



SUPPORT STAFF DISCIPLINARY AND DISMISSAL PROCEDURE

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1. INTRODUCTION

- 1.1 The Procedure has been established to help and encourage members of staff to achieve and maintain standards of conduct and job performance consistent with their terms and conditions of employment.
- 1.2 The Procedure provides a fair and consistent method for dealing with alleged misconduct and unsatisfactory performance.

2. GENERAL PRINCIPLES

- 2.1 The Procedure has been agreed following consultation with the recognised trades unions. It has been developed using the ACAS Code of Practice and fully reflects established good practice and current employment law requirements.
- 2.2 Wherever possible problems of performance and conduct will be resolved locally and without recourse to formal procedures. Where this is not possible or the seriousness of the allegation makes it necessary, then the formal procedure outlined here will be followed.
- 2.3 Formal disciplinary action will not be taken against any employee until the case has been fully investigated.
- 2.4 At every stage in the formal procedure the employee will be advised in writing of the nature of the allegation(s) and will be given the opportunity to state his/her case in person before a decision is made.
- 2.5 Appropriate levels of confidentiality will be maintained in all disciplinary proceedings and in respect of any accompanying documentation, including witness statements and reports. Formal warnings will be noted on the employee's record for the time periods set out in Section 12 after which they will be disregarded for disciplinary purposes. Audio recording is not permissible during meetings at any stage of the disciplinary process unless specifically agreed in advance by the University.
- 2.6 A member of the Human Resources Division will be present at formal disciplinary hearings to provide advice and assistance and ensure consistency of practice.
- 2.7 The procedure may be invoked at any stage if the seriousness of the case warrants disciplinary action at a higher level.
- 2.8 Except in cases of gross misconduct, an employee will not be dismissed for a first breach of discipline.
- 2.9 Before imposing any disciplinary penalty, all relevant factors will be considered including the extent to which standards have been breached, the employee's

general record, position and length of service and any special circumstances which might make it appropriate to adjust the severity of the penalty.

- 2.10 An employee will be given a written explanation of any disciplinary penalty imposed.
- 2.11 An employee who considers that disciplinary action has been taken unreasonably will have the right to appeal against that decision.
- 2.12 Where a formal grievance has been raised in response to a disciplinary matter the two may be investigated and dealt with under the same process, in consultation with the relevant trade union. In any event the fact that the grievance procedure has been invoked will not (in the absence of exceptional circumstances) preclude the University from instituting, continuing with or concluding disciplinary proceedings, whether they involve the employee who has raised the grievance or other employees.

3. Keeping Records

- 3.1 Records must be kept by the manager concerned at each of the formal stages detailing the nature of the disciplinary issue, the employer's response, any action taken and the reasons for it. These records must be kept confidential and retained in accordance with the Data Protection Act 1998. Copies of meeting records, including formal notes, may be given to both the individual concerned and to the Human Resources Division.

4. Right to Representation

- 4.1 Employees have a statutory right to be accompanied to a disciplinary meeting by a fellow employee or trade union representative. The employee can choose who the companion should be and should confirm this formally before the meeting takes place. The companion is allowed to make a statement at the meeting and discuss matters with the employee but may not answer questions on the employee's behalf.
- 4.2 Where the companion is a fellow employee or a trade union officer with the same employer, that individual will be entitled to reasonable paid time off during working hours to attend the meeting.
- 4.3 At any formal stage in the procedure, an individual may decide to involve a full-time trade union official.

5. Exceptional Circumstances

- 5.1 Under some circumstances, it may be necessary to extend or shorten some of the timescales detailed in the process. However, employees will be informed if this is the case, with the reasons for any change and an indication of the revised timescale.

- 5.2 Employees must make all reasonable efforts to attend meetings. However if the employee's chosen companion is unable to attend at the time proposed for the meeting the employee may suggest an alternative date as long as it is reasonable and not more than 5 working days after the original meeting date. This five day time limit may be extended by mutual agreement. It is recognised that Trade Union full time officers may require more than five days notice.

6 APPLICATION

- 6.1 This procedure applies to all members of support staff, whether employed on an indefinite or temporary basis, but excludes dealings with:
- work performance issues for employees who are at the time subject to a period of probationary service (see Appendix A);
 - termination of employment where governed by another University procedure, for example, the termination of employment at contractual or statutory retirement age, on the grounds of redundancy or at the expiry of a fixed term contract for reasons other than redundancy, and cases of incapability through lack of skills or ability and ill health (see Appendix A).
- 6.2 This procedure also applies to staff not covered by the disciplinary procedures set out in the University's Statutes (Statute 7).
- 6.3 Special arrangements relating to disciplinary proceedings against trade union officers and staff working night shifts are set out in Appendix A.

7 RULES

7.1 Misconduct

For the purposes of these Procedures misconduct at work covers issues arising from both **employee conduct** (i.e. as a result of a breach of rules regulating staff behaviour or a refusal to obey a lawful and reasonable instruction) **and employee performance** (i.e. a breach of individuals' contractual responsibility to perform to a satisfactory level). While it is not possible to specify all incidents which would constitute misconduct, the following list identifies examples of acts and behaviour which would normally be regarded as such and may result in disciplinary action:

- failure to carry out the usual duties of the role to a satisfactory level due to negligence or lack of application;
- breach of the contractual terms and conditions of employment;
- unsatisfactory timekeeping;
- unauthorised absence;

- breach of University or departmental rules and regulations (including safety, hygiene and smoke-free regulations);
- refusal to follow the reasonable instructions of a supervisor.

7.2 Gross Misconduct

Acts which constitute gross misconduct are those resulting in a serious breach of contractual terms which may, after investigation, warrant summary dismissal. While it is not possible to specify all incidents which would constitute gross misconduct, examples of acts which would normally be regarded as such include:

- physical violence towards students, employees or visitors to the University;
- acts of serious bullying or harassment;
- incapacity at work through the use of alcohol or non-prescription drugs;
- theft, corruption, bribery, fraud or the deliberate falsification of records;
- irresponsible conduct of a nature likely to endanger the health and safety of the individual or others;
- serious negligence which causes or may cause unacceptable loss, damage or injury to persons or property;
- deliberate damage to or serious misuse of University property or the property of an employee, student or visitor to the University;
- wilful and persistent refusal to carry out the duties of the post;
- wilful and serious breach of confidentiality related to work;
- serious abuse of electronic communications facilities (including Internet and Email).

(The lists in 7.1 and 7.2 are neither exclusive nor exhaustive and disciplinary action will be considered for acts not specifically mentioned above which are considered to be of a similar gravity.)

7.3 Unfair Dismissal

Under this Procedure it shall be regarded as unfair to dismiss a member of staff without a valid reason connected with their capability and/or conduct. In general terms it shall be regarded as unfair to dismiss a member of staff on any grounds provided by law or by the Charter and Statutes of the University as unfair.

8 SUSPENSION

- 8.1 In certain circumstances, for example cases involving potential gross misconduct, the employee may be suspended on full pay whilst allegations are investigated. The employee must, if asked, come into the University in order to assist in the investigation where appropriate. The Head of School, Department, or appropriate senior manager, following consultation with the Human Resources Division, can suspend an employee. The suspension will be confirmed in writing by the Human Resources Division within 5 working days and will set out the grounds on which the decision to suspend has been taken, and the duration and terms of that suspension. Such suspension will only be imposed after careful consideration and will be reviewed to ensure that it is not unnecessarily protracted. The suspension in itself will not be considered as a disciplinary sanction.

9. CRIMINAL OFFENCES

- 9.1 In cases of criminal offences committed by employees either within or outside their employment, each case shall be considered individually. Particular attention will be given to the seriousness of the offence and to the question of whether the offence makes the employee unsuitable for his/her type of employment.

10. DEALING WITH CASES OF MISCONDUCT

10.1 Informal Stage

The University expects satisfactory standards of behaviour, attendance and performance from all employees. The day to day supervision of staff and the monitoring of their conduct is part of the normal managerial process and therefore outside the scope of formal procedures for dealing with breaches of discipline. Supervisors or line managers should, in so far as is reasonably practical, attempt to resolve matters informally by offering coaching, counselling and advice as appropriate.

10.2 Informal Warning

In the event that such measures do not have the desired effect, managers may issue an informal warning. **Informal warnings are not part of the Formal Disciplinary Process and this should be made clear to the employee at the time.** Issues should be discussed with the objective of encouraging improvement but should clearly outline what needs to be done by way of improvement, how performance and conduct will be reviewed and over what period. Employees should also be made aware of the actions that may be taken if the desired level of improvement is not achieved. Managers are advised to keep notes recording the circumstances of informal warnings and to provide details of the informal warning to employees in writing.

11 FORMAL PROCEDURE

11.1 Investigation

For disciplinary action to be fair and reasonable, it should be preceded by an investigation. The employee's Head of Department or nominated representative, in consultation with the Human Resources Division, will review the circumstances of the alleged misconduct. As a minimum, this should include:

- exploring the circumstances surrounding the suspected or alleged offence;
- checking up on the facts;
- talking to witnesses, whose statements should be put in writing wherever possible;
- a formal, objective assessment of the information gathered.

11.2 Hearing

Following investigation, where the facts of the case appear to call for formal disciplinary action the following procedure will be followed.

11.2.1 A letter will be sent to the employee by the Human Resources Division inviting him/her to a disciplinary hearing under the University's Disciplinary & Dismissal Procedure.

The letter will be sent not less than 5 working days before the disciplinary hearing and will contain the following information:

- the nature of the allegations and the fact that the hearing is a disciplinary one;
- an indication of the outcome should the allegation be upheld;
- the date, time and location of the hearing;
- the right to be accompanied;
- the names and roles of the people who will be present at the hearing;
- the names of any witnesses to be called;
- a statement requesting that all documentation to be produced at the disciplinary hearing, including written evidence and witness statements, should be presented to the Human Resources Division at least 2 working days before the meeting/hearing for circulation.

11.2.2 Normally the employee's Head of Department (or nominated representative) will conduct the meeting/hearing. The Head of Department will review the merits of the case and where necessary will decide the level of disciplinary sanction appropriate in the circumstances either at the conclusion of the meeting or in writing as soon as possible afterwards. The Human Resources Manager will advise on the format of the interview, will provide advice and guidance and will confirm the outcome of the process to the employee in writing.

12 STAGES IN THE DISCIPLINARY PROCEDURE

12.1 The factors to be taken into consideration when deciding upon the level of disciplinary sanction are:

- the nature of the misconduct;
- the employee's current disciplinary and service record;
- guidance offered by the Human Resources Division;
- special mitigating circumstances which might make it appropriate to adjust the severity of the sanction.

12.2 Stage One – Oral Warning

In the case of minor infringements the employee will normally be given a formal oral warning. Employees should be advised of the reason for the warning, that this warning constitutes the first step of the disciplinary process, and of their right to appeal. A note of the oral warning should be kept on file but will be disregarded for disciplinary purposes after 6 months provided that the University is satisfied with conduct or performance.

12.3 Stage Two – Written Warning

If there is a continuing failure to improve, or conduct/performance is not satisfactory or sustained, or where the infringement is regarded as more serious, the employee will normally be given a formal written warning outlining details of the complaint, the improvement or change in behaviour required, the timescale allowed for this, and the right of appeal. The warning should also inform the employee that a final written warning may be considered if there is no sustained or satisfactory improvement or change or any repetition of misconduct. A copy of the written warning should be kept on file but will be disregarded for disciplinary purposes after 12 months provided that the University is satisfied with conduct or performance.

12.4 Stage Three – Final Written Warning

If there is a continuing failure to improve, or conduct/performance is not satisfactory or sustained, or where the misconduct is sufficiently serious to warrant only one written warning, but not serious enough to justify dismissal, a final written warning will normally be issued to the employee. It will warn that if there is not a satisfactory improvement further disciplinary action may result in dismissal and will advise of the right of appeal. A copy of the final written warning should be kept on file but will be disregarded for disciplinary purposes after 12 months provided that the University is satisfied with conduct or performance. In exceptional circumstances (for example, gross misconduct which has been

upheld but does not result in dismissal) the period of the warning may be for a longer period than 12 months.

12.5 Stage Four – Dismissal

Failure by the employee to respond to the terms of the previous warnings or further misconduct of any kind may result in dismissal. In these cases the disciplinary interview will be conducted by a person at a higher organisational level than the Head of Department, typically the Faculty or Divisional Head (or appropriate nominated representative). The Human Resources Division will inform the employee in writing of the terms of and the reasons for dismissal and the right of appeal.

13 SUMMARY DISMISSAL

- 13.1 In the event of gross misconduct the University reserves the right to dismiss an employee summarily (without notice or payment in lieu of notice).
- 13.2 Where there appears to have been gross misconduct, the employee may be suspended on full pay whilst allegations are investigated.
- 13.3 Suspension shall be followed by an immediate investigation of the case. Following the investigation and a hearing conducted in accordance with Section 11.1 and Section 12, a decision may be made to dismiss the employee or to take some other form of disciplinary action appropriate to the seriousness of the alleged misconduct. In either case the Human Resources Division will confirm the decision, the reasons for it and the right of appeal in writing as soon as is practically possible.

14 APPEALS

- 14.1 An employee who considers that disciplinary action has been taken unreasonably has the right to appeal against that decision (including the decision to dismiss). S/he should submit in writing to the Human Resources Division notice of his/her intention to appeal within 10 working days of receipt of the letter confirming disciplinary action/the decision to dismiss. Appeals can be raised on a number of grounds including the severity of the penalty, new evidence or procedural irregularity, and the reasons for appeal must be clearly stated in the appeal submission.
- 14.2 The Human Resources Division will invite the employee to a further meeting to consider the grounds of appeal. The meeting will be chaired by the Director of Human Resources (or nominated representative), who will be responsible for deciding whether to uphold or reject the appeal.
- 14.3 In the case of an appeal against dismissal, the Human Resources Division will convene an appeal panel to consider the facts of the case, comprising the Director of Human Resources (or nominated representative) and two senior members of the University. Members will not be drawn from the area in which the

appellant is normally employed nor will they have been involved in the foregoing hearings. A member of the Human Resources Division who was not involved in the original decision will provide guidance and administrative support to the panel.

- 14.4 Not less than 10 working days before the appeal hearing the Human Resources Division will write to the appellant notifying him/her of the time and date of the hearing. The notification shall include a reminder of the appellant's rights to representation and responsibilities for documentation and witnesses.
- 14.5 Where an appeal against disciplinary action is upheld the Appeal Panel may revoke the original disciplinary sanction or may decide that a lesser disciplinary sanction is more appropriate. In either case the Human Resources Division will confirm the outcome in writing.
- 14.6 The decision of the Director of Human Resources/ appeal panel is final: there is no further right of appeal.

Human Resources Division
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1. Probationary Employees

These procedures apply to staff during their probationary period except in the case of work performance. The University recognises that new employees require time to adjust to their new jobs and that it is its function to provide adequate induction and training to facilitate this adjustment. The following guidelines should be used in the case of probationers:

Work performance – where an employee has difficulty in achieving a satisfactory standard of performance s/he should first be counselled by the relevant supervisor, the clear intention being to identify problem areas and suggest ways of improvement. If performance does not improve a further conversation should be had with the employee at which point areas of improvement should be identified along with a clear indication as to the consequences of a failure to improve within the necessary timescale (i.e. non-confirmation of appointment). Appeals against non-confirmation of appointment will be heard by the Director of Human Resources (or nominated representative) and will follow the process set out in 14.2.

2. Dealing with Absence – Conduct vs Capability

A distinction should always be made between absences on certified medical grounds and those which may call for disciplinary action. All unexpected absences should be investigated promptly in line with the University's Sickness Absence Guidelines. If appropriate, unauthorised absence for which there is no acceptable reason or explanation should be treated as a conduct issue and may be dealt with under the disciplinary procedure.

3. Dealing with Poor Performance – Incapability due to lack of skills or ability

Where, following investigation, poor performance is found to be due to lack of skills or ability the University's Capability Guidelines will apply.

4. Trade Union Officers

Where formal action is considered against accredited trade union officials no action will be taken until the circumstances of the case have been discussed with the appropriate full-time official of the trade union concerned and the Director of Human Resources (or nominated representative).

5. Staff Working Night Shifts

Where the supervisor on duty is not authorised to take disciplinary action a senior member of management can be called in to deal with the matter where it is considered to be serious. Alternatively where this is not considered to be appropriate and the matter cannot be deferred for normal consideration the supervisor on duty can send the employee home pending a later investigation in accordance with the agreed procedures.

6. Redundancy

In the case of dismissal for reasons of redundancy the University's Guidelines for dealing with Redundancy and Redeployment will apply.

7. Fixed-term employees

In the case of the termination of employment at the end of a fixed-term contract the University's Code of Practice on Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and, where applicable, the Guidelines for dealing with Redundancy and Redeployment will apply.

Human Resources Division
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