



AGENDA ITEM 8

CENTRAL SCOTLAND VALUATION JOINT BOARD

Subject: DISCIPLINARY POLICY REPORT
Meeting: CENTRAL SCOTLAND VALUATION JOINT BOARD
Date: 22ND NOVEMBER 2019
Author: JANE WANDLESS, ASSISTANT ASSESSOR

1. INTRODUCTION

- 1.1 This report is seeking approval for an updated Disciplinary Policy and Procedure.
- 1.2 The policy is based on the policy adopted by Clackmannanshire Council and we have worked with Human Resources at Clackmannanshire Council in its development.
- 1.3 The Board's Staff Consultation Forum were consulted on the new policy and procedure.

2. BACKGROUND

- 2.1 The Board's current Policy and Procedure were last reviewed in April 2000.
- 2.2 It is good practice to review and where necessary amend policies to ensure that they remain current and fit for purpose.

3. REVISED DISCIPLINARY POLICY AND PROCEDURE

- 3.1 Copies of the proposed Disciplinary Policy and Procedure are attached as Appendix 1 and 2 of this report.

- 3.2 The principle changes are:

Emphasises the need for managers, in the first instance, to try to encourage improvement and use the informal route to address the problem before escalating the matter to the formal disciplinary procedures.

Clearer and more detailed guidance on roles and responsibilities.

Introduction of 'Attendance Warnings' where an employee has exceeded the triggers points in the Maximising Attendance policy and Support and Guidance procedures have been exhausted.

There is no longer a requirement for all appeals against dismissal to be heard by the Appeal Committee of the Joint Board.

4. RECOMMENDATION

I ask that the Board approves the new Disciplinary Policy and Disciplinary Procedure.

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Jane Wandless
Assistant Assessor
Date: 30th October, 2019

Appendix 1: Disciplinary Policy
Appendix 2: Disciplinary Procedure

DISCIPLINARY POLICY

Date: October 2019

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Review Date:

Version Control

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1.1	28/10/2019	JW	As highlighted by SCF

DISCIPLINARY POLICY

1.0 Introduction

- 1.1. Central Scotland Valuation Joint Board (CSVJB) has a responsibility to set the standards for performance, attendance and conduct and reinforce these through rules which are incorporated into CSVJB policies. Policies, rules and procedures inform employees of what is expected from them and help the management of issues to be applied in a consistent and fair manner.
- 1.2. The aims of the Disciplinary Policy are to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and or attendance and to encourage improvement where necessary.
- 1.3. Clear policies, rules and procedures will inform employees of what is expected from them and assist the organisation to operate effectively.
- 1.4. The policy sets out in detail the general standards expected from all employees, as well as highlight the support which may be available to improve an employee's conduct and or attendance, and the processes to be followed when dealing with failures to meet the required standards.

2.0 Policy Statement

- 2.1 The Disciplinary Policy and Procedure complies with the ACAS Statutory Code of Practice on discipline and grievance.
- 2.2 CSVJB has a separate Capability Policy and Procedure for dealing with performance and health related issues.
- 2.3 CSVJB expects staff to be aware of and conduct themselves within the law, any code of practice, competence, or ethics associated with their profession or trade, any rules specifically relating to their professional responsibilities or activities and within generally accepted standards of social and moral behaviour.

- 2.4 CSVJB will assist employees, so far as practicable, in achieving acceptable standards by ensuring that all staff are aware of what is expected of them. CSVJB will ensure it brings to the attention of staff any relevant policies and procedures and provides the necessary training, as required, to assist them in undertaking their work effectively and safely.
- 2.5 Problems involving minor misconduct and poor performance should be dealt with, at least in the early stages and where appropriate, through the use of informal advice, guidance and counselling between the member of staff and their line manager.
- 2.6 Apart from gross misconduct, no employee will be dismissed for the first breach of discipline.

3.0 Scope and Responsibility

- 3.1 All staff of CSVJB have responsibility for ensuring that employees are aware of what is expected of them and for ensuring that the policy is implemented in a fair and consistent manner in all situations.
- 3.2 Representatives from Clackmannanshire Council HR are available to provide advice to managers at all stages of the disciplinary process. Where appropriate Clackmannanshire Council HR will seek employment law advice.
- 3.3 Trade Union representatives will provide their members with support as detailed in the Policy and will be afforded time off to do so in accordance with protocols agreed with management for facility time.
- 3.4 To ensure fairness and consistency, the disciplinary policy encompasses all employees of CSVJB. Minor modifications as outlined in the Disciplinary Procedures apply to the Assessor and Statutory Deputies. The principles however remain the same.
- 3.5 All individuals involved in administering or managing the disciplinary process must ensure that they are aware of the disciplinary policy, understand what

their roles and responsibilities are and follow the process set out in the disciplinary policy, procedures and the supporting checklists.

- 3.6 Employees shall not become the subject of disciplinary procedures solely as a result of being the subject of a criminal investigation, charged with or convicted of a criminal offence. Each case will be considered on an individual basis. Please refer to the procedures for further guidance.
- 3.7 No disciplinary action will be taken against an employee until the case has been thoroughly investigated and the employee has been given the opportunity to present their case at a disciplinary hearing, other than in exceptional circumstances or where there is an unambiguous admission of misconduct from the employee.
- 3.8 Employees have a right to be accompanied by a trade union representative or work colleague at every stage in the process.
- 3.9 Where allegations relate to a Trade Union Representative, discussion will take place with a Branch Secretary prior to disciplinary action being taken. This will not delay the instigation of a disciplinary investigation or appropriate action being taken.

4.0 Monitoring and Review

- 4.1 The Management Team and the Staff Consultation Forum shall monitor the effectiveness of the procedure on an ongoing basis. Changes may result from employee, management and union feedback and/or from changes in employment legislation. Revisions and updates will be implemented by CSVJB following consultation with the Staff Consultation Forum.

Equality Impact Assessment

Policy Name	Disciplinary Policy
Department	Corporate
Policy Lead	Jane Wandless
Equality Impact Assessment	
Full EQIA required	Yes <input type="checkbox"/> No* <input type="checkbox"/>
* In no please provide rationale Policy applies equally to all CSVJB employees and does not negatively impact on any group which falls within any of the 9 protected characteristics	
Date Full EQIA complete	N/A
Date Approved	
Review Date	

DISCIPLINARY PROCEDURE

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DISCIPLINARY PROCEDURE

1.0 Introduction

- 1.1 As outlined in the ACAS definition, “disciplinary procedure is a means by which rules are observed and standards are maintained. It provides a method of dealing with any shortcomings in conduct or performance and can help an employee to become effective again. The procedure should be fair, effective and consistently applied.”
- 1.2 Central Scotland Valuation Joint Board (CSVJB) acknowledges that there will be circumstances where an issue is considered by a manager to be sufficiently serious that it should be escalated to the formal disciplinary process.
- 1.3 This procedure has been prepared to assist all parties involved to deal with disciplinary issues and should be read in conjunction with the CSVJB's Disciplinary Policy.
- 1.4 The procedure sets out a step by step guide to the actions which should be taken and the timescales which should be followed to ensure that the disciplinary process is fair, consistent and concluded as quickly as possible.
- 1.5 Open, honest and timely communication is essential to the successful application of these disciplinary procedures.
- 1.6 Managers must ensure that employees are kept informed at every stage of the process. Similarly, there is an obligation on employees to maintain contact with their manager or other nominated contact throughout the process.
- 1.7 Before a manager considers commencing the disciplinary procedure, they must consult Clackmannanshire Council Human Resources (HR) to ensure that the statutory and policy requirements are adhered to. The manager

must also refer to and follow the procedures at all stages and continue to consult HR throughout the process.

- 1.8 The purpose of any disciplinary action should be to counsel the employee and to provide appropriate assistance to enable improvement to occur. Appropriate support mechanisms should accompany any disciplinary action taken.

2.0 Definitions

- 2.1 Throughout this document, reference to Assessor/Assistant Assessor shall include any Manager nominated by them, except when it refers to chairing a hearing where the possible outcome is dismissal.
- 2.2 The term disciplinary action refers to action that can range from an informal action right through to punitive action (which may include demotion, transfer/suspension of increment) or dismissal .Note this list is not exhaustive.
- 2.3 There are a number of different reasons why disciplinary action might be taken:

Misconduct - namely conduct or performance issues which may be deliberate and for which the employee is deemed to be responsible, for example, habitual poor timekeeping, or failure to carry out a reasonable work instruction. Table 1 provides examples of the types of behaviour that will generally result in action short of dismissal being taken. The list is neither exclusive nor exhaustive but is indicative of the types of behaviour that will generally result in action short of dismissal being taken.

Gross Misconduct is misconduct which is considered serious enough to make any further working relationship and trust impossible to regain, and may invalidate the employment contract between CSVJB and the employee.

Table 2 provides examples of the types of behaviour which may be found to be Gross Misconduct and which could, after due investigation, lead to dismissal without notice. The list is neither exclusive nor exhaustive.

Table 1

Examples of Misconduct
<ul style="list-style-type: none"> • Unauthorised absence from work. • Refusal to act upon reasonable instruction or otherwise fulfil the contractual obligations of the post. • Less serious discriminatory acts or omissions contrary to or inconsistent with the principle of equality as set out under the Equality Act 2010. • Less serious breaches of health and safety rules. • Persistent bad timekeeping. • Failure to follow absence management notification procedures. • Persistent and unrelated short-term sickness absence. • Breach of data protection legislation (and amendments) with respect to the unauthorised disclosure of personal or confidential information. • Carelessness or negligence in carrying out the duties and responsibilities of the post. • Unacceptable or potentially threatening behaviour to any person whilst engaged or purporting to be engaged on CSVJB business which breaches CSVJB's Dignity at Work policy. • Inappropriate use of, or careless damage to, CSVJB property. • Minor breaches of terms and conditions of employment • Minor breach of any of CSVJB's policies or procedures, including our Equal Opportunities Policy; Dignity at Work; Sickness and Absence Policy; Email, Internet and Social Media Policy; Alcohol and Drugs Policy (etc.)

Table 2

Examples of Potential Gross Misconduct
<ul style="list-style-type: none">• Any serious or persistent incidents of the matters referred to under misconduct• Serious or repeated breaches of any of policies or procedures;• Failing to comply with any relevant statutory or regulatory requirement• Serious neglect of duties;• Serious acts or omissions which lead to a loss of trust and confidence;• Negligence or deliberate acts or omissions which result, or may result, in serious loss or injury to people or property;• Physical violence or indecent, abusive or threatening behaviour.• Bullying, harassment or victimisation.• Wilful damage to, or misuse of, CSVJB property or resources.• Serious discriminatory acts or omissions contrary to, or inconsistent with, equality or opportunity.• Deliberately accessing internet sites containing pornographic, offensive or obscene material.• Being under the influence of alcohol or illegal drugs whilst purporting to be engaged in CSVJB business.• Serious insubordination, which is defined as defiance of authority; refusal to obey orders.• Wilful or negligent breach of confidentiality or abuse of authority vested in the post.• Serious breach of data protection legislation with respect to personal or confidential information, including the unauthorised disclosure of information to external organisations, which has a serious impact on CSVJB or its employees.• Wilful non-disclosure of an interest, whether direct or indirect, in a contractual agreement between an agency and CSVJB.• Wilful breach of health and safety rules.• Gross carelessness or negligence in carrying out the duties and responsibilities of the post.

- Bringing the organisation into serious disrepute.
- Any breach of the codes of a professional body giving rise to expulsion from that body where this is an essential requirement of the post including the RICS.
- Not maintaining membership of a professional body where this is an essential requirement of the post including the RICS.
- Wilful provision of false or misleading information or wilful non-disclosure of information, either during the recruitment process or in subsequent employment, which materially affects the contract of employment.
- Criminal conviction/civil liability or other unacceptable conduct, which renders the employee unsuitable for the duties and responsibilities of the post, whether or not the conduct occurred whilst on duty.

3.0 Criminal Offences/Investigations

Investigation

- 3.1 Should a manager become aware that an employee may be, or has been involved in a situation that is potentially criminal, advice as to how to proceed should be sought immediately from HR. This approach should be taken whether or not the alleged activity took place while the employee was on duty.
- 3.2 Where a disciplinary investigation finds that an employee may have undertaken criminal activity the matter should be discussed with the Assessor in order to consider whether the police should be advised.
- 3.3 Where a criminal investigation is on-going advice should be sought from HR as to the most appropriate approach with regard to the disciplinary investigation. There is no legal requirement to suspend disciplinary proceedings pending criminal investigations or proceedings; however there may be circumstances where it is appropriate to do so. Any suspension of the disciplinary process must be kept under review in order to determine when the disciplinary investigation can be undertaken and consideration given to whether it is appropriate for background information to be gathered in the interim period.

Investigation - Police Involvement

- 3.4 In some circumstances an employee may also be under investigation by the Police as a result of an act of misconduct within the workplace.
- 3.5 Where the internal investigation does not interfere with any external investigations by the police or other outside bodies (e.g. HSE), the Investigating Officer should not await the outcome of the external investigation before continuing with their own investigation, unless the internal investigation may be impacted by the outcome of the external investigation.

- 3.6 Where the police have advised CSVJB that an internal investigation may jeopardise their investigation the Investigating Office should await the outcome of the police investigation and/or court proceedings before continuing with their own investigations.
- 3.7 In some circumstances an employee may be under investigation by the Police relating to acts which, if proven, would render them unable to continue in their post (e.g. offences involving children or vulnerable adults). Appropriate guidance should be sought from HR.

Employees Charged or Convicted

- 3.8 An employee should not be disciplined merely because they have been charged with, convicted of, or investigated in relation to a criminal offence.
- 3.9 Consideration should be given to whether the criminal offence is relevant to the employee's post and has implications for their employment. HR will be able to offer further advice on this matter.
- 3.10 If the incident resulting in the criminal offence may be relevant to the employee's post, or happened within working time, the matter should be investigated in accordance with the Disciplinary Policy and Procedure.
- 3.11 Where an employee is imprisoned this raises the question of whether the contract of employment has come to an end by "frustration". HR will be able to advise on the appropriate approach.

4.0 Surveillance

- 4.1 Advice should be sought from HR if consideration is being given to using surveillance as part of a disciplinary investigation.
- 4.2 While CSVJB does not use information from CCTV or telephone recording for the purpose of monitoring employees, where an issue arises which is so

serious that it cannot be ignored and may constitute gross misconduct, advice should be sought regarding using this information appropriately as part of a disciplinary investigation.

5.0 Financial Irregularities

- 5.1 In the case of suspected financial irregularities, initial fact finding, including informal interviews, may form part of the initial stages of the investigation. However, where it appears that disciplinary action against a specific individual is likely, the formal procedures relating to disciplinary investigations will apply.
- 5.2 Internal Audit may be involved in the investigation and may have a representative on the investigation team. The Investigating Officer will be responsible for writing the final investigation report with support from other members of the investigation team as appropriate.

6.0 Statutory Obligations

Referral to professional bodies

- 6.1 Where an employee must be registered with a professional body to be able to undertake the duties of their post there are certain requirements on CSVJB as an employer with regard to advising the body of any actual, or depending on the body's requirements, alleged misconduct.

It is the responsibility of the employee's line manager, in consultation with the Assessor and Human Resources, to make referral to the relevant professional body in accordance with the body's protocols.

7.0 Is there a disciplinary Issue?

- 7.1 Managers will be expected, in the first instance, to try to encourage improvement and use the informal route to address the problem before escalating the matter to the formal disciplinary procedures.
- 7.2 If it is not clear whether the issue has the potential to be of a disciplinary nature the manager may consider it appropriate to meet with the employee concerned on an informal basis to seek clarification on the matter. If the employee's response leads the manager to conclude that no disciplinary investigation is required no further formal action should be taken although action might be considered under other CSVJB policies such as capability.
- 7.3 Notes of the informal meeting should be retained by the line manager to summarise the key points discussed. A copy should also be provided to the member of staff.
- 7.4 Additional training, coaching or improvement plans may be needed and the employee advised that the formal disciplinary procedures may commence if their conduct does not improve or improvement is not sustained.
- 7.5 If the employee's response leads the manager to consider that a disciplinary investigation is required, the meeting should be stopped and the employee advised that the matter will be investigated in accordance with the Disciplinary Policy and Procedure, with another nominated manager undertaking the role of Investigating Officer. It should be noted that the matter should be discussed with HR before this takes place.

8.0 Disciplinary Procedures - Preliminary Matters

- 8.1 Before a Manager initiates a disciplinary investigation, they should ensure that they are familiar with and adhere to statutory and policy requirements. The Manager must follow the principles set out in the policy, these procedures and associated appendices. It is the responsibility of the Manager to comply with the procedures at all stages. Failure to comply may prevent CSVJB from being able to take formal action, particularly where this could have affected the outcome of the case. Managers should consult HR, throughout the process.

Statutory Depute Assessor

Where allegations relate to a Statutory Depute Assessor, the Assessor will carry out stages of the procedure with support and guidance from Clackmannanshire Council Human Resources and Legal Services.

Assessor

Where allegations relate to the Assessor, guidance must be sought from HR Service Manager at Clackmannanshire Council, who will make arrangements to progress the procedure in line with the Statutory Orders of the Valuation Joint Board and relevant statutory considerations.

Trade Union Representative/Official

- 8.2 Where allegations relate to a Trade Union official, discussion will take place with a Senior or Full Time Official.

Confidentiality

- 8.3 CSVJB recognises that employees have a right to confidentiality. At all stages, information discussed throughout the disciplinary process will be held in strictest confidence and CSVJB will deal with any malicious disclosure, by any party, under the Disciplinary Procedure.

9.0 Representation

9.1 In line with the ACAS Code of practice on Disciplinary and Grievances (revised March 2015) employees have a statutory right to be accompanied to a disciplinary meeting where the meeting could result in:

- a formal warning being issued; or
- the taking of some other disciplinary action; or
- the confirmation of a warning or some other disciplinary action (appeal hearings)

9.2 The statutory right is to be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

9.3 If an employee's chosen companion will not be available at the time proposed for the hearing CSVJB will postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

9.4 An employee's companion will be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

9.5 Whilst there is no statutory right to be accompanied during the investigation stages CSVJB recognises that in terms of good working relationships employees may wish to be accompanied by a companion at the fact finding stages of the disciplinary process.

10.0 Grievance raised during the disciplinary process

- 10.1 If a grievance is raised during a disciplinary process, the disciplinary process may be put on hold if the grievance directly relates to the handling of the disciplinary matter. Further advice will be provided by HR in these circumstances.
- 10.2 If the grievance is unrelated, the grievance will be dealt with separately, and the disciplinary process will continue.

11.0 Health issues during the disciplinary process

- 11.1 Where an employee raises health concerns during the disciplinary process which may affect their ability to partake in the disciplinary process, consideration should be given to referring the individual to Occupational Health for advice and guidance to ensure the employee is given appropriate support. This should be completed by the employee's line manager, or another appropriate manager.
- 11.2 There is not necessarily a need to delay the process however each case must be assessed individually with regard to the type and seriousness of the health issues.
- 11.3 The manager should ask in the referral if the employee is fit to participate in the disciplinary process. The disciplinary process should continue to progress.

12.0 Suspension

- 11.1. In certain cases, it may be necessary to suspend a member of staff, on full pay pending the completion of the investigations into the facts surrounding the complaint. Suspension should only be used after careful consideration has been given to alternative measures and should be for the shortest period possible.

- 11.2. The decision to suspend an employee can only be made by the Assessor/Assistant Assessor. They may, however delegate the holding of the suspension meeting to another officer as appropriate.
- 11.3. Alternatives to suspension may be put in place to support the employee; this may include the consideration of a temporary transfer. Such a suspension/temporary transfer will reflect the severity of the allegation, permit enquiries to proceed unhindered by the continued presence of the staff member at their workplace and enable the member of staff to arrange representation if they wish.
- 11.4. The member of staff must be advised of the reasons for their suspension or transfer to alternative duties and the decision to suspend/transfer must be communicated or confirmed to the employee in writing.
- 11.5. Suspension is not considered a disciplinary action and does not imply an assumption of the employee's guilt.
- 11.6. Suspension during a disciplinary investigation will be on normal pay. It should be made clear to the Employee that the suspensions is **not** a disciplinary action and does not involve any prejudgement or presumption of an employee's guilt.
- 11.7. If, during a period of suspension or transfer to alternative duties, an employee becomes ill the suspension shall cease and, if necessary, recommence following the completion of the certified period of absence. During the certified period of absence the member of staff will receive the appropriate sickness allowance.
- 11.8. Where an employee fails to comply with the Disciplinary Policy, e.g., where they continually fail to attend investigation meetings or hearings without good reason, then the suspension may be changed to being unpaid. Any proposal to take such action should be discussed in advance with HR. If unpaid suspension is implemented the arrangements must be confirmed in writing to

the employee, detailing the reason for taking this action and the expectations placed upon them.

- 11.9. The period of suspension should be as brief as possible, the initial period will not exceed one calendar month. Where it is necessary for the investigation process to continue beyond one calendar month, the period of suspension may be extended by the Assessor/Assistant Assessor in consultation with Human Resources. In these circumstances, the employee must be advised of the reasons for the delay and the likely extended timescales.
- 11.10. An officer who is not involved in the investigation and/or suspension will be nominated as a contact for support for the member of staff.
- 11.11. A line manager remains responsible for ensuring that the member of staff receives any work related information which they would normally receive (e.g. team brief minutes, vacancy adverts)
- 11.12. While suspended the member of staff should not visit CSVJB premises or contact any CSVJB service users, contactors, or staff (with the exception of the employee's line manager). If a suspended employee requires access to visit CSVJB premises they should contact their line manager.
- 11.13. Where an employee breaches the terms of their suspension, this will be investigated separately.
- 11.14. If it becomes clear during the investigation, or at its conclusion that the allegation(s) is unfounded or the nature of the disciplinary action is likely to be less serious, the suspension or transfer should be reviewed by the Assessor/Assistant Assessor to ensure the employee is returned to work as soon as possible. If it is decided that no disciplinary action is to be taken, all references to the case shall be removed from the employee's personal file and destroyed.

- 11.15. The Assessor/Assistant Assessor should complete and authorise the template suspension risk assessment toolkit in all cases of gross misconduct to record how the decision was reached.

12.0 The Investigation Process

- 12.1. Before a decision on whether a disciplinary hearing should take place, an investigation must be carried out.
- 12.2. The purpose of the investigation is to establish a fair and balanced view of the facts relating to any allegations against an employee, before deciding whether to proceed with a formal disciplinary hearing.
- 12.3. A member of staff under investigation is required to co-operate fully and promptly with the process. This will include informing the investigating officer of the names of any relevant witnesses, disclosing any relevant documentation and attending investigatory meetings as required.

Notifying the Employee

- 12.4. If a disciplinary investigation is to be undertaken, the employee should be advised verbally (normally by their line manager) that a disciplinary investigation is to be undertaken, and advised what matter will be investigated. No detailed discussion regarding the allegation should be held with the employee and they should instead be advised that they will have the opportunity to discuss the matter fully at the investigation meeting.
- 12.5. The investigating officer will notify the employee, in writing detailing the nature of the complaint and inviting them to attend an investigation meeting.

Appointing an Investigating Officer

- 12.6. The investigating Officer will normally be appointed by the Assistant Assessor for cases of misconduct and Assessor for cases of gross misconduct. The Investigation Officer may be appointed from another team within the office to guarantee impartiality. In any case, the Investigating Officer will normally hold a post, which is of at least the equivalent level to the line manager of the employee being investigated.
- 12.7. Every effort should be made to ensure that the Investigating Officer is not closely associated with the conduct alleged. For example, where the misconduct is the failure to follow a reasonable instruction then the Investigating Officer should not be the manager who issued the instruction in the first place.
- 12.8. The appointing officer will give the Investigating Officer the terms of reference for their investigation, that is, the purpose, scope and remit of the investigation.

Role of the investigating officer

- 12.9. The Investigating Officer should, wherever possible conclude the investigation within one calendar month from receiving their remit.
- 12.10. 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 allegations; or where a number of parties are involved). Where the timescale cannot be complied with, the Investigating Officer must notify the appointing officer who will agree an alternative extended timescale. The employee will be notified of the reasons for the delay within the original timescale. A representative from HR may be called on to support the Investigating Officer at any investigatory meetings.

- 12.11. Where the investigating officer is required to inform a specialist officer (.e.g. Internal Auditor), the investigation procedure for that area should commence and once concluded reported back to the Investigation officer.
- 12.12. The Investigating Officer should interview all relevant parties (including the employee in question) and prepare signed and dated statements from all parties involved. Investigatory meetings are solely for the purpose of fact finding.
- 12.13. If additional information of a material nature comes to light after the initial investigation has been concluded, the Assessor (or the chairperson where a disciplinary hearing has already been arranged) may ask the Investigating Officer to reopen the investigation to examine the new information if the chairperson considers it necessary and appropriate to do so. Where this step is taken, the Assessor or chairperson shall set specific timescales for completion of the exercise and shall notify all parties concerned.
- 12.14. On conclusion of the investigation, the Investigating Officer will submit a written report of their findings along with all witness statements to the appropriate manager. The report should outline the investigating officer's recommendations as to whether or not the matter should proceed to a disciplinary hearing.
- 12.15. The investigating officer will notify the employee in writing that they have concluded their report and submitted to the relevant manager for consideration.
- 12.16. The employee should be advised in writing whether disciplinary action is to proceed or whether no further action will be taken no later than 7 days after conclusion of the investigation.
- 12.17. Where no further action is to be taken in terms of the disciplinary procedure no reference to the investigation should be placed on the employee's personal file

Malicious Complaint

- 12.18. If a malicious complaint is suspected this will be investigated and the person making it may be subject to disciplinary action.

13.0 The Disciplinary Hearing Panel

- 13.1. The Assessor/Assistant Assessor shall arrange, in consultation with HR, for an appropriate officer to chair the disciplinary hearing. This officer will be referred to as the Chairperson.
- 13.2. The Chairperson will be a Manager at an appropriate level to the potential sanction.
- 13.3. The Assistant Assessor can issue disciplinary sanctions up to and including a final written warning. Line Managers can issue sanctions up to and including written warning level.
- 13.4. Where an allegation is considered gross misconduct, the Assessor/Assistant Assessor must chair the hearing, and the employee advised in the letter inviting them to the hearing, that the meeting could lead to dismissal. This will also apply where the employee has a live disciplinary warning on their file, and a further misconduct allegation has the potential to lead to their dismissal.
- 13.5. Where allegations relate to a Statutory Depute Assessor, the Assessor will carry out stages of the procedure with support and guidance from Clackmannanshire Council Human Resources and Legal Services.
- 13.6. Where the Assessor is the subject of Disciplinary proceedings guidance must be sought from HR Service Manager at Clackmannanshire Council who will make arrangements to progress the procedure in line with the Statutory Orders of the Valuation Joint Board and relevant statutory considerations.

14.0 The Disciplinary Hearing Panel

- 14.1. Where the appropriate Reviewing Officer decides to proceed to a formal disciplinary hearing, this should be convened as quickly as possible and within one calendar month of receipt of the investigation report.
- 14.2. The disciplinary hearing allows the employee the opportunity to be given a fair hearing and have the opportunity to explain the reasons for their alleged failure to meet the standards or misconduct, call and question witnesses and summarise their case.
- 14.3. If there are good reasons why a hearing cannot or should not be convened within this timescale (for example annual leave or absence of the employee, investigating officer or material witness) then an alternative date shall be fixed and the relevant parties notified.
- 14.4. It is the responsibility of the chairperson to make all arrangements necessary for the hearing, including distributing papers and arranging for the management representative, advisers and note taker to be present. An adviser from HR will be present at all hearings, and solicitors from Clackmannanshire Council Legal Services may be present where the hearing may lead to dismissal of the employee concerned.
- 14.5. A warning should never be issued to an employee without a hearing being held.
- 14.6. The employee is responsible for arranging to be accompanied by a trade union representative or work colleague of their choice.
- 14.7. Where either party wishes to submit additional information/new evidence to the chairperson, to be considered at the hearing, where possible this should be received no later than 3 working days prior to the hearing to allow for full consideration.

14.8. The chairperson may suspend or adjourn the hearing to review new evidence received if they believe it is necessary.

Witnesses

14.9. Both management representatives and the employee concerned can submit a list of any witnesses that they would like to call at the hearing to the chairperson no later than 5 working days prior to the hearing.

14.10. It is the responsibility of the individuals concerned to notify intended witnesses' and to provide availability and contact details of each witness to the chairperson. Witnesses' attending the hearing will be called on an individual basis by the person whose case they are supporting and will remain in the room only for as long as they are presenting their evidence/answering questions.

14.11. The chairperson will consider the reasoning provided and has the right to refuse to call witnesses' where it is considered that the witness(s) have no relevance to the matter being considered.

14.12. It is essential that all parties have sufficient time to familiarise themselves with any documentary evidence which either party intend to rely on.

14.13. In order to ensure that no party is disadvantaged on the day all documents to be considered at hearing should be issued to both parties no later than 5 working days prior to the hearing.

14.14. 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.

14.15. There may be cases arising from the same or similar incidents where a conjoined hearing is appropriate. In such cases, the letter inviting each

employee to the hearing must make the intention to conduct the hearing in this way clear and ask the employee to state any objections they have to these arrangements. The exact process to be followed in such situations will depend on the circumstances of the case, however in general, all parties may attend the same hearing with their companions but all would be given the opportunity to present mitigation in private.

- 14.16. In keeping with CSVJB's commitment to equality, the hearing where possible, will endeavour to achieve an appropriate gender balance.
- 14.17. The procedure for conducting a disciplinary hearing, together with a supporting checklist for the chairperson is detailed in associated appendices.

Re-arranging the Disciplinary Hearing

- 14.18. The employee must make all reasonable steps to attend the hearing and should notify HR of their non-attendance and the reasons for this. Where an employee fails to attend a hearing without good reason then a second hearing should be convened and the notification letter issued to them will advise that the hearing may be conducted in their absence.

15.0 Disciplinary Outcomes

Decision Making Process

- 15.1 The hearing can result in different outcomes ranging from no further action through to dismissal.
- 15.2 In reaching their decision at the end of a disciplinary hearing, the Chairperson should review all of the facts of the case.
- 15.3 It may be that there is insufficient evidence to take disciplinary action, or it is concluded that on balance, such action is not appropriate. In such cases, there may still be a recommendation that informal management action is taken to address issues raised during the hearing, e.g. for the employee's

line manager to remind them of standards expected within the workplace.

15.4 When deciding whether a formal sanction is appropriate, and if so what form it should take the Chairperson should carefully consider:

- Whether a fair and adequate investigation has been carried out;
- Whether the disciplinary procedure has been properly followed up to this point;
- Any explanation offered by the employee along with any other information that may be relevant.
- Whether it is reasonable to believe (albeit on the balance of probabilities) that the employee has committed the alleged misconduct;
- The seriousness of the case;
- The action taken in similar cases in the past which will require consultation with HR

15.5 Only when a decision has been made, taking account of the above should the employee's current disciplinary record be considered in order to determine the appropriate level of warning required.

15.6 A note of the duration of the decision making process should be made.

15.7 If the Chairperson is unable to make a decision at the time of the hearing they have the following options:

15.8 Postpone the decision until further advice on the issues raised has been sought.

15.9 Where further investigation is necessary the hearing may be adjourned for a period acceptable to both the management representative and the employee/their representative but normally no longer than one calendar month, other than in exceptional circumstances. If necessary, the hearing may then be reconvened, to hear further evidence.

- 15.10 In exercising any of these options, the Chairperson should consider all the circumstances including the nature and importance of the information to be investigated, why the information has not previously come to light, and the views of the parties. The need to establish the relevant facts should then be balanced with the consequential delay involved in further investigation having regard to the overall fairness of the process.
- 15.11 In any of these circumstances, the employee should be advised of how the Chairperson intends to progress the case and whether they intend to reconvene the hearing or notify the employee of their decision, in writing, within the appropriate timescales. It is important that the outcome of any investigation and/or subsequent formal disciplinary action is accurately recorded on an employee's file. The Chairperson is responsible for writing to the employee confirming the outcome within 5 working days of the hearing. The letter should be sent, on a private and confidential basis by first class recorded delivery

Disciplinary Outcomes

- 15.12 If the Chairperson concludes that a formal sanction is necessary, a decision must be taken as to what level and type of disciplinary sanction is appropriate.
- 15.13 Disciplinary sanctions fall into the categories of either misconduct or gross misconduct.
- 15.14 The action taken will depend on the degree of seriousness of the misconduct and the employee's current disciplinary record, whilst also taking account of precedent, and any other relevant factors. The sanctions available may be combined if considered necessary and appropriate to the circumstances of the situation. The range of sanctions is:
- remedial/alternative action
 - formal caution - 6 months from date of issue.

- written warning - 9 months from date of issue.
- final written warning - 12 months from date of issue.
- Alternative action short of dismissal to include, disciplinary demotion or redeployment. Either of these actions will normally be issued in combination with a final written warning.
- dismissal with notice.
- dismissal without notice.

15.15 Where disciplinary action is taken by CSVJB, the employee must be informed that a further breach may render the employee open to further disciplinary action. There will occasionally be circumstances where the normal period of a live warning is considered insufficient or inappropriate e.g. where there appears to be an emerging pattern of inappropriate or unacceptable behaviour. In these circumstances consideration can be given to extending the length of time that the caution or warning should remain live on the employee's file in consultation with HR.

15.16 Where the disciplinary sanction relates to a child/ adult protection issue it will remain on the employee's personal file for the length of the warning, i.e. 6, 9 or 12 months, and will then be removed to be held in a disciplinary reference file thereafter. This sanction may be referred to as appropriate should a further similar disciplinary issue arise.

15.17 Where remedial/alternative action to support the employee and improve their conduct has been recommended instead of disciplinary proceedings, the Assessor/Assistant Assessor will normally consult with the employee's line manager on the appropriate steps to support the employee. This may include guidance, training, or setting achievable targets for sustained improvements in conduct. This process will be managed in line with the CSVJB's Capability Policy and Procedure.

16.0 Notifying External Parties

- 16.1 At the start of any formal disciplinary proceedings, staff should be asked whether they hold membership of any professional body. If a referral is made to a professional body e.g. RICS, the individual should be informed in writing that the referral has been made.

17.0 Attendance Warnings

- 17.1 When an employee has exceeded the triggers points in the Maximising Attendance policy and Support and Guidance procedures have been exhausted, it may be appropriate to trigger Disciplinary proceedings. If an employee has an underlying health condition, the Capability policy and procedure should be followed. Guidance on which procedure is the most appropriate in any individual case should be sought from HR.
- 17.2 If attendance has continued to be at an unacceptable level and occupational health and/or medical practitioners have not identified any underlying cause for this which is covered by the Equality Act 2010, attendance warnings should be issued in line with the above Disciplinary proceedings. This would be the case even for all certified absences, if they exceed levels which are operationally acceptable to CSVJB and are impacting on service delivery. This is in addition to Disciplinary warnings which could be issued for abuse of the absence scheme, for example not following sickness reporting procedures/ patterns of absence/ absences which are not due to a genuine illness.
- 17.3 An employee should be made aware at the return to work interview that their attendance will now be managed under the Disciplinary process for Attendance and that this is due to frequent short term absences and/ or unacceptable overall levels of attendance, even where these have been certified. Where this has not been possible this will be at a review meeting or communicated in writing to the employee.

- 17.4 An investigatory meeting should be scheduled within 10 working days of the return to work meeting and a letter issued explaining the nature of the meeting, outlining all absences to date and the right to be accompanied by a Trade Union representative or work colleague. At this meeting the line manager should further explore with the employee if there are any unknown reasons for the attendance issues and make a recommendation whether to proceed with a hearing or set a further extension of attendance targets based on the responses presented. This recommendation should be made using outlined form in the associated appendices and passed to Line Manager or above if they wish to progress to Hearing stage. If dismissal is a possible outcome this should be considered by the Assessor.
- 17.5 Any hearing must be scheduled under the same procedures as outlined for misconduct/ gross misconduct (including reasonable timescales, a letter making clear the eventual possible outcome of the process, where the attendance issues have been evidenced and actions taken to date and the right to representation as before). At this meeting HR will be in attendance with the Chair (of appropriate level as above) and should follow the same procedure during the hearing. After both the line manager and the employee have stated their cases and the Chair has asked any questions they feel are relevant, an adjournment must be taken and one of the following actions communicated within 5 working days:
- A further extension to targets granted and possibly other support measures put into place
 - For a first level hearing, a written attendance warning issued with the same timescales as above
 - If a written warning for attendance is live on file, a final written attendance warning can be issued with the same timescales as above
 - If a final written warning for attendance is live on file, the employee could be dismissed with pay in lieu of notice (this would be for their contractual notice period).

- For all warnings targets will be set and these will be in line with the triggers outlined in the CSVJB's Maximising Attendance Procedure.

17.6 If an employee exceeds the targets set during the live warning period, the process should be followed again from investigatory meeting stage following their return to work interview, to ensure consistency.

17.7 These warnings should sit separately from warnings live on file for misconduct/ gross misconduct, however throughout the same principles of fairness and equity should be followed.

17.8 An employee will have the right of appeal.

18.0 Appeals

18.1 Employees have the right to appeal against disciplinary action taken following a disciplinary hearing

18.2 There is no right of appeal against non disciplinary action (e.g. the decision to suspend an employee pending investigation or a recommendation that the employee undertake training or another form of remedial action). This does not preclude any right to raise a grievance relating to employment issues.

18.3 An employee can lodge an appeal on any of the following grounds:

- that they think that the decision or the sanction applied is unduly severe with other decisions in similar cases.
- that they consider any extension to the lifespan of the sanction applied to be inappropriate or unfair.
- that new and relevant evidence has come to light that was unavailable at the time of the disciplinary hearing.
- that they consider that the disciplinary procedure was not followed properly and as a result they were disadvantaged in some way.

- 18.4 An appeal should be lodged by completion of a Notification of Appeal form (available from HR) within 10 working days of the receipt of the disciplinary outcome letter. On this form the employee should advise of the grounds for the appeal. The appeal should be addressed to the appropriate officer as outlined in the employee's outcome letter.
- 18.5 An appeal must never be used as an opportunity to punish the employee for appealing the original decision, and it will not result in any increase in penalty.
- 18.6 The appeal hearing will normally be held within 20 working days of receipt of the appeal against oral and written warnings and within 30 working days for an appeal against dismissal, final written warnings and additional sanctions. The appeal will normally be a review of the conduct of the disciplinary hearing and/or its outcome and will not involve a re-hearing of evidence.
- 18.7 In the case of appeals against dismissal, final written warnings and alternative sanctions, both the Chairperson of the original hearing and the employee will be asked to provide a summary of their cases in advance of the appeal. The appeal Committee, Chaired by the Assessor or Assistant Assessor together with an independent Chair and appropriate advisers will be given all investigation and disciplinary hearing papers timeously in order to allow them to make an informed decision.

19.0 Appeal Hearings

- 19.1 Appeals against oral or written warnings will be heard by the Assistant Assessor.
- 19.2 Appeals against a final written warning will be heard by the Assessor.
- 19.3 However the same person who chaired the disciplinary hearing should not hear the appeal.

20.0 Recording Disciplinary related information

- 20.1 Records should be kept detailing the nature of any breach of disciplinary rules, the action taken and the reasons for the decision, whether an appeal was lodged, its outcome and any subsequent developments. These records will be carefully safeguarded and kept confidential.
- 20.2 In general terms, warnings have a prescribed lifespan, that is a period of time where the warning is considered "live" on an Employee's file and could be taken into account for the purposes of any subsequent disciplinary action as outlined in section 13.13.
- 20.3 At the end of the warning period, reference to this will be removed from the employee's personnel file and a letter issued to the employee advising them of this. A copy of this letter will be held on file.

21.0 Monitoring and review

- 21.1 Both Management Team and Staff Consultation Forum shall monitor the effectiveness of the procedure on an ongoing basis. Changes may result from employee, management and union feedback and/or from changes in employment legislation. Revisions and updates will be implemented by the CSVJB following consultation with Staff Consultation Forum.

Policy Name	Disciplinary Procedure
Policy Lead	Jane Wandless
Equality Impact Assessment	
Full EQIA required	Yes <input type="checkbox"/> No* <input type="checkbox"/>
* In no please provide rationale Policy applies equally to all CSVJB employees and does not negatively impact on any group which falls within any of the 9 protected characteristics	
Date Full EQIA complete	N/A
Date Approved	
Review Date	

Aspects of Disciplinary Procedure	Suggested Time Limit (Working Days)
Precautionary suspension	One month until each review
Notification of decision to proceed to disciplinary hearing	5 days notice (minimum) or shorter (by agreement in individual cases)
Notification of decision of disciplinary hearing	5 days (maximum)
Time limit to lodge appeal	10 days (maximum) from date of notification of decision of disciplinary hearing
Time periods for appeal hearing to be held	No later than 20 working days from receipt of notice of appeal for oral and written warnings No later than 30 working days for an appeal against dismissal, final written warnings and additional sanctions
Notification of outcome of appeal hearing	5 days (maximum)