



Disciplinary Policy

1. Policy Statement

The University expects all employees to conduct themselves in an appropriate manner in their day to day work, including in their dealings with colleagues, students and external organisations. Employees are also expected to adhere to the principles set out in the University's Dignity and Respect Policy.

Employees should familiarise themselves with those University policies which set out expected standards of behaviour. Where employee conduct falls short of these standards, managers¹ will attempt to resolve the matter through informal means where appropriate so that employees are given the opportunity to improve.

If these actions do not provide a resolution, then the Formal Disciplinary Procedure set out in this document should be followed.

The University aims to deal with all disciplinary issues in a fair and consistent manner. It recognises that, for the employee and manager concerned, involvement in a Disciplinary Procedure can be difficult and stressful. The University will therefore ensure that those involved are made aware of available guidance and support, and that disciplinary issues are dealt with as quickly as the specific circumstances allow.

2. Scope and Purpose

This policy applies to all employees, except for those in a probationary period and those explicitly employed on non-standard terms and conditions².

This policy has been designed to deal with instances of misconduct. The University has defined some illustrative examples of such offences which are outlined at Appendix A. The list is not exhaustive.

¹ For the purposes of this policy the term 'manager' will be defined so as to include the nominated or line manager or another designated person of suitable seniority and responsibility within the relevant work unit or group

² I.e. Staff TUPE transferred to the University and remaining on pre-existing terms and conditions; Knowledge Transfer Partnership Associates, the Principal, Vice-Principals, Heads of Support Group and comparable level Directors

The examples given indicate how offences will normally be regarded, including those which might result in dismissal for a first offence on the grounds of gross misconduct. An offence will also be regarded as more serious if it is repeated.

There is however no rigid code of disciplinary action for particular examples of misconduct. The treatment of the misconduct will reflect what is reasonable taking into account all the circumstances of the case; precedent; the employee's record of employment; previous patterns of behaviour (including any current warnings on record); and whether the actions were wilful or malicious.

This policy also covers any other disciplinary matter not addressed by other policies and procedures (i.e. Capability, Research Misconduct, Fraud and Misappropriation).

3. Principles of the Policy

The University will observe the following principles in all disciplinary matters:

- All disciplinary matters will be treated with due confidentiality
- Managers will initially aim to resolve minor disciplinary issues through an informal procedure
- The University will make every effort to deal with disciplinary allegations as quickly as possible, at the appropriate management level
- No disciplinary action will be taken before a case has been fully investigated and, where a formal disciplinary case is taken forward, until a Disciplinary Hearing has taken place
- Except in cases of gross misconduct, employees will not normally be dismissed for a first disciplinary offence
- At every stage in the Disciplinary Procedure, employees will be clearly advised in writing of the nature of the allegations against them, and will have the opportunity to state their case before any decision regarding disciplinary action is made
- Employees will be provided with evidence gathered through the investigation before any Disciplinary Hearing. This will include any statements by third parties and records of interviews
- At all stages of the formal Disciplinary Procedure, employees have the right to be accompanied by a Trade Union representative or workplace colleague
- The appointments of Investigating Officers and Disciplinary Panel members will always be made subject to avoiding current and potential conflicts of interest
- Where the formal Disciplinary Procedure has commenced, employees should be reminded of the support available from the Staff Counselling Service
- At no stage in the procedure can meetings or hearings be recorded using audio or video recording equipment without the prior written agreement of all present
- Employees always have the right of appeal against any disciplinary action taken as a result of a Disciplinary Hearing.

4. Responsibilities

Managers are responsible for ensuring that:

- All employees are aware of the Disciplinary Policy
- Disciplinary issues are dealt with as soon as they become apparent
- Guidance is sought from their HR adviser where there is a possibility of formal action being taken
- They respect the need for confidentiality in relation to disciplinary issues
- They implement this policy in line with all data protection legislation.

Employees are expected to:

- Conduct themselves in an appropriate manner in their day to day work
- Familiarise themselves with those University policies which set out expected standards of behaviour.

5. Cooling Off Periods

There may be occasions where managers need to address a situation at work quickly. This could include asking any employees involved in the situation to stop work and go home for the day to allow a 'cooling off period' before a decision is taken on how to handle the matter. This is not classed as suspension from work or annual leave.

In the context of this procedure, sending an employee home in these circumstances is a neutral act: there neither is, nor should there be an inference of guilt as a result of an employee being sent home.

6. Initial Fact-Finding Investigation

When managers become aware of an alleged breach of discipline, they may carry out a brief fact-finding investigation. The information gathered during this process will enable managers to decide whether to treat the matter as an informal or formal one.

7. The Informal Procedure

Where appropriate, minor instances of misconduct may be dealt with informally through the provision of advice, coaching or training. Examples of such offences include isolated instances of:

- Poor time keeping
- Non-compliance with sickness notification rules
- Inappropriate comments or behaviour at work
- Minor breaches of Health and Safety regulations.

In these circumstances, the employee's manager is responsible for bringing the matter to the employee's attention and discussing it with them.

The employee should be clearly advised of the specific standard of behaviour expected of them, and should be warned that if there is no improvement they may be subject to formal disciplinary action in the future.

If there are any actions arising from this discussion, managers should confirm them in writing to the employee, setting out any agreed objectives, expectations and timescales.

8. The Formal Disciplinary Procedure

More serious allegations or repeated allegations of minor breaches will be dealt with under the formal Disciplinary Procedure.

If a manager believes a matter should be dealt with formally, they must immediately contact their HR adviser to agree the next steps. The HR adviser will provide guidance and support through the procedure.

If the case is to proceed as a formal disciplinary matter, the manager must put the allegation in writing to the employee, along with an explanation of the stages of the process and the name of the person who will carry out the investigation.

Where formal meetings are necessary the 'Guidance for Handling Formal Meetings' should be followed.

There are three stages to the Formal Disciplinary Procedure:-

Stage 1 - Investigation. This involves an investigation into alleged misconduct to establish whether there is a case to answer.

Stage 2 - Hearing. This involves a Disciplinary Hearing with the employee and may also involve others giving evidence, if applicable. A decision will be taken following a hearing as to whether any disciplinary action is necessary, and if so, what is appropriate.

Stage 3 - Appeal against any disciplinary action taken.

[A Flow Chart outlining the main steps can be found at Appendix 1]

8.1 Representation

At all formal meetings held as part of the formal Disciplinary Policy, employees have the right to be accompanied by a Trade Union representative / official or workplace colleague. When arrangements for meetings are confirmed, employees are responsible for notifying their chosen representative of the arrangements, and notifying the chair of the meeting of the name of the person accompanying them in advance.

8.2 Confidentiality

All those involved in a disciplinary procedure must keep all information relating to the case confidential. Any inappropriate disclosure of information relating to the case may result in disciplinary action.

Where employees intend to make, or have made, a disclosure in relation to a disciplinary procedure through the University's Whistleblowing Policy, the guidance in that policy should be followed.

8.3 Suspension

In some circumstances, it may be appropriate to suspend employees with full normal pay (including allowances) while a matter is investigated. Any suspension should be for the minimum period possible and usually no longer than four weeks. The reasons for the suspension must be made clear to employees in writing.

Where suspension is considered to be appropriate, the manager making this recommendation must refer the matter to the relevant College/Support Group Head of HR or an appropriate deputy before making a decision.

In the context of this procedure, suspension is a neutral act. There neither is nor should be any inference of guilt as a result of an employee having been suspended.

Suspension may be appropriate in the following circumstances:

- Where the presence of the employee may inhibit the investigation
- Where there are strong reasons for believing that the employee may not work to the required level during the course of the investigation
- Where the presence of the employee presents a risk to the welfare of other employees, or may increase the likelihood of further misconduct
- Where there is a serious risk to the University's reputation or business in allowing the employee to remain at work during the investigation.

Suspension will be regularly reviewed throughout the investigation. It may be brought to an end if the Investigating Officer, in consultation with an HR adviser and the employee's manager, believes there are no longer sufficient reasons for it to continue.

9. Stages of the Formal Disciplinary Procedure

9.1 Formal Stage 1 - Investigation

Allegations dealt with under the formal procedure will be subject to a full, thorough, and prompt investigation.

The HR adviser and manager will identify which manager should investigate the case (the Investigating Officer). In situations where there is no prospect of a conflict of interest this may be the employee's line manager.

If the employee concerned identifies a potential conflict of interest with the appointed Investigating Officer they should immediately let their manager or HR adviser know. The manager and / or HR adviser will consider the matter and, if appropriate, arrange for the appointment of a different Investigating Officer.

The Investigation will seek to determine the facts of the case, according to the methods outlined in the University's 'Guidance for Managing Investigations' document.

9.2 Confirming the Outcome of an Investigation

The investigation should normally be completed within two weeks, after which the findings will be discussed by the manager / Investigating Officer and HR adviser. At this point a decision will be made as to whether there is a case to answer or not.

Where it is established that there is no case to answer, this will be confirmed in writing to the employee and the manager, and all associated documentation will normally be destroyed and disposed of. In these circumstances, the manager should consider if any informal guidance for the employee (or others involved) is appropriate.

Where it is concluded that there is a case to answer, the employee will be invited in writing to attend a Disciplinary Hearing. The employee will be given at least one week's notice of the hearing, which will normally take place within two weeks of notification.

9.3 Formal stage 2 - Disciplinary Hearing

The College / Support Group Head of HR, or their nominated deputy (in consultation with the Head of School or Support Department in cases involving more serious allegations) will appoint members of the Disciplinary Panel.

In cases where dismissal is identified as a potential outcome, the Head of School or Support Department, or their nominated deputy, will chair the hearing. There will be two other panel members, one of whom will be outside the management chain of the employee concerned.

In all other cases, the Chair of the Panel will be in the management chain of the employee concerned, and there may be either one or two other panel members, at least one of which must be outside the employee's management chain.

In all cases, an HR adviser will attend the hearing to provide support and guidance for the panel

The request to attend the hearing will:

- Set out the nature of the alleged misconduct
- Confirm the names and designations of the Disciplinary Panel members, and give the employee the opportunity to identify any perceived conflict of interest

- Give written details of the evidence collected and attach copies of any documents to be referred to
- State the time, date, location and expected duration of the hearing
- Remind the employee of their right to be accompanied by a Trade Union representative or workplace colleague
- Advise the employee that if they have any additional evidence that did not come to light during the investigation, they should send it in advance to the Panel Chair
- Confirm the possible outcomes of the hearing.

The Investigating Officer will attend the hearing to present their findings.

In some exceptional circumstances, it may be appropriate for third party (e.g. witness) statements to be anonymous. If this is the case, the Chair of the Disciplinary Panel, in consultation with the HR adviser, will consider how to balance the interests of the parties involved (i.e., the need to protect witnesses and the right of the employee to a fair hearing).

There may be occasions where hearings have to be formally adjourned. This could be because the panel need to discuss an issue briefly in private, in which case the hearing may continue on the same day. Where the panel need to seek further information, it may be necessary to arrange another date; if so; this will normally take place within a week of the original hearing date.

A written record of the hearing will be made and a copy provided to the employee within one week of the hearing.

9.4 The Panel Decision.

When all of the evidence has been heard, the Disciplinary Panel will adjourn to consider its decision. Normally on the day of the hearing, the panel will decide whether to accept or dismiss any or all of the allegations and what (if any) disciplinary action to take. The decision will be conveyed to the employee verbally that day by the Panel Chair; it will be confirmed in writing to the employee and manager within one week.

If the panel decides to dismiss the allegations, all associated documentation will normally be destroyed and disposed of. The HR adviser will confirm this in writing to the employee. In these circumstances, the manager should consider if any informal guidance for the employee (or others involved) is appropriate, dependent on the matter in question.

If the panel accept the allegations, then depending on the seriousness or frequency of the misconduct, disciplinary action may take one or more of the following forms:

- Written warning
- Final written warning including a statement that a further breach of discipline within the period of the warning will lead to dismissal
- Dismissal
- Another sanction, e.g. loss of formal office or demotion (as alternatives to dismissal).

Where the panel recommends disciplinary action, the letter of confirmation will include details of:

- The nature of the misconduct
- The nature of the disciplinary action to be taken
- The reason for the decision and factors taken into account
- The length of time any disciplinary warning will be active
- The likely consequences of further misconduct where appropriate
- Who the decision will be communicated to, e.g. the employee's Head of School/Support Department
- The timescale for lodging an appeal and how it should be made.

9.5 Warning Periods

Formal warnings given to employees through the Disciplinary Policy will normally last for the periods of time specified below.

- A written warning – one year
- A final written warning – two years.

Where a Disciplinary Panel considers that a warning should last longer than the periods specified above, they must seek advice from their College/Support Group Head of HR.

Written warnings will be retained on the personal files maintained by College/ Support Group HR Teams. They will remain as live warnings for the period of time stipulated by the Disciplinary Panel and will be taken into account should further formal action be taken during this time.

After the warning period has expired, although a note will remain on the employee's records it will not be taken into account when considering any new matter warranting further formal action.

9.6 Dismissal

In cases where dismissal is the outcome decided by the panel, the employee may be dismissed with pay in lieu of notice, or summarily without notice if the circumstances of the case are sufficiently serious to warrant it. Employees will not normally be dismissed for a first offence unless their actions amount to gross misconduct.

9.7 Formal stage 3 – Appealing against Disciplinary Action

Employees have the right of appeal against any disciplinary action taken against them.

The appeal processes are outlined in the document 'Employment Related Appeals Procedures' which are underpinned by Court Resolution 55/2010.

10. Criminal Offences outside Employment

There is no automatic application of the Disciplinary Policy if an employee becomes the subject of police enquiries or charges relating to a criminal offence outside employment or if they are absent from work because they have been remanded in custody. This applies regardless of whether the offence has any direct relevance to the employee's duties.

In determining whether or not it is appropriate to apply the Disciplinary Procedure in this context, managers must discuss the matter with their College / Support Group Head of HR.

If, on conviction for any offence, an employee is sentenced to a period of imprisonment, this will not automatically be treated as a reason for dismissal. However, after discussion with the College / Support Group Head of HR, the Head of School or Support Department will need to consider the effect of the employee's enforced absence before making a decision on whether to invoke the Disciplinary Procedure for the employee concerned.

11. Policy History and Review

This policy was approved by CJCNC on 30 March 2011 and takes effect from 1 April 2011. It replaces the following policies/documents: 'Disciplinary Policy, Procedure and Regulations (Academic and Academic Related Staff)'; 'Disciplinary Policy and Procedure (non Teaching Staff) (SAM 3:2)' and 'Rules for the Guidance of Staff', which cease to apply from the same date.

In the event of any significant change to the legal position on Disciplinary issues, relevant statutory requirements or any other related matter, this policy will be subject to immediate review in consultation with the Trade Unions. In the absence of such a change, the policy will be reviewed by December 2012.

12. Alternative Format

This document can be provided in alternative formats on request by email to UHRS@ed.ac.uk or by calling 0131 650 8127.

Appendix A

The following examples are offences which may lead to disciplinary action. This list is not exhaustive.

Potential Serious Offences

- Repeated minor misconduct
- Unauthorised absence
- Wilful neglect of duties
- Refusal to obey a reasonable instruction by a relevant manager or other appropriately authorised employee
- Smoking outside designated areas
- Giving false information (e.g., on a job application form)
- Mishandling of official contracts or transactions
- Inappropriate use of official vehicles
- Unauthorised disclosure of confidential information
- Offences against Health and Safety regulations
- Misuse of drugs or alcohol to an extent which impairs the employee's ability to carry out their duties ³
- Threatening or abusive behaviour
- Acts constituting harassment ⁴
- Conduct detrimental to the University outside employment
- Misuse of computer software, hardware or other University property
- Malicious accusations against a colleague.

Potential Gross Misconduct Offences

- Threatening or abusive behaviour
- Acts of physical violence
- Deliberate damage to University property
- Gross misuse of University computers
- Criminal offences within employment
- Criminal activities outside work, where such conduct is judged to be incompatible with the individual's employment, or where it could bring the University into disrepute
- Reckless, wilful or deliberate disregard of safety regulations
- Theft, fraud⁵ or deliberate falsification of records, e.g. expense claims
- Deliberate contravention of the University's financial regulations
- The misuse of drugs or alcohol to an extent which seriously impairs the employee's ability to carry out their duties ²
- Acts constituting discrimination or victimisation (including on the grounds of sex, race, disability, sexual orientation, religious belief or age)
- Deliberate serious breaches of confidentiality, except for disclosures made through the University's Whistleblowing Policy
- Improper use of the employee's position for private advantage, or an attempt to do so.

³ The 'Code of Practice on Alcohol and Drug Abuse' should be referred to

⁴ The document 'Dealing with Personal Harassment Code of Practice for Staff' should be referred to.

⁵ The 'Fraud and Misappropriation Policy' should be referred to.

Disciplinary Policy – Flow Chart

Flow Chart to be read in conjunction with the full Policy

