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Title: **DISCIPLINARY PROCEDURE**

Keywords: Discipline, Misconduct, Conduct, Behaviour, Warning, Suspension

Description: Procedure to address misconduct

Audience: Staff and Managers

1. PURPOSE

- 1.1 This procedure is designed to ensure that staff are aware of and understand their rights and responsibilities relating to discipline. It aims to facilitate satisfactory standards of conduct and to encourage improvement, whenever this is possible. The procedure provides an agreed framework, to ensure that cases of alleged misconduct, or other acts or omissions found by University management to warrant consideration of disciplinary action, are dealt with consistently and fairly within a reasonable timescale.
- 1.2 It is essential that conduct as members of staff of the University presents a favourable and professional impression to others and is conducive to satisfactory relations with students, colleagues and other stakeholders. Staff are expected and required to act with due regard to the interests of the University and to promote and implement its corporate policies. Conduct which damages or may damage the reputation of the University, its staff or students, or which brings, or may bring, the University into disrepute is not acceptable at any time. All members of staff are expected and required to behave in a manner that is consistent with the safe, efficient and effective performance of their duties and responsibilities wherever they are carried out. Staff are expected and required to comply with reasonable instructions given by members of staff of the University acting within their proper authority.
- 1.3 Any breaches of the standards or expectations outlined in 1.2 may be dealt with as a disciplinary matter under the provisions of this procedure
- 1.4 It should be noted that University rules have been drawn up with regard to the principle of academic freedom as set out in the [Articles of Government](#) and application of this procedure accords with this principle.
- 1.5 This procedure aims to ensure good practice by applying the standards set out in the relevant sections of the ACAS Code of Practice on Disciplinary and Grievance

Procedures. The principles of natural justice (as set out in section 4 “Principles”) will be applied in conducting disciplinary issues.

2. SCOPE

- 2.1 This procedure applies to all staff of the University except 'holders of senior posts' as defined in the [Articles of Government](#), i.e. members of the University Executive Team (UET) and the Clerk to the Board. Such “holders of senior posts” are subject to a similar procedure, according with the principles of natural justice, which specifies personnel authorised to take disciplinary action at this level.
- 2.2 Instances relating to unsatisfactory performance will be dealt with in accordance with the [Performance Framework \(Support and Development\)](#).
- 2.3 The procedure does not apply to termination of employment:
 - arising from the ending of a fixed term contract;
 - during or at the end of a period of probationary service;
 - by reason of redundancy;
 - by reason of retirement;
 - for reasons of unsatisfactory performance due to incapability;
 - arising from ill-health.
- 2.4 The Human Resources (HR) department must be consulted for advice as to the appropriate procedure to be applied in cases relating to:
 - employees not evidencing or retaining the [right to work in the UK](#), or
 - employees not obtaining or retaining the required clearance by the [Disclosure & Barring Service](#), or,
 - cases involving both misconduct and performance

3. IMPROVEMENT WITHOUT RECOURSE TO THE DISCIPLINARY PROCEDURE

- 3.1 All line managers and supervisors are responsible for promptly identifying deficiencies in conduct, so that appropriate action can be taken to address these and avoid repetition.
- 3.2 Minor cases of misconduct may best be dealt with by normal management methods such as; instruction, advice, coaching or support, rather than by use of the disciplinary procedure. Managers should discuss problems with staff, with the objective of encouraging and helping them. In certain circumstances it may be appropriate to consider whether mediation is appropriate. It is important that staff understand the behaviour required of them, how conduct will be reviewed and over what period. It is desirable that improvement can be effected without recourse to the disciplinary procedure; however it is also important that the manager informs the member of staff of the action that may be taken if s/he fails to improve his/her conduct. In the circumstances described above, informing a member of staff of any changes required and the consequences of failure to make these changes, whether in writing or not, does not constitute a warning or action under this procedure.

4. PRINCIPLES

- 4.1 The University is committed to both the elimination of unlawful discrimination and positive promotion and celebration of equality and diversity throughout all aspects of its work. The University will not tolerate unfair or unlawful treatment on the grounds of a protected characteristic as defined in the Equality Act 2010 in respect of the application of this procedure. All members of staff and other workers are responsible for ensuring that their own conduct is in accordance with the [University's Dignity, Diversity & Equality Policy](#).
- 4.2 Staff requiring assistance in connection with this procedure (e.g. due to reasons relating to disability or the need for translation from English) should contact the HR department. The University is committed to making reasonable adjustments for staff who consider they have a disability.
- 4.3 Minor misconduct or infringement of rules will normally be dealt with outside this procedure in the first instance.
- 4.4 Disciplinary action will not be taken unless, following an investigation, there is sufficient evidence to warrant such action.
- 4.5 The principles set out under this procedure will apply irrespective of the origins of the alleged misconduct. In circumstances such that a separate procedure has been invoked (e.g. [Student Complaints Policy and Procedure](#) and [Academic Misconduct Procedure](#)) the findings from the original procedure will, if applicable, feed into this procedure. In instances when it is found necessary to consider the matter under the disciplinary procedure, the member of staff will be informed without undue delay.
- 4.6 Each case will be considered on its own merits in order that any decision should be reasonable in all the circumstances.
- 4.7 It may be necessary to suspend an individual, on full salary, as a precautionary measure, or in order to conduct an investigation which is not prejudicial and this action will be taken in accordance with the University's [Suspension Procedure](#). Suspension is not considered to be disciplinary action. Following a period of suspension an individual will either be permitted to return to work or may be invited to a disciplinary hearing. Full details of the suspension and its terms will be set out in writing in accordance with the requirements of the Suspension Procedure.
- 4.8 Disciplinary decisions will be independent and will not be made by the person who conducted the investigation. Appeal decisions will be made by a manager having no involvement with the disciplinary decision.
- 4.9 At each stage of the procedure, individuals will be informed of the allegation(s) against them in writing and will be given the opportunity to state his/her case before disciplinary decisions are made.
- 4.10 At each stage of the procedure, an HR representative must be involved to give advice and guidance, to accompany those authorised to conduct disciplinary hearings and to approve the form and wording of letters relating to disciplinary matters and actions/decisions.
- 4.11 At each stage of the procedure, individuals have the right if they wish, to be accompanied by a fellow member of staff or by an appropriate representative of an independent trade union (recognised or non-recognised) as defined in the Employment Relations Act 1999 or an official employed by a trade union. A trade union representative who is not an employed official, must have been reasonably certified by

their union as being competent to accompany a worker. Individuals may not be accompanied by anyone acting as a legal representative at any stage of the procedure.

- 4.12 If it is necessary to hold a disciplinary hearing, this may be convened at any stage of the procedure, including summary dismissal, according to the nature and seriousness of the allegations.
- 4.13 Individuals will not be dismissed for a first breach of discipline except in case of gross misconduct, the sanction for which is dismissal without notice or pay in lieu of notice (summary dismissal).
- 4.14 Individuals have the right of appeal against disciplinary action taken under any stage of the procedure.
- 4.15 All proceedings and associated documentation will be kept confidential as far as practicable.
- 4.16 This procedure does not have contractual effect.

5. LINKS TO OTHER BU DOCUMENTS

[Absence Management Policy](#)
[Academic Misconduct Procedure](#)
[Articles of Government](#)
[Dignity and Respect \(Harassment\) Policy and Procedure](#)
[Employee Assistance Programme](#)
[Fraud Policy](#)
[Investigation Procedure](#)
[Performance Framework \(Support and Development\)](#)
[Student Complaints Policy and Procedure](#)
[Suspension Procedure](#)
[Sexual Harassment and Sexual Misconduct Policy](#)

6. SPECIAL CASES

- 6.1 The disciplinary procedure will not normally be invoked against a representative of a recognised trade union until, with the person's permission; the circumstances of the case have been discussed with an official employed by the union. If permission is withheld, an official employed by the union will be informed, but the details of the case will not be discussed.
- 6.2 If a member of staff is charged with, or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. In such cases, the HR department should be consulted in the first instance so that the particular circumstances of the case can inform the action to be taken. Consideration will be given to the effect on the employee's suitability for the job and relationship with the University, work colleagues and stakeholders and it may be appropriate that use of the University's [Suspension Procedure](#) is considered. The University's [Investigation Procedure](#) and [Fraud Policy](#) also make reference to such circumstances.

7. THE PROCEDURE

7.1 Investigation

- 7.1.1 Before contemplating disciplinary action, the manager should consult the HR department for advice on initiating an investigation to establish the facts.
- 7.1.2 An appropriate investigation will be carried out in accordance with the University's [Investigation Procedure](#). The form the investigation takes will depend on the circumstances of the particular case, such as the nature and severity of the allegations. It will be conducted without unreasonable delay.
- 7.1.3 In all but exceptional circumstances, individuals will be informed of any allegations and investigation of which they are the subject at the outset.
- 7.1.4 The individual under investigation has a right to be accompanied at investigatory meetings in accordance with paragraph 4.11.
- 7.1.5 The individual will be informed of the outcome of the investigation, which may conclude that; there is no case to answer and no further action is required, or that action outside the disciplinary procedure is required, or that the matter should be considered at a disciplinary hearing.

8. DISCIPLINARY HEARINGS

8.1 Written Notification of Hearing

- 8.1.1 Written notification of the hearing, together with the supporting evidence to be considered by the decision maker, will be made available to the individual concerned in advance of the hearing together with a request to submit a written response. Further details of this notification, including timescales, are included in [appendix 2](#).

8.2 The Hearing and Outcome

- 8.2.1 The hearing will be held without unreasonable delay whilst allowing the individual reasonable time to prepare his/her case.
- 8.2.2 The member of staff against whom disciplinary action is being brought will be given the opportunity to state his/her case and to make any representations before a disciplinary decision is made.
- 8.2.3 Procedural details for holding a disciplinary hearing are set out in [appendix 2](#).
- 8.2.4 If an individual is unable to attend a disciplinary hearing, the University may seek medical advice, and shall apply reasonable adjustments, as appropriate to the circumstances.
- 8.2.5 Should a member of staff fail to attend a disciplinary hearing, the University will consider the reasons for non-attendance, taking action appropriate to the circumstances to reschedule the hearing. If an individual is persistently unwilling to attend a hearing, the University may deem it necessary to make a decision based on the evidence available in the absence of the individual.
- 8.2.6 If an individual's companion cannot attend a hearing on a proposed date, s/he can propose a reasonable alternative time within a period of 5 working days after the original date.

- 8.2.7 Following the hearing, and having considered the evidence and submissions presented, the outcome may be; that there is no case to answer, or that action outside the disciplinary procedure should be taken or that a disciplinary sanction should be applied. The latter are described in the sections below.
- 8.2.8 Full details of the notification of the various disciplinary sanctions are described under the relevant section of [appendix 2](#).

9. DISCIPLINARY SANCTIONS AND AUTHORITY LEVELS

9.1 Stage 1 – First Written Warning

- 9.1.1 After conducting a disciplinary hearing and considering the evidence and representations, a First Written Warning may be issued to the member of staff by the relevant Executive Dean, Director or Head of Professional Service, or a member of the University Executive Team.
- 9.1.2 A First Written Warning may be given to an Executive Dean, Director or Head of Professional Service by a member of the University Executive Team.

9.2 Stage 2 – Final Written Warning

- 9.2.1 If, following a warning under stage 1, the individual's conduct remains unsatisfactory, a further disciplinary hearing will be convened under stage 2 of the procedure. Alternatively, if the alleged misconduct is sufficiently serious as to potentially warrant a Final Written Warning, but does not constitute gross misconduct, the procedure will be invoked at stage 2.
- 9.2.2 After conducting the hearing and considering the evidence and representations, a Final Written Warning may be issued by the relevant Executive Dean, Director or Head of Professional Service, or a member of the University Executive Team.

9.3 Stage 3 – Dismissal (with notice)

- 9.3.1 If, following a Final Written Warning the individual's conduct remains unsatisfactory, a further disciplinary hearing will be convened, the likely outcome of which will be dismissal. Only or a member of the University Executive Team. can take the decision to dismiss a member of staff under this procedure.
- 9.3.2 Except in cases of gross misconduct, dismissal will normally be with notice or with pay in lieu of notice.

9.4 Summary Dismissal (without notice or pay in lieu of notice)

- 9.4.1 If, on completion of an investigation and a disciplinary hearing a member of the University Executive Team, is satisfied that gross misconduct has occurred, the member of staff may be dismissed with immediate effect without any notice or pay in lieu of notice.
- 9.4.2 Examples of offences which are normally regarded as gross misconduct are given in [appendix 1](#).

10. ALTERNATIVE PENALTIES

- 10.1 Following consultation with HR, the manager who heard the case and is responsible for taking the decision on disciplinary action may impose reasonable additional or alternative penalties including, for example, transfer to a different post/location at the same salary and grade. They may also require a member of staff to undertake relevant development or other measures in order to improve conduct where appropriate.
- 10.2 As an alternative to dismissal, the member of the University Executive Team (UET) who heard the case and is responsible for taking disciplinary action may decide to issue a Final Written Warning and to demote the individual to a lower graded role and reduce his/her salary accordingly. This will be confirmed in writing by the University and the member of staff will be asked to confirm whether or not s/he accepts the alternative penalty.
- 10.3 Whether to take any of the above steps is in the absolute discretion of the individual making the disciplinary or dismissal decision, depending on his/her view of all the circumstances of the case.

11. APPEALS AGAINST DISCIPLINARY SANCTIONS

- 11.1 Members of staff against whom disciplinary action has been taken may appeal in writing, stating the reasons for appeal, within 7 working days of receiving notification of the decision.
- 11.2 In initiating an appeal, it is insufficient for the individual to object in general terms that disciplinary action has been taken, but must specify the reasons e.g. stating why the appellant believes the process or decision is flawed or that there is new evidence or the penalty was unduly severe or inconsistent.
- 11.3 The hearing will consider the employee's case for appeal and will not constitute a re-hearing, unless, by exception, there are grounds to warrant this.
- 11.4 An appeal hearing will be convened to consider the employee's case, in accordance with the provisions set out at [appendix 3](#).
- 11.5 If an individual is unable to attend an appeal hearing, the University may seek medical advice, and shall apply reasonable adjustments, as appropriate to the circumstances.
- 11.6 The University will avoid as far as is reasonably practicable holding a hearing in the absence of the member of staff concerned and consider the reasons for non-attendance. If an individual is persistently unwilling to attend a hearing without good cause, the University may deem it appropriate to make a decision based on the evidence available in the absence of the individual.
- 11.7 If an individual's companion cannot attend a hearing on a proposed date, s/he can propose a reasonable alternative date within a period of 5 working days after the original date.
- 11.8 A sanction may not be increased at appeal.
- 11.9 In the event that the appeal outcome is that an employee is reinstated, continuous service will be maintained.

- 11.9 The decision at appeal will be final, irrespective of the level of the original sanction.
- 11.10 The appeal will be considered impartially by a person not involved with the original hearing, as set out below.

12. AUTHORITY LEVELS; APPEALS

12.1 Appeal against First Written Warnings

12.1.1 An appeal against a First Written Warning given by an Executive Dean, Director or Head of Professional Service shall be considered by or a member of the University Executive Team. Where a First Written Warning has been given by a member of the University Executive Team (UET) other than the Vice Chancellor, the appeal will be considered by the Vice-Chancellor.

12.1.2 An appeal against a First Written Warning given by the Vice-Chancellor shall be considered by a Board member other than the Vice-Chancellor.

12.2 Appeal against Final Written Warnings

12.2.1 An appeal against a Final Written Warning given by an Executive Dean, Director or Head of Professional Service shall be considered by a member of the University Executive Team (UET).

12.2.2 An appeal against a Final Written Warning given by a member of the University Executive Team (UET) other than the Vice Chancellor, shall be considered by the Vice-Chancellor.

12.2.3 An appeal against a Final Written Warning given by the Vice-Chancellor shall be considered by a Board member other than the Vice-Chancellor.

12.3 Appeal against Dismissal (including Summary Dismissal)

12.3.1 Any member of staff who has been notified of dismissal may appeal in writing via the Clerk to the University Board. The appeal will normally be considered by a panel consisting of three members of the University Board.

Appendices

1. [Examples of Gross Misconduct](#)
2. [Disciplinary hearings; procedural details](#)
3. [Appeal hearings; procedural details](#)
4. [Flow diagram; overview of disciplinary procedure](#)
5. [Equality assessment](#)