|  |  |  |
| --- | --- | --- |
| Version number: | 01 |  |
| Policy owner: | Chief Human Resources Officer |
| Effective date: | 01/01/2022 |
| Review date: | 31/01/2025 |

Disciplinary Policy and Procedure 2022-25

#### 

#### Introduction

##### The University aims to ensure that there will be a fair and systematic approach to the maintenance of standards of conduct affecting all staff within the University.

##### The aim of the Disciplinary Policy and Procedure is to help to maintain the required standards of conduct, behaviour and attendance throughout the University, and to ensure that any disciplinary action is applied consistently and fairly.

##### The University expects all staff to follow University policies, procedures and ‘rules’ at all times and to behave appropriately, in line with all of the University’s rules, policies and procedures.

##### All staff are expected to carry out their job to the standards of their role and to clarify expectations, behaviours and rules with their line manager if they are unsure about them.

##### Training will help managers and staff to achieve positive outcomes, reducing the need for disciplinary action. Those responsible for using and operating the disciplinary procedure should attend training, available via the University’s professional development programme. Ignoring or circumventing the Disciplinary Policy and Procedure when dealing with disciplinary matters is likely to have a bearing on the outcome of any actions taken.

#### Applicability

##### This policy and procedure apply to all full-time and part-time employees, regardless of length of service.

##### This policy and procedure do not form part of an employee’s contract of employment and may be amended at any time.

#### Disciplinary Policy and Procedure

##### The Disciplinary Policy and Procedure is based on some general principles as outlined:

###### No disciplinary action will be taken against an employee until the facts surrounding any alleged incident have been properly and thoroughly established and investigated.

###### At all formal stages of the procedure, an employee can be accompanied by a work colleague or a representative of a recognised trade union, e.g. Unison or UCU.

###### At all stages, employees will be treated with courtesy and respect and the procedure will be conducted without prejudice to the final decision.

###### The person conducting a disciplinary hearing must not have had any direct involvement with the specific allegations of the case or the detailed process of investigation.

###### At all stages, action taken in this procedure should consider equality and diversity and should not discriminate or contravene the University’s Equality, Diversity and Inclusivity policies.

###### All disciplinary matters will be treated with due confidentiality.

#### Scope of the Disciplinary Procedure

##### The Disciplinary procedure covers the Informal Procedure and the Formal Procedure.

##### The categories of conduct warranting disciplinary action fall into two categories:

##### Misconduct (evidence of unacceptable or improper behaviour)

##### Gross misconduct (serious acts of misconduct or behaviour)

##### Further details are outlined in **Appendix A** and **Appendix B**.

#### Responsibilities

##### Managers have an obligation to fully investigate complaints, allegations or problems relating to performance or conduct promptly and thoroughly. No disciplinary action will be taken against a member of staff until the situation has been fully investigated to establish the facts.

##### Managers have a responsibility to set an example to all staff through their own conduct and behaviour, to reinforce clear standards for the conduct of all staff they manage, and to provide appropriate support, encouragement and feedback to their staff.

##### At every stage of the procedure the member of staff will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her own case before any decision is made.

##### **Managers** are responsible for ensuring that:

##### All staff are aware of the Disciplinary Policy and Procedure.

##### Disciplinary issues are dealt with as soon as they become apparent.

##### Guidance is sought from Human Resources where there is a possibility of formal action being taken.

##### All staff should conduct themselves in an appropriate manner in their day to day work, including in their dealings with colleagues, students, visitors, contractors, consultants and external organisations. Wherever possible the University will seek to deal with issues on an informal basis, however, where an issue cannot be resolved informally then it may be pursued formally.

##### **All staff** are responsible for ensuring that:

##### They engage with and adhere to the policies and procedures.

##### They conduct themselves in an appropriate manner in their day to day work and familiarise themselves with those University policies and guidance which set out expected standards of behaviour, e.g. Dignity at Work Policy, Capability Policy, Employee Handbook, Equality, Diversity and Inclusivity Policies.

##### They co-operate fully and promptly when any concerns relating to conduct are raised by their manager.

#### Informal procedure

##### In cases of minor misconduct or unsatisfactory performance this is usually best dealt with informally and may often be a more satisfactory method of resolving problems than a formal disciplinary process. Action taken in these circumstances should include a discussion with the individual with the objective of encouraging and helping the member of staff to improve.

##### Discussions should be held in private and without undue delay whenever there is cause for concern to enable to the employee to improve their conduct. It may be identified that additional training, coaching, mentoring or advice may be helpful. Managers will give reasonable and appropriate guidance to help the employee improve their conduct.

##### The member of staff should fully understand the outcome of an informal meeting and should be clear about the steps they need to take to meet the standards expected of them. Where required, there should be clarity that the formal procedure may start if there is no improvement in conduct or if any improvement fails to be maintained.

#### Formal procedure

##### The formal procedure should be used in the following circumstances:

##### Where information becomes available which seems sufficiently serious to warrant further investigation under the Disciplinary Policy and Procedure.

##### Where an incident has occurred in terms of behaviour, which appears to warrant a disciplinary investigation rather than the Capability Policy and Procedure. In these instances, suspension may also be considered.

##### Where standards of performance or conduct of an employee falls outside acceptable limits and, if either informal discussion has failed to result in the necessary improvement(s), or the matter in question is of a more serious nature.

##### Where formal disciplinary action is being considered, it is the responsibility of the manager to involve a representative from the Human Resources Department at the earliest opportunity, including the investigatory stage.

##### 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.

##### Entry into the formal procedure may be at any stage if the employee's alleged misconduct is serious enough to warrant such action. In exceptional circumstances, for example where serious or gross misconduct is alleged, a final warning or dismissal may be given on the first occasion without recourse to previous stages.

##### There are three stages to the formal disciplinary procedure:

###### **Formal Stage One – Investigation:** this involves an investigation into the alleged misconduct to establish whether there is a case to answer and/or evidence.

###### **Formal Stage Two – 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.

###### **Formal Stage Three – Right of Appeal:** employees have the right of appeal against any disciplinary action taken.

#### Representation

##### At all formal meetings held as part of the formal Disciplinary policy, employees may wish to be accompanied by a Trade Union representative or workplace colleague.

##### When arrangements for meetings are confirmed, employees are responsible for notifying their chosen representative of the arrangements, and notifying the Investigating Manager of the name of the person accompanying them in advance of the formal meeting. The post holder should advise whether the Investigating manager should copy the post holder’s representative into all the relevant documentation.

#### 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.

#### Suspension from duty

##### In serious or exceptional circumstances, it may be appropriate for the employee to be removed from the workplace to enable an investigation to take place, to reduce possible tension, or where the alleged misconduct represents a potential risk to students or staff.

##### Any suspension should take place as soon as possible after the alleged incident has occurred and must be agreed in advance by the Vice-Chancellor. A suspension can only be imposed (and lifted) in writing.

##### The Vice-Chancellor may suspend from duty, with pay, any member of the staff for alleged misconduct or other good and urgent cause (other than a member of Designated staff, i.e. member of the Vice-Chancellor’s Group). Suspension will normally be necessary on the following grounds:

##### Where a serious incident has occurred involving an actual physical assault or the verbal threat of assault.

##### Where the allegations may be of a criminal nature e.g. theft or fraud.

##### Where there are reasonable grounds that the continuing presence of the individual in the workplace may inhibit the effectiveness of an investigation.

##### Where the continuing presence of the individual in the workplace may be deemed to be detrimental to workplace relations in the short term.

##### For some other substantial and urgent reason.

##### Suspension will not be undertaken precipitately or lightly and alternatives to suspension, such as temporary re-deployment, should be considered.

##### The Chair of the Board of Governors or, in the absence of the Chair, the Deputy Chair, may suspend from duty, with pay, a member of the Designated Staff for alleged misconduct or other good and urgent cause. The Chair or Deputy Chair shall report such suspension in writing to the Board of Governors within two working days or as soon thereafter as practicable.

##### Anyone who is suspended from duty shall be entitled to receive from the Chief Human Resources Officer, or in the case of a member of the Designated Staff, from the Chair or Deputy Chair of the Board of Governors, written notification of the suspension, setting out the reasons and grounds on which the decision to suspend has been taken.

##### It must be stressed both verbally and in writing that suspension is not a form of disciplinary action, a pre-judgement of guilt but a neutral act with no presumption of guilt, which will be made to enable a fair investigation to take place.

##### During any period of suspension, a named manager will be allocated as the employee's University contact. The employee must make themselves available during this period for the University to contact during working hours and to remain available to attend meetings.

##### Depending on the circumstances involved, the employee may be advised not to contact with their work colleagues during the period of suspension.

##### Suspension will be as brief as possible and will be reviewed on a regular basis during the period of the investigation. Pay and terms and conditions of employment will continue during a period of suspension.

#### Grievances during a disciplinary case

##### Where an employee has concerns regarding the reasons for a disciplinary investigation and/or hearing, this will be dealt with as part of the disciplinary hearing. Concerns should be raised to the Hearing Manager who will consider the representations.

##### An employee may not raise a grievance purely because the University has decided to take disciplinary action against them. Where an employee has raised a grievance during the disciplinary procedure both the disciplinary and grievance processes will run concurrently. Alternatively, the Chair of the disciplinary panel may deem it appropriate to temporarily suspend proceedings pending the outcome of the grievance in order to safeguard the fairness of the process.

##### Where an employee is involved in vexatious claims this may result in disciplinary action being taken against them.

#### Criminal offences outside employment

##### There is no automatic application of the Disciplinary Policy if an employee becomes the subject of police enquiries or charges or cautions relating to a criminal offence outside employment or if they are absent from work because they have been remanded in custody, however:

##### A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is reasonably considered relevant to employment. Where the charge or conviction is such as to affect, or be likely to affect the suitability of the employee for the position in which they are employed and will seriously undermine the University’s trust and confidence in the employee, the disciplinary procedure will be applied. It will not usually be reasonable or appropriate to wait for the outcome of any prosecution before deciding what action, if any, to take.

##### In determining whether or not it is appropriate to apply the Disciplinary Procedure in this context, managers must discuss the matter with the Chief Human Resources Officer and/or a member of the Vice-Chancellor’s Group.

#### Confidentiality

##### Employees who are tasked with managing disciplinary hearings and appeals should maintain total confidentiality and cases should not be discussed with anyone other than Human Resources and those employees who are involved.

#### Formal Stage One – Investigation

##### Prior to any disciplinary action being taken, a prompt and thorough investigation must take place to establish the circumstances and a balanced view of the facts in order to decide whether further action is necessary.

##### Employees will be advised of the nature of the complaint(s) or allegation(s) against them in writing and will be given an opportunity to make a statement both verbally and in writing to the person conducting the investigation.

##### Although at this stage all the facts regarding the complaint may not be completely clear, the individual should be given as much specific information regarding the complaint(s) or allegation(s) as is possible.

##### The investigation must be completed as promptly as possible, before recollections fade. As a guide, this should be within 3 and 15 working days dependent upon the complexity of the case. In exceptional cases, the process of investigation may inevitably take longer. The investigation must be reasonable and thorough rather than exhaustive. The investigating manager will ensure that parties are kept informed of timeframes.

##### The post holder may wish to be supported at investigation meeting(s) by their trade union representative or a work colleague. The post holder should advise whether the investigating manager should copy the post holder’s representative into all the relevant documentation. In circumstances where a disciplinary investigation meeting has been arranged but the trade union representative or work colleague is unable to attend the proposed meeting, the meeting may be postponed if the employee can offer an alternative date and time which is reasonable and falls within five working days after the day on which the original meeting was proposed, unless another timeframe is agreed.

##### Investigative interviews are solely for the purpose of fact finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Managers will decide how and by whom the investigation will be conducted, in consultation with Human Resources.

##### A manager in the same area/department may undertake the investigation, or a manager outside the department/area, depending on the circumstances and where there is no prospect of a conflict of interest.

##### The investigating manager appointed will normally have previous experience of carrying out investigations relating to disciplinary, grievance or capability issues. A Human Resources Officer will be assigned to work with the investigating manager to advise on process and to take relevant notes.

##### Notes of the investigation and any subsequent witness meetings do not have to be verbatim but should reflect the key issues/points discussed so that they can be referred to later in the investigation for clarification. Notes taken at meetings will be sent to the employee/witnesses to agree content.

##### Neither the investigating manager nor an employee can insist on making an electronic recording of any meeting/interview. The covert recording of such meetings is forbidden and if undertaken will be considered as an act of misconduct. Disciplinary action will be taken where illicit recording has taken place.

##### Save in exceptional circumstances, the investigation will always include an interview with the member of staff concerned as well as other relevant witnesses. Every effort should be made to attend investigation meetings as arranged. Effort will be made to arrange meetings which are mutually acceptable, wherever possible. Where the post holder is persistently unable or unwilling to attend a formal meeting, the investigating manager will continue to investigate the grievance and will make decisions based on the evidence available, and the post holder will be informed that this is the case.

##### Where a post holder is absent from work due to sickness absence, every effort will be made to ensure the post holder is able to participate in the investigation meeting under the disciplinary procedure. This might include rearranging an investigation meeting, inviting further representation in writing or asking the post holder to participate online, rather than in a face-to-face meeting. Wherever possible, the post holder will be provided with a further opportunity to participate in the investigation within the investigation timeframe prior to the investigation outcomes being confirmed.

##### The facts should be summarised by the investigating manager in a written report, to which any relevant information should be attached. The report will be submitted to the Head or Director of Department/Institute, or the next line manager up if the Head or Director of Department/Institute is involved in the investigation, who will decide what to action to take.

##### Where it is felt that formal disciplinary action is needed, the outcomes should be discussed with the Chief Human Resources Officer or a Human Resources Manager who will arrange for a disciplinary hearing to take place.

##### Three courses of action will be open:

##### To decide that there is no substance to the allegation and/or insufficient evidence and the matter may be closed. The Head or Director of Department/Institute will confirm the outcome to the employee.

##### To decide that there is substance to the allegation but that the matter should be handled by advice, counselling, mediation, or training and development. The Head of Department will arrange a meeting with the employee to discuss and confirm the outcomes.

##### To decide that there is substance to the allegation and that a disciplinary hearing must be convened. Human Resources will write to the employee to confirm the details of the hearing.

##### The outcomes of the investigation will be communicated to the post holder in writing (as indicated in points 1-3) without unreasonable delay and as soon as is reasonably practicable, usually within 7 calendar days after the meeting, unless an alternative timeframe is agreed. The written notice should include details of the arrangements the post holder should follow.

#### Formal Stage Two – Disciplinary Hearing

##### The manager conducting the meeting or 'hearing' will be different to the person who carried out the investigation. Prior to the hearing taking place, the details will be confirmed in writing outlining:

##### The date, time and place of the hearing and the name(s) and job title(s) of those who will hear the case.

##### The name of the Human Resources Officer or designated note-taker who will attend to take a record of the meeting.

##### The issues or allegations to be discussed. A copy of the investigation outcomes will normally be enclosed with the letter.

##### Where possible details of the evidence and the names of any witnesses to be called to support the University's case.

##### That he/she is entitled to be accompanied by a trade union representative or a workplace colleague.

##### That the employee is entitled to call witnesses in support of their case, where appropriate.

##### The possible outcomes of the hearing.

##### A provision for any reasonable adjustments to accommodate the needs of a person with a disability should be considered. For an employee with a special requirement or who may need support, reasonable adaptations will be made which may include allowing access to an interpreter or learning support specialist.

##### The exchange of witness names and information must be submitted by an agreed time and parties must notify their names to the manager calling the hearing, together with any documentary evidence that is going to be used for the hearing.

##### Every effort should be made to attend the disciplinary hearing. In circumstances where a disciplinary hearing has been arranged but the trade union representative or work colleague is unable to attend the hearing, the hearing may be postponed if the employee can offer an alternative date and time which is reasonable and falls within five working days after the day on which the original meeting was proposed, unless another timeframe is agreed.

##### Where an employee is persistently unable or unwilling to attend a disciplinary hearing, the hearing manager will continue with the hearing and will make decisions based on the evidence available, and the post holder will be informed that this is the case.

##### The purpose of the disciplinary hearing is to enable the appropriate manager(s) to consider the matter and decide whether disciplinary action should be taken, taking account of the facts that are contained in the investigation report, the statement of any witnesses and the views of the member of staff concerned.

##### A hearing will usually be chaired by a senior manager or a member of the Vice-Chancellor’s Group and will involve another senior manager.

##### A Human Resources Manager/Officer will attend the hearing to take notes and to advise on process. Notes of the hearing and any subsequent witness meetings do not have to be verbatim but should reflect the key issues/points discussed so that they can be referred to later in the hearing for clarification. The Chair of the panel shall provide the post holder with notes of the investigation meeting and will invite any further comments on these before the investigation is concluded.

##### At the meeting the Chair should explain the complaint against the employee and go through the evidence that has been gathered.

##### The employee should be allowed to set out their case and answer any allegations that have been made. The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should be given the opportunity to raise any points about the information provided by witnesses.

##### **The manager chairing the hearing will:**

##### Specify to the member of staff where their performance or conduct is alleged to be deficient, and allow the member of staff to state their case;

##### After considering all of the relevant information (which may require the manager to adjourn the hearing for the purpose of clarifying or gathering additional information), decide what, IF ANY, disciplinary action should be taken. The type of disciplinary action will depend on the circumstances of the case;

##### Consider the employee's circumstances with regard to past performance, health and any relevant domestic or social factors which have been offered in mitigation by the employee or their representative.

##### Identify precisely what improvements must take place, warn the employee of the consequences of any failure to correct their actions, establish the period of time during which any recurrence of similar or related poor performance or conduct would result in further disciplinary action being taken; and

##### Advise the member of staff of their right to appeal to an appropriate named manager against any disciplinary action taken.

##### Where a trade union representative or work colleague attends the hearing, they may sum up the employee's case to the panel and confer with the employee during the hearing (if necessary during an adjournment), but they do not have the right to answer questions on the employee's behalf, or to prevent the manager from explaining their case. All questions addressed to witnesses should be done through the chair of the panel.

##### Guidance on the stages of disciplinary action is outlined in **Appendix B**.

#### After the Hearing

##### When all of the evidence has been heard, the Disciplinary Hearing 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 Panel will take one of the following courses of action:

##### Dismiss the case and take no further action.

##### Give an oral warning, if there has been a minor breach in conduct or behaviour.

##### Give a first written warning, if there has been an unsatisfactory response to an oral warning under this procedure, or if there has been a first but serious breach of discipline.

##### Give a final written warning, if there has been an unsatisfactory response to previous warnings, or if there has been a first and very serious breach of discipline; or

##### Recommend dismissal.

##### Further details are outlined in **Appendix B**.

##### The Chair of the panel will write to the member of staff concerned as soon as possible (normally within five working days of the hearing) to confirm the action taken and the right of appeal. A copy will be held on the individual's Human Resources file and will be reviewed at a period of warning, to be specified by the chair of the panel in the letter.

##### During the period of warning the employee's performance will be monitored. At the review date, if a marked improvement has occurred, a note to this effect will be sent to the employee confirming that the period of warning has been completed successfully. If there is further misconduct during the period of warning, further disciplinary action may be considered under this procedure.

##### Once the full period of a written warning has lapsed, the letter and all correspondence and notes relating to the warning will be removed from the personal file held within the Human Resources Department. The Human Resources Department will maintain such non-attributable statistical records regarding disciplinary warnings as are appropriate for equality monitoring.

#### Formal Stage Three – Right of Appeal

##### An employee against whom formal disciplinary action has been taken has the right of appeal. The purpose of any appeal is to consider whether the disciplinary action taken by management was fair and reasonable under the circumstances.

##### An employee who wishes to lodge an appeal against disciplinary action should set out the grounds for their appeal in writing. The appeal should be sent to the manager named in the confirmation letter within five working days of the date of the letter informing them of the outcomes of the disciplinary hearing. The notification of appeal must include the full grounds for the appeal.

##### An appeal hearing should be arranged as soon as possible by the Chief Human Resources Officer or a Human Resources Manager. The appeal panel will be Chaired by a senior manager not previously involved in the case. The panel will receive the full set of documentation that was available to the members of the disciplinary hearing.

##### The employee will be informed of the date, time and place of the appeal hearing, usually within five to 10 working days of the receipt of the appeal, unless another timeframe is agreed. Appeals against disciplinary action will normally be heard by a senior manager not previously involved and as soon as possible after the initial hearing.

##### The post holder may wish to be accompanied at the appeal hearing by a workplace colleague or trade union representative. The post holder should advise whether the Chair of the panel should copy the post holder’s representative into all the relevant documentation.

##### A Human Resources Officer will normally be present at all hearings and appeals to advise on procedure and to take notes (unless another note taker is agreed). The manager who hears the appeal will not normally have been involved in the disciplinary investigation or the hearing i.e. a person who has heard a case at one level will not be involved at subsequent levels, except to give evidence where required.

##### The appeal panel may change the decision of the investigating manager in relation to the disciplinary action. The outcome of the appeal may therefore impact on the recommendations made by the original investigating manager and any action already taken as a result of those recommendations may need to be reviewed.

##### The decision of the appeal panel should be provided in writing as soon as possible, explaining the reasons for the decision, normally within five working days of the appeal hearing, unless another timeframe is agreed.

##### The decision of the appeal panel will be final and there is no further right of appeal.

#### Appeal against dismissal

##### In cases where dismissal is the outcome decided by the Hearing panel, the University may dismiss an employee with notice or pay in lieu of notice, or without notice or pay in lieu of notice where circumstances of the case are sufficiently serious to warrant it and constitute gross misconduct – in this case you will be summarily dismissed. The individual will be entitled to appeal against the decision.

##### The purpose of any appeal against dismissal is to consider whether the termination of employment was fair and reasonable under the circumstances. A final appeal against dismissal should be made in writing to the Chief Human Resources Officer, within five working days of the date of the formal written notice of dismissal. The written notice of appeal must set out the grounds on which they wish to appeal against the decision to dismiss.

##### A dismissal appeal hearing will be convened by the Chief Human Resources Officer before a panel of two drawn from the Board of Governors, details of which will be confirmed in writing to the employee by the Chief Human Resources Officer, not less than five working days prior to the date of the hearing.

##### The panel will receive the full set of documentation that was available to the members of the disciplinary hearing.

##### The manager(s) involved in the decision to dismiss the employee will be asked to attend the hearing to provide the reasons for recommending dismissal.

##### All employees attending the dismissal appeal may be accompanied by a trade union representative or a workplace colleague of their choice.

##### The employee will be notified of the outcome of the dismissal appeal hearing by the Chair of the Appeal panel, as soon as possible after the hearing, normally within five working days unless another timescale has been agreed.

##### The decision of the Appeal Panel will be final and binding. Where the decision to dismiss is upheld, appropriate notice and outstanding holiday entitlement will be paid, unless summary dismissal for gross misconduct is confirmed. Where the decision to dismiss is not upheld, the employee may be reinstated to his/her post or to an agreed alternative post.

##### Special arrangements are required in any suspension, disciplinary or dismissal matters related to any member of the Designated Staff. If the Chair of Governors, or, in their absence, the Deputy Chair of Governors considered there was a ‘case to answer’ in respect of a member of the Designated Staff, the matter would be referred to a special committee of the Board of Governors.

##### Once the appeal against dismissal process set out above has been exercised, there is no further right of appeal.

**Disciplinary Policy and Procedure 2022-25**

**APPENDIX A**

#### The following misconduct examples are offences which may lead to disciplinary action.

#### This list is not exhaustive and is indicative only of the types of matters justifying the application of disciplinary procedures.

#### Misconduct

##### Inappropriate attitude/behaviour towards students, colleagues, and contacts external to the University.

##### Repeated unauthorised absence, or unacceptable attendance or poor time keeping or being absent without permission without following the appropriate mechanisms to report absence.

##### Covert recording of staff, meetings, discussions etc, either by mobile telephone or by covert monitoring – i.e. without prior express consent.

##### Failure to comply with University policies, regulations or rules adopted by the University or any legal requirements or code of conduct placed upon an individual by virtue of his/her employment with the University.

##### Any acts or omissions bringing the University into disrepute or prejudicial to good order in the University.

##### Repeated refusal to carry out a reasonable instruction by a line manager or other appropriately authorised employee, refusing to do work or wilful neglect of duties.

##### Serious insubordination.

##### Mishandling of official contracts or transactions.

##### Inappropriate use of official vehicles e.g. University minibuses.

##### Breaches of trust and confidence.

##### Offences against University regulations, including Environmental Health and Safety regulations.

##### Conduct detrimental to the University inside or outside employment.

##### Malicious or vexatious accusations against a colleague.

#### Gross misconduct

#### Acts of gross misconduct are likely to result in dismissal. Some acts of gross misconduct are

#### so serious in themselves or have such serious consequences that they may call for summary dismissal without notice for a first offence. Acts of gross misconduct include the following examples:

##### Any form of assault or physical violence, including threats of physical violence or threatening or abusive behaviour or sexual harassment or assault or acts constituting bullying and harassment.

##### Acts of discrimination or victimisation of employees, students or visitors to the campus which compromise that person’s dignity.

##### Incapacity to work due to being under the influence of alcohol or illegal substances; using or dealing in illegal substances on University premises.

##### Falsely reporting or recording sickness absence.

##### Deliberate damage to University property causing loss, damage or injury through negligence.

##### Acts of dishonesty e.g. misrepresentation of academic or professional qualifications, provision of inaccurate or misleading information, e.g. in an application for employment.

##### Misuse of IT systems or acquiring or distributing unauthorised information, or using IT systems or services for acquiring, storing, receiving or transmitting offensive, indecent or obscene material. This includes through web browsing, where using proxy-avoidance and anonymiser websites is expressly prohibited.

##### Misuse of University IT systems to create, download, store or transmit unlawful material, or material that is indecent, offensive, defamatory, threatening, discriminatory or extremist. The University observes the Prevent Duty of Care and reserves the right to block or monitor access to such material.

##### Misuse of University IT systems or services for commercial activities without appropriate authority or use of University IT systems and services for private commercial purposes or any other employment outside the scope of the post holder’s official duties or functions.

##### Any breaches of the University’s Electronic Information Security Policy, the IT Use and Security Policy (The Code of Conduct) or the Social Media Policy.

##### Breaches of academic or professional standards e.g. plagiarism, deliberate or reckless lack of fairness in carrying out marking examination papers and/or the assessment of students, and/or research misconduct.

##### Professional incompetence, serious lack of care to duties or other people (gross negligence).

##### Behaviour which may make continued employment untenable or which brings the University into actual or potential disrepute, including misuse of the University’s property or name i.e. on internet sites e.g. ‘Facebook’, ‘Twitter’ and other social media.

##### A criminal investigation, charge or conviction relating to conduct outside work which in the reasonable opinion of the University is such as to affect, or be likely to affect the suitability of the employee for the position in which they are employed and will seriously undermine the University’s trust and confidence in the employee, or where it could bring the University into disrepute.

##### Any serious breaches of environmental health and safety regulations or rules i.e. any reckless actions which endanger the perpetrator's own or the safety of other people at work (including students, staff, visitors to the University, contractors).

##### A breach of the University’s equality, diversity and inclusivity policies and procedures.

##### Any serious breach of the GDPR regulations.

##### Any serious issues breach of the Safeguarding/Prevent regulations/policies.

##### Theft, deliberate malpractice, deception, cover up of deficiencies or falsification of documents or accounts.

##### Deliberate contravention of the University’s financial regulations, e.g. Fraud or falsification of expenses, advances or allowances.

##### Deliberate unauthorised disclosures to a third party of any confidential information or intellectual property.

##### Misuse of drugs or alcohol to an extent which impairs the employee’s ability to carry out their duties.

##### Acts constituting discrimination or victimisation (including on the grounds of a protected characteristic).

##### Bullying, harassment or offensive conduct, either physical, verbal or psychological.

##### 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.

##### A breach of the Data Systems Security Policy.

##### De-registration from a professional, statutory or regulatory body, where that registration is a condition of employment.

##### Damage to the University by vexations claims. This includes claims or allegations designed vexatiously to secure penalties under this procedure.

##### Bribery; any act of bribery covered by the Bribery Act 2010.

##### Serious instances of those examples listed under ‘serious misconduct’.

##### Any other act or omission that repudiates the contract of employment and/or leads to loss of trust and confidence in an employee, and their ability to fulfil the duties for which he or she is employed.

#### The Vice-Chancellor may dismiss any member of staff other than a member of the Designated Staff and if the circumstances are such that he or she is entitled to do so by virtue of the conduct of that member of staff, that dismissal may take immediate effect without any need for prior notice.

**Disciplinary Policy and Procedure 2022-25**

**APPENDIX B**

#### Guidelines on the stages of disciplinary action

#### Where informal procedures have been exhausted and it has been decided that formal disciplinary action is needed, there are four possible outcomes of formal disciplinary action:

##### Stage 1: Formal oral warning

##### Stage 2: First formal written warning

##### Stage 3: Final formal written warning

##### Stage 4: Dismissal

#### 

#### At every stage in the procedure the employee will be advised of the nature of the complaint(s)/allegation(s) against them and will be given the opportunity to state his or her own case before any decision is made.

#### Written warnings

#### It is not possible to set out disciplinary rules which will cover every eventuality likely to be treated as a minor or serious act of misconduct constituting a serious breach of contract. The following acts as a guide only. Written warnings can be appropriate in the following circumstances:

##### Persistent lateness.

##### Unauthorised absence/failure to report absences in a timely manner or failure to provide sickness absence certification, as outlined in the University’s Guidance on Managing Sickness Absence and in the Occupational Sickness Absence Policy.

##### Damage to property or equipment resulting from careless use or negligence.

##### Unacceptable behaviour, rudeness, swearing, abuse directed personally at colleagues, students, clients or visitors or in public areas/meetings.

##### Inappropriate use of facilities including unauthorised use of equipment.

##### Failure to follow University Policies and Procedures.

#### Depending on the severity and circumstances of the case, the University may apply at its discretion, either a First Written Warning or a Final Written Warning for misconduct offences. The University will consider any active warnings that may apply to you at the time of the misconduct. The warning issued to you will state what the problem is, and if appropriate what is required to correct the problem and the timescale for achieving this. It will also confirm that further disciplinary action will follow if the problem is not satisfactorily rectified or there is further misconduct.

#### Stage 1 – formal oral warning

#### If conduct or performance does not meet acceptable standards the employee will normally be given a formal oral warning, confirmed in writing. The letter will contain:

##### Notification that this is the first stage of the formal disciplinary procedure;

##### The nature of the complaint;

##### A summary of the improvements required;

##### The targets and timescales over which these are expected to be achieved;

##### The arrangements for monitoring and review;

##### An indication of the possible consequences/outcomes if improvement is not made within the review period (e.g. action under Stage 2);

##### Right to appeal.

#### A note of the formal oral warning will be kept on the employee's file for a time period to be agreed by the panel. No further action will be taken unless issues relating to the employee’s performance or conduct arise again.

#### Stage 2 – first formal written warning

#### If the offence is a sufficiently serious one, or if a further offence occurs where there is already an active Formal Oral Warning, a formal first written warning will be given to the employee. This will contain the same details as under Stage 1 above. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement within agreed timescales. A copy of this written warning will be kept on the employee's file for a time period to be agreed by the Panel. No further action will be taken unless further issues relating to the employee's performance or conduct arise again.

#### Stage 3 – final formal written warning

#### If there is still a failure to improve conduct or performance is still unsatisfactory whilst there is already an active First Formal Written Warning, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, a final written warning will normally be given to the employee. This will give the same details as under Stage 1 above, and will warn the employee that dismissal will result if there is no satisfactory improvement or any further offences committed. A copy of this final written warning will be kept on the person's file for a time period to be agreed by the Panel. No further action will be taken unless issues relating to the employee's performance or conduct arise again.

#### 

#### There may be exceptional circumstances where management deems that an extended final written warning should be issued. In such cases, the warning letter will spell out how long it will last and the reason for the extension.

#### Being under an active warning means that if a member of staff commits a further misconduct or gross misconduct offence, the University will take the current warning into account when deciding what action to take. The timings of warnings will be considered and the circumstances of the case, for example, a First Written Warning may last for 12 months and a Final Written Warning may last for 12 months.

#### Stage 4 – dismissal

#### Dismissal should only be considered:

#### where either the required improvement in performance or conduct has not been made within the period specified following the issue of a Formal Written Warning; or

#### where there has been a reoccurrence of similar or related performance or misconduct within the period specified following the issue of a Final Written Warning; or

#### where an employee is found to have committed an act of gross misconduct which might cover the examples outlined in Appendix A (this list is not exhaustive).

#### Gross misconduct is defined by ACAS as ‘conduct serious enough to destroy the employment contract between employer and employee and make any future working relationship and trust impossible’. It is normally restricted to very serious offences, but may be determined by the nature of the business or other circumstances. In cases of gross misconduct, the contract of employment is regarded as having been breached so there is no obligation on the part of the employer to adhere to the notice periods which otherwise might apply in a contract – hence summary dismissal.

#### 

#### The omission of any other category of behaviour will not preclude it from being considered as gross misconduct. Similarly, it will be for the Vice-Chancellor to decide whether there are exceptional mitigating circumstances which might allow the examples mentioned above to be treated less seriously than gross misconduct.

#### If an employee is to be dismissed, the Vice-Chancellor will give consideration as to whether the employee's appointment should be terminated with due notice, whether pay should be given in lieu of notice, or summarily dismissed in serious cases of gross misconduct. The employee will be invited to a meeting to confirm the terms of the dismissal. The employee is under no obligation to attend such a meeting, but if he/she wishes to exercise this right he/she may be accompanied at the meeting by a trade union representative or workplace colleague. Failure to attend the meeting will not affect the person's right to appeal under this procedure.