

# Disciplinary Policy and Procedures



## Document Control

<b>Title:</b>	<b>Disciplinary Policy</b>
<b>Date Last Reviewed:</b>	13 December 2015
<b>Policy/Procedure Owner</b>	Human Resources
<b>Status of Document</b>	Final
<b>Draft Document Owner</b>	SR

## Human Resources

This policy will be reviewed periodically to ensure compliance with changes in employment law and equality and diversity legislation. In the event that this policy or procedure is not so compliant, the relevant legislation shall prevail.

**Changes to this policy will be subject to consultation and agreement with the University's recognised Trade Unions before implementation**

# Disciplinary Policy and Procedures



CONTENTS	Page
1. INTRODUCTION .....	3
2. SCOPE .....	3
3. DEFINITIONS AND EXPECTATIONS OF ROLE .....	4
4. CONFIDENTIALITY .....	7
5. GENERAL PRINCIPLES .....	7
6. RESPONSIBILITY OF THOSE INVOLVED .....	9
7. CONCURRENT OFFENCES/LIVE FORMAL ACTIONS .....	9
8. OVERLAPPING GRIEVANCE AND DISCIPLINARY CASES .....	9
9. PRIVACY .....	9
10. SPECIAL CASES .....	10
Staff members who are accredited trade union representatives .....	10
Staff Member being charged or convicted with a criminal offence .....	10
11. THE PROCEDURE .....	10
The Informal Procedure .....	10
The Formal Procedure .....	11
Right to be accompanied .....	12
Disciplinary Investigation .....	12
Stage One – Disciplinary Hearing .....	13
Stage One – Formal Hearing – Outcome .....	13
Stage Two – Disciplinary Hearing .....	14
Stage Two — Outcome .....	15
Stage Three – Final Disciplinary Hearing .....	16
Stage Three – Outcome .....	17
12. RIGHT OF APPEAL .....	18
13. FURTHER INFORMATION .....	19
14. APPENDICES .....	19
APPENDIX A - Disciplinary Process Flowchart .....	20
APPENDIX B – Investigations procedure for Disciplinary purposes .....	21
APPENDIX C – Suspension .....	23
APPENDIX D – Suggested Disciplinary Hearing Process .....	25
APPENDIX E – Suggested Appeal Hearing Process .....	27

# Disciplinary Policy and Procedures



## 1. INTRODUCTION

The success of Brunel University London (the University) depends on effective contributions from all employees. The University recognises that the vast majority of its staff meet or exceed the demands of their respective roles and responsibilities, however conduct problems can and do arise. This procedure provides a framework for dealing with cases of poor conduct which includes standards of conduct, attendance, job performance, behaviour and attitude, in a fair, supportive and consistent way.

University staff are expected to carry out their work efficiently and effectively, to perform and maintain a high standard of professionalism and to treat fellow colleagues and other University staff, students and customers in a reasonable, courteous and considerate manner.

The University encourages communication between staff and management to ensure that issues or problems arising during the course of employment can be aired and, where possible, resolved quickly and informally to the satisfaction of all concerned.

This policy has been designed to help and encourage members of staff to achieve and maintain acceptable standards of conduct, behaviour, attendance and job performance and provides a framework for dealing with issues as they arise.

The Disciplinary Procedure is used to address misconduct issues, and failure to follow University/Departmental/local rules, procedures or protocols or carry out reasonable management instructions/requests, may also result in the Disciplinary Procedure being invoked. The procedure is based on the premise of fairness and transparency by clarifying the procedures that are followed when dealing with matters of staff discipline.

The policy aims to resolve problems of misconduct and wherever possible to avoid dismissal. It helps to ensure that the procedure is handled in a fair, consistent and timely manner to assist in enabling the staff member to be clear about the expectations of the University with the intention of bringing about a sustained improvement, protecting the proper operation of the University's business and the health and safety of its staff, students and customers.

This policy sets out the University's Disciplinary process and procedures to be followed in the handling of disciplinary situations. It indicates the various stages involved in the process, who is involved and why and explains the steps that the procedure will follow from outset to outcome, including clarification of the right to appeal decisions and the relevant outcomes that may be applied.

## 2. SCOPE

This policy applies to all staff in current employment with the University, except for casual/hourly paid staff, agency workers or contractors.

For staff on probation, any outcome from a disciplinary process will be considered as part of the member of staff's probationary review.

Where there are procedural variations for different staff groups, these are clearly defined.

Staff with special needs such as language difficulties or disabilities that may prevent them from

# Disciplinary Policy and Procedures



full participation in the procedure, will be provided with reasonable adjustment/appropriate assistance.

## 3. DEFINITIONS AND EXPECTATIONS OF ROLE

### LINE MANAGER

A Line Manager/Supervisor/Team Leader who has direct managerial responsibility for a particular member of Staff. All managers with a responsibility for the management of staff will need to be aware of the requirements of this policy and related policies and should ensure that their direct reports are familiar with its contents. The raising of manager's awareness of the requirements of this policy will be achieved through training and dissemination of the policy.

### PRESENTING MANAGER

If a Presenting Manager is nominated, they will prepare and present the case and answer any questions asked of them by the Panel or member of staff/companion at the Hearing. It will not always be the case that a presenting manager will be required.

### INVESTIGATING OFFICER

Where an Investigating Officer is nominated, they will undertake an investigation and meet with witnesses as appropriate, prepare and present the report and case (if a hearing is required) and answer any questions asked of them by the Panel or member of staff/companion at any Hearing. It will not always be the case that an Investigating Officer will be required. Should a matter be a capability or ill health issue rather than one of misconduct, the matter will be considered under the appropriate policy.

### COMPANION who may be:

#### i. A TRADE UNION REPRESENTATIVE

A representative from a Trade Union recognised by the University or an official thereof employed by a Trade Union. A Trade Union representative who is not an employed official must have been certified by their union, and must provide evidence, as being competent to accompany an employee.

#### ii. WORK COLLEAGUE

A fellow worker (employed by the University), who should not be in a conflict of interest position.

The companion should be suitable, willing and, ideally, available on site rather than someone from a geographically remote location. The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the meeting/hearing and confer with the member of staff and sum up the case as necessary. They may not answer questions on his/her behalf, address the hearing if the member of staff does not wish this, nor prevent the employer from explaining their case.

# Disciplinary Policy and Procedures



## **INDEPENDENT MANAGER**

An Independent Manager is one who is, wherever possible, detached from the content/detail of the case to be able to give an impartial and unbiased judgment at a formal hearing as part of the Hearing Panel. This does not preclude the Head of Department or Senior Manager within the Department from participating on the Hearing Panel and the Independent Manager may also be the Head of Department. The role of the Independent Manager is to act as Chair of the Panel, to listen to all information provided and, based on the facts of the case as presented, form a judgment regarding a suitable outcome or suggest appropriate remedial action, as agreed with the Hearing Panel. Further, they must ensure that all parties have the opportunity to present their case. Where a case goes to appeal they will be responsible for presenting the rationale for the Panel's decision to the Appeal hearing, if requested, whether in person or by correspondence.

## **THE RESPONDENT(S)**

The member(s) of staff against whom the allegation(s) have been brought.

## **THE APPELLANT**

The member of staff submitting an appeal.

## **WITNESS(ES)**

A current member of staff who would be asked to provide a statement or confirm notes from an investigation meeting, which would be included within any management report/hearing documentation. Witness statements should be concerned with the facts relating to the complaint and not consist solely of unsubstantiated opinion. To ensure fairness, confidentiality and consistency of the process, anonymous statements will not be accepted. Where a member of the team/department, who is a key witness, is employed by a 3rd party, it could be relevant to include their statement.

## **MISCONDUCT**

This may be unacceptable or inappropriate conduct, attendance or failure to meet and maintain job performance standards or roles and responsibilities, and can include failure to follow University/local procedures, rules, policies and protocols, to follow reasonable management instructions/requests, and any health and safety requirements, inappropriate behaviour, unprofessional behaviour and the negative impact this may have on others or the reputation of the University. Such misconduct need not necessarily be wilful or deliberate.

The following are examples of conduct that will normally be addressed through implementation of the University's disciplinary procedure. The list is not exhaustive:

- Breaches of University/Departmental/local rules, policies, procedures, protocols
- Breaches of any Health and Safety requirements
- Bullying and/or harassment including insulting and/or abusive language
- Breach of professional standards/standards of academic conduct/abuse of position of influence/authority
- Persistent lateness or poor timekeeping

# Disciplinary Policy and Procedures



- Unauthorised absence
- Repeated failure to follow reasonable requests or instructions
- Conduct that has impacted negatively on the student experience
- Conduct that can damage the reputation of the University
- Abuse, misuse or neglect of University property or facilities
- Excessive or unacceptable use of University facilities and equipment for personal reasons, or for personal business reasons, during work time e.g. through University email, telephones and IT/internet access
- Inappropriate use of social media sites, including the expression of improper views
- Inappropriate use/abuse of Email/Email etiquette

## GROSS MISCONDUCT

This may be conduct or actions that are serious breaches of the standards of behaviour expected by the University, or serious offences, or repeated acts of misconduct, and may lead to dismissal with or without notice. It is generally seen as misconduct serious enough to destroy the employment contract and make any further working relationship and trust impossible.

The following are examples of Gross Misconduct. The list is not exhaustive.

- Physical violence/assault
- Deliberate or serious infringement of health and safety rules/requirements
- Theft from the University or its staff members, students or customers
- Fraud or deliberate falsification of records, expense claims, computer records etc
- Serious breaches of the University's IT Policy and/or misuse of the University's IT facilities (including use of internet and email, deliberate access of offensive/obscene materials etc/unauthorised entry to computer records)
- Serious bullying and/or harassment including serious insulting and/or abusive language
- Victimisation or discrimination
- Serious breaches of professional standards/standards of academic conduct, abuse of position of influence/authority
- Conduct that can bring the University into serious disrepute
- Conduct that has seriously impacted negatively on the student experience
- Serious breaches of the University's anti-bribery policy, offences under the Bribery Act, including any involvement in bribery, giving, receiving or facilitating bribes
- An inability to perform job duties, or incapacity at work, through being under the influence of alcohol or illegal drugs or substances
- Deliberate or reckless damage to, loss or misuse of University property or facilities
- Serious or persistent contravention of University policies, rules or procedures
- Deliberate non-compliance to statutory and regulatory requirements
- Conviction of a criminal offence that is relevant to the member of staff's employment with the University and renders them unsuitable or unable to carry out his or her duties
- A serious act of insubordination, such as deliberate or consistent refusal to carry out reasonable management instructions/requests
- A serious breach of trust or confidentiality

If, following the completion of the disciplinary hearing, the University is satisfied that Gross Misconduct has occurred, the result will normally be summary dismissal i.e. dismissal without notice or pay in lieu of notice. Otherwise dismissal will be with notice/pay in lieu.

# Disciplinary Policy and Procedures



## 4. CONFIDENTIALITY

Matters will be handled with as high a degree of confidentiality as is practicable. Any manager, member of staff or companion must ensure that they maintain the confidentiality of the process and of University documents; any breach of confidentiality may be treated by the University as a disciplinary matter and appropriate action taken.

A copy of the formal record of any hearing will be provided upon request to the relevant parties, although the University reserves the right to withhold certain information should it become necessary. No electronic recordings of any part of the proceedings is permitted.

## 5. GENERAL PRINCIPLES

- The overarching principle is that potential disciplinary matters should be dealt with as early as possible and within a reasonable timeframe. It is expected that issues would be raised with the member of staff informally as far as possible in the first instance in order to avoid the need for formal disciplinary action. The disciplinary procedure is designed to try to establish the facts quickly and to deal with disciplinary issues consistently and fairly. A reasonable view will be applied to making an exception if matters have prevented an issue being raised in a timely manner.
- This policy does not apply to capability issues where a member of staff is unable to perform the duties required of their role, but their conduct is satisfactory. Such issues should be dealt with under the Capability Policy. Further, where a member of staff has a certified, long-term medical condition, disability or an illness or injury that has the potential to be long-term from the outset (e.g. resulting from accidental injury or heart attack) that is impacting upon their work this should be dealt with under the Incapacity on Medical Grounds Policy. Advice should be sought from Human Resources.
- Line Managers have a responsibility to ensure that staff members are made aware of the standards of conduct and behaviours expected of them by the University. This should form part of the normal day to day management process. All members of staff are expected to maintain acceptable standards of conduct and behaviour.
- Conduct issues will, wherever possible, be dealt with informally in the first instance.
- Staff members who are subject to disciplinary proceedings, are expected to engage fully with this procedure. Avoidance or refusal to engage/co-operate may be taken into account in any disciplinary process and/or in consideration of the stage of the process/level of the warning.
- The Disciplinary procedure does not inhibit the freedom of academic staff within the law to question and test established ideas and received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges;
- Subject to the advice of Human Resources, the Disciplinary procedure may be initiated at any stage depending upon the seriousness of the alleged misconduct.

## Disciplinary Policy and Procedures



- Reasonable notice will be given of any formal disciplinary hearing.
- A staff member may be suspended on full pay at any stage of the procedure should suspension be deemed necessary for reasons of Health and Safety, or essential to facilitate a disciplinary investigation. Suspension is not a disciplinary sanction and must not be used as such; suspension should always be for as short a time as possible and will be subject to appropriate review. Exceptionally, the University may consider alternatives to suspension, for example temporary redeployment, additional supervision or the restriction of duties. Any such alternative may only be considered on the authority of the Director of Human Resources, or nominee in their absence, as is deemed appropriate in the circumstances. (See Appendix C).
- A formal disciplinary hearing will not be convened until an appropriate investigation has taken place.
- At each stage of the formal procedure staff are entitled to be accompanied by a companion. When attending formal meetings and hearings staff members should ensure that they inform the University of their choice of companion. All parties should try to avoid undue delays to the process and should take all reasonable steps to attend any meetings.
- At any stage of the process if a member of staff becomes ill, the normal reporting procedures and sickness absence management processes will apply in parallel. The member of staff is expected to fully engage with any requirement to attend an Occupational Health appointment and to engage with any recommendations from the resulting OH report.
- The University will take into account any mitigating circumstances when reaching decisions on appropriate disciplinary sanctions.
- A staff member subject to disciplinary proceedings will be informed in writing of any formal disciplinary decision that is reached.
- Only in exceptional circumstances will dismissal of a member of staff be considered without prior warning(s) and opportunity to improve conduct having been provided.
- Any disciplinary sanction should be disregarded for disciplinary purposes after its specified period of application. Any decision to dismiss should not be based on an expired warning, but the fact that there is an expired warning may explain why the University does not substitute a lesser sanction. There may be occasions where a member of staff's conduct is satisfactory throughout the period a warning is in force, only to lapse thereafter. Where such a pattern emerges, the member of staff's disciplinary record may be borne in mind in deciding how long any subsequent warning should apply.
- If, during the course of a disciplinary investigation matters come to light that suggest that the issue could be addressed under an alternative policy, advice should be sought from Human Resources. They will determine if, in the interest of reasonableness, the matter should proceed using an alternative policy. If this occurs the process will start at the appropriate stage under the alternative policy. It does not need to start at the beginning of such policy.
- Consideration for mediation may be arranged at any stage of the process.



# Disciplinary Policy and Procedures



## 6. Responsibility of those involved

**Managers** are responsible for:

- Ensuring employees understand what is expected of them, in terms of standards of conduct
- Addressing conduct issues at the earliest opportunity
- Considering whether there are issues outside of work that may be impacting on the member of staff's conduct (e.g. family circumstances, health issues, travel), etc.

All managers with a responsibility for the management of staff will need to be aware of the requirements of this policy and related policies and should ensure that their direct reports are familiar with its contents. The raising of manager's awareness of the requirements of this policy will be achieved through training and dissemination of the policy.

**Employees** are responsible for:

- Understanding that they have a responsibility to maintain appropriate standards of conduct and behaviour at all times
- Ensuring their conduct, attendance and behaviour meets the requirements of their role
- Adhering to University policies, procedures, protocols and legal obligations and following reasonable management instructions/requests
- Engaging with University procedures when dealing with issues relating to their own conduct
- Advising their line manager of any issues, in or out of work that may affect their conduct

## 7. CONCURRENT OFFENCES/LIVE FORMAL ACTIONS

Any live warnings issued under this procedure will be taken into consideration when a disciplinary outcome for a current case is being decided.

## 8. OVERLAPPING GRIEVANCE AND DISCIPLINARY CASES

Where a grievance is raised when the Disciplinary process is underway or vice versa, consideration will be given to whether it is appropriate to deal with both issues concurrently. The same Panel would be used. Only in exceptional circumstances (e.g. for the preparation of a case in response to disciplinary allegations) will a Disciplinary procedure be adjourned to consider the grievance.

## 9. PRIVACY

Staff are advised against the storage of private/personal information/items on University property or the use of University facilities for personal usage.

The University reserves the right to:

- Monitor in line with Data Protection legislation, staff members' activities at work including via CCTV. Those activities include telephone calls, email messages and internet use and may form part of a disciplinary investigation. Staff members should therefore not

# Disciplinary Policy and Procedures



consider such activities and methods of communication to be confidential when using University equipment/systems.

- In the event of a suspicion of theft, fraud, or storage of illegal weapons or substances, the University reserves the right for a duly authorized security person, in line with security procedures, to search the locker, personal or University property, vehicle or clothing of a member of staff, where such action is considered necessary in the opinion of the University. If there are suspicions of criminal behaviour which may require police involvement, advice should be sought from the Director of Human Resources in the first instance (or nominee in their absence).

## 10. SPECIAL CASES

### **Staff members who are accredited trade union representatives**

Where disciplinary action is being considered against a staff member who is an accredited trade union officer/representative of a trade union recognised by the University, no disciplinary action will be initiated until the University has made reasonable efforts to discuss the matter (with the prior agreement of the staff member) with a regional official of that trade union. This does not prevent the University from suspending the staff member in line with this policy.

If the trade union officer/representative concerned objects to the regional officer being contacted, the University will continue with the disciplinary process.

### **Staff Member being charged or convicted with a criminal offence**

A staff member being charged or convicted of a criminal offence is not in itself necessarily a reason for disciplinary action. The University will consider whether the offence or alleged offence is one that makes the staff member unsuitable for their type of work or has a serious impact on their relationships with other members of staff or students or could impact on the reputation of the University. The University will establish the facts of the case and consider whether the facts warrant commencing the Disciplinary procedure/taking appropriate action.

## 11. THE PROCEDURE

### **The Informal Procedure**

Whilst the vast majority of staff will meet the standards of conduct expected of them, Line Managers/Supervisors/Team Leaders are responsible for bringing concerns, which could result in disciplinary action being followed, to the staff member's attention as early as possible. Managers should attempt to identify the cause(s) of the conduct issue and seek its early resolution. Reasonable support and guidance should be provided to enable the individual member of staff to meet the standards of conduct required. Support may include, but is not limited to, training, counselling, or coaching, with reasonable timescales/reviews as appropriate.

The intention is to resolve matter(s) informally and as soon as possible, as part of the normal ongoing discussions between Line Manager/Supervisor/Team Leader and staff member. Any meetings will normally be between the Line Manager/Supervisor/Team Leader and the staff member. There is no statutory right for a staff member to be accompanied in the informal procedure. If however the Line Manager/Supervisor/Team Leader is to be accompanied at any

# Disciplinary Policy and Procedures



meeting by a member of the Human Resources department, then the member of staff will be able to be accompanied by a work colleague or trade union representative, or vice versa.

The member of staff is expected to fully engage in the informal process and all parties should act in good faith to seek a successful resolution as soon as reasonably possible.

When discussing conduct issues, the Line Manager/Supervisor/Team Leader should be specific about their concerns and provide evidence and/or give examples to support their assertions.

They should aim to:

- *Clarify the required standards of conduct* - ensure that the staff member is aware of the conduct required and any policies that apply in relation to each issue of concern.
- *Identify the areas of concern* - make clear the areas in which the individual's conduct is below expectations, explaining the grounds and evidence for this view and how they could be resolved.
- *Give staff the opportunity to explain their conduct* - allow them to raise any concerns they may have about the job, or the support and guidance they may require to do it.
- *Identify any possible mitigation* - identify any mitigating circumstances. These should be raised by the member of staff and discussed. These could be due to domestic, personal or work related problems and such situations should be dealt with sensitively.
- *Bear in mind the provisions of the Equality Act 2010* - in particular, the obligation to make reasonable adjustments when dealing with disabled members of staff (see Brunel University London Policy on Equality and Diversity in Employment).
- *Clarify any actions to be taken* - solutions to the problem could include training, retraining, providing a mentor, job shadowing, coaching or some other kind of support.
- *Confirm a time table for improvement*. Generally improvement should be expected without delay and should be sustained. Where necessary, reasonable time frames should be set within which improvement is expected and regular meetings held during this time to review the situation. When establishing "reasonable timescales" for improvement, managers must consider the complexity of the concerns and any mitigating factors.

The Line Manager/Supervisor/Team Leader may decide to alert the member of staff to the fact that if there is no improvement within the timescale provided, or it is not sustained, that it may result in action being initiated under the formal Disciplinary procedure. Reviews of progress may be set.

It is hoped that the informal procedure will lead to a satisfactory outcome being achieved and maintained, in which case the matter will have been resolved. However, sufficient detail should be recorded and any documentation generated should be retained locally by the Line Manager/Supervisor/Team Leader and staff member themselves, in order that evidence can be provided that the matter was addressed successfully or that the matter had been raised in an attempt to try to resolve the issue, should it be required at a later stage.

## The Formal Procedure

The formal Disciplinary procedure should be followed where the informal process has not led to a satisfactory sustained improvement in conduct, or where any unsatisfactory conduct is considered to be too serious for an informal approach to be adequate.

# Disciplinary Policy and Procedures



Advice must be sought from a Human Resources representative if a manager decides that there are grounds to initiate the formal disciplinary procedure. A management report will be required. A formal disciplinary hearing will not be convened until an investigation has taken place (see General Principles). Should it be considered that the matter is a capability or ill health issue, rather than one of conduct, the matter should be referred for consideration under the Capability or Incapacity on Medical Grounds Policy.

Depending on the circumstances of the allegations, it may not be necessary for an investigation meeting to be held in order for a management case to be prepared and the investigation stage would only be through the collation of evidence by the Investigating Officer. Further, if a member of staff does not engage in the process or attend the investigation meeting, the management case will be prepared based on the information available at that time.

## **Right to be accompanied**

Staff members have the right to be accompanied by a companion at any formal Disciplinary Hearing (see Definitions and Expectations of Role).

## **Non-attendance at Disciplinary Hearing**

Members of staff are expected to make themselves available for meetings/hearings at the date and time as specified in their invitation letter and to fully engage in the process. If there are good reasons why they are unable to attend they must inform the University in advance where possible e.g.:

- The chosen companion will not be available at the time; the hearing may be delayed to a time when the representative/companion is available, provided that the alternative time is both reasonable and normally not more than 5 working days after the date originally proposed. Where the Panel are unable to convene for this proposed date, an alternative proposal will be made but all parties should try to avoid unnecessary delay.
- As a result of exceptional circumstances that are outside of their control and which were unforeseeable at the time the meeting was arranged, the University will arrange another meeting, again without unnecessary delay where possible.

However, if the employee is unable to attend the reconvened meeting, refuses to attend, or the University does not accept the reasons given for not attending, it may proceed in their absence, taking into account the information available. Staff may, in extenuating circumstances, supply the Panel with a written statement but it should be noted that this is not a recommended option nor would it provide the opportunity for the individual to respond appropriately e.g. to questions raised within the Hearing.

In all instances a reasonableness test will be applied when considering how best to proceed.

## **Disciplinary Investigation**

If, following attempts to resolve a conduct issue informally, there has been no improvement, or if the matter is deemed to be serious enough to warrant formal action, or where informal action or training/coaching/counselling has proved ineffective, a manager may consider initiating the first formal stage of the disciplinary procedure. In such circumstances the matter must be referred to

# Disciplinary Policy and Procedures



the Human Resources department who will advise the manager and the necessary steps will be taken to appoint an Investigating officer.

The purpose of a disciplinary investigation is not to draw conclusions as to culpability, but to gather evidence and establish facts to determine whether or not there is a case to be answered. Investigations should be carried out in a timely and objective manner, with full regard to confidentiality (see Appendix B).

Should, in the course of a disciplinary investigation, it be considered that the matter is a capability or ill health issue, rather than one of conduct, the matter should be referred for consideration under the Capability or the Incapacity on Medical Grounds Policy, rather than the Disciplinary Procedure.

## **Stage One – Disciplinary Hearing**

A formal disciplinary hearing will not be convened until an investigation has taken place. If the conclusion of a disciplinary investigation is that there is a case to be answered, the member of staff whose conduct is concerned will be invited to attend a formal disciplinary hearing.

A Stage One disciplinary panel will comprise of a minimum of three members: the Line Manager/Head of Department, an Independent Manager of equivalent or more senior level (if appropriate), and a representative from Human Resources, although the composition may be varied depending on the nature and complexity of the issue concerned.

The staff member concerned will be invited to a Stage One disciplinary hearing in writing by Human Resources. The letter will set out the issues to be considered including details of the disciplinary allegations, the management case and all relevant documentation. The letter will advise the staff member of their right to be accompanied and of the need for confidentiality. The letter will also advise the outcomes that could result from the hearing and advise that a first written warning would only follow if the case is found against the member of staff. The hearing will normally take place within 10 working days from the date of the letter and will request the staff member to provide any supporting documentation and/or witness statements at least 5 working days prior to the hearing. Witnesses may be called as determined by the Panel.

At a Stage One disciplinary hearing, the Investigating Officer will present their report and the management case, if required. The member of staff/companion may ask questions of the Investigating Officer together with the Panel members. The member of staff will then be given the opportunity to respond and to state their case and to raise any factors that s/he wishes to be considered in any mitigation. The Investigating Officer may ask questions together with the Panel members. Both parties will then be invited to provide a concluding summary statement. (see Appendix D for suggested hearing format).

Short adjournments will be possible during the hearing for instance to confer with a representative/ companion.

## **Stage One – Formal Hearing – Outcome**

As soon as possible, after the hearing the Panel will consider the evidence and decide whether or not they wish to uphold or dismiss the disciplinary case. It may be necessary, however, for

# Disciplinary Policy and Procedures



the Panel to seek further information/clarification following the hearing, in which case any further enquiries/gathering of evidence will be concluded as quickly as reasonably possible.

If the Panel members conclude that some or all of the allegations are upheld, they will determine what sanction or recommendations, if any, should be applied. At Stage One a first written warning may be issued.

If a first written warning is to be issued, the Chair of the Panel (or nominee) will write to the member of staff concerned, normally within 5 working days of the hearing/panel decision.

The letter will provide the staff member with details of:

- The findings of the Panel, including the details of any warning issued;
- The improvement expected and the expected timeframe with any review periods as appropriate;
- The consequences of failing to respond to the warning or failing to sustain the required improvement;
- Any support or training that may be required;
- The right of appeal and to whom it should be submitted in writing by them within 10 working days of the date of the letter containing the decision. In exceptional circumstances where the outcome letter can only be delivered through the external postal system, a longer deadline of 15 working days may be applied.

The written warning will remain live for 12 months from the date of issue. If the staff member is absent for any reason for a period of more than one month during the 12 month period then the warning will be extended by an equivalent length of time.

If the disciplinary case is dismissed/not upheld, the Chair of the Panel (or nominee) will write to the member of staff concerned, normally within 5 working days of the hearing/panel decision, confirming this, including any alternative action that may have been recommended by the panel.

If witnesses have provided a statement but have not attended the hearing, they will be informed, normally by their interviewer, that the matter has been heard.

## **Stage Two – Disciplinary Hearing**

Where following a Stage One disciplinary hearing, there are continued/persistent misconduct issues, where the staff member has failed to achieve or sustain the improvement(s) expected from a warning issued at Stage One, or if the alleged misconduct is considered serious enough to warrant direct referral; a manager may consider referring a matter to Stage Two of the disciplinary procedure. In such circumstances the manager must refer to Human Resources department for advice, who will advise the manager and the necessary steps will be taken to appoint an Investigating officer.

If the conclusion of the investigation is that there is a case to be answered at Stage Two, the member of staff whose conduct is concerned will be invited to attend a Stage Two disciplinary hearing.

A Stage Two Disciplinary Hearing Panel will comprise of a minimum of three members not previously involved with the disciplinary matter: a Senior Independent Manager from the

# Disciplinary Policy and Procedures



Department/College (or other appropriate Senior Manager within the University), another Senior Member of staff/the Line Manager/Head of Department, and a representative from Human Resources, although the composition may be varied depending on the nature and complexity of the issue concerned.

The staff member will be invited to a Stage Two hearing in writing by Human Resources. The letter will set out the issues to be considered, including details of all disciplinary allegations, the management case and all relevant documentation. The letter will advise the staff member of their right to be accompanied and of the need for confidentiality. The letter will also advise the outcomes that could result from the hearing and advise that a final written warning would only follow if the case is found against the member of staff. The hearing will normally take place within 10 working days from the date of the letter and the letter will request the staff member to provide any supporting documentation and/or witness statements at least 5 working days prior to the Hearing.

At this Stage Two hearing, the Investigating Officer will present their report and management case, if required. The member of staff/companion may ask questions of the Investigating Officer together with the Panel members. The member of staff will then be given the opportunity to respond and to state their case and to raise any factors that s/he wishes to be considered in any mitigation. The Investigating Officer may ask questions together with the Panel members. Both parties will then be invited to provide a concluding summary statement. (see Appendix D for suggested hearing format).

Short adjournments will be possible during the hearing.

## **Stage Two — Outcome**

As soon as possible after the hearing, the Panel will consider the evidence and decide whether or not they wish to uphold or dismiss the disciplinary case. It may be necessary for the Panel to seek further information/clarification following the hearing, in which case any further enquiries/gathering of evidence will be concluded as quickly as reasonably possible.

If the panel members conclude that some or all of the allegations are upheld, they will determine what sanction or recommendations, if any, should be applied. At Stage Two a final written warning may be issued.

If a warning is to be issued, the Chair of the Panel (or nominee) will write to the member of staff concerned, normally within 5 working days of the hearing/panel decision.

- The letter will provide the staff member with details of:
  - The findings of the Panel, including the details of any warning issued;
  - The improvement expected and the expected timeframe with any review periods as appropriate;
  - The consequences of failing to respond to the warning or failing to sustain the required improvement;
  - Any support or training that may be required;
  - The right of appeal and to whom it should be submitted in writing by them within 10 working days of the date of the letter containing the decision. In exceptional

## Disciplinary Policy and Procedures



circumstances where the outcome letter can only be delivered through the external postal system, a longer deadline of 15 working days may be applied.

- The Panel may consider it more appropriate that a Stage One first written warning is given or extended, which will be made clear in the outcome letter.

The final written warning will remain live for 24 months from the date of issue. If the staff member is absent for any reason for a period of more than one month during the 24 month period then the warning will be extended by an equivalent length of time.

If the disciplinary case is dismissed/not upheld, the Chair of the Panel (or nominee) will write to the member of staff concerned, normally within 5 working days of the hear/panel decision, confirming this, including any alternative action that may have been recommended by the Panel.

If witnesses have provided statements but have not attended the hearing, they will be informed, normally by their interviewer, that the matter has been heard.

### **Stage Three – Final Disciplinary Hearing**

Where, following a Stage Two disciplinary hearing, there are continued/persistent misconduct issues, where the staff member has failed to achieve or sustain the improvement(s) expected from a warning issued at Stage Two, or if the alleged misconduct is considered serious enough to warrant direct referral and/or in matters of Gross Misconduct, a manager may consider referring a matter to Stage Three of the disciplinary procedure. In such circumstances, the manager must refer to the Human Resources department for advice, who will advise the manager and the necessary steps to appoint an Investigating Officer.

If the conclusion of the investigation is that there is a case to be answered at Stage Three, the member of staff whose conduct is concerned will be invited to a Final Disciplinary Hearing.

A Final Disciplinary Hearing Panel will comprise of a minimum of three members not previously involved with the disciplinary matter: an Independent Senior Manager, another Senior Member of staff/the Line Manager/Head of Department, and a representative from HR, although the composition may be varied depending on nature and complexity of the issue concerned..

The staff member concerned will be invited to attend a Final Disciplinary Hearing in writing by the Human Resources department. The letter will set out the issues to be considered, including details of all disciplinary allegations, the management case and all relevant documentation as appropriate. The letter will advise the staff member of their right to be accompanied and of the need for confidentiality. The letter will also advise the outcomes that could result from the hearing and advise that if the case is found against the member of staff it could lead to their dismissal. The hearing will normally take place within 10 working days from the date of the letter and will request the staff member to provide any supporting documentation and/or witness statements at least 5 working days prior to the Hearing. Witnesses may be called as determined by the Panel. (see Appendix D for suggested hearing format).

At a Stage Three Disciplinary hearing, the Investigating Officer will present their report and the management case. The member of staff/companion may ask questions of the Investigating Officer together with the Panel members. The member of staff will then be given the opportunity



# Disciplinary Policy and Procedures



to respond and to state their case and to raise any factors that s/he wishes to be considered in any mitigation. The Investigating Officer may ask questions together with the Panel members. Both parties will then be invited to provide a concluding summary statement. (see Appendix D for suggested hearing format).

Short adjournments will be possible during the hearing.

## Stage Three – Outcome

As soon as possible after the hearing, the Panel will consider the evidence and decide whether or not they wish to uphold or dismiss the disciplinary case. It may be necessary, however, for the Panel to seek further information/clarification following the hearing, in which case any further enquiries/gathering of evidence will be concluded as quickly as reasonably possible.

If the Panel members conclude that some or all of the allegations are upheld, they will determine what sanction or recommendations, if any, should be applied.

The Chair of the Panel (or nominee) will write to the staff member concerned, confirming the outcome, normally within 5 working days of the hearing/Panel decision.

On the basis of the information presented the Panel may decide upon one or more of the following outcomes:

- To dismiss the staff member on grounds of misconduct (with appropriate notice);
- To summarily dismiss (without notice) the staff member on grounds of gross misconduct;
- That there are insufficient grounds to dismiss the staff member, and that a final written warning; or extension of an existing warning would be more appropriate; with continued support, training and regular reviews as appropriate
- No formal warning is issued
- Other action may be recommended
- To withhold an increment of salary;
- To remove any title or office held in addition to the substantive post

The above list is not exhaustive and the outcome may be varied according to the circumstances of the case.

If the case is dismissed/not upheld, the Chair of the Panel (or nominee) will write to the member of staff concerned, normally within 5 working days of the hearing/panel decision, confirming this, including any alternative action that may have been recommended by the Panel.

In the event that the Panel decision at the hearing is to dismiss the staff member, the letter will inform the staff member of the reasons for their dismissal, their period of notice/pay in lieu of notice (if applicable), the date on which their Contract of Employment with the University will be terminated and the right to appeal the decision and to whom it should be submitted in writing by them within 10 working days of the date of the letter containing the decision being appealed. In exceptional circumstances, where the outcome letter can only be delivered through the external postal system, a longer deadline of 15 working days may be applied.

# Disciplinary Policy and Procedures



If witnesses have provided a statement but have not attended the hearing, they will be informed, normally by their interviewer, that the matter has been heard.

## 12. RIGHT OF APPEAL

There is no right of appeal against the outcome of the informal procedure of this policy.

An individual has the right to appeal against any outcome of a formal stage of this procedure, including any disciplinary sanction against them. Appeals must be lodged in writing to the Director of Human Resources/ nominated Human Resources manager, within ten working days of the date of the letter containing the decision, clearly stating their grounds for appeal. In exceptional circumstances where the outcome letter can only be delivered through the external postal system, a longer deadline of 15 working days may be applied.

An appeal hearing is not usually a re-hearing of the case. The Appellant must be specific about the grounds of appeal as this will form the agenda for the Appeal hearing. The Appeal Panel should normally confine discussions to the specific grounds of appeal rather than reconsider the whole matter afresh. The documentary evidence from the original hearing will be available for reference purposes and the Chair of the original hearing (or nominated Panel member) will be responsible for presenting the rationale for the original Panel's decision to the appeal hearing, whether in person or by correspondence.

Grounds of Appeal may be raised on the basis of:

- Procedural irregularity which has a material effect on the decision
- Disregard of material evidence
- The severity of the sanction in the face of the evidence presented
- Demonstrable bias or prejudice on the part of the Panel
- New evidence – which has genuinely come to light since the hearing. Where new evidence is raised, further investigations may need to be carried out which may require the appeal hearing to be postponed, pending the outcome of those investigations.

An Appeal Hearing will be arranged as soon as possible, allowing for factors such as Panel member availability. The appeal will be heard by two senior managers who have not previously been involved in the case and a Human Resources representative. The panel where possible, should reflect a varied profile in terms of ethnicity, gender and disability, wherever possible. (see Appendix E for suggested hearing process).

The individual will have the right to be accompanied by a Trade Union representative/workplace companion and should make the necessary arrangements to enable their companion to attend.

For Academic Staff (as defined in Statute 1 – 1.1), where a dismissal outcome has been decided, an Appeal Panel shall be constituted as specified under that Statute, and will consist of at least three members, including a Chair being a member of Council not being a person employed by the University; at least one other member of Council not being a person employed by the University; and at least one member of the academic staff nominated by the Senate.

Possible outcomes of an Appeal Hearing may be for the Appeals Panel to:

- Confirm the decision of the previous hearing

# Disciplinary Policy and Procedures



- Uphold the Appeal and rescind the decision; in which circumstances the Appeals Panel may consider it appropriate to recommend an alternative, lesser sanction; or dismiss the disciplinary case entirely

The above list is not exhaustive and the outcome may be varied according to the circumstances of the case.

The outcome of the appeal will be set out in a letter from the Chair of the Panel (or nominee) to the Appellant who will be advised that the decision is final and that there is no further right of appeal.

## 13. FURTHER INFORMATION

A full list of all available policies and guidelines are available on the HR intranet.

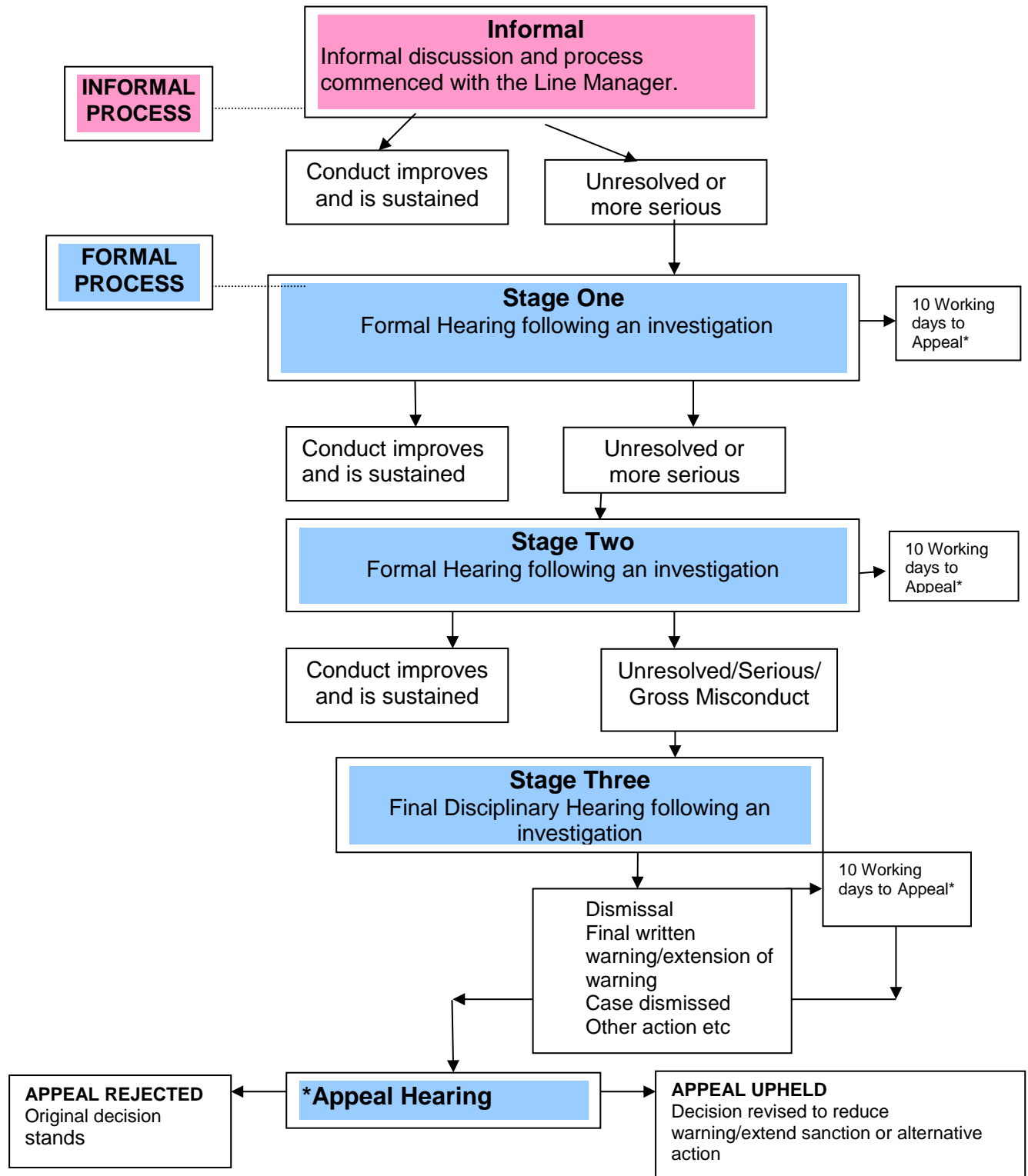
## 14. APPENDICES

- Appendix A – Disciplinary Process Flowchart
- Appendix B – Investigations Procedure for Disciplinary purposes
- Appendix C – Suspension
- Appendix D – Suggested Disciplinary Hearing Process
- Appendix E – Suggested Appeal Hearing Process

# Disciplinary Policy and Procedures



## APPENDIX A - Disciplinary Process Flowchart



# Disciplinary Policy and Procedures



## APPENDIX B – Investigations procedure for Disciplinary purposes

The University will conduct an investigation into the circumstances around a matter of misconduct that would assist the Disciplinary Hearing Panel in its deliberations and enable the staff member to respond to the allegations against them. The Investigating Officer may be the Supervisor, Line Manager, or an individual independent of the Department/area. The Investigating Officer will complete their investigation in a timely and objective manner, with full regard to confidentiality, and will present their report to the relevant disciplinary hearing if there is a case to answer.

Should in the course of a disciplinary investigation, it be considered that the matter under investigation is a capability or ill health issue, rather than one of conduct, the matter should be referred for consideration under the Capability or the Incapacity on Medical Grounds Policy, rather than the Disciplinary Procedure.

The Line Manager (or nominee) should advise an individual subject to allegations of misconduct of the general nature of the allegations and explain that an investigation will be conducted which may lead to formal disciplinary action being taken. The need for confidentiality will be confirmed. Such advice should not go into any further discussion.

The purpose of a disciplinary investigation is not to draw conclusions as to culpability, but to gather evidence and establish facts to determine whether or not there is a case to be answered. An Investigating Officer will meet with the member of staff against whom misconduct allegations have been made, and with others relevant to the investigation. Whilst the general nature of the alleged misconduct may be discussed with staff other than the individual subject of the investigation, full details will not be disclosed prior to or at an investigation meeting, and due regard will be paid to the need for confidentiality throughout the investigation.

Exceptionally, it may not be necessary for an investigation meeting to be held with the member of staff concerned in order for a management case to be prepared and the investigation stage would consist of the collation of documentary evidence by the Investigating Officer. However, a staff member against whom misconduct allegations have been made may request a meeting with the Investigating Officer, which will not be denied. A member of staff subject to misconduct allegations should ensure that they are available to attend an investigation meeting if required and that they co-operate fully with the process and any reasonable request or instruction in relation to the investigation. If a member of staff avoids or refuses to attend a meeting if required or to engage with an investigation, the management case will be prepared based on the information available at that time and the lack of co-operation by the member of staff concerned may be noted by the Panel members in their consideration.

The staff member concerned will be given advance notice of any investigation meeting and details of the alleged misconduct or matter under investigation. A written record of the meeting will be taken by a note taker for the staff member to check and agree as correct or to append their comments to the notes.

There is no statutory right to be accompanied by a companion to an investigatory meeting. However, the University at its discretion may agree to a companion being present as an observer. A companion will not be permitted to present the case, or answer questions on behalf of the individual. Brief adjournments will be permitted during the investigatory meeting. .

## Disciplinary Policy and Procedures



If witnesses have provided a statement as part of the investigation, they will be provided with a brief statement normally by their interviewer once the hearing has taken place, in order to inform them that the matter has been dealt with.

Contents of a disciplinary investigation may if relevant be referred to as part of a separate investigation under another policy or procedure – for example an investigation conducted under a disciplinary procedure may be disclosed as evidence under a grievance process.

# Disciplinary Policy and Procedures



## APPENDIX C – Suspension

In certain circumstances it may be necessary to suspend a member of staff on full pay pending a disciplinary investigation. Suspension will normally only be considered for reasons of Health and Safety, or if it is considered essential to facilitate a disciplinary investigation (e.g. in the instance of concerns of evidence tampering/destruction), or in the case of allegations of gross misconduct.

Suspension is not a disciplinary sanction and must not be used as such. Suspension will always be for a short time as possible and will be subject to frequent review. A suspension will remain in force until the member of staff concerned is advised otherwise by the Human Resources department

Reasons for suspension will be frequently reviewed for continued relevance and members of staff on suspension will be updated on a regular basis.

The University may consider alternatives to suspension, for example temporary redeployment, additional supervision or the restriction of duties as is deemed appropriate in the circumstances.

A Line Manager may also send an employee home for a short period of time, with immediate effect and on full pay, where circumstances warrant (such as a cooling off period). This would not constitute formal suspension under these procedures, although formal suspension may ensue.

Suspension may only be carried out on the authority of the Director of Human Resources or in their absence their nominee, following appropriate consultation with the Line Manager. The member of staff will be written to by Human Resources, normally following a meeting to explain the suspension, confirming the reason for the suspension and advising the process that will be followed. The member of staff will be required to return their ID and access cards, and advised that their network account may be suspended. They will be advised of the terms of their suspension which may include that they are not permitted to attend the campus, enter any University buildings or contact work colleagues/other University staff or students (past or present) without the express approval of named managers/Human Resources. This would not preclude contact with their union representative for the purpose of obtaining advice/support but prior approval will be required to attend the campus. Should the individual wish to attend the campus for any other reason or to contact a work colleague, prior approval will be required from the named Manager.

Except for approved leave of absence, the member of staff on suspension is required to provide contact details and to be available within reason to attend meetings as necessary. Any change of contact details during this period must be notified to Human Resources immediately in writing.

## Disciplinary Policy and Procedures



Whilst suspension is not a form of disciplinary action, a disciplinary investigation could lead to action being taken under the University's Disciplinary Policy and could provide evidence to a subsequent disciplinary hearing.

All stages of the process and contents of any meeting/hearing, documents etc must be treated as confidential. No audio/electronic or similar recordings of meetings may be made. Any breach of these conditions could itself lead to disciplinary proceedings.



# Disciplinary Policy and Procedures



## APPENDIX D – Suggested Disciplinary Hearing Process

Only the panel and if applicable, the note taker should be present in any pre-meeting. The Investigating Officer together with the member of staff and their companion (Trade Union representative or work colleague) should not enter the meeting room until the panel asks them in at the scheduled time of the hearing.

The following is a guide for the Chair of the panel to use in managing the hearing process. The Chair should:

1. Introduce all parties present and their role
2. Establish if witnesses have been called and confirm timings
3. Ensure that all parties are aware of the background to and the purpose and conduct of the hearing, e.g. the allegations to be heard, the disciplinary Stage and the format to be followed. Chair to confirm confidentiality and that breaks will be provided if requested
4. Confirm that all documents relevant to the hearing have been received. In the event that a party wishes a document to be tabled, agreement by all parties will be sought
5. Advise what the possible outcome could be e.g. the issue of a written warning.

Witness statements should be concerned with the facts relating to the issue and not consist solely of unsubstantiated opinion. If a witness provides a statement who is unable to attend a hearing, or declines to attend, it will be up to the Panel members' discretion as to whether or not to accept the statement. The Panel may decide, however, that witness statements alone will be sufficient.

Suggested order of hearing:

The Investigating Officer/Manager will put forward the management case

- a. Employee or representative to ask questions of the Investigating Officer/Manager
- b. Hearing panel to ask questions of Investigating Officer/Manager

Investigating Officer/Manager to call any invited witnesses

- a. Investigating Officer/Manager to ask any questions of witnesses
- b. Employee to ask any questions of witnesses as necessary
- c. Hearing panel to ask any questions of witnesses as necessary
- d. Investigating Officer/Manager to re-examine witnesses statements if necessary
- e. Witnesses leave the room following their questioning. They may be recalled if required.

Employee or his/her representative to state their case

- a. Investigating Officer/Manager to ask questions of the employee
- b. Hearing panel to ask questions of employee

## Disciplinary Policy and Procedures



Employee to call any witnesses *if appropriate*

- a. Employee to ask any questions of witnesses
- b. Investigating Officer/Manager to ask any questions of witnesses if appropriate
- c. Hearing panel to ask any questions of witnesses if appropriate
- d. Employee to re-examine if necessary
- e. Witnesses leave the room following their questioning. They may be recalled if required.

Investigating Officer/Manager to sum up

Employee or his/her representative to sum up

Chair to adjourn the hearing for Panel to deliberate on the information presented and advise if further investigation is required before a decision can be made. Or Chair to advise that the outcome will be delivered in writing as soon as possible.

# Disciplinary Policy and Procedures



## APPENDIX E – Suggested Appeal Hearing Process

Only the Panel and if applicable the note taker should be present in any pre-meeting. The Appellant and their representative, together with the Chair from the previous hearing if invited to attend, should not enter the meeting room until the Panel asks them in at the time of the actual hearing.

The following is a guide for the Chair of the Panel to use in managing the hearing process. The Chair should:

Introduce all parties present and their role

Advise that the meeting is being held to consider the specific grounds stated in the appeal statement.

That confidentiality must be followed and that breaks will be provided if required.

Advise that the decision of the appeal panel is final and that there is no further right of appeal.

The suggested order of the hearing should be:

The appellant or their representative will be asked to put forward their case

The Panel will ask questions of the appellant

The Panel will ask questions of the previous Chair if their presence is required

The Chair will confirm that no further information is being put forward

The previous Chair to sum up if present

The appellant or their representative will sum up

The Chair will adjourn the hearing for the Panel to deliberate on the information presented which may include further investigation as necessary

The decision shall be advised in writing to all parties, normally within 5 working days of the hearing unless a different timeframe has been advised.

The decision of the appeal panel shall be final. There is no further right of appeal.