

Disciplinary Procedure

1. Policy statement

- 1.1. Within the University the maintenance of good working practices is a fundamental prerequisite for good employee relations and the smooth running of the University.
- 1.2. To achieve and maintain good working practices there are rules and regulations covering conduct and behaviour which University staff are required to follow. It is recognised that the majority of University staff will conduct themselves in a professional manner in ways which will further the University's objectives and contribute towards a collegial environment.
- 1.3. The following procedure is in place to help and encourage University staff to achieve and maintain an acceptable standard of conduct. It defines what the University considers to be a fair and consistent method for bringing any shortcomings in standards of conduct to the attention of staff and for dealing with alleged failures to adhere to the required standards.
- 1.4. University staff are expected to take responsibility for their own conduct and behaviour. Managers/supervisors take responsibility for offering the appropriate support and advice to ensure adequate implementation of this procedure. Managers/supervisors, recognising unacceptable conduct by a member of their team, are required to follow the steps set out in this procedure. This will normally be expected to result in consistently satisfactory conduct but where improvement does not result, the application of the procedure may ultimately lead to termination of employment.
- 1.5. As far as reasonably practicable any member of staff who is involved in, or subject to this procedure, and his or her representative, must ensure that they maintain the confidentiality of the process and of University documents, as any unjustified breach of confidentiality may be treated as a separate disciplinary offence. This is subject to an individual's right to seek and obtain appropriate confidential advice or make a disclosure under the Public Interest Disclosure Act or otherwise as required by law or any statutory authority.

2. Scope

- 2.1. This procedure applies to all members of staff at the University regardless of the type of contract that they are employed under. For the avoidance of doubt this includes staff employed on indefinite, fixed term, sessional and other temporary contracts.
- 2.2. Any conduct which adversely affects the University, its employees, students, visitors or agents, such as negligence, breaches of work rules or unsafe practices may lead to disciplinary action.
- 2.3. Normal disciplinary standards apply to Trade Union representatives. No formal disciplinary process will be invoked against a member of staff who is a recognised Trade Union representative until the circumstances of the case have been notified to a full time Trade Union official, unless exceptional circumstances prevent this.
- 2.4. Where known, if any misconduct is in any way linked to a member of staff's physical or mental health this will be taken into account where relevant in any disciplinary decisions by the University and reasonable adjustments will be considered, as appropriate, to this disciplinary procedure.

3. Principles

3.1. The principles of this procedure are to:

- Set out a fair and consistent framework for dealing with all cases of alleged misconduct.
- Deal with disciplinary matters quickly and thoroughly.
- Take disciplinary action only where informal action fails to bring an improvement or where the offence is sufficiently serious to warrant formal disciplinary action.
- Offer support and assistance to employees whose actions fall below acceptable University standards.

3.2. The Human Resources Division is available to advise and assist line managers in dealing with matters of conduct and behaviour. Their involvement aims to assure fairness and consistency in application of this procedure throughout the University.

3.3. The Human Resources Division will also be responsible for monitoring and reviewing the effectiveness of this policy and procedure, and will provide training in management responsibilities established under this policy.

4. Informal Approach

4.1. Some cases of unsatisfactory conduct or very minor breaches of discipline can be resolved informally in the first instance by giving guidance or advice to the member of staff concerned. The manager/supervisor will ensure that the member of staff is aware of the area where misconduct has occurred and where improvement is required.

5. Investigation

5.1 Before deciding whether a formal disciplinary hearing is appropriate, the manager/supervisor may wish to instigate an investigation into the member of staff's alleged misconduct and the circumstances surrounding it. The HR Division will assist in this and the investigation will include a meeting with the member of staff in order to establish the full facts of the matter and allow the member of staff to comment on the case against them. Where the manager/supervisor determines that formal disciplinary action is necessary the procedure in Section 6 will be followed. If the manager/supervisor decides that no disciplinary action is required the member of staff will be informed of this. (See Appendix 1 for fact finding and investigation guidance).

6. Formal Procedure

6.1. The formal procedure may be implemented at any stage depending on the severity of the misconduct.

There are three stages of the formal procedure:

- Written warning
- Final written warning
- Dismissal

6.2. At every stage of the formal procedure the manager/supervisor with the appropriate level of responsibility must:

- Ensure that the member of staff understands that the disciplinary process is being applied to them in accordance with this procedure
- Ensure an invitation to the member of staff to attend a disciplinary meeting, along with full details of the complaint against them, the relevant stage of the

procedure and the content of any investigation report including witness statements, is received at least 5 working days prior to the hearing.

- Provide the member of staff with an opportunity to explain their position in relation to the allegations through a disciplinary hearing.
- Ensure the member of staff is aware of their right to be accompanied at a disciplinary hearing or appeal hearing, if so desired, by a University member of staff or a recognised Trade Union representative.
- Confirm the outcome of the disciplinary hearing in writing, where possible within 5 working days of the hearing.
- Inform the member of staff that they have a right of appeal.

7. Suspension

- 7.1. At any stage in the disciplinary process there may be instances where suspension with pay is necessary while investigations are carried out. For example, where relationships have broken down, in gross misconduct cases, or where there are risks to an employee's or University property or responsibilities to other parties. Exceptionally, suspension may be considered where there are reasonable grounds for concern that evidence has been tampered with, destroyed or witnesses pressurised before the meeting.
- 7.2. Any suspension from work will be authorised by the Vice Chancellor (or nominee), or Director of Human Resources. The use of suspension is expected to be infrequent and confined to serious disciplinary matters where other actions such as working from home or being placed on alternative duties are deemed inappropriate. However, suspension is not a disciplinary penalty and is not an indication of culpability. Such suspension shall not normally exceed 2 weeks and will be reviewed every two weeks by the Vice Chancellor (or nominee), or Director of Human Resources. During any period of suspension, the member of staff will be required to cooperate fully with any investigation and to be available for interview during normal office hours. The Director of Human Resources will agree in advance what access the member of staff will be allowed to University premises, or the use of the University's internet/intranet facility, or to engage in his or her normal day to day duties, during any period of suspension.

8. Disciplinary Hearing

- 8.1. In all cases the member of staff must be invited in writing to the disciplinary hearing. A disciplinary hearing will normally be carried out by the manager of the person who is the subject of the disciplinary hearing. However, a manager other than the staff member's manager may conduct the disciplinary hearing where the staff member's manager has previously been involved in the case, or is unavailable for an extended period.
- 8.2. During the disciplinary hearing the member of staff will be provided with the opportunity to state their case and answer the allegations against them. Members of staff may request the attendance of colleagues at their disciplinary hearing as witnesses. Witnesses will normally be University employees and will be advised to the manager conducting the disciplinary hearing beforehand. Where deemed suitable, witness evidence may be accepted in writing.
- 8.3. If the member of staff intends to introduce their own evidence at the hearing then a copy should be sent to the manager conducting the disciplinary hearing in adequate time for this to be reviewed prior to the hearing, a minimum of 24 hours in advance.
- 8.4. A copy of the record of the disciplinary hearing will be provided to the member of staff.

- 8.5. Where a date is fixed for the hearing and the employee or their chosen companion cannot reasonably attend, another date for a hearing should be fixed within 5 working days of the date of the original hearing. If the member of staff still cannot attend the hearing without reasonable cause, and a final scheduled date cannot be agreed due to the member of staff's acting unreasonably then the hearing may take place in the absence of the member of staff, who would be allowed to present evidence in writing if they wished.
- 8.6. If during a hearing it becomes apparent to the manager that the severity of the alleged misconduct may warrant a higher stage hearing, an adjournment will be called to enable further information to be considered, and the employee will be advised that the hearing may be reconvened at the appropriate stage.

9. Right to be accompanied

- 9.1. At each stage of the formal procedure the member of staff has the right to be accompanied by a work colleague or a recognised trade union representative. The member of staff should notify the HR Department in advance of the identity of their chosen companion.
- 9.2. At the disciplinary hearing the companion will be allowed to address the hearing to put the member of staff's case, to sum up that case, to respond on the member of staff's behalf to any view expressed at the hearing and to confer with the member of staff during the hearing. The Companion is not normally permitted to answer questions on the member of staff's behalf. No one attending the meeting is permitted to act in a way that wilfully obstructs the conduct of the hearing or prevents any other person making their contribution to the hearing.
- 9.3. The chosen companion should not have a conflict of interest and should be available for the meeting, or within 5 working days, if an alternative meeting date is required.

10. Disciplinary Stages

10.1. Stage 1 (Written Warning)

A Written warning will be issued for matters of misconduct. The formal warning will remain current for 12 months.

10.2. Stage 2 (Final Written Warning)

A Final Written warning may be issued if a further similar disciplinary or other serious matter arises within a 12 month period. A Final Written warning may also be the starting point of the procedure where the misconduct in the view of the manager/supervisor warrants such action.

10.3. Stage 3 (Dismissal)

Dismissal may be considered as a potential sanction where a further similar disciplinary or other serious matter arises within a 12 month period or where the alleged misconduct is such that it is appropriate to dispense with earlier stages. Potential dismissal hearings will be heard by a panel of 3 managers as determined by a Pro-Vice Chancellor or Chief Operating Officer with advice from the Director of Human Resources. In cases involving technical or professional matters, this may mean those with the relevant technical or professional background. The panel may also consider the removal of any title or office held in addition to the substantive appointment. Following the hearing a number of sanctions may be imposed, including but not limited to: dismissal (without notice in the case of gross misconduct); withholding any forthcoming increment of salary; and/or the imposition, extension or renewal of a warning or final written warning.

11. Records

- 11.1. Copies of formal warnings will be filed in the member of staff's personal file and will normally lapse after 12 months, provided there has been no finding of further misconduct.
- 11.2. If a pattern of the same kind of misconduct develops shortly after the lapse of a warning, taking into account the severity of the misconduct, the employee's record may be borne in mind in deciding at what stage any subsequent warning may be issued and the time scale of that warning.

12. Appeals

- 12.1. Where a member of staff has received a formal warning or has been dismissed in accordance with the University disciplinary procedure, they will be allowed a right of appeal.
A member of staff wishing to appeal against the receipt of a warning letter must lodge a notice of appeal in writing to the Faculty Dean or Division Director, stating the ground(s) upon which the appeal is based, within 5 working days of receipt of the letter confirming the outcome of the disciplinary hearing.
The appeal against a warning will normally be heard by a more senior manager who has not been involved with the case and will normally be from a different department than the disciplining manager. However where this is not possible a manager of an equivalent level from elsewhere in the University may be requested to conduct the appeal hearing.
- 12.2. The member of staff must be invited in writing to attend an appeal hearing. The manager that hears the appeal should give their decision in writing within 10 days of hearing the appeal where this is possible, or within a reasonable time frame thereafter. This decision is final and there are no further rights of appeal.
- 12.3. In the event of an appeal against dismissal, notice of the appeal must be lodged with the Director of HR within 10 working days of receipt of the dismissal letter. The appeal will be heard by a panel of 3 managers as determined by a Pro-Vice Chancellor or Chief Operating Officer with advice from the Director of Human Resources. An appeal should be heard by those with appropriate expertise and experience. In cases involving technical or professional matters, this may mean those with the relevant technical or professional background. At the appeal hearing against dismissal the member of staff has the right to be accompanied by either another member of staff, a recognised trade union representative, or a legal representative at the member of staff's expense. The name of the person accompanying the member of staff must be notified to the Director of HR a minimum of 24 hours in advance of the appeal hearing.
- 12.4. A member of staff who has been dismissed as a result of a disciplinary hearing ceases to be an employee from the date on which the dismissal takes effect, irrespective of whether or not an appeal against dismissal has been lodged.

13. Gross Misconduct

- 13.1 In cases of gross misconduct the previous stages of the formal procedure will be omitted and dismissal would be summary, without notice, with immediate effect at the time of the disciplinary hearing. An allegation of gross misconduct does not deny the member of staff the right to a disciplinary hearing or the right to be accompanied at the hearing or to bring witnesses to provide evidence in their support.

- 13.2 Examples of offences which are normally regarded as gross misconduct include:
- Threat of or actual physical abuse, or verbal abuse against any member of the University community or any other person present within the University's precincts.
 - Dishonesty including falsification of University/customer documents, fraud, theft, acceptance of bribes, misuse/misrepresentation of the University's funds
 - Unauthorised use or removal of University or customer property
 - Serious Breach of Health and Safety rules or procedures
 - Deliberate or malicious damage to University, staff, customer or visitor property
 - Negligence causing physical, financial/intellectual loss or damage to University interests or property.
 - Continual refusal to comply with a reasonable instruction from a manager/supervisor
 - Harassment or victimisation of any member of the University community or any person present within the University's precincts.
 - Bringing the University into disrepute, by conduct or actions
 - Serious breach of Trust and Confidence
 - Being under the influence of excessive alcohol whilst on duty which seriously impairs performance of duties.
 - Drugs: Taking, being under the influence of, or being in possession of illegal drugs whilst on duty and/or on University premises, unless such drugs are medically prescribed.
 - Misuse of University computer equipment or software including a serious breach of the University's Email, Internet, Intranet, Security Policies
 - A breach of any matter formally classified by the proper University Authorities as Restricted.

The above list is not exhaustive, but is intended to indicate the type and degree of offence considered as "gross misconduct" It should be noted that these are University Guidelines and these examples have not been agreed with the recognised Trade Unions on campus.

14. Criminal offences

- 14.1. If conduct occurs which could be considered a criminal offence, the University will normally advise the relevant authorities and the University will fully cooperate with any Police investigation.
- 14.2. Where a member of staff is subject to a Police investigation the University reserves the right to continue and/or conduct its own investigation and take appropriate disciplinary action.

15. Review

- 15.1 This policy and procedure will be kept under regular review and may be amended or withdrawn following appropriate negotiations with campus trade unions to reflect changes in legislation or changing University requirements.

Appendix 1

Fact finding and investigation

Informal investigation

If a manager/supervisor becomes aware of a potential misconduct issue they will initially meet with the member of staff to discuss the issue to establish the facts of the case and establish if further investigation is required.

Formal investigation

If it is determined that the allegations are serious enough to warrant a formal investigation, disciplinary action will not be undertaken until the facts have been established. Where appropriate the manager/supervisor, as advised by HR, will appoint an independent person to conduct the investigation. Investigations need not be time consuming but speed should not be at the expense of thoroughness.

The member of staff will be invited to a meeting with the manager/supervisor who will inform them of the alleged misconduct. The manager/supervisor may have a member of the HR Division present at such meetings. The member of staff concerned may be accompanied at such meetings by a work colleague or a recognised trade union representative.

The individual who conducts the investigation will explain the scope and remit of the investigation and will provide the member of staff with the opportunity to suggest any evidence or witnesses they may wish to include.

Investigations will include a review of any evidence which is available and, where applicable, meetings with any witnesses to the alleged misconduct.

When the investigation has been concluded a brief report will be prepared and if applicable will be used at a formal hearing. Copies of the report will be made available to the parties on request.

The manager, advised by a member of the HR Division, will determine whether or not a disciplinary hearing is required based upon the findings of the investigation.

If the manager considers that it is not necessary to resort to a formal disciplinary hearing, but where informal advice, coaching or guidance is felt to be helpful, they will discuss the matter in private and the member of staff will be informed that no disciplinary action is being taken.