Disciplinary Procedure
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1. Introduction

1.1 This document sets out the University’s procedure regarding formal disciplinary action for all employees who have completed their probation. If an employee is still within the probationary period please refer to the appropriate Probation Procedure. Information on dealing with misconduct informally is contained in the Disciplinary Managers and Employees Guidelines.

1.2 A manager may instigate this procedure when employees do not achieve and maintain required standards of conduct and/or behaviour.

2. General Principles

2.1 Confidentiality – All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the University.

2.2 Right to be accompanied – All employees who are subject to this procedure have the right to be accompanied by a Trade Union representative or colleague throughout any formal meetings held under this procedure. There is no entitlement to legal representation at any point in this procedure.

2.2.1 The trade union representative or work colleague will be allowed to put the employee’s case, sum up the employee’s case, respond on the employee’s behalf to any view expressed at the meeting or appeal hearing, and ask questions on the employee’s behalf. However, they will not be allowed to answer questions on behalf of the employee.

2.2.2 They and the employee will have the right to request reasonable adjustments and/or adjournments during any formal meeting to have discussion between themselves. No other form of representation is permitted for either party.

2.2.3 There is no statutory entitlement to be accompanied at investigatory meetings, however, to reflect ACAS best practice employees can choose to be accompanied by a trade union representative or University work colleague so long as this does not delay the investigation unduly.

2.3 Time to participate - employees, witnesses, Trade Union representatives and University work colleagues who are required to participate in this procedure will be provided with reasonable time off from their normal duties with no loss of pay.

2.4 Participation – there is an expectation that University employees will participate
fully, openly and honestly in this procedure when required. Employees are expected to attend meetings and hearings in person. If it is not possible for an employee to attend in person Human Resources will explore alternative methods of participation.

2.5 **Timescales** – every effort will be made to comply with the timescales set out in this procedure, however timescales may on occasion need to be extended, for example due to the complexity and magnitude of the situation. Where timescales are extended the employee will be made aware of the revised anticipated timescales and the reason(s) for any delay.

2.6 **Record of meetings** – a record of any meetings will be made and meeting attendees asked to agree or make comments on the notes. These notes will be a summary of the meeting and will not be verbatim. Audio or digital recordings of meetings under this procedure are not permitted.

2.7 **Attempts to frustrate the process** - where it is felt that an employee is deliberately attempting to frustrate the process of this procedure or taking vexatious actions, they may be subject to further disciplinary action.

2.8 **Employees who are Trade Union Representatives** - no formal action under this procedure will be taken against an employee who is a recognised trade union representative until the circumstances of the case have been notified to a full-time trade union officer, or their nominee, of the trade union concerned.

2.9 **Whistleblowing** - an employee who makes a complaint in good faith will not suffer any detriment even if the complaint is not substantiated. See [Policy and Procedure on Public Interest Disclosure (Whistle-blowing)](mailto:).

2.10 **Defence on the grounds of academic freedom** - if a member of academic staff claims a defence on the grounds of academic freedom (as defined in the University Statutes), the matter will be referred to the Executive Director of HR.

2.10.1 The Executive Director of HR will suspend proceedings and instigate an investigation of the claim. The investigation will be carried out by a panel comprising a senior member of academic staff nominated by Senate and a lay member of Council, neither of whom will have any connection with the employee concerned.

2.10.2 The panel will take evidence from the parties and from any other sources that it believes necessary and appropriate. The employee will be entitled to provide evidence to the panel, and to call such witnesses as they think appropriate. The employee also has the right to be accompanied as outlined in 2.2.

2.10.3 If the defence is upheld all actions against the employee will be withdrawn and the existence of the action taken and any details relating to it or the investigation will be expunged from HR records.

2.10.4 Where the defence is held to be unfounded then the disciplinary process will resume.
2.10.5 The decision will be confirmed in writing as soon as possible and no longer than 5 working days following the panel.

3. Informal Discussion

3.1 Minor cases of misconduct will, in the first instance, be dealt with informally, this informal approach is not part of the formal disciplinary procedure. For the purposes of this procedure the term 'manager' will be defined as the line manager, or another designated person of suitable seniority and responsibility within the relevant work unit or group, or an independent manager. HR Managers/Advisers can advise managers on the appropriateness of the informal approach being used. Further information is provided in the Disciplinary Managers and Employees Guidelines.

4. Formal Procedure

4.1 Managers should discuss incidences of potential misconduct at the earliest opportunity with their HR Manager/Adviser who will advise on the best course of action. Examples of behaviours which constitute misconduct, including gross misconduct, can be found in Appendix 1.

4.2 In most cases, instances of potential misconduct will be investigated before any decision is made about progressing to a disciplinary hearing.

4.3 There may be instances when an investigation is not necessary and the matter can proceed directly to a disciplinary hearing e.g. where an employee admits misconduct. In such circumstances the manager must consult HR before proceeding to a hearing.

4.4 Suspension

4.4.1 In situations where very serious allegations are being dealt with, a period of suspension from work with pay may be considered by the manager. Examples of situations when suspension may be necessary are, if an employee’s presence at work may compromise the investigation, or the manager is concerned for the employee’s safety. Suspension without pay is required in cases of alleged illegal working (see Appendix 2). Suspension will be for no longer than is necessary to allow an investigation, and if required disciplinary hearing, to take place.

4.4.2 The manager must consult HR before proposing suspension. See section 8.6 for who has the authority to suspend.

4.4.3 Suspension of this kind is not a disciplinary sanction and does not imply that any decision has been made about the case.
4.4.4 Where suspension is used, unless there are extenuating circumstances, the manager will meet with the employee giving the reasons for the suspension, HR may be present at this meeting. The employee will be expected to leave University premises immediately. Depending on the nature of the allegations additional measures may be instigated e.g. temporary suspension of IT access. This will be followed up by HR to confirm next steps in the process.

5. Disciplinary Investigations

If an investigation is required, HR will appoint an investigating manager who has not been involved in the situation and is not the employee's direct line manager.

Investigations will be confined to ascertaining the facts through the collation of evidence including statements from interviews with witnesses.

If fraud is the subject of the disciplinary investigation, Internal Audit will be informed and will conduct their own investigations under the Fraud and Financial Misconduct Policy.

Notification of investigation meetings including information about the matter to be considered will be provided.

Statements given at investigatory meetings will be confidential during the course of an investigation but will be disclosed to appropriate parties if the matter proceeds to a disciplinary hearing.

A record of the meetings will be made and be made available to the employee. If they choose to, it is the employee’s responsibility to provide a copy of the record to any Trade Union representative or University work colleague who accompanied them.

Individuals invited to attend will be asked to confirm their agreement of the notes within 3 working days. If a response is not received within this timescale the notes will be considered as agreed. If the individual disagrees then they should annotate the notes indicating the disputed areas and return within 3 working days to the note-taker. If the investigating manager and/or HR who were present at the meeting do not agree with the additional comments, the original and appended notes will be viewed side-by-side when being used for consideration of actions. Comments can only be in relation to the discussions during the meeting and are not a means to introduce new evidence.

When the investigation has been concluded, the investigating manager will produce a report (see Appendix 3) outlining the incident/s; primary aim of the investigation; key points from investigatory meetings; allegations and findings; conclusion and recommendations. The report will contain a recommendation as to whether or not there are grounds to progress to a disciplinary hearing.
5.9 The investigation report will be sent to the employee’s manager, or other appropriate manager, who will review the evidence obtained and the recommendation(s) and will determine whether there is a case to answer. The employee’s manager, or other appropriate manager, will discuss their decision with HR, then the employee will be informed of the manager’s decision. The employee will be informed within 15 working days from the manager receiving the report or as soon as is reasonably practicable.

6. Disciplinary Hearing Arrangements

6.1 Every effort will be made to provide as much notice as possible to allow an employee, and where appropriate their trade union representative or University work colleague, sufficient time to prepare for the hearing with a minimum notification of 5 working days.

6.2 Notification of the hearing will be provided, at which time the employee will be given a copy of this procedure, details of the matter to be considered at the meeting, any supporting documentation that will be relied upon by the employer during the meeting and the names of any witnesses that the employer may call.

6.3 At least 3 working days before the hearing, the employee must submit any documentation they wish to be considered, the names of any witnesses they wish to call and confirmation that their witnesses are available to attend.

6.4 In the event that one of the parties is unexpectedly unable to attend the hearing at the notified time, there is one opportunity for the hearing to be postponed and rescheduled within a reasonable timescale after the date initially proposed.

6.5 If the employee fails to attend the hearing, there is one opportunity for the hearing to be rescheduled. The employee will be informed that should they fail to attend the rescheduled hearing, it will be held in their absence.

7. Disciplinary Hearing

7.1 The hearing will be chaired by the employee’s manager, or another appropriate manager. HR will attend in an advisory capacity. The employee and any Trade Union representative or University work colleague will be present throughout the hearing.

7.2 The aim of the hearing is to review the findings in the investigation report and establish the facts, taking into account any documentation submitted in advance by the employee and additional relevant information provided by witnesses, in order to determine what, if any, disciplinary action is appropriate.

7.3 The investigating manager will normally attend the hearing to present their findings and answer questions if requested. The manager will determine whether this is appropriate.
7.4 The employee will be allowed to state their case and answer any allegations that have been made; pose questions to the investigating manager and witnesses; and make reference to any documentation they have submitted in advance of the hearing.

7.5 Witnesses are expected to make themselves available during the time of the disciplinary hearing where clarification is necessary regarding evidence they have already provided, or in light of further information becoming available.

8. Disciplinary Hearing Outcomes

8.1 Following the disciplinary hearing, an adjournment will normally take place to allow the manager to consider all of the relevant information before reaching a decision as to whether or not disciplinary action is to be taken and if so, what action is appropriate. HR will remain during the adjournment.

8.2 The manager will normally inform the employee of the decision or the need to make further investigations by reconvening the hearing.

8.3 Should the manager require a longer period to reach a decision, the hearing will be reconvened within a reasonable timescale. If further investigations are undertaken the employee will have the opportunity to consider any new information before the hearing is reconvened.

8.4 The decision will be followed up in writing as soon as possible and no longer than 5 working days from the date of the hearing or reconvened hearing and a copy will be placed on the employee’s file.

9. Disciplinary Action

9.1 First Written Warning
If the manager has determined the employee has not met the required standard of conduct or behaviour they can issue a first written warning. The warning remains active for 6 months from the date of the hearing.

9.2 Second Written Warning
Where a first written warning fails to bring about the required standard of conduct or behaviour, or any other act of misconduct occurs, or the situation is serious enough to warrant stronger action than a first written warning; the manager can issue a second written warning. The warning remains active for 1 year from the date of the hearing.

9.3 Final Written Warning
Where a second written warning fails to bring about the required standard of conduct or behaviour, or any other act of misconduct occurs, or the situation is
serious enough to warrant stronger action than a first or second written warning, the manager can issue a final written warning. The warning remains active for 1 year (or up to a maximum of 2 years in exceptional circumstances) from the date of the hearing.

9.4 **Dismissal**
Where a final written warning fails to bring about the required standard of conduct or behaviour, or any other act of misconduct occurs, or the situation constitutes gross misconduct (examples contained in Appendix 1), the employee may be dismissed by a manager of appropriate authority (see section 9.6). In cases of gross misconduct, dismissal will be without notice.

9.5 **Other Disciplinary Action**
Dependent on operational business requirements/availability, the manager may determine it is appropriate to transfer the employee to a different role, this can be to a lower graded role. The employee will not be eligible to apply for a higher graded role for a period of 52 weeks from the commencement of the transfer. The duration of the transfer and what will happen at the end of the period will be made clear to the employee.

9.6 **Authority to suspend and take disciplinary action**

<table>
<thead>
<tr>
<th>Suspension and Disciplinary Action</th>
<th>Employee</th>
<th>Authorised Manager</th>
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<tbody>
<tr>
<td><strong>Non-academic staff</strong></td>
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<tr>
<td>Up to and including second written warning</td>
<td>Grades A – C</td>
<td>Grade D and above</td>
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<tr>
<td>Up to and including dismissal and transfer</td>
<td>Grades A – F</td>
<td>Grade G and above</td>
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<td>Grade G and H</td>
<td>A Head of Service/Academic Unit</td>
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<td>Heads of Service and Grade I</td>
<td>Registrar or a Head of Unit (who must be on Grade I)</td>
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<tr>
<td><strong>Research only staff</strong> (staff with Academic Employment Function 'Research only')</td>
<td>Up to and including final written warning and transfer</td>
<td>Up to Grade G</td>
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<tr>
<td></td>
<td>Up to and including dismissal and transfer</td>
<td>Up to Grade H</td>
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<tr>
<td><strong>Academic staff</strong></td>
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<tr>
<td>Up to and including final written warning and transfer</td>
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<td>Up to and including dismissal and transfer</td>
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<td>A Faculty Pro-Vice Chancellor</td>
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<tr>
<td>Up to and including dismissal and transfer</td>
<td>University Executive Board members</td>
<td>Vice Chancellor</td>
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</tbody>
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10. Appeal

10.1 An employee who wishes to appeal against any formal warning, dismissal or other disciplinary action can submit an appeal in writing, within 10 working days of the date of the letter confirming the outcome, to the Faculty/Service HR Manager, setting out the particular grounds for appeal, which are:

- There was failure to follow procedure, which had a material impact on the outcome
- New information has come to light that should be considered that was not available at the time of the hearing
- The actions taken was unreasonable or disproportionate to the issue

10.2 The appeal is not a reinvestigation. It will only consider the grounds on which the appeal is based.

10.3 Actions put in place before submission of an appeal, including notice of dismissal, remain in effect pending the outcome of the appeal.

10.4 If the employee wishes to submit additional documentation or call further witnesses, this information must be submitted along with the appeal. It is the employee's responsibility to confirm the availability of their witnesses.

10.5 The appeal hearing will be held within 15 working days of receipt.

10.6 The employee will be given a minimum period of notification of 5 working days of the appeal hearing.

10.7 An Assistant Director of HR (or nominee) will appoint a manager to hear the appeal. They will be a manager senior in authority to, or at the same level as, the manager who conducted the disciplinary hearing, and will not have been previously involved in the case. HR will attend the appeal hearing in an advisory capacity.

10.8 The manager/panel will ensure that both sides of the case are fully considered, and that the employee and/or representative or University work colleague and the manager who chaired the disciplinary hearing are given full opportunity to put their case and to put questions to witnesses.

10.9 In the case of academic staff, as defined in the University Statutes, any appeal against dismissal will be heard by a panel comprising a lay member of council and a senior academic nominated by senate, neither of whom will have any connection with the employee concerned.

10.10 The decision may be given verbally at the appeal hearing if appropriate, and will be confirmed in writing within 5 working days of the appeal hearing or as soon as reasonably practicable.

10.11 The manager/panel hearing the appeal may substitute a different decision including disciplinary action of a lower level.
10.12 If the appeal is upheld, all actions against the employee will be withdrawn, the existence of the action taken, and any details relating to it or the investigation will be expunged from HR records.

10.13 The appeal decision is final, and there is no further right of appeal.

11. Status of the Procedure

11.1 The employment relationship between the University and each of its employees is set out in the contract of employment. This procedure does not form part of the contract of employment but it shall apply both to the University and to all of its employees.

Associated Documents

Appendix 2 – Prevention of Illegal Working Dismissal Procedure
Appendix 3 – Investigation Report Template
Disciplinary Policy
Guidance on Standards of Behaviour

<table>
<thead>
<tr>
<th>Policy Area lead</th>
<th>Deborah Graham, Jan Halliburton, Jenny James, Emily Thomas</th>
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<tbody>
<tr>
<td>Approved by</td>
<td>Staff Committee</td>
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<td>15 May 2017</td>
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Appendix 1 – Examples of Misconduct and Gross Misconduct

The following examples are not exhaustive but are indicative of what the University considers misconduct and gross misconduct.

**Misconduct** is conduct or behaviour which may lead to disciplinary action short of dismissal, although repeated instances of misconduct may result in dismissal.

- Unsatisfactory attendance at work e.g. unauthorised or unreported absence, poor timekeeping or attendance.
- Misuse of internet, email and University IT as set out in the *Statement on Internet Use* and guidelines for the Use of IT Facilities. Misuse of personal social media, e.g. posting or sharing content that could be considered discriminatory, bullying, harassing or offensive.
- Bringing the University into disrepute.
- Refusing or failure to carry out reasonable management instructions.
- Failure to comply with agreed working practices.
- Negligence or failure to devote reasonable care and attention to work.
- Misuse, or failure to take reasonable care, of University property.
- Abusive or offensive language.

Any sufficiently serious misconduct may be deemed to be gross misconduct.

**Gross Misconduct** is conduct or behaviour which may involve either deliberate wrongdoing or gross negligence which has destroyed essential trust and confidence between employer and employee, making the employee unsuitable University employment. In cases of gross misconduct, dismissal will be without notice.

- **Safety** – failure to follow rules or procedures, putting self and others at risk.
- **Threatening, violent, abusive or indecent behaviour** – of a verbal, physical or sexual nature.
- **Discrimination** – intentional unlawful discrimination or serious bullying and harassment.
- **Dishonesty** – theft; fraud or deliberate falsification of records or claims; serious failure to follow rules or procedures; unauthorised use or removal of University property; deliberate or negligent contravention of University and/or local policies and procedures.
- **Breach of Confidence** – serious and/or persistent refusal or failure to carry out reasonable management instructions resulting in physical or reputational damage; misrepresentation of experience, qualifications or other relevant information; disclosure of confidential information; deliberate damage to University property.
- **Criminal** - convictions which render the employee unsuitable for University employment.
- **Alcohol or drugs** - conduct and /or attendance seriously and detrimentally affected while under the influence of alcohol or other drugs; being in possession of illegal drugs while at work.

**Academic misconduct** – refer to the *Policy and Procedure for Investigating Allegations of Research Misconduct.*