

Disciplinary Procedure

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1. General Principles

- 1.1. The University is committed to developing and maintaining constructive relations with its employees in order to promote an environment where colleagues are able to perform at their best. It is recognised that concerns regarding conduct do arise from time to time and that these may come to light in different ways and/or via different formal processes, such as the University's Grievance or Complaints procedures. This non-contractual procedure provides a framework for dealing with misconduct situations.
- 1.2. The University will act fairly and consistently when dealing with cases under the Disciplinary Procedure.
- 1.3. The procedure will give effect to the principle that, in their areas of academic expertise, employees engaged in teaching, the provision of learning or research will have freedom within the law to hold and express opinion, to question and test established ideas and received wisdom and to present controversial or unpopular points of view without placing in jeopardy their employment or any entitlements or privileges they enjoy.
- 1.4. The University will seek to resolve employment issues promptly and transparently at the lowest possible level and, where appropriate, on an informal basis.
- 1.5. Where a potential conduct issue is identified relating to bullying, harassment or discrimination, the manager overseeing the process should consider appropriate safeguards to protect the relevant parties during the process. This may include reviewing working arrangements and/or points of contact or sharing particular details of the process as outlined at 1.13 below. Further advice should be sought from the relevant local People & Organisational Development (P&OD) Team as required.
- 1.6. An employee has the right to be accompanied at any formal meeting and related appeal meeting under the Disciplinary Procedure by a work colleague, a duly accredited Trade Union representative or an official employed by a Trade Union and may also be accompanied on request at investigatory meetings. In cases of bullying, harassment or discrimination allegations, complainants may be accompanied at disciplinary meetings by another appropriate support contact (e.g. emotional support) by prior agreement of the investigating/disciplinary Manager.
- 1.7. If an employee has particular requirements at any stage of the procedures because of a disability, or wishes to inform the University of any relevant medical condition, the employee should contact the appropriate P&OD Team.
- 1.8. Different procedures apply to competency and sickness/ill health cases. The University may commence the process using one procedure but continue the process using a different procedure if it is more appropriate and reasonable to do so.

- 1.9. The University will generally follow each of the stages set out in these Disciplinary Procedures in any particular case but reserves the right in appropriate cases to commence the procedure at any of the specified stages or to omit a particular stage/stages. This will apply in particular to cases emerging from the University's Grievance or Complaints procedures, for which a satisfactory level of investigation may already have taken place.
- 1.10. Notes of formal meetings will be taken, these will be summaries of the key points and not a verbatim record. Copies of these notes will be given to the parties present and they should inform the University if they wish to comment on the accuracy of the notes within 5 working days of receiving them. It is normally expected that all documentation including witness statements will be shared with relevant parties [except where the University has to withhold some information to protect a witness]. The University will keep a written record of every disciplinary case which will be treated as confidential and kept in accordance with the Data Protection Act 1998. Notes of informal meetings may also be taken where appropriate.
- 1.11. Formal disciplinary action will not be taken against a recognised Trade Union's representative until the circumstances of the case have been discussed with either the Branch Chair/Secretary or if they are not available, with a full-time official.
- 1.12. Training and coaching of managers operating the procedure will be available. Advice and guidance on the application of the Disciplinary Procedure will be provided by People & OD Team and a People & OD Representative may be present at any stage in the process.
- 1.13. Whilst every effort will be made to manage disciplinary situations with sensitivity and due confidentiality, there may be some occasions where the University will confidentially report limited details of a disciplinary process and/or outcome to another party. This would occur in the following limited circumstances:
 - Reporting information on suspension status, process timescales or investigation/hearing outcomes to survivors of alleged sexual harassment, bullying or discrimination on a case-by-case basis where it is deemed appropriate to do so as the least intrusive means of ensuring the psychological safety and wellbeing of colleagues in these circumstances. The [Records Retention](#) webpage contains an overview of how personal data will be processed whilst a legitimate interests assessment would be carried out in each case where consideration is being given to sharing the above information. Colleagues will be advised in all cases if their information will be shared in this way.
 - Reporting additional information on reasons for dismissal to other prospective employers when responding to reference requests (for example stating that a dismissal was for reasons relating to sexual harassment).

- Reporting an outcome (or potentially an investigation) to an external body (e.g. a research funder) in line with applicable contractual terms or other relevant protocols. The University will make such disclosures at its sole discretion, providing the individual concerned with prior notification.
- Reporting any potential criminality to the relevant authorities (e.g. Police).

2. Disciplinary Procedure (Conduct)

2.1. Investigation

The University will investigate the alleged misconduct, without unreasonable delay, carrying out any necessary investigations to establish the facts in any particular case. The individual will be advised in appropriate detail of the allegations that are being investigated. Investigations will be carried out in a fair, transparent and objective manner and, where practicable, the person who conducts the disciplinary meeting should be different from the person(s) who carries out the investigation.

In some cases, investigations carried out under the Grievance or, Research Misconduct policies or the University's Complaints Procedure may result in allegations of misconduct. In such cases, the investigating manager should consider any investigation carried out so far and assess the need for further investigation, ensuring they are satisfied that the preceding investigation has been fair and reasonable in the circumstances and that the principles outlined in section 1 have been applied.

The earlier investigation (or relevant parts thereof) carried out under these policies/procedures may be utilised as part of the disciplinary process and, as a minimum, the respondent should be invited to comment. Similarly, in the case of financial irregularities there may be an investigation undertaken by internal /external parties as appropriate and where financial irregularities are identified the outcome of the investigation may be utilised as part of the disciplinary process. Cases which progress in this manner must clearly identify the alleged misconduct but must not seek to propose a conclusion or outcome ahead of further independent investigation under the disciplinary process.

In any case, the individual involved should be updated on progress and related developments as appropriate. In cases involving a survivor of alleged sexual harassment, bullying or discrimination it may be appropriate on a case-by-case basis to share particular details of the case as outlined in 1.13 above. At this stage in the process this may include disclosing the suspension status (to help manage the survivors expectations of encountering the colleague at work) or sharing updates on investigation timescales/progress to manage expectations on when the case may be concluded. Further advice should be sought from the relevant local People & OD Team as required.

2.2. Informal Disciplinary Action

Informal disciplinary action may be taken in appropriate cases. This involves informally discussing the matter with the employee, defining the conduct that is unacceptable and identifying any remedial action.

The employee should be made aware that formal action may be taken if the informal action does not resolve matters.

2.3. Suspension

If serious or gross misconduct is alleged the employee may be suspended on full pay and benefits or temporarily deployed on alternative duties. The period of suspension will be as brief as possible in the circumstances and should be kept under review. Suspensions will be agreed in advance with appropriate advice from People & OD.

Suspension is not a disciplinary action nor does it infer any guilt.

2.4. Formal Disciplinary Meeting

If informal action does not resolve matters or if following investigation the alleged misconduct is considered sufficiently serious to potentially merit formal disciplinary action, the steps outlined below will be taken.

2.4.1. Inform the Employee In Writing

The University will inform the employee in writing of the allegations. The letter will contain sufficient information about the allegations and the possible consequences to enable the employee to respond to these at the disciplinary meeting.

The letter will normally enclose copies of any documents that have been gathered during the investigation process to allow for adequate preparation by the employee.

Possible consequences up to and including dismissal, will be outlined in the letter. The letter will also advise the employee of their right to be accompanied by a work colleague or Trade Union representative.

In cases involving alleged sexual harassment, bullying or discrimination it may be appropriate on a case-by-case basis to share details of the outcome with another party as outlined in 1.13 above. Where this is being considered, it is essential that the employee is advised in advance, in writing, of the potential for this. Further advice should be sought from the relevant local People & OD Team in such circumstances.

2.4.2. The Meeting

Disciplinary meetings to hear cases will normally be convened by the manager of the employee under investigation. The meeting should be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case. Normally a minimum of 5 working days notice of disciplinary meetings will be given.

At the meeting the University will explain the allegations against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer any allegations that have been made. They will also be given the opportunity to ask questions and present evidence.

It may be appropriate for relevant witnesses to attend the disciplinary meeting and the employee will be given the opportunity to raise points at the meeting about any information provided by witnesses. Where an employee or the University intends to call a witness, they should notify the other party of this in writing in advance of the meeting and ensure that they attend at the appropriate time. No individual can be compelled to attend a disciplinary meeting as a witness and in cases of bullying, harassment or discrimination allegations, witnesses/complainants may be accompanied at disciplinary meetings by another appropriate support contact (e.g. emotional support) by prior agreement of the disciplinary Manager.

The manager convening the disciplinary meeting will decide on the outcome, where appropriate, seeking guidance from the relevant People & OD representative.

After the meeting, the University will notify the employee of its decision in writing. This will normally be done within 10 working days of the meeting. If disciplinary action is taken the employee will be advised of the right to appeal.

2.5. Disciplinary Sanctions

The University has discretion to determine the appropriate disciplinary sanction to apply to an employee who it concluded has committed an act of misconduct.

These sanctions include:

2.5.1. Formal Oral Warning

This will usually be appropriate for a first act of misconduct where conduct falls below an acceptable level or a minor offence has been committed and there are no live written warnings. This warning will remain live for 6 months.

2.5.2. Written Warning

This will usually be appropriate for misconduct where there is already a live formal oral warning on the employee's record or where the misconduct is considered sufficiently serious to warrant a written warning even although the employee has no live warnings. A written warning will remain live for 9 months.

2.5.3. Final Written Warning

This will usually be appropriate for misconduct where there is already a live written warning on the employee's record or where the misconduct is considered sufficiently serious to warrant a final written warning even although the employee has no live warnings. A final written warning will remain live for 12 months.

2.5.4. Dismissal

Dismissal will usually be appropriate in respect of the following:

- Repeated or serious misconduct during the first 12 months of an employee's employment;
- Further misconduct where there is a live final written warning; or
- Any gross misconduct regardless of whether there are live warnings.

Gross misconduct will usually result in summary dismissal without notice or payment in lieu of notice. Examples of conduct which are likely to amount to gross misconduct are attached as an Appendix to this procedure.

If the University decides that dismissal is the appropriate sanction, the employee will be informed of the reasons for the dismissal and the date on which employment will end.

An employee will not normally be dismissed for a first act of misconduct unless the University concludes that it amounts to gross misconduct or the employee is in the first 12 months of employment.

2.5.5. Alternative Sanctions Short Of Dismissal

In appropriate cases the University may consider some other sanction short of dismissal e.g. demotion or redeployment.

2.5.6. Warning to Employee

For both formal oral, first and final written warnings the University will inform the employee of the nature of the misconduct, the change in behaviour required, the likely consequences of further misconduct and that the warning will remain live for 6 months for formal oral warnings, 9 months for first written warnings and 12 months for final written warnings.

2.5.7 Sharing Disciplinary Outcomes

Whilst every effort will be made to manage disciplinary situations with sensitivity and due confidentiality, there may be some occasions where the University will confidentially report limited details of a disciplinary outcome to another party. This would occur in the following limited circumstances:

- Reporting information on hearing outcomes to survivors of alleged sexual harassment, bullying or discrimination on a case-by-case basis where it is deemed appropriate to do so as the least intrusive means of ensuring the psychological safety and wellbeing of colleagues in these circumstances. The Privacy Notice for staff contains an overview of how personal data will be processed whilst a legitimate interests assessment would be carried out in each case where consideration is being given to sharing the above information. Colleagues will be advised in all cases if their information will be shared in this way.
- Reporting additional information on reasons for dismissal to other prospective employers when responding to reference requests (for example stating that a dismissal was for reasons relating to sexual harassment). The Privacy Notice for employees contains an overview of how personal data will be processed.
- Reporting an outcome (or potentially an investigation) to an external body (e.g. a research funder) in line with applicable contractual terms or other relevant protocols. The University will make such disclosures at its sole discretion, providing the individual concerned with prior notification.
- Reporting any potential criminality to the relevant authorities (e.g. Police).

In any case, disciplinary outcomes will not be shared with another party until the conclusion of any appeals process (if applicable).

2.5.8. Ongoing Support

Disciplinary managers should, in conjunction with any other relevant line managers, also give consideration to any other factors which may require attention following the conclusion of the process. This may include focusing on any ongoing relationships or involving others to support the reintegration of the relevant parties.

3. Appeal

3.1 Lodging an Appeal

If an employee wishes to appeal the outcome of a decision made at any hearing held under the disciplinary procedure, they should submit an appeal in writing outlining their full grounds for appeal, to the appropriate College/University Services relevant P&OD Team within 10 working days of receipt of the University's decision. Employees will be notified that their appeal has been received within 5 working days.

The appeal stage is not intended to be a rehearing of the original case. Hence the grounds for appeal should typically fall within one of the following:

- Procedural error
- The outcome and recommendations are unreasonable and significantly out of line with the issues considered
- New information is now available which could not have reasonably been provided when the original outcome was communicated

Where the appeal relates to new evidence there should be a clear statement provided outlining the reason why this was not available for consideration at the previous stage.

3.2 The Appeal Meeting

The University will invite the employee in writing to attend an appeal hearing, normally within 10 working days of receipt of an appeal. The employee may be accompanied by a Trade Union representative or work colleague.

Appeals will be heard by an independent and normally more senior manager (the Appeal Manager) who will consider the hearing outcome with an open mind. Appeals in relation to dismissals will be heard by a panel of 2, the chair being a senior member of University staff (of minimum Grade 7) and the other being an appropriately trained member of staff*.

**For staff engaged in teaching, the provision of learning or research the trained member of staff will be a senior member of academic staff drawn from a grouping proposed jointly by University Management and the recognised Trade Union(s) and approved by*

Court.

If the employee or their Trade Union representative is unable to attend the appeal meeting, steps will be taken to rearrange this as soon as possible. However, if the employee is persistently unable or unwilling to attend a meeting, the Appeal Manager may review the available materials and reach an outcome based on the information available to them. A decision to proceed in this way will be communicated in writing to the employee in advance.

Appropriate training/guidance will be provided to Appeal Managers and members of Appeal Panels by P&OD. Further information and guidance on the appeal process is available from the appropriate College/University Services People & OD team.

3.3 The Appeal Outcome

Once the Appeal Manager has considered all the points raised they will normally provide a response, in writing, within 15 working days.

The decision of the Appeal Manager is final and there is no further right of Appeal.

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Appendix 1 - Gross Misconduct

1. GROSS MISCONDUCT

The following are examples of matters that are normally regarded as gross misconduct:

- a) Theft or fraud;
- b) Physical violence (actual or threatened);
- c) Deliberate and serious damage to property;
- d) Unlawful discrimination, harassment, bullying or intimidation against employees, contractors, students or members of the public on the grounds of sex, sexual orientation, marital or civil partner status, pregnancy and maternity, gender reassignment, race, disability, religion or belief, or age which contravenes the University's Equality Policy or Dignity at Work and Study Policy;
- e) Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- f) Defamatory and /or abusive comments regarding the University or its staff through the inappropriate use of social networking technology, electronic web logs (blogs) or other internet sites;
- g) Intentional or malicious refusal to comply with reasonable instructions or requests made by a line manager within the workplace;
- h) Bringing the University into serious disrepute such as serious misuse of University property, name or reputation;
- i) Giving false information as to qualifications or entitlement to work (including immigration status); using fraudulent identity or withholding information that would be relevant;
- j) Incapability to work due to being under the influence of alcohol, illegal drugs or other substances during working hours;
- k) Causing loss, including loss of life, damage or injury through serious negligence;
- l) Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- m) Serious breach of confidence including unauthorised use or disclosure of confidential information or a serious failure to ensure that confidential information in the employee's possession is kept secure;
- n) Acceptance of bribes or other secret or undeclared payments;
- o) Conviction for a criminal offence that in the University's opinion may affect the University's reputation or its relationships with staff, students or the public, or otherwise affects the employee's suitability to continue to work for the University;
- p) Possession, use, supply or attempted supply of illegal drugs;
- q) Serious neglect of duties, or deliberate breach of the University's procedures;
- r) Deliberate or malicious unauthorised use, processing or disclosure of personal data which contravenes the University's Data Protection Policy;
- s) Making a disclosure of false or misleading information under the Code on Public Interest Disclosure (Whistleblowing Policy) maliciously, for personal gain, or otherwise in bad faith;

- t) Making untrue/vexatious allegations in bad faith against a colleague;
- u) Serious misuse of the University's information technology systems (including misuse of developed or licensed software, use of unauthorised software and serious misuse of e-mail and the internet);
- v) Serious and/or malicious misconduct in connection with research activities.

This list is intended as a guide and is not exhaustive.