

Disciplinary Policy & Procedure

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1. Policy

- 1.1 The University Disciplinary Policy relates to matters of misconduct. Matters relating to incapability due to ill health or disability shall be dealt with using the Sickness Absence Policy. Matters relating to work performance shall be dealt with using the Capability Procedure. In some circumstances, Human Resources may need to determine the most appropriate procedure.

2. Informal Action

- 2.1 Line managers should first seek to resolve minor issues informally and at an early stage whenever possible, this would normally involve conducting a fact-finding meeting. If formal action is being considered as the next step this should be made clear to the member of staff.
- 2.2 Line managers should make and retain notes of any issue raised and discussed informally, including any agreed outcomes and support. This information should be retained in compliance with GDPR principles.
- 2.3 Prior to commencing any formal action, the line manager should inform HR to ensure all appropriate and reasonable resolution has been considered, and to make the staff member aware that formal action is now being considered.

3. Investigation

- 3.1 No formal disciplinary hearing will be arranged until the matter has been investigated. All allegations of misconduct will be investigated in a fair and objective manner. The investigation process will depend on the nature of the alleged misconduct, the initial evidence against the member of staff, and whether the individual has admitted to the misconduct.
- 3.2 In cases involving misconduct/serious misconduct, where the facts are very clear and not in dispute, the investigation may be a gathering of relevant documents, statements and discussion with the staff member, usually undertaken by the line manager.
- 3.3 Investigations for gross misconduct or more complex cases e.g involving multiple participants, allegations etc shall be undertaken in an open and transparent way by an independent investigator (not working in the staff members team).
- 3.4 The staff member should be made aware that an investigation will be undertaken, and should be provided with a brief summary of the reasons for this and the practical measures involved. Investigators may subsequently be required to attend a disciplinary hearing and give evidence however they do not have any decision-making abilities with regards to any outcome at the disciplinary hearing.
- 3.5 The staff member will be permitted by the Investigating manager to be accompanied by a recognised trade union representative or work colleague.
- 3.6 Investigations should be conducted in a timely manner in order to decide whether there is a case to answer.
- 3.7 If following investigation there is found to be a case to answer, informal action may be taken, or where appropriate a formal disciplinary hearing will be arranged.
- 3.8 In some circumstances, the line manager may need to suspend a staff member whilst matters are investigated. Suspension is a neutral act and not a disciplinary sanction. This would only be upon consultation with the Director of HR and will be for as short a period as possible, with regular reviews. Suspension will only be applied in exceptional circumstances.

4. Notification of formal proceedings

- 4.1 Where there is found to be a formal case to answer, the staff member will be invited, in writing, to attend a disciplinary hearing. The notice will usually be provided no later than 5 working days in advance of the hearing.
- 4.2 The staff member will be advised in the letter of the seriousness of the alleged misconduct and possible outcomes.
- 4.3 No less than 5 working days in advance of the meeting the staff member will be provided with all the evidence that will be referred to during proceedings. This may include written documents and witness statements, depending on the details of the case. The exact material to be provided to the staff member shall vary according to the details of the case.
- 4.4 In advance of the hearing the staff member will be required to submit any additional documentation to support their case, this would normally include a written statement and can include other written documents and witness statements. This information must be submitted at least 48 hours in advance of the hearing.
- 4.5 Where further time is required to consider the evidence, there will be the ability to seek a reasonable adjournment where appropriate. If upon receipt of all available documentation the staff member accepts the allegation(s) and does not plan to contest the findings they must advise the Chair of the disciplinary hearing panel of this in writing.
- 4.6 The staff member will have a reasonable opportunity to call relevant witnesses. The purpose of the calling of a witness would normally be to contribute to establishing the facts of the case. Witness who are to testify to the character of the staff member can do so in writing. The staff member will be advised in writing of the timescales (which will normally be a minimum of 5 working days, unless agreed otherwise) and the process for providing such information. Where further time is required to consider the evidence, the Chair will have the ability to implement a reasonable adjustment.
- 4.7 During formal proceedings the staff member can be accompanied by a recognised trade union representative or work colleague.

5. The Disciplinary Hearing

- 5.1 At the hearing the management representative(s) will be invited to present the findings of their investigation to a disciplinary panel.
- 5.2 The staff member will then be given the opportunity to state their case, including if there are any special circumstances to be considered. The staff member will be invited to either accept or deny the allegation(s). If the staff member does not accept the allegation(s) the hearing shall proceed.
- 5.3 At appropriate points in the process, the staff member, management representative(s) and the Chair will have the opportunity to question the evidence provided and question any witnesses. Management representative(s) and the staff member may each make a closing statement as to whether the allegation(s) should or should not be upheld.
- 5.4 Selection of the Chair will depend upon the seniority of the staff member involved but will usually be the line manager. In particular circumstances the line managers manager or a staff member of equivalent standing to the line manager may Chair the disciplinary hearing.

- 5.5 The Chair will hear the case, consider all the evidence presented and make a decision as to whether the allegation is upheld and what appropriate action should be.
- 5.6 The staff member will be informed of the outcome in writing within 10 working days after the disciplinary hearing.
- 5.7 Formal action will be either:
- Informal warning
 - First written warning
 - Final Written Warning
 - Dismissal or other sanction
 - No case to answer
- 5.8 Any formal action will reflect the seriousness of the staff member's misconduct.

6. Informal Warning

- 6.1 The Chair may conclude that the misconduct or performance issue was found to be small and not serious, and as a result the staff member will usually be issued with an informal warning.
- 6.2 A confidential written record of any informal warning should be retained locally by the line manager for a maximum of 12 months.

7. First Written warning

- 7.1 The Chair may decide to issue a First Written Warning depending on the seriousness of the misconduct.
- 7.2 The staff member will receive written details of the nature of the misconduct, the change in behaviour required, any support which will be available, the timescale for the warning and details of the right to appeal.
- 7.3 The First Written Warning will also inform the staff member that further consequences will be considered if further misconduct occurs.
- 7.4 A copy of the warning will be retained on the staff member's record but will be disregarded for disciplinary purposes after a specified period subject to achieving and sustaining satisfactory conduct. The warning period will ordinarily be for a minimum of 6 months and up to a maximum of 12 months but this will be decided at the discretion of the Chair of the disciplinary hearing.

8. Final Written Warning

- 8.1 If the misconduct is serious, or if there is further misconduct during an existing warning period, a final written warning may be issued.
- 8.2 The staff member will receive written details of the nature of the misconduct, the change in behaviour required, any support which will be available, and the timescale for the warning. It will also warn that further related misconduct may lead to dismissal (or some action short of dismissal) and will refer to the right of appeal.
- 8.3 A copy of the warning will be kept on the staff members record but will be disregarded for disciplinary purposes after a specified period subject to achieving and sustaining satisfactory conduct or performance. This period will ordinarily be for a maximum of 12 months unless exceptionally decided by the Chair of the Disciplinary Hearing.

9. Other Sanction short of Dismissal

- 9.1 Other action short of dismissal may be considered, including for example (although this is not intended to form an exhaustive list):
- Demotion
 - Unpaid suspension
 - Restriction of duties/change to terms of employment
 - Transfer
 - Withholding/loss of incremental progression for a specified period.
- 9.2 If some action short of dismissal is deemed appropriate the staff member will receive written details, including any support which will be available. The letter will warn the staff member that further related misconduct may lead to dismissal, and it will refer to the right of appeal.
- 9.3 In the case of action short of dismissal, a copy of the written details will be kept on the staff members record but will be disregarded for disciplinary purposes after a specified period subject to achieving and sustaining satisfactory conduct. This period will normally be for a maximum of 12 months unless exceptionally agreed by the Chair of the Disciplinary Hearing, with authority as delegated by the Director of Human Resources.

10. Dismissal

- 10.1 In reaching a decision to dismiss, prior careful consideration of other options will be given. If, on balance, other sanctions are deemed inappropriate due to the seriousness of the case, and the staff member is to be dismissed, the staff member will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal process.
- 10.2 The authority to dismiss rests with the Director of Human Resources.

11. Misconduct

- 11.1 The following are examples of misconduct although this is not intended to form an exhaustive list and dependent on each case may lead to dismissal in their own right:
- Unauthorised absence.
 - Failure to comply with reasonable and legitimate instructions.
 - Unsatisfactory timekeeping.
 - Verbal abuse.
 - Misuse of the University's computer systems, including hardware, software, email, internet, intranet which includes all internal staff platforms.
 - Conduct detrimentally affected due to alcohol, drug or substance misuse.

12. Gross Misconduct

- 12.1 Gross misconduct may be sufficiently serious to warrant summary dismissal, which is dismissal without notice or payment in lieu of notice, even in the absence of any prior disciplinary warnings, and which is sufficiently serious to destroy the University's trust and confidence in the employment relationship.
- 12.2 The following list provides some examples of offences which are usually regarded as gross misconduct although this is not intended to form an exhaustive list:
- Unauthorised possession of goods belonging to the University, its staff or students.
 - Theft.

- Fraud
- Deliberate falsification of records.
- Corruption or bribery.
- Serious academic or professional misconduct.
- Physical violence.
- Serious disorderly conduct.
- Bullying where this is intentional and of a serious and/or prolonged nature.
- Victimisation where this is intentional and of a serious and/or prolonged nature.
- Unlawful and/or serious harassment of other members of the University community, including staff, students and visitors.
- Deliberate unlawful and/or serious discrimination.
- Gross and deliberate misuse of University property or name.
- Serious misuse of the University's IT resources such as deliberately accessing internet sites for personal use which contain offensive material.
- Dereliction of duty.
- Unreasonable behaviour that causes serious damage to the reputation of the University, including both off duty and off campus incidents, and including through the improper use of social media.
- Conduct seriously and detrimentally affected due to alcohol, drug, or substance misuse.
- Deliberate and serious damage to property.
- Causing loss, damage or injury through gross negligence.
- A serious breach of health and safety regulations.
- A serious breach of confidentiality.
- All forms of sexual violence and sexual harassment.

13. The Right of Appeal

- 13.1 A staff member's written outcome letter will include details of the arrangements to follow should the staff member wish to appeal the sanction or dismissal.
- 13.2 Staff intending to appeal against the decision made following a disciplinary hearing must do so within 5 working days of receipt of the written outcome.
- 13.3 All appeals must be made in writing to the Director of Human Resources stating the grounds upon which the appeal is based which may include process not being followed, new evidence becoming available or that the outcome is deemed disproportionate.
- 13.4 The University will usually seek to hear an appeal within 20 working days of receipt of the submitted appeal and notice of the Appeal Hearing will be provided no later than 5 working days in advance.
- 13.5 The appeal is not a re-hearing of the original hearing, but rather a consideration of the specific area with which the staff member is dissatisfied in relation to the outcome of the original hearing. The appeal panel chair will therefore confine discussion to those specific areas rather than reconsider the whole matter once again.
- 13.6 The appeal will be chaired by an appropriate staff member (manager of same level or senior to the Chair of the hearing), and a member of Human Resources who will provide procedural guidance. Usually neither would have previously been involved in the case, however this might not always be possible.
- 13.7 Witnesses may only be called with the permission of the Appeal Chair which shall usually only be given where there was good reason for the witnesses not being

called to give this evidence at the original Disciplinary Hearing. If the staff member requests a witness be called, they should name the individual and explain the reason for the request in the grounds for appeal.

- 13.8 At the Appeal Hearing the documentary evidence made available at the original hearing will be made available for reference purposes. As the purpose of the appeal is not a re-hearing, it is the responsibility of the staff member to state their case and bring to the attention of the panel all relevant documentary evidence that should be considered. Based on the appeal case presented and the associated evidence, the Appeal Chair may either uphold the grounds for appeal or reject the grounds for appeal.
- 13.9 Where appropriate the staff member will have the opportunity to comment on any new evidence arising during the appeal. All new evidence will have been disclosed in advance according to the timescales agreed for the case.
- 13.10 The staff member will be informed in writing of the appeal outcome, usually within 5 working days of the appeal meeting. If the timescales are longer, this will be communicated.

14. Other Provisions

- 14.1 During formal proceedings, including appeals, the staff member can be accompanied by a staff member or recognised trade union representative. The staff member must provide the name of their companion in advance of any meetings.
- 14.2 Every reasonable effort should be made by all participants to attend hearings, however if the staff member fails to attend on more than two occasions, the University will normally hold the hearing and appeal in their absence at the second hearing and make a decision based on the evidence available.
- 14.3 Where a staff member raises a grievance during a formal process which is related to the case, the grievance and the formal process will run in parallel. Alternatively, the disciplinary panel may believe it to be appropriate to pause the formal process pending the outcome of the grievance to ensure fairness. The University reserves the right to hear the disciplinary and grievance matters at the same meeting, where there is significant overlap of facts.
- 14.4 Where a member of staff has been charged with, or convicted of a criminal offence they are required to inform the University as soon as possible. Consideration will be given to whether the staff member's conduct or conviction merits action because of potential employment implications. Any investigation or disciplinary action will be separate to any police investigation and judicial process.
- 14.5 Records of disciplinary action will be kept confidential and retained in accordance with the University GDPR Policy. The handling of personal data is controlled by the General Data Protection Regulations (GDPR) and any associated legislation.
- 14.6 Human Resources will regularly monitor data and statistics relating to formal cases and these will be shared at University Operating Board (UOB) and the Joint Consultative Committee (JNC).

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- **Author:** Lisa Bath, Head of HR Operations and Claire Hierlehy-Brown, HR Business Partner
- **Version number:** 3
- **Person responsible:** Fiona Hnatow, Director of HR
- **Effective from:** 8 October 2020
- **Last Reviewed:** 14 October 2021
- **Review date:** September 2023
- **Impact Assessment date:** TBC
- **History (where discussed / who circulated to / committees considered:**
Trade Unions (UCU and Unison)

Appendix 1

