reasons for decision.

Where measures / actions are to be varied please give full details of this.

For the purposes of monitoring the effectiveness of the measures and ensuring that measures are implemented, the above actions will be recorded on the relevant individual's file for a period of * 6 / *12 *(insert as applicable)* months or for a period of three months following completion of the action(s) (whichever is the longer). Details of the measures will also be recorded centrally within HR for the purposes of assessing the effectiveness of the policy in general terms.

I would advise you that this decision is final and that there is no further internal process open to you.

Yours sincerely

APPENDIX 6 (B) (i)

TEMPLATE LETTER: OUTCOME OF APPEAL HEARING

[Mark top of address as Private and Confidential]

Dear *(insert name of employee)*

APPEAL HEARING

I refer to the Appeal Hearing held on **(date)** to consider your appeal against the decision following on from Grievance Hearing held on **(date)**.

You appealed against the decision on the following grounds:

(Insert details)

At that Hearing the following were in attendance:-

List names of those in attendance including any witnesses, etc.

Having considered all of the evidence presented to me in the course of the Appeal Hearing and the representations made by both parties I have decided to:

Insert details and reasons for decision.

Where measures / actions are to be varied please give full details of this.

For the purposes of monitoring the effectiveness of the measures and ensuring that measures are implemented, the above actions will be recorded on the relevant individual's file for a period of * 6 / *12 *(insert as applicable)* months or for a period of three months following completion of the action(s) (whichever is the longer). Details of the measures will also be recorded centrally within HR for the purposes of assessing the effectiveness of the policy in general terms.

I would advise you that this decision is final and that there is no further internal process open to you.

Yours sincerely