



Human Resources

STAFF DISCIPLINARY POLICY

The University promotes high standards of conduct and behaviour for all employees.

This policy outlines the procedures in place for dealing with issues of misconduct (including gross misconduct) in a fair and consistent manner.

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1 Purpose and Scope

- 1.1 This policy is designed to help and encourage all employees to achieve and maintain appropriate and acceptable standards of conduct. The aim is to ensure consistent and fair treatment for all.
- 1.2 The policy applies to all employees. In the case of the Vice Chancellor and Chief Executive, the Clerk to the Governors and any other holders of senior posts appointed by the Board of Governors, and in accordance with the University's Articles of Government, only the Board of Governors shall deal with the suspension, discipline or dismissal of such staff.
- 1.3 The policy is not contractual, but is intended as a statement of current University policy and its commitment to operate a fair procedure in relation to all its employees, taking account of the current ACAS Code of Practice on Disciplinary and Grievance Procedures and associated guidance. The University therefore reserves the right to amend this procedure as necessary to meet any changing requirements or where it is appropriate in any particular case.
- 1.4 The policy deals with issues of misconduct (including gross misconduct) only. Poor performance is covered by the University's separate Performance Improvement Procedure. It is recognised that in some circumstances, an incident could amount to both misconduct and poor performance. The University will, in its absolute discretion, determine which policy should apply in any given case.
- 1.5 This policy will also not normally apply in cases of misconduct during the course of an employee's probationary period, save for when such conduct may amount to gross misconduct. Matters of misconduct during the course of an employee's probationary period will be dealt with in accordance with the University's Probationary Procedure.
- 1.6 All stages of the disciplinary procedure shall be kept confidential, including by the employee concerned and any associated witnesses, except in so far as disclosure of information is necessary to enable a full investigation to be carried out, and save that the employee's manager(s) will be made aware of allegations and sanction(s) as appropriate.
- 1.7 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this policy without the express permission of all parties in attendance. Failure to abide by this may in itself be treated as an act of gross misconduct.

2 Standards of Conduct

- 2.1 All employees are expected to abide by the University's Standards of Conduct. Failure to do so may be regarded as misconduct. The Standards of Conduct are provided to all employees at the point of

commencing employment and they are available on the intranet [<https://www2.worc.ac.uk/personnel/688.htm>].

3 Informal discussion

- 3.1 In general, minor cases of misconduct may initially be brought to the employee's attention by informal advice, coaching and counselling rather than through the disciplinary procedure. Such advice, coaching or counselling is not part of the formal disciplinary procedure.
- 3.2 Depending on the severity and nature of the misconduct identified, initially this may take the format of a standard management discussion (for example, the manager seeking to address the matter during a scheduled 1:1 meeting with the employee concerned). Such a conversation may not necessarily be documented.
- 3.3 However, if in the line manager's view the misconduct is slightly more serious, but not so serious that an informal discussion is not still appropriate, or a repeated event occurs, a documented management conversation may be needed. Where the documented management conversation is used the employee will be told before the meeting of the nature of the misconduct or concern which the manager wishes to discuss with them. During the meeting, the manager will discuss:
- a) any potential reasons for the misconduct or concern occurring,
 - b) the corrective response expected; and
 - c) the time scale that may apply.

The employee should also be informed that any repeated occurrences of a similar nature may result in the instigation of the formal disciplinary procedure. There should be a written record of the events and actions, and a note made of any potential mitigating circumstances raised by the employee concerned. Copies of this written record (usually in the form of a letter or email from the manager to the employee) should be held by the manager involved in the discussions, by the employee concerned and by Human Resources in case misconduct issues of a similar nature should be repeated. In response, the employee will be asked to confirm that they understood the matters discussed and any actions confirmed in terms of the corrective response required.

4 Investigations

- 4.1 In circumstances where there is a case of alleged repeated misconduct that has previously been addressed through the informal discussion detailed above, or where there is misconduct of such seriousness that the informal procedure is not appropriate, the alleged misconduct will be investigated and the Human Resources Team will usually appoint an Investigating Officer to carry out the investigation. The Investigating Officer will not usually be the direct line manager. It will be the responsibility of the line manager to ensure that any requests for an investigation to commence are notified to the Human Resources Team in a timely

manner and as soon as possible after the alleged misconduct being identified. The management and coordination of the investigation process will be supported by a member of the HR team. The extent of investigation required will depend on the nature of the allegations and will vary from case to case. It may include taking statements from appropriate and available witnesses. The Investigating Officer will determine the necessary extent of the investigation process.

- 4.2 All relevant parties must co-operate fully and promptly in any investigation. This will include informing the University of the names of any witnesses they deem to be relevant to the matters to be investigated, disclosing any relevant documents to the University and attending investigative interviews if required. Any individual (including witnesses) believed to have wilfully provided a false or inaccurate account of events during a disciplinary process, may be subject to an investigation for alleged misconduct or gross misconduct in accordance with this procedure.
- 4.3 An employee does not have the right to be accompanied at any informal meeting/s under this procedure (see Section 3 above) however, at their request, they may be accompanied by a Trade Union representative or work colleague during any disciplinary investigation process.
- 4.4 Having investigated the matter, the Investigating Officer will decide either:
- a) that no further action is required; or
 - b) to recommend that the matter is dealt with by informal coaching or counselling; or,
 - c) there is a case to answer under the formal stages of this disciplinary procedure (see Section 6 below).

Their findings and conclusions will be detailed in a written report.

5 Suspension

- 5.1 Where the University considers it to be necessary to protect the investigation, employees or other persons or the business of the University, an employee may be suspended from work on full pay whilst the University investigates the alleged offence.
- 5.2 Suspension in these circumstances is not considered to be disciplinary action and does not imply that any decision has already been made about the allegations.
- 5.3 The Vice Chancellor and Chief Executive has delegated the authority to suspend under this procedure, and such decisions will normally be taken by a Director or Head of School, with advice from HR.
- 5.4 Where practicable, the employee will be informed in person of the decision to suspend them and the suspension will be confirmed in writing as soon as reasonably practicable. The employee will cease work immediately on being informed of their suspension.

5.5 During the period of suspension, the employee may be refused access to the University's premises, IT network or contact with the University's employees without the prior consent of the University and subject to such conditions as the University may impose. Such suspension will only be imposed after careful consideration and will be reviewed regularly to ensure that it is not unnecessarily protracted.

6 The Formal Procedure

6.1 The University will ensure that the employee is advised of the nature of the complaint against them prior to any disciplinary hearing under the formal procedure below and the employee will be given the opportunity to state their case before any decision is made. No sanction will be issued without the employee having first been invited to a hearing.

6.2 The employee will be provided with written notice of the date, time and place of the disciplinary hearing, with usually no less than 5 working days' notice provided. In advance of a disciplinary hearing, the employee will be provided with written copies of any evidence, which may include witness statements, where appropriate, and confirmation of all parties who will be present. The employee will be informed of their right to be accompanied to any disciplinary hearings by a work colleague or a representative of their trade union (if any).

6.3 Employees must make every effort to attend any hearing arranged under this procedure. Failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or being unable to attend on more than one occasion (for example for health reasons), may result in the University taking a decision based on the available evidence in the employee's absence. Where health reasons have prevented an employee's attendance at the first scheduled hearing, the University will seek to ensure that all reasonable steps are taken and adjustments made in order to facilitate the individual's attendance at any rescheduled hearing. In circumstances where this is not possible, a decision will be taken in the employee's absence where necessary.

6.4 No employee will be dismissed for a first single breach of discipline except in the case of serious or gross misconduct when the sanction may be dismissal without notice (or pay in lieu of notice) depending on the circumstances. Before imposing any disciplinary sanction, relevant factors will be considered including the extent to which standards have been breached, the strength and relevance of any mitigation offered by the employee, the employee's general record, position and length of service and any special circumstances which might make it appropriate to adjust the severity of the sanction.

Right to be accompanied:

6.5 At their request for investigation meetings but at all formal disciplinary hearings, the employee will have the right to be accompanied by a work colleague of their choice or a trade union representative/official. There is no right to legal representation at any University meetings or hearings.

- 6.6 The employee must tell the University who their chosen companion is in good time before the hearing and within the timescales specified in the hearing invitation letter. The chosen companion may address the disciplinary hearing on the employee's behalf and may confer with the employee during the hearing, but is not permitted to answer questions on the employee's behalf.
- 6.7 If the employee's choice of companion is not available to attend at the time proposed for the disciplinary hearing in question, then they may propose several alternative times for the hearing to take place. The proposed alternative times must be reasonable (e.g. other proposed attendees must be available) and must be within five working days of the initial date of the hearing. All parties should be as flexible and accommodating as possible in order to allow the hearing to take place on one of the suggested alternative dates identified. If the employee is unable to provide an alternative time to take place within five working days of the initial date for the hearing however, or if the alternative time is not reasonable (for example, if other proposed attendees are not available at that time despite all reasonable efforts to do so), the hearing will either take place on the initial proposed date or on another date of the University's choosing.
- 6.8 If a disciplinary investigation is commenced in respect of any allegations against an accredited trade union representative, the University will discuss with that employee whether they are happy for the University to discuss the matter with an official employed by the relevant trade union.

Disciplinary hearings:

- 6.9 Disciplinary hearings will be heard by an employee of the University who is a manager but not necessarily the immediate line manager of the employee concerned and, preferably, not the immediate line manager of the person initiating any complaint which has resulted in the application of this disciplinary process, although this may not always be reasonably practicable.
- 6.10 Where a potential outcome of the hearing is dismissal, the hearing manager will be nominated by the Vice Chancellor and Chief Executive to act on their delegated authority when determining any appropriate disciplinary sanction. If the individual who is subject to disciplinary action potentially leading to dismissal is employed as a Pro Vice Chancellor, Deputy Pro Vice Chancellor, Head of School or Director/Head of a Professional Support area, in accordance with the University's Articles of Government and Schedule of Delegation, the hearing will be considered by a panel, normally comprised of three individuals, nominated by the Vice Chancellor and Chief Executive to act on their delegated authority. The Vice Chancellor and Chief Executive may, on occasion, be a member of the panel.
- 6.11 The following principles apply to disciplinary hearings:
- 6.11.1 The employee will be invited in writing to attend, with usually no less than 5 working days' notice provided, and will be informed of their right to be accompanied by their chosen companion should they wish to be.

- 6.11.2 The management and coordination of the disciplinary hearing process will be supported by a member of the HR team.
- 6.11.3 The employee will be advised of a date before the disciplinary hearing and by which they need to have confirmed:
- their intention to be present;
 - the name of the person accompanying them and in what capacity they are doing so;
 - the name of any witnesses they wish to call;
 - copies of any written evidence they wish to submit.
- 6.11.4 The employee shall normally receive at least five working days before the disciplinary hearing, the names of any witnesses to be called by the University and any written evidence to be presented at the hearing.
- 6.11.5 At the disciplinary hearing the hearing manager (or Chair in the case of a panel) will:
- explain the purpose and format of the hearing;
 - hear the management case, presented by the Investigating Officer, which is likely to include details of the evidence that has been gathered and hearing from witnesses if deemed appropriate;
 - invite the employee and/or their companion to state the employee's case, and present evidence;
 - invite any further questions, explanations or discussion, giving the person presenting the University case and the person making the complaint (if relevant) a final opportunity to summarise the case (but not introduce new material) and then the employee and/or their companion a final opportunity to summarise the employee's case (but not introduce new material);
 - adjourn before a decision is taken.

- 6.12 The employee will be notified of the decision in writing as soon as practicable, with reasons for the decision. If a disciplinary sanction is imposed, the employee will be informed of their right to appeal (see Section 9 below).

Disciplinary sanctions

- 6.13 Where it is determined that a formal disciplinary sanction will be imposed, the following sanctions may be applied:

6.13.1 STAGE 1: WRITTEN WARNING

- (i) If their conduct does not meet the University's acceptable standards, in the first instance the employee will normally be given a written warning.
- (ii) This will state:
- the reasons for the warning;
 - that future misconduct during the period to which the warning applies could result in further disciplinary action;
 - the duration of the written warning, normally twelve months (although a longer or shorter period may be imposed at the time that the warning is given), after which it will normally be disregarded for future disciplinary purposes;
 - the right of appeal, to whom this should be made and by when.

6.13.2 STAGE 2: FINAL WRITTEN WARNING

- (i) If the employee has a live written warning on file and is found to have committed a further act of misconduct during the timeframe for which that previous warning was live, or if the misconduct is sufficiently serious to warrant only one written warning but is not serious enough to justify dismissal, the employee will normally be given a final written warning.
- (ii) This will state:
- the reasons for the warning;
 - that future misconduct during the period to which the warning applies could result in further disciplinary action, including potentially dismissal;
 - the duration of the final written warning; which will normally be twelve months (or any longer period explained to the employee at the time that the warning is given), after which it will normally be disregarded for future disciplinary purposes;
 - the right of appeal, to whom this should be made and by when.

6.13.3 STAGE 3: DISMISSAL

- (i) If the employee has a live final written warning on file and further misconduct of any kind occurs during the timeframe for which that previous warning was live, or if the employee has a live first written warning on file and the misconduct is sufficiently serious to warrant only one written warning prior to dismissal, or if the employee commits an act of serious or gross misconduct (see Section 7), they will normally be dismissed.

(ii) Where the decision is taken to dismiss the employee, written confirmation of the dismissal will be given as soon as reasonably practicable, setting out:

- the reasons for the dismissal;
- the date on which employment will terminate;
- the amount of notice / pay in lieu of notice (if any);
- the right of appeal, to whom this should be made and by when.

7 Gross Misconduct

7.1 Gross misconduct is misconduct that is so serious as to justify summary dismissal without notice.

7.2 The following list provides examples of offences which will normally be regarded by the University as acts of gross misconduct. This list is not exhaustive:

- serious or gross negligence which causes or had the potential to cause unacceptable loss, damage or injury;
- wilful refusal to carry out a reasonable properly authorised instruction;
- deliberately causing damage to University property;
- harming, or endangering, other persons or property, for example by violating safety rules;
- aggressive or abusive behaviour (including violent or offensive language, and including behaviour in person or through emails/social media);
- physical, verbal or psychological bullying of any type (both in person or through emails/social media);
- fighting, assaulting another person or other physical violence;
- theft or unauthorised private use of University property;
- fraudulent practices in connection with their official duties (e.g. deliberately falsifying University documents, claims for payment, academic plagiarism etc) or other acts of dishonesty;
- acts that bring, or have the potential to bring, the University into disrepute;
- an act involving bribery or corruption;
- any act of discrimination, victimisation or harassment (both in person or through emails/social media), including sexual harassment and/or sexual misconduct;
- entering into a sexual or intimate relationship (or repeated relationships) with current or potential students of the University;
- being unable to carry out University duties due to being under the influence of alcohol or due to the abuse of drugs, including those deemed illegal;
- smoking in University vehicles, in or within less than the legally required distance from University buildings or on University premises other than in designated smoking areas;

- any breach of security in respect of information or procedures;
- electronic recording of internal University meetings or conversations without express permission;
- unauthorised computer use or access and/or misuse of e-mail or of the internet (including downloading or transmission of material which is defamatory, offensive or obscene, malicious, sexist, racist or discriminatory against any other protected characteristic, or protected copyright material);
- wilful absence without authorisation or just cause;
- breach of confidentiality (including a failure to maintain confidentiality in an investigation as required by the University) but subject to the Public Interest Disclosure Act 1998;
- being convicted of a serious criminal offence (whether committed during the course of the employee's employment or not);
- serious breach of the University's Data Protection Policy or actions that may be deemed negligent under the University's Information Security Policy.

7.3 The normal sanction for acts of gross misconduct is dismissal without notice.

8 Criminal allegations

8.1 Where an employee's conduct is the subject of a criminal investigation, charge or conviction the University will conduct its own investigation process before deciding whether to take formal disciplinary action. Where there is an impact on or relevance to the employee's employment, the University will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the University 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 the University considers that it is relevant to the employee's employment.

9 Appeals against disciplinary sanctions

9.1 All employees have the right to appeal against any disciplinary decision (including dismissal) made by the University.

9.2 Grounds for appeal could include:

- potential procedural failings which affect the merits of the case;
- the issuing of a disciplinary sanction that is perceived to be disproportionate; or,
- new information that has come to light and that is potentially relevant to the case in hand.

9.3 Any appeal should be put in writing, stating the reason for the appeal, and submitted within five working days of receipt of the warning or notice of termination of employment. The person to whom the appeal must be submitted will be confirmed in the letter confirming the warning / dismissal.

- 9.4 The appeal must:
- state the grounds (basis) for the appeal;
 - confirm the names of any witnesses that the appellant may wish to attend the hearing; and
 - be accompanied by any written evidence the appellant wishes to submit.
- 9.5 The employee must confirm the name of the person accompanying them, and in what capacity they are doing so, in good time before the appeal hearing and within the timescales specified in the appeal hearing invite letter.
- 9.6 The appeal hearing manager, nominated by the Vice-Chancellor and Chief Executive to act on their delegated authority, will be an employee of the University in a managerial position who has not had any direct involvement in the preceding investigation or disciplinary hearing and who is at least of equivalent seniority to the disciplinary hearing manager. Where the appeal is against the dismissal of an individual who was employed as a Pro Vice Chancellor, Deputy Pro Vice Chancellor, Head of School or Director/Head of a Professional Support area, in accordance with the University's Articles of Government the appeal will be heard by the Vice Chancellor and Chief Executive or Deputy Vice Chancellor and Provost (acting on the Vice-Chancellor and Chief Executive's delegated authority). In the event that the Vice Chancellor and Chief Executive was a member of the disciplinary panel, the right of appeal will be to a panel, normally of three, independent or co-opted members of the Board of Governors, as nominated by the Chair of the Board of Governors.
- 9.7 The management and coordination of the appeal hearing process will be supported by a member of the HR team.
- 9.8 The employee will be given written notice of the date, time and place of the appeal hearing within ten working days of receipt of the appeal. The names of any witnesses to be called and copies of any written evidence to be presented will be sent to the appellant normally five working days before the date set for the appeal. The disciplinary hearing manager, or a representative of the disciplinary hearing panel, will be in attendance to present the rationale for the original disciplinary sanction issued and to answer questions, as appropriate, from both the appellant and the appeal hearing manager. Any papers relating to the appeal will be shared with all parties who are to be present at the appeal hearing, except for in the case of any witnesses called.
- 9.9 At the appeal hearing any disciplinary sanction imposed will be reviewed.
- 9.10 Should the outcome of the appeal be to overturn the employee's dismissal, the employee shall receive backdated pay to cover the period between their dismissal and their reinstatement. If the employee is re-engaged in a different role, any back-pay will be based on the rate of pay in the new role. Please note that,

unless and until the employee successfully appeals the decision to dismiss them, the dismissal shall remain valid.

9.11 The decision of the appeal hearing panel will be final.

10 Data Protection

10.1 All personal data shared in relation to a case heard under this procedure and during associated investigations will be managed in accordance with the University's Data Protection Policy and Privacy Notices. Requests for copies of reports and correspondence arising out of the process may be made by the relevant data subject but consideration will be given to the rights of third parties and their data redacted accordingly where appropriate.

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