

# Disciplinary Policy

**This policy applies to:**

ALL UK colleagues

## Summary

High standards and mutual respect for our colleagues are integral to our culture at Newcastle University. When these standards are not met, the disciplinary process is in place to address these situations and improve behaviour. The purpose of this policy is to ensure fair and consistent treatment of all colleagues, to clarify the rights and responsibilities of the University and our colleagues and to enable disciplinary matters to be handled promptly.

## Contents

<b>1.0 Informal Resolution</b>	<b>1</b>
<b>2.0 Investigation</b>	<b>1</b>
<b>3.0 Suspension</b>	<b>2</b>
<b>4.0 Formal Resolution</b>	<b>3</b>
4.1 Before the hearing	3
4.2 Disciplinary hearing	3
4.3 Disciplinary action	4
4.4 Appeal	5
<b>5.0 Hate-related misconduct and sexual misconduct</b>	<b>6</b>
<b>6.0 Conflicts of interest or misuse of authority</b>	<b>6</b>
<b>7.0 Fraud</b>	<b>6</b>
<b>8.0 Criminal acts outside of work</b>	<b>6</b>
<b>9.0 Refusal to cooperate</b>	<b>6</b>
<b>10.0 Resignation</b>	<b>7</b>
<b>11.0 Associated documents</b>	<b>7</b>
<b>12.0 Policy Agreement</b>	<b>7</b>
<b>Appendix 1 Standards of Behaviour</b>	<b>9</b>
<b>Appendix 2 Prevention of Illegal workers dismissal guidance</b>	<b>10</b>

## 1.0 Informal Resolution

Breaking or failing to follow a rule about behaviour is often called misconduct. We believe that in most cases, a carefully considered conversation at the right time is all that is necessary to achieve and maintain the required standards of conduct and behaviour without the need for formal disciplinary action. Minor cases of misconduct will normally be dealt with informally.

To do this, the line manager should talk to the colleague specifically about what they have done, why this is not acceptable and the required improvement. They should explore whether there are reasons the colleague is behaving in this way and whether any support is needed to help the colleague achieve the required standards. Timescales for improvement should be set, being very clear about the implications if no improvement is made or if this behaviour happens again.

In most cases where behaviour is not acceptable, the expected change will be immediate. A note summarising the informal meeting should normally be made on an Informal Meeting Record. This should be kept in the colleague's personal file in SAP and a copy should be given to the colleague.

## 2.0 Investigation

Where a situation is more serious or if informal resolution has not worked, a disciplinary investigation will commence. The purpose of the investigation is to establish a reasonable view of the facts and to decide if an allegation of misconduct should be put to the colleague in a disciplinary hearing. If fraud is the subject of the

disciplinary investigation, the Registrar must be informed. If the colleague subject to an investigation has an NHS Honorary Contract (Clinical Academic), before any investigation starts, please discuss with your People Services advisor as the NHS employer will need to be consulted.

The investigation should begin **promptly** after the alleged incident has taken place, be confidential and be carried out by someone who is independent from the rest of the disciplinary process.

The investigation will normally involve interviewing the colleague and all relevant witnesses (although the investigator will have absolute discretion as to who should be involved in an investigation and how it should be carried out). For the colleague under investigation, where possible, they should be informed in writing of the allegations against them and that an investigation will be carried out. However, depending on the nature of the allegations, interviews may be held at little or no notice. There is no statutory right to be accompanied at this meeting, however, if a colleague subject to the investigation requests to be accompanied by a Newcastle University work colleague or trade union representative, as long as it does not unduly delay the process, we would honour this request.

The content of each interview should be recorded in writing and confirmed as an accurate record by the relevant witness within 3 working days. If a response is not received within this timescale, the disciplinary process will proceed based on the current notes, unless the colleague provides a reasonable explanation why they are unable to meet the deadline. In that case, consideration should be made to extend the 3 working day period. Audio or digital recordings of meetings are not permitted.

If at the end of the investigation, the investigating manager decides there is a disciplinary case to answer, the findings should be clearly detailed in an investigation report. The investigation report, along with an invite to a disciplinary hearing and any relevant investigation notes should be sent to the colleague. Within the invite letter, it should clearly state the allegation and how it breaches our standards of behaviour.

If a potential outcome of the hearing is dismissal (for example, a colleague is suspected of an act of gross misconduct such as theft or fraudulent activity), the colleague must be advised of that possibility in the hearing invitation letter.

The colleague must also be informed by letter if the conclusion of the investigation is not to proceed to a disciplinary hearing. In this situation, there is no requirement for the manager to complete an investigation report unless the allegation involves fraud. The investigation report in this instance, regardless of whether it will proceed to a hearing, will be provided to the Vice-Chancellor and Audit, Risk and Assurance Committee (and the Executive Director of Finance, Executive Director of Academic Affairs and Executive Director of People Services, as appropriate).

### **3.0 Suspension**

It may be appropriate in exceptional circumstances to suspend a colleague during the investigation or pending a disciplinary hearing. Suspension may be appropriate if: there is an incident of suspected gross misconduct; there is a risk to University property or to other colleagues or students; or if the colleague's attendance at work may adversely affect the investigation. It is important to understand that suspension is not formal disciplinary action and does not imply the colleague is guilty of the alleged offence.

Alternatives to suspension should also be considered, for example, allowing the colleague to temporarily work from home, changing their work pattern, placing them on restricted duties or working under supervision.

Suspension is normally on full pay and only for short periods of time (the period of time required to carry out an investigation and a disciplinary hearing). Suspension without pay is required in cases of alleged illegal working (see appendix 2). Managers considering suspension must contact People Services first for advice.

When suspending a colleague:

- If suspending with pay, the colleague does not have the right to be accompanied to the suspension meeting. If the suspension is without pay, the colleague must be given the right to be accompanied by a Newcastle University work colleague or trade union representative
- The manager should agree a way of keeping in touch with the colleague (e.g. contact number/address/email)
- The colleague must hand in any passes or keys in their possession
- The manager should follow up on the same day by sending a letter to the colleague to confirm the suspension
- The manager should continually review the need for suspension, allowing the colleague to return to work in the shortest time possible

Authority to suspend:

Any Manager has the authority to suspend a colleague as long as they are more senior in Managerial terms, have taken advice from People Services first, and have considered alternatives to suspension.

## **4.0 Formal Resolution**

### **4.1 Before the Disciplinary Hearing**

The colleague should be given a minimum of 5 working days' notice of the disciplinary hearing - this is to allow them enough time to prepare for the hearing and, if they wish, to arrange for someone to accompany them. A Newcastle University work colleague or trade union representative may accompany them. In very exceptional circumstances, the 5-day notice period can be reduced and if a manager thinks this is necessary, they must contact People Services for guidance first. The 5-day notice period may also be reduced if the colleague invited to a disciplinary hearing requests it. If the colleague gives prior notice that they are unable to attend the hearing on the date arranged, it will be rearranged once, usually within 5 working days.

The colleague may call witnesses to the disciplinary hearing. They must confirm this to the hearing manager in advance of the hearing and confirm they are available to attend. It is the colleague's responsibility to arrange for their witnesses to be present.

For colleagues who are Trade Union Representatives, no formal action under this procedure will be taken until the circumstances of the case have been notified to a full-time trade union officer, or their nominee, of the trade union concerned.

### **4.2 Disciplinary Hearing**

The hearing manager should be independent and, other than in exceptional circumstances e.g. right to work, should not have been involved in the investigation. A record of the hearing is made, either by a colleague in People Services or another appropriate colleague. Audio or digital recordings of meetings are not permitted. The investigation manager will not normally attend the disciplinary hearing, unless the hearing manager finds it necessary or the colleague subject to the hearing requests it.

When opening the hearing, the hearing manager should explain the alleged misconduct to the colleague, confirm if anyone is attending as a witness, and talk through the findings of the investigation. The colleague must then be given the opportunity to respond to the allegation, put forward their case, and ask questions. If the colleague is accompanied, the companion can address the meeting to put and sum up the colleague's case, ask questions and confer with the colleague during the meeting if the colleague so requests, but is not permitted to answer questions on the colleague's behalf.

If witnesses are attending the hearing, they should be invited into the hearing to give a summary of their evidence and to respond to relevant questions from either the colleague or the hearing manager. Their evidence will be recorded in the notes of the hearing. Once they have presented their evidence and there are no further questions for them, they will leave the hearing.

After listening to the evidence and the colleague's explanation of their actions, the hearing manager should adjourn the hearing to consider the evidence and decide whether disciplinary action is appropriate. This decision should be based on a thorough investigation having been undertaken and, if disciplinary action is appropriate, a

reasonable belief that the colleague committed the act of misconduct. Once a decision has been made, the manager should ideally resume the hearing or if necessary, confirm their decision in writing.

### **4.3 Disciplinary action**

In deciding the appropriate disciplinary action, the hearing manager should take into account the nature of the misconduct and the colleague's disciplinary record, general record, length of service and explanation of their actions.

If no disciplinary action is to be taken, the colleague should be informed.

If the manager decides that disciplinary action is justified, they must decide what form that should take, inform the colleague and confirm their decision in writing, setting out the details of the misconduct, the behaviour that is expected, the period for which the warning remains live; together with the colleague's right to appeal.

#### **First Written warning**

This is usually the first appropriate formal action. This informs the colleague that their behaviour has not met the expected standard, sets out the details of this and the improvement required. Notification of this warning must also explain to the colleague that whilst the written warning is live, if their behaviour does not improve to the specified standard, or there is another incident of misconduct, this could lead to a further warning.

A first written warning

- is live from the date it is issued
- remains live for 6 months

#### **Second Written Warning**

If the colleague breaches disciplinary standards whilst a first written warning is live or the misconduct is more serious, then a second written warning may be issued. The inappropriate behaviour and required improvement must be detailed and the colleague should be warned that whilst the second written warning is live if their behaviour continues to be unacceptable or there is a further incident of misconduct, it could lead to a further warning.

A second written warning

- is live from the date it is issued
- remains live for 12 months

Whilst it is live, the colleague is unsuitable to re-engage if they leave the University and they would not be eligible for any pay review or bonus payment (excluding the automatic incremental progression). It may also be taken into consideration if applying for other roles or promotion.

#### **Final written warning**

If the colleague breaches disciplinary standards whilst a second written warning is live or the misconduct is more serious, then a final written warning may be issued. The inappropriate behaviour and required improvement must be detailed and the colleague should be warned that whilst the final written warning is live if their behaviour continues to be unacceptable or there is a further incident of misconduct, it could lead to their dismissal or demotion.

A final written warning

- is live from the date it is issued
- remains live for 12 months

Whilst it is live, the colleague is unsuitable to re-engage if they leave the University and they would not be eligible for any pay review or bonus payment (excluding the automatic incremental progression). It may also be taken into consideration if applying for other roles or promotion.

## Dismissal

If the colleague breaches disciplinary standards whilst a final written warning is live, or there is an extremely serious, one-off breach of disciplinary rules (gross misconduct), the appropriate action may be dismissal. At the point of dismissal, it should be made clear to the colleague that they would not be re-employed by Newcastle University in the future. Leaving arrangements should also be clarified at this point (e.g. notice, outstanding holiday).

The dismissal will normally be with notice paid in lieu unless the act amounts to gross misconduct and warrants summary dismissal (that is dismissal without notice or pay in lieu of notice). Only in very serious cases where the behaviour amounts to gross misconduct should summary dismissal be considered (please see Appendix 1 for examples of misconduct and gross misconduct). If a colleague is summarily dismissed, they will be paid up to the date of termination and for any accrued but untaken holiday pay.

The colleague must be informed in writing of the reason for their dismissal within 10 days. The letter should include:

- the reason for dismissal
- how the decision to dismiss was reached
- the date employment ended
- the period of notice to be paid, if applicable
- the colleague's right to appeal

## Demotion

In some circumstances when the threshold for dismissal is met, the nature of the misconduct may mean it is no longer appropriate for the colleague to hold a more responsible role and therefore a colleague may be demoted. This is dependent on operational business requirements and availability. However, **the colleague's agreement is needed to take this action**. It is not possible to demote and issue a written/final written warning at the same time. It is also not possible to demote a colleague and put them back on a probationary period. Colleagues who are demoted through this procedure cannot apply for a higher-grade role for a period of 52 weeks from the date of the hearing.

If demotion is being considered, the hearing manager must consult with People Services before taking any action.

## 4.4 Appeal

Where disciplinary action is taken, the colleague has the right to appeal against the decision. They must submit the appeal in writing within 10 working days of the date the letter is received confirming the outcome. The appeal should be sent to Faculty/Service People Services Business Partner clearly stating their reasons for appeal.

Appeals will only be heard if they satisfy one or more of the following criteria:

- That there was failure to follow the procedure, which had a material impact on the outcome
- That new information has come to light that should be considered that was not available at the time of the hearing
- That the action taken was unreasonable or disproportionate to the issue.

The appeal is not a re-investigation and will only consider the grounds on which the appeal is based. Actions put in place before submission of an appeal, including notice of dismissal, remain in effect pending the outcome of the appeal.

An appeal hearing will usually be held within 15 working days of receiving the appeal.

An independent manager will be appointed 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. People Services will attend the appeal hearing in an advisory capacity.

In the case of academic colleagues, 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 colleague concerned. The panel will be supported by a member of the People Services team.

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

The manager/panel hearing the appeal may uphold, overturn, or vary the decision made at the original hearing. The appeal decision is final and there will be no further right of appeal.

## **5.0 Hate-related misconduct and sexual misconduct**

Any allegation of hate related misconduct, discrimination, sexual misconduct, or harassment will be treated seriously; anyone found to have behaved unacceptably may be subject to the full range of disciplinary action. Please refer to the Discrimination, Harassment and Hate-Related Misconduct Procedure and the Sexual Misconduct Procedure for further details.

## **6.0 Conflicts of interest or Misuse of Authority**

We understand that personal relationships at times can overlap with working relationships. However, we must protect the interests and integrity of all colleagues and students, build trust and reduce allegations of actual, perceived or potential conflicts of interests, in order to avoid issues of complaints, grievances and other formal actions between members of the University community.

Any failure to follow the [Personal Relationships at Work Policy](#) or failure to communicate personal relationships as detailed in the policy may result in disciplinary action being taken. We will not tolerate unduly favourable treatment of a colleague or student with whom another colleague has a close personal relationship. Similarly, we will not accept any harassment, victimisation or less favourable treatment of any colleague or student with whom the individual has or had a close personal relationship.

## **7.0 Fraud**

Colleagues must ensure that financial decisions are taken solely in the University's best interest. Allegations of fraud, corruption, bribery, and financial misconduct will be treated seriously.

Anyone who suspects that fraud, corruption, bribery, or financial misconduct is occurring or has occurred are required to report such instances to the Registrar. The matter will be appropriately investigated as outlined in section 2.1 of this policy. Anyone found to have committed fraud, corruption, bribery, or financial misconduct will be subject to the full range of disciplinary action, including dismissal. Legal action may also be instigated including criminal prosecution and/or civil action for the recovery of misappropriated monies.

For more information, please read the [Fraud, Corruption, Bribery and Financial Misconduct Policy and Procedure](#).

## **8.0 Criminal Acts Outside of Work**

We require colleagues to inform their line manager or a colleague in people services if they are charged or convicted of a criminal offence, which has occurred outside of work. These are not automatically treated as grounds for disciplinary action and factors such as:

- the relevance of the offence to the colleague's job;
- its effect on other colleagues or students; and
- assessment of the actual or potential damage to the University reputation will be taken into account.

Advice must be sought from People Services before any disciplinary action is taken.

## **9.0 Refusal to co-operate**

A colleague is considered to be refusing to co-operate if they fail to attend investigation meetings or hearings with no good reason. The colleague should be contacted by phone or email to establish why they did not attend, and a note must be kept of the dates, times and outcomes of any conversations. If the colleague cannot be

contacted by phone or email, a note of the date(s) and time(s) of attempts to contact the colleague should be kept by the manager.

Where the colleague has not attended an investigation meeting or disciplinary hearing, a new date and time should be arranged once, usually within 5 working days and confirmed by letter; sent by email (where possible), or by recorded delivery and first-class mail, giving at least 48 hours' notice of the new date. The letter should state that unless the colleague attends the rearranged hearing, a decision will be made on the available evidence.

If the colleague has stopped attending work due to sickness absence, the Managing Sickness Absence policy should be used to deal with their absence.

Where a colleague fails to attend a disciplinary hearing and to report their absence, the colleague should be unpaid from that day unless there are mitigating factors.

## 10.0 Resignation

If during the disciplinary process a colleague resigns, it is important that this is confirmed in writing and for the colleague to understand that Newcastle University would not normally re-employ them again in the future. The University may decide to conclude the process regardless of the colleague's resignation.

## 11.0 Associated documents

[General Principles](#)

[How to deliver an informal warning](#)

[Informal Meeting Record](#)

[How to conduct an Investigation meeting](#)

[How to write an Investigation Report](#)

[How to conduct a Disciplinary Hearing](#)

[Role of the Accompanying Person in a formal meeting](#)

[Sexual Misconduct Procedure](#)

[Hate-Related Misconduct Procedure](#)

[Probation Policy](#)

[Fraud, Corruption, Bribery and Financial Misconduct Policy and Procedure](#)

[Managing Sickness Absence procedure](#)

## 12.0 Policy Agreement

This policy has been approved following consultation with all campus trade unions. It is not part of the formal terms and conditions of employment and we may review and amend the policy from time to time.

Document Control Information		
Does this replace another policy? Yes it replaces the Disciplinary Policy, Procedure and Code of Practice		
Approval		
Approved by: People Matters Group		Date: October 2021
Effective from: 1 <sup>st</sup> December 2021		
Review date: December 2023		
Responsibilities		
Executive Sponsor: Adrienne McFarland, Executive Director for People Services		
Policy Owner: Kate Smith, People Relations and Policy Manager		
Person(s) responsible for compliance:		
Consultation		
Version	Body consulted	Date
	People Policy Forum	14 July 2020
1	People Policy Forum	17 March 2021
3	People Policy Forum	9 June 2021

3	Colleague ED&I Network Chairs	22 June 2021
3	Single Table JNC with UCU, Unite and Unison	19 <sup>th</sup> October 2021
<b>Equality, Diversity and Inclusion Analysis:</b>		
Does the policy have the potential to impact on people in a different way because of their protected characteristics?		
Initial assessment by: Kate Smith		Date: 21.7.20
Key changes as a result of Equality, Diversity and Inclusion Analysis		
<b>Document location</b>		
<a href="https://newcastle.sharepoint.com/docs/HR%20Policies/Forms/Policies.aspx">https://newcastle.sharepoint.com/docs/HR%20Policies/Forms/Policies.aspx</a>		



## **APPENDIX 1 – STANDARDS OF BEHAVIOUR**

### **Misconduct**

We can't list every type of misconduct that could result in an informal discussion, a formal warning or dismissal. Examples could include, but aren't limited to:

- Failing to follow University policies or procedures
- Being uncooperative or disrespectful towards colleagues, students or third parties
- Engaging in unauthorised activity that stops you completing your role
- 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
- Poor time keeping or attendance
- Unauthorised absence
- Refusing to follow a reasonable management request
- Bringing the University into disrepute
- Abusive or offensive language
- Abuse of University property or merchandise

### **Gross Misconduct**

Some instances of misconduct might be very serious, cause serious damage or cause the University to fundamentally lose trust and confidence in the colleague. Any act of gross misconduct may lead to summary dismissal, that is dismissal without notice or payment in lieu of notice.

For example:

- Dishonest behaviour – theft; 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.
- Fraudulent acts with the intention of obtaining money, assets or services (including falsification of records and false claims for pay)
- Harassment, bullying or discrimination including via social media sites
- Serious breaches of Health & Safety rules
- Being under the influence of alcohol/drugs, or in possession of illegal drugs or other controlled substances at work
- Physical acts of aggression or violence toward colleagues, students or third parties
- Unauthorised disclosure of confidential, internal University or University sensitive information
- Unauthorised use or removal of university property
- Criminal activity outside of work
- Failure to disclose criminal acts committed outside of work that are relevant to employment
- Serious breaches of data protection
- Breach of confidence
- Misuse of power or authority

This isn't an exhaustive list.

## APPENDIX 2: PREVENTION OF ILLEGAL WORKERS

The aim of this guidance is to prevent illegal working within the University.

<b>1. Prior to Visa Expiry:</b> Where possible, the University will:	✓
Remind colleagues that do not have an indefinite right to work in the UK that their visa is due to expire	
Highlight the obligations upon such colleagues with regard to their visa arrangements, as appropriate	
Inform colleagues of their obligations with regard to their visa arrangements, as appropriate	
<b>2. Following Visa Expiry</b>	✓
<b>It is the colleague's responsibility to renew their visa prior to it expiring.</b>	
If the University has reason to believe that the colleague has not applied to extend their visa, applied for settlement or does not have any lawful reason to work in the UK, an investigation will be initiated.	
The day following the expiry of the colleague's visa, the colleague will be invited to a disciplinary investigation meeting to discuss their ongoing right to work in the UK. The meeting will be conducted by an investigating officer.	
The colleague will be suspended immediately without pay so any necessary investigation can be completed. Please refer to section 2.2 of the disciplinary policy for further information	
The colleague must not carry out any work until such time as eligibility to work in the UK is evidenced	
<b>3. Investigation</b>	✓
An investigation will be carried out as per the principles of section 2.0 of the disciplinary policy, however, timescales will be expedited.	
<b>4. Disciplinary hearing and outcomes</b>	✓
A Disciplinary hearing will be carried out as per sections 4.0 of the disciplinary policy, however, timescales will be expedited and in these circumstances, the investigating manager may also be the disciplinary hearing manager	
In cases of potential illegal working, the colleague will receive reasonable notice of the hearing and will be expected to attend.	
If the colleague does not attend the hearing and does not contact the manager beforehand to advise them, they cannot attend, the hearing may be held in their absence and a decision made.	
If it is found that the colleague does not have the right to work in the UK, or cannot evidence that they have the right to work in the UK, the University will dismiss the colleague immediately, without notice.	
The decision will be confirmed in writing as soon as possible and no longer than 10 working days from the date of the hearing or reconvened hearing and a copy will be placed on the colleague's SAP file.	
The colleague has the right to appeal against an illegal working dismissal. See section 4.4 of the disciplinary policy	