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Disciplinary Procedure

*October 2016*

# ABOUT THIS PROCEDURE

## The aims of this Disciplinary Procedure are to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct, and attendance and to encourage improvement where necessary.

## This procedure applies to all employees regardless of length of service except senior post-holders as defined in the University’s Articles of Government. Senior post-holders will be subject to the procedures set out in the University’s Articles of Government. This procedure does not apply to agency workers or self-employed contractors.

## It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

## This procedure is used to deal with misconduct. It does not apply to cases involving performance issues, genuine sickness absence or proposed redundancies.

## This procedure does not apply to dismissals during or at the end of a probationary period (including an extended probationary period).

## If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with a member of the HR department as soon as possible.

1.7 This procedure does not form part of any employee's contract of employment and it may be reviewed and amended at any time. We may also depart from this procedure, including any time limits, as appropriate in any individual case.

1.8 This procedure has been agreed with the UCU and Unison and the Unions will be consulted with regarding any proposed future variations to this procedure.

# MINOR CONDUCT ISSUES

## Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

# CONFIDENTIALITY

## Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

## Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

## Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless we believe there are grounds that a witness's identity should remain confidential.

# SUSPENSION

## The Principal and Vice-Chancellor, or an employee nominated by the Principal and Vice-Chancellor, may suspend you from duty for misconduct or other good and urgent cause e.g. if it is considered necessary or appropriate for you to remain at home rather that attend work at any stage of an investigation or disciplinary process.

## The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by the HR department.

## Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full salary and benefits during the period of suspension.

## If you have been suspended for three weeks or more, you may appeal in writing to the Board of Governors against the suspension, except if the Principal and Vice Chancellor has already notified you of a proposal to dismiss you.

# NOTES OF MEETINGS

## A representative from the HR department will attend investigation, disciplinary and appeal meetings under this procedure and take notes of the meeting. Once the notes are typed, HR will provide copies to all attendees.

## The purpose of note taking is not to record verbatim what is said, but to capture the main points.

# INVESTIGATIONS

## The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. Where appropriate, the HR department may appoint an Investigating Officer to carry out the investigation.

## Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

## You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.

## You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

## The University expects employees to comply with reasonable requests to be interviewed or to provide a witness statement for the purposes of an investigation or disciplinary hearing under this procedure. A refusal to co-operate may lead to disciplinary action.

# CRIMINAL ALLEGATIONS

## Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.

## We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

## A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

# NOTIFICATION OF A HEARING

## Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:

### a summary of relevant information gathered during the investigation;

### a copy of any relevant documents which will be used at the disciplinary hearing; and

### a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

## We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time to prepare your case based on the information we have given you.

## You have the right to call relevant witnesses and to raise points about any information provided by witnesses. The University will let you know if it intends to call any witnesses in person. If you wish to call witnesses, you must let us know in advance.

## You should provide copies of any documents you wish to rely on to the HR department before the hearing.

## If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.

# THE RIGHT TO BE ACCOMPANIED

## You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either an appropriate trade union representative or a colleague. You must tell the HR department who your chosen companion is, in good time before the hearing.

## A companion employed by us is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

## If your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else.

## We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

## Your chosen companion has the right to address the meeting but not to answer questions on your behalf.

## The right to be accompanied does not apply to informal discussions or investigatory meetings.

# PROCEDURE AT DISCIPLINARY HEARINGS

## The hearing will be chaired by your line manager or another manager nominated by the HR department. A member of the HR department will also be present. You may bring a companion with you to the disciplinary hearing (see *section 9*).

## At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

## We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened or before a decision is made.

## We will inform you in writing of our decision and our reasons for it. Where appropriate, we may also explain this information to you in person.

# DISCIPLINARY PENALTIES – MISCONDUCT OR CONTINUED MISCONDUCT

## The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

## You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct.

## **Stage 1 - First written warning.** A first written warning may be authorised by your line manager or another manager nominated by the HR department. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

## **Stage 2 - Final written warning.** A final written warning may be authorised by your line manager or another manager nominated by the HR department. It will usually be appropriate for:

### misconduct where there is already an active written warning on your record; or

### misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

## **Stage 3 - Dismissal.** Dismissal may be authorised by the Principal and Vice Chancellor, Deputy Vice Chancellor or a member of the University Management Team. It will usually only be appropriate for:

### further misconduct where there is an active final written warning on your record; or

### any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice.

## **Gross misconduct** is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our business or reputation or irreparably damage the working relationship and trust between us. Gross misconduct will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).

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

### Theft; unauthorised removal of our property or the property of a member of the public, a student, a fellow employee or worker, or a supplier; fraud or other dishonesty, including falsification of records;

### Physical violence, fighting, assault on another person (including a member of the public, a student, a fellow employee or worker, or a supplier), anti-social activities such as brawling, indecency, serious verbal abuse, in each case whether at or away from the premises of the University and whether committed during or outside the employee’s working hours;

### Vandalism or deliberate damage to the property, premises, fixtures, equipment, stock or property of the University or belonging to another person (including a member of the public, a student, a fellow employee or worker, or a supplier);

### Misuse of the property, resources or name of the University, including excessive personal use or inappropriate use of the internet, e-mail and telephone facilities contrary to the University’s E-mail/Internet and Telephone Guidelines and the University’s Acceptable Use Policy;

### Deliberately accessing internet sites containing pornographic, offensive or obscene material;

### Serious insubordination;

### Unlawful discrimination, harassment, or serious bullying;

### Bringing the University into serious disrepute;

### Incapability while on duty or on the premises of the University or being unfit for work brought on by alcohol or illegal drugs;

### Possession, use, supply or attempted supply of illegal drugs;

### Serious negligence which causes or might cause unacceptable loss or damage or injury;

### Serious infringement of Health & Safety rules (including smoking in a non-smoking area);

### Unauthorised computer access, accessing, disclosing, deliberately divulging or otherwise using confidential or sensitive information in any form on a student, or a fellow employee or worker, or a supplier without authority and/or in serious breach of the University’s E-mail/Internet and Telephone Guidelines and the University’s Acceptable Use Policy (subject to the Public Interest Disclosure Act 1998). An employee who discloses personal data without the authority of the University may also commit a criminal offence (subject to the Public Interest Disclosure Act 1998);

### Knowingly importing onto the University’s computer systems and/or distributing, offensive and/or pornographic material or virus/es;

### Personal misconduct that causes or might cause offence to a student, or a fellow employee or worker, or a supplier;

### Serious breach of confidence (subject to the Public Interest Disclosure Act 1998) including deliberately divulging to the media or a competitor, confidential and/or business sensitive information;

### Serious infringement of any of the rules or policies of the University, including the Code of Conduct Policy;

### Breach of civil or criminal law. In the case of criminal offences, where such offences (whether committed during or outside the employee’s working hours) in our opinion may adversely affect the reputation of the University, or our relationships with our staff, students, workers or members of the public, or otherwise affects your suitability for the type of work you are employed by the University;

### Proven to have deliberately made false or vexatious statements, or dishonest conduct in relation to the University, its students, employees, workers, or suppliers;

### Misappropriation, attempted misappropriation or unauthorised possession of the money or property of the University or the money or property of a student, or a fellow employee or worker;

### Accepting or offering a bribe or other secret payment;

### Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;

### Making untrue allegations in bad faith against a colleague; and

### Victimising a colleague who has raised concerns, made a complaint or given evidence or information under our Grievance Procedure, Dignity at Work Policy, Equality at Work Policy, Whistleblowing (Public Interest Disclosure) Policy and Procedure or other similar policy or procedure.

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

## **Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal. These may be authorised by the Principal and Vice Chancellor, Deputy Vice Chancellor or a member of the University Management Team and will usually be accompanied by a final written warning. Examples include:

### Demotion.

### Transfer to another department or job.

### A period of suspension without pay.

### Loss of seniority.

### Reduction in pay.

### Loss of future pay increment.

# THE EFFECT OF A WARNING

## Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

## A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely.

## After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

# APPEALS

## If you feel that disciplinary action other than dismissal or action taken as an alternative to dismissal is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the HR department within 5 working days of the date on which you were informed of the decision.

## If you wish to appeal against dismissal you should appeal in writing, stating your full grounds of appeal, to the Clerk and Secretary to the Board of Governors within 5 working days of the date on which you were informed of the decision.

## If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.

## If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing, and you or your companion may comment on any new evidence arising during the appeal before any decision is taken.

## We will give you written notice of the date, time and place of the appeal hearing.

## The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

## The appeal hearing will be conducted impartially by a more senior manager who has not been previously involved in the case. In the case of an appeal against a dismissal, the appeal will be heard by a panel as arranged by the Clerk to the Governors. You may bring a companion with you to the appeal hearing (see paragraph 9).

## We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

## Following the appeal hearing we may:

### confirm the original decision;

### revoke the original decision; or

### substitute a different penalty.

## We will inform you in writing of our final decision as soon as possible, usually within 10 working days of the appeal hearing. There will be no further right of appeal.

# GRIEVANCES RAISED DURING DISCIPLINARY PROCEDURE

## If a grievance is raised during the course of a disciplinary matter about the behaviour of the manager dealing with the case, it may be appropriate to suspend the disciplinary procedure (depending on the circumstances) until the grievance can be considered. Consideration will be given, where possible and/or appropriate, to bringing in another manager to deal with the disciplinary case.