

DISCIPLINARY PROCEDURE

PRINCIPLES AND STANDARDS

- 1 The following principles and standards apply to all procedures detailed in these Ordinances.
- 2 These procedures apply to all members of staff except those engaged on a claims basis and Graduate Teaching Fellowships.
- 3 Where there is an issue as to the meaning of 'academic freedom' in any proceedings under these Ordinances, regard shall be had to the agreement with the University and College Union regarding the definition of academic freedom dated 31 July 2009.
- 4 The decision of the appropriate manager/panel on which procedure is to be followed shall be final.
- 5 The application of these Ordinances/Procedures may be modified by the Director of Personnel and Staff Development in cases where a member of staff employed by the University works in, or is managed by employees of, a third party organisation, including in cases of secondment. In particular:
 - the Director of Personnel and Staff Development may authorise managers employed by the partner organisation to take action under these procedures, in conjunction with, or in substitution for, appropriate University Managers;
 - where a member of staff raises a complaint about his/her treatment by a partner organisation or any of its employees, the University shall endeavour to deal with the complaint within the spirit of the Grievance Procedure, as far as is practicable to do so;
 - for the avoidance of doubt, action under these procedures may be taken in respect of the member of staff's conduct or performance during his/her work for the partner organisation.
- 6 An employee has the right to be accompanied by a fellow worker or trade union representative at any meeting under the formal stages of these procedures.
- 7 An employee may ask for meetings under the formal stages of these procedures to be postponed for up to one week, on one occasion only. Following such a postponement, the University reserves the right to proceed with the meeting in the employee's absence.
- 8 The Director of Personnel and Staff Development must be involved at all formal stages of these procedures. References to the Director of Personnel and Staff Development include a designate of the Director of Personnel and Staff Development.
- 9 Time limits (other than those for prior notification of meetings/disclosure of documentation before meetings) are indicative – there may be circumstances, particularly in the case of complex cases, where these are not realistic. If it is not possible to respond or take action within the time limits referred to in this Procedure, the employee should be given an explanation for the delay and told when a response can be expected. The time limits may be varied by mutual agreement in individual cases.
- 10 References to academic managers in these procedures means staff in the academic job families with line management responsibility.

DISCIPLINARY PROCEDURE

1 Purpose and Principles

- 1.1 The purpose of the disciplinary procedure is to help and encourage employees to achieve and maintain required standards of conduct and attendance. The aim of the procedure is also to ensure that when disciplinary action needs to be taken, it is applied consistently and fairly in every case.
- 1.2 Before any formal disciplinary sanction is applied, an employee will be advised of the nature of the complaint and given an opportunity, with reasonable notice, to state their case at a disciplinary hearing.
- 1.3 There may be occasions when, depending on the seriousness of the misconduct involved, it will be appropriate to enter the procedure at the stage of a final warning or at the dismissal stage (which may include dismissal without notice).
- 1.4 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.
- 1.5 The employee has the right to appeal at each stage of the formal procedure.
- 1.6 Although the usual disciplinary standards must apply to trade union representatives, no formal disciplinary sanction will be applied in respect of an employee who is an accredited Trade Union representative until the circumstances of the case have been discussed with the local senior representative of the Union concerned or a full-time official.
- 1.7 The University will endeavour to deal with disciplinary matters promptly and without undue delay and expects the member of staff to co-operate to achieve that aim.
- 1.8 Where any part of this Procedure is being or has been applied, the University will not disclose that fact or the details of the issues to other members of staff or anyone outside of the University except where this is required under law or a duty of care or any other University procedure or to facilitate any investigation or where a limited disclosure is justified by the circumstances.

2 Scope

- 2.1 This procedure does not apply to formal action or dismissals taken under the procedure for probation.

3 Authority to take formal Disciplinary Action

- 3.1. The Vice-Chancellor, Registrar and Secretary, Deputy Vice-Chancellors, Heads of School, Heads of Service and School Managers are authorised, subject to any appropriate training, to take disciplinary action at all stages detailed in paragraph 7, including the authority to dismiss, in accordance with this procedure and following consultation with the Director of Personnel and Staff Development.
- 3.2. Disciplinary action under this procedure in respect of staff in the academic job families will be taken by academic managers.
- 3.3. The Director of Personnel and Staff Development may authorise other named managers (subject to any appropriate training) to take defined levels of disciplinary action in accordance with this procedure, in consultation with the Director of Personnel and Staff Development.

4 Investigation

- 4.1. Where there are grounds for considering disciplinary action against a member of staff the Director of Personnel and Staff Development may commission an appropriate person or person(s) to investigate the circumstances. The purpose of the investigation is to gather evidence and to enable a decision to be taken on whether the matter should proceed to a formal hearing under this procedure.

- If there are witnesses to an incident, or a person makes an allegation against someone else, such persons will be interviewed and notes of the interview/a statement from the individual interviewed will be produced.
- If appropriate, as part of the investigation, the employee may be interviewed. This will not be a disciplinary hearing, but will be for the purpose of investigating the matter before a decision is taken as to whether or not a disciplinary hearing is warranted.
- Only in exceptional circumstances where there is, for example, a genuine concern for personal safety will the Director of Personnel and Staff Development permit statements to be anonymised.
- The manager who has undertaken the investigation, and any managers who have been interviewed, cannot take part in any subsequent disciplinary hearing except to give evidence.

4.2. When the investigation is concluded, the Director of Personnel and Staff Development must decide:

- whether no action is necessary; or
- whether the matter should be dealt with outside the formal disciplinary procedure; or
- whether it is necessary to consider the matter under the formal disciplinary procedure.

5 Suspension

5.1. An employee may be suspended on normal pay during an investigation or prior to a disciplinary hearing when the alleged misconduct is such that the outcome may be dismissal.

- suspension from duty is not a pre-judgement of guilt and is not a disciplinary penalty;
- suspension can only be taken (and lifted) by a manager authorised to take disciplinary action, following consultation with the Director of Personnel and Staff Development, or by the Director of Personnel and Staff Development;
- the reasons for the suspension must be stated clearly to the employee in writing;
- the period of suspension will be as brief as possible and must be kept under review;
- whilst suspended, an employee must not contact fellow workers or visit University property or access University facilities including email and databases without first obtaining authority from the Director of Personnel and Staff Development: such authority would be granted (subject to any conditions considered appropriate) to enable the member to prepare their response. Staff retain the right to contact their Trade Union representative.

5.2. In circumstances where it is necessary to protect the University's interests (for example, safety), and where an authorised manager is not available to suspend an employee, a manager may instruct the employee to leave the place of work, and stay away until further notice. This must be reported to an authorised manager and the Director of Personnel and Staff Development as soon as possible so that they can determine whether the employee is to be formally suspended in accordance with paragraph 5.1.

5.3. In exceptional circumstances, it may be appropriate to move an employee from their normal place of work where this will allow an objective investigation.

6 Addressing issues prior to the use of the Formal Procedure

6.1. In cases of minor breaches of discipline (eg lateness for work, careless mistakes, lack of attention to detail/instructions/procedures), the immediate supervisor should discuss these concerns with the employee. Appropriate action at this stage may include:

- support and training
- advice and guidance

- counselling.
- 6.2. The purpose of this discussion is to ensure that the employee is:
- aware of the concerns;
 - knows what is required to meet expected standards of conduct;
 - made aware of the timescale over which an improvement is required;
 - made aware of the consequences of not achieving the required standard.
- 6.3. In certain circumstances it will be necessary for the discussion and outcome to be confirmed in writing.
- 6.4. This is not a stage in the formal Disciplinary Procedure.

7 Stages in the Disciplinary Procedure

- 7.1. Unless there is no case to answer, or it is more appropriate to deal with the issue(s) outside the formal Disciplinary Procedure, the manager who is to conduct the hearing must advise the employee in writing, at least one week before the date of the disciplinary hearing:
- that there will be a disciplinary hearing under the disciplinary procedure;
 - of the date, time and venue of the disciplinary hearing;
 - of the allegations;
 - of the possible outcomes under the disciplinary procedure;
 - enclosing a copy of any statements from witnesses and other relevant evidence;
 - of their right to be accompanied by a fellow worker or trade union representative.
- 7.2. The purpose of the disciplinary hearing is to give the employee an opportunity to state their case and to answer the allegations that have been made.
- 7.3. At the disciplinary hearing, the manager conducting the hearing may hear evidence from witnesses and the employee may arrange for witnesses to attend and give evidence. The manager conducting the hearing may question any witnesses. The employee or the trade union representative or fellow worker accompanying them may also question witnesses, although the manager conducting the hearing may determine that all questions are directed through him/her.
- 7.4. Following a disciplinary hearing the manager conducting the hearing may take one of the following courses of action, according to the circumstances of the case:
- to take no formal disciplinary action.
 - to give a formal written warning if there has been either a repeated minor breach in conduct, or a first but more serious breach of discipline. (Examples: Appendix 1).
 - to give a final written warning if there has been an insufficient response to previous warnings and conduct is still unsatisfactory, or in the case of a first but sufficiently serious breach of discipline. (Examples: Appendix 1).
 - to give the employee notice of dismissal if, following a final written warning, conduct remains unsatisfactory and the employee still fails to reach or maintain the prescribed standards.
 - to dismiss the employee summarily without notice and without there having been any previous disciplinary warnings when there has been gross misconduct. (Examples: Appendix 1).

8 Written Confirmation and Time Limits

- 8.1. Within one week of the hearing, the decision must be confirmed in writing to the employee. The letter must specify:

- the level of the action taken (or the fact that no formal action was taken) and the reasons for that action;
- any remedial action required of the employee and the consequences of any recurrence of misconduct, including any dates for review (in the case of a first or final warning);
- that the employee has a right of appeal and how to exercise that right (see paragraph 10);
- in the case of a written warning, that the warning will be disregarded for further disciplinary purposes after six months (for a first warning) or twelve months (for a final warning), unless there are circumstances which justify a longer period and which are explained in the letter of confirmation.

8.2. Records of formal disciplinary action will be held by Personnel and Staff Development and by the relevant unit.

9 Appeals

9.1 An employee has a right of appeal against any formal action under the formal Disciplinary Procedure.

9.2 The right of appeal must be exercised within two weeks of receipt of the letter of confirmation of disciplinary action.

9.3 The appeal, stating the grounds on which it is made, must be in writing addressed to the Director of Personnel and Staff Development.

9.4 An appeal will be heard by a panel comprising two senior managers who have had no previous involvement in the case. In the case of an appeal against a final warning or against dismissal, the panel will be drawn from members of the Senior Management Group from a different School/Service.

9.5 The University will aim for an appeal to be heard within four weeks of the appeal being lodged, unless otherwise agreed between the parties.

9.6 The appeal panel may:

- uphold the disciplinary action taken; or
- withdraw the disciplinary action taken; or
- reduce the level of disciplinary action taken.

9.7 The appeal will be a review of the decision taken by the disciplining officer. No new evidence may be presented to the Appeal Panel, nor any witnesses called, unless the Appeal Panel is satisfied that there are exceptional reasons why such evidence or witnesses were not produced at the disciplinary hearing and/or that it is necessary in the interests of fairness, in reviewing the disciplinary manager's decision, for the Appeal Panel to consider this evidence or hear from the witnesses concerned.

9.8 The decision of the appeal panel (communicated in writing to the employee) shall be final within the procedures of the University.

9.9 The procedure to be followed at appeal hearings is detailed in Ordinance 26.

Appendix 1

The following lists are not comprehensive or exhaustive, but indicate the kind of misconduct that might result in formal disciplinary action, including summary dismissal, in certain circumstances, following application of the procedure above and applying the test of reasonableness and subject, where appropriate, to specific University policies (see Appendix 2).

Examples of misconduct

The following examples of behaviour may, within this procedure, lead to a formal written warning where the level of misconduct is minor or less serious:

- shortfalls in timekeeping and attendance;

- disregarding safety regulations;
- misuse of University property.

The following examples of behaviour may, within this procedure, lead to a final written warning where the level of misconduct is more serious:

- bullying or harassment;
- breach of confidence;
- refusal to follow a reasonable instruction;
- failure to comply with University policies;
- behaviour bringing disrepute to the University;
- plagiarism.

Gross misconduct

The following examples of behaviour at work may be regarded as gross misconduct, and, if judged as such within this procedure, may lead to summary dismissal:

- dishonesty, theft, fraud, or serious misuse of University property, including malicious damage to University property;
- theft from or violence to other members of the University or members of the public including malicious damage to their property;
- obscene or indecent behaviour or sexual misconduct or the circulation of offensive material;
- serious bullying or harassment;
- serious breach of security or of financial procedures;
- serious breach of confidence;
- serious incapability whilst on duty brought on by misuse alcohol or illegal drugs;
- being in the possession of illegal drugs;
- severe breach of health, safety and hygiene rules or acting in a manner dangerous to others;
- behaviour bringing the University into serious disrepute;
- serious insubordination;
- professional incompetence or gross negligence;
- serious intentional unlawful discrimination;
- serious cases of plagiarism;
- where the employee has stopped attending work without authority and reasonable explanation.

Note: Serious misconduct outside of work may need to be dealt with under the formal disciplinary procedure where it is considered there is an effect upon the employment relationship and may, in appropriate circumstances, be regarded as gross misconduct.

Appendix 2

The University will, where appropriate in the particular circumstances of the case, take account of the following University procedures and policies before a decision is taken following a disciplinary hearing:

- Data Protection
- Financial Handbook and Regulations (The Financial Handbook and Regulations include the University's requirements regarding procurement, hospitality, acceptance of gifts and hospitality and Professional Development Accounts)
- Fraud Policy

- Policy for Protection of Dignity at Work and Study
- Public Interest Disclosure Policy ('Whistleblowing')
- Regulations for the Use of Computing Facilities (These Regulations summarise the appropriate use of University IT Facilities and apply to all members of the University in their use of University IT Facilities)
- Student Complaints Procedure
- Code of Professional Conduct: Relations Between Staff and Students and Between Staff
- Policy and Guidelines On Substance Abuse
- Code of Good Practice in Research
- Procedure for Responding to allegations of misconduct in research

This list is not comprehensive or exhaustive. The University may, from amend these policies and procedures and agree new policies and procedures which may be relevant to disciplinary matters.