

1. PURPOSE AND SCOPE

1.1 This procedure is designed to ensure that all staff are aware of and understand their rights and responsibilities relating to discipline. It aims to facilitate satisfactory standards of conduct and performance, to encourage improvements where appropriate and to ensure that cases of alleged misconduct, unacceptable performance or other acts or omissions considered by University management to warrant consideration of disciplinary action are dealt with consistently and fairly within a reasonable timescale.

1.2 The procedure applies to all staff of the University except 'holders of senior posts' as defined in the Articles of Government, ie the Vice-Chancellor, the Pro-Vice Chancellors, the Director of Human Resources and the Clerk to the Board.

1.3 Rules relating to the conduct of staff have been drawn up to set standards of behaviour and performance at work and to deter acts of misconduct. They are included in the Staff Handbook and aim to encourage and guide staff in achieving and maintaining high standards of discipline, behaviour and performance. Any breaches of the standards or rules outlined may be dealt with as a disciplinary matter under the provisions of this procedure.

1.4 This procedure aims to ensure good practice by applying the standards set out in the relevant sections of the ACAS Code of Practice on Disciplinary and Grievance Procedures. The principles of natural justice will be applied in conducting Disciplinary issues.

Note: The procedure does not apply to termination of employment:

- arising from the conclusion of the employment for which a member of staff was specifically appointed where the term or need for such an appointment has expired or is about to expire;
- during or at the end of a period of probationary service;
- by reason of redundancy;
- where the member of staff is above the normal retirement age (currently 65);
- arising from ill-health.

2. PRINCIPLES

2.1 All line managers and supervisors are responsible for identifying promptly any deficiencies in conduct or performance, discussing the matter with the individual member of staff and assisting him/her to improve. Minor matters will normally be dealt with informally.

2.2 No formal disciplinary action will be taken unless there is sufficient evidence to warrant such action and until the case has been carefully investigated.

2.3 Each case will be considered on its own merits in order that any decision should be reasonable in all the circumstances.

2.4 At each stage of the procedure, individuals will be informed of the nature of the complaint(s) and/or allegation(s) against them and will be given the opportunity to state their case before disciplinary decisions are made.

2.5 At each stage of the formal procedure, Personnel staff must be involved to give advice and guidance, to accompany those authorised to conduct disciplinary hearings as appropriate, to approve the form and wording of letters relating to disciplinary matters and actions/decisions.

2.6 At each stage of the formal procedure, individuals have the right if they wish, to be accompanied by a fellow member of staff or by an appropriate representative of an independent trade union (recognised or non-recognised) as defined in the Employment Relations Act 1999. Individuals may not be accompanied by anyone acting as a legal representative at any stage of the procedure.

2.7 Individuals will not be dismissed for a first breach of discipline except in case of gross misconduct when dismissal may take effect without notice or pay in lieu of notice.

2.8 Individuals have the right of appeal against any formal disciplinary action taken.

2.9 The procedures may be implemented at any stage according to the nature and seriousness of the complaint.

2.10 Formal disciplinary action will not normally be taken against an official of a recognised trade union until the circumstances of the case have been discussed with a senior Trade Union representative or full-time official of the union concerned.

2.11 All proceedings and associated documentation will be kept confidential as far as practicable.

3. INFORMAL PROCEDURES

3.1 In many circumstances it will not be appropriate to proceed immediately to formal disciplinary procedures.

3.2 Minor cases of misconduct may best be dealt with by informal advice, coaching and support rather than through the formal disciplinary procedure. Managers should discuss problems with individuals with the objective of encouraging and helping them to improve. It is important that staff understand what needs to be done, how conduct will be reviewed and over what period. Staff should also be made aware of what action may be taken if they fail to improve their conduct. Informal warnings are not part of the formal disciplinary procedure and the member of staff should be informed of this.

3.3 Poor Performance

3.3.1 Individuals have a responsibility to perform their role to a satisfactory level and will be given reasonable help and encouragement to do so. Line managers are responsible for setting realistic and measurable standards of performance and ensuring that members of staff understand what standard is required of them.

3.3.2 Where individuals may be failing to perform to the required standard the matter should be investigated (see 2.1 above). Where the reason is found to be a lack of skills, s/he should, wherever practicable, be assisted through training or coaching and given reasonable time to reach the required standard. Where the poor performance is due to negligence or lack of application on the part of the individual then formal disciplinary action may be taken.

3.3.3 An individual will not normally be dismissed because of a failure to perform unless warnings and an opportunity to improve (with reasonable targets and timescales) have been given in accordance with the Disciplinary Procedure. However where an individual commits a single error due to negligence and the actual or potential consequences of the error are, or could be extremely serious, it may be appropriate to proceed to formal disciplinary action and, depending on the nature of the allegation, summary dismissal may result (see Appendix 1)

4. THE FORMAL PROCEDURE

4.1 If conduct (see 3.2 above) or performance (see 3.3 above) does not meet acceptable standards after attempts to resolve minor matters informally have been made, or in more serious situations, the formal procedure should be followed at the appropriate stage.

4.2 Before contemplating disciplinary action, a manager should satisfy him/herself of the facts. It may be necessary to hold a preliminary investigation which will be carried out in such manner as the manager deems appropriate after consulting the Personnel Department. For example it is often appropriate for a preliminary investigation to be carried out by a member of another School or Support Service depending on the nature of the allegation(s). In all but exceptional circumstances, individuals will be informed of any investigation of which they are the subject at the outset.

Normally, disciplinary decisions will not be made by the person conducting the preliminary investigation.

4.3 Full written details of the allegation(s) and where possible all of the evidence supporting them will be made available to the member of staff concerned at least 7 working days in advance of the hearing.

4.4 The member of staff against whom disciplinary action is being brought will be given the opportunity to state his/her case and to make any representations before a disciplinary decision is made.

4.5 The individual or his/her representative will normally be expected to provide a written statement together with any supporting documentation at least 3 working days before the date of the hearing. Management's written case relating to the complaint(s) and/or allegation(s) and any supporting documentation shall also be completed at least 7 working days before the hearing. Such documentation will then be exchanged at least 3 working days before the hearing. Thereafter, no further documentation will be considered and taken into account at the hearing unless so approved in advance by the manager hearing the case.

4.6 Where either party presents one or more written statements as part of their case, the author(s) of those statements should normally be available during the disciplinary hearing and may be called to give their evidence in person, and answer questions relevant to the hearing from any party to the hearing. Additional witnesses may be called, for example to give a personal testimonial. Where appropriate, the hearing may be adjourned for a short period.

4.7 The individual will be informed of the decision following any disciplinary hearing and the reasons for the decision at the earliest opportunity. In exceptional circumstances where it has not been possible to reach a decision following the hearing, an indication will be given within one working day of the likely timescale for a decision to be reached. The decision will be confirmed in writing to the individual, normally within three working days after the decision has been made, together with the name of the person to whom any appeal should be lodged.

4.8 Notwithstanding the timescales indicated above, the University may accede to a request made by the individual against whom allegations have been made to conduct a disciplinary hearing within a longer or shorter period.

5. FORMS OF DISCIPLINARY ACTION THAT MAY BE TAKEN AND LEVELS OF MANAGEMENT AUTHORISED TO TAKE THEM

5.1 STAGE 1 - FIRST WRITTEN WARNING

5.1.1 After conducting a disciplinary hearing and considering the evidence and representations made, a First Written Warning may be given to the member of staff by the relevant Head of School or Support Service, the Vice-Chancellor, a Pro-Vice Chancellor or the Director of Human Resources.

5.1.2 Where appropriate, a First Written Warning may be given to a Head of School or Support Service by the Vice-Chancellor/Pro-Vice Chancellor/Director of Human Resources.

5.1.3 A First Written Warning will give details of the complaint, the improvement required and the timescale. It will warn that further disciplinary action will be considered if there is no satisfactory improvement. It will also advise of the right of appeal. A copy of the written warning will be placed on the member of staff's personal file held in the Personnel Department, but will be removed from the personal file and disregarded for disciplinary purposes after a period of 12 months, subject to satisfactory conduct and performance within that period..

5.2 STAGE 2 - FINAL WRITTEN WARNING

5.2.1 If there is still a failure to improve and conduct or performance remain unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning but not to justify dismissal, a Final Written Warning will normally be given to the member of staff. Where appropriate, such a warning may be given by the relevant Head of School/Support Service, or the Vice-Chancellor/Pro-Vice Chancellor/Director of Human Resources.

5.2.2 A Final Written Warning will give details of the complaint, will warn that dismissal is likely to result if there is insufficient improvement and will advise of the right to appeal. A copy of this Final Written Warning will be placed on the member of staff's personal file held in the Personnel Department. Final Written Warnings will be removed from the personal file and disregarded for disciplinary purposes after a period of 24 months, subject to satisfactory conduct and performance within that period.

5.3 STAGE 3 - DISMISSAL

5.3.1 If conduct or performance is still unsatisfactory and the member of staff continues to fail to reach the standards required following a Final Written Warning, dismissal is likely to result. Only the Vice-Chancellor/Pro-Vice Chancellor/Director of Human Resources can take the decision to dismiss a member of staff under this procedure.

5.3.2 Except in cases of gross misconduct, dismissal will normally be with notice or with pay in lieu of notice. The member of staff will be provided with written reasons for dismissal, the date on which employment will terminate and details of the right of appeal.

5.4 STAGE 4 - SUMMARY DISMISSAL

If, on completion of an investigation and a disciplinary hearing the Vice-Chancellor/Pro-Vice Chancellor/Director of Human Resources is satisfied that gross misconduct has occurred, the member of staff may be dismissed with immediate effect without any notice or pay in lieu of notice. In such cases, the member of staff will be provided with written reasons for dismissal, confirmation of the date on which employment terminated and details of the right of appeal.

Examples of offences which are normally regarded as gross misconduct are given in Appendix 1.

6. ALTERNATIVE PENALTIES

Following consultation with Personnel, managers responsible for taking formal disciplinary decisions may impose reasonable additional or alternative penalties including, for example, transfer to a different post/location. They may also require a member of staff to undertake relevant development or other measures in order to improve performance where appropriate.

As an alternative to dismissal, the appropriate member of OVC may decide to issue a final written warning and to demote or reduce the salary of the individual. This will be confirmed in writing by the University and the member of staff will be asked to confirm whether or not s/he accepts the alternative penalty.

7. APPEALS AGAINST DISCIPLINARY ACTION

7.1 Members of staff against whom formal disciplinary action has been taken may appeal in writing within 5 working days of receiving notification of the decision.

7.2 First Written Warnings

An appeal against a First Written Warning given by a Head of School or Support Service shall be considered by a Pro-Vice Chancellor or the Director of Human Resources. Where a First Written Warning has been given by a Pro-Vice Chancellor or the Director of Human Resources, the appeal will be considered by the Vice-Chancellor. The decision of the Vice-Chancellor/Pro-Vice Chancellor/Director of Human Resources will be final.

An appeal against a First Written Warning given by the Vice-Chancellor shall be considered by a Board member other than the Vice-Chancellor. The decision will be final.

7.3 Final Written Warnings

An appeal against a Final Written Warning given by a Head of School or Support Service shall be considered by a Pro-Vice Chancellor or the Director of Human Resources.

An appeal against a Final Written Warning given by a Pro-Vice Chancellor or the Director of Human Resources shall be considered by the Vice-Chancellor.

An appeal against a Final Written Warning given by the Vice-Chancellor shall be considered by a Board member other than the Vice-Chancellor.

In any case the decision will be final.

7.4 Dismissal (including Summary Dismissal)

Any member of staff who has been notified of dismissal may appeal in writing via the Clerk to the University Board. The appeal will normally be considered by a panel consisting of three members of the University Board which may include the Vice-Chancellor in cases other than where the decision to dismiss was taken by the Vice-Chancellor.

The decision of the Panel will be final.

8. PROCEDURE FOR HEARING APPEALS AGAINST FORMAL DISCIPLINARY DECISIONS

8.1 An appeal hearing will normally be convened within 15 working days of receipt of notice of appeal. Where an individual's chosen companion will not be available at the time proposed for the hearing, s/he may propose a reasonable alternative time within a period of 5 working days following the day proposed by the University.

8.2 The appeal hearing may not subsequently be postponed unless the person who will hear the appeal, or the Chairman of the appeal panel (in either case hereinafter referred to as 'the Chair') decides that it would be appropriate to do so in the particular circumstances (e.g. absence through illness certified by a medical practitioner).

8.3 The appellant or his/her representative will provide a written statement of the

grounds for appeal and any supporting documentation at least seven working days before the date of the appeal hearing. Management's written case relating to the disciplinary decision and any supporting documentation shall also be submitted at least seven working days before the hearing. Such documentation will then be exchanged and copies forwarded to the Chair at least five working days before the hearing. Thereafter, no further documentation will be considered and taken into account at the appeal hearing unless so approved in advance by the Chair.

8.4 The names of any witnesses to be called at the appeal hearing shall normally be notified at least seven working days in advance and exchanged between parties as soon as possible.

8.5.1 At the appeal hearing, the individual or representative will be given the opportunity to present their case without interruption, although the Chair or Appeal Panel members may seek clarification and further information on particular points.

8.5.2 Witnesses as notified in advance may be called in support of the case presented. When they have given evidence, the designated University management representative, and the Chair or Appeal Panel members, may seek clarification and further information on particular points from each witness.

8.5.3 When the individual or representative has completed presenting the case, the management representative and the Chair or Appeal Panel may seek further information or clarification on any relevant point.

8.5.4 The management representative will then present the case without interruption, subject to the Chair or Appeal Panel members' right to seek clarification and further information as before.

8.5.5 Witnesses as notified in advance may be called in support of the case presented. When they have given evidence, the individual or representative, and the Chair or Appeal Panel members may seek clarification and further information on particular points from each witness.

8.5.6 When the management representative has completed presenting the case, the individual or representative and the Chair or Appeal Panel members may seek further information or clarification on any relevant point.

8.5.7 The management representative will have the opportunity to summarise the case, ie to present the relevant points and information and to respond to matters of principle, detail or fact that have been raised. The individual or representative will then have the opportunity to summarise the case, and make any representations as appropriate.

8.6 The Chair and/or Panel may adjourn to seek professional advice at any time during the appeal process but any such advice will remain confidential to the Panel.

8.7 The Chair will, whenever possible, announce the outcome of the appeal at the conclusion of the hearing, following an adjournment to consider the evidence. In exceptional circumstances where it has not been possible to reach a decision s/he will

indicate the likely timescale for a decision to be reached. The decision will be confirmed in writing, normally within five working days and will be final.

APPENDIX 1 - EXAMPLES OF GROSS MISCONDUCT

1. Disciplinary procedures are intended, inter alia, to encourage efficient and safe performance of work, and the maintenance of satisfactory relations at work. This section offers guidance on types of conduct which be considered to be Gross Misconduct. It is not possible to provide an exclusive or exhaustive list, and the examples given should be taken as guidance only.

2. Examples of offences which are normally regarded as gross misconduct and likely to result in consideration of dismissal with immediate effect (Summary Dismissal) include:

- theft, misappropriation or unauthorised possession of the assets, funds, equipment and/or property of the University, staff, students or visitors,
- fraud, including any deliberate attempt to defraud the University, staff, students or other persons or organisations in the course of duties and responsibilities,
- corruption, including the acceptance of money, goods, favours or excessive hospitality from outside parties in respect of acts or service(s) rendered which are contrary to the interests of the University,
- deliberate falsification or misrepresentation of records or claims made,
- serious harassment or bullying,
- physical violence towards fellow members of staff, students or visitors,
- deliberate damage to property belonging to the University, staff, students or visitors,
- serious negligence or breach of safety rules potentially causing unacceptable loss, damage or injury,
- flagrant disregard of University policies, procedures, regulations or rules in force from time to time.
- serious incapability at work or on duty through alcohol, the use of illegal drugs or other substances,
- Serious acts of insubordination, including flagrant refusal to comply with a reasonable instruction.
- Serious misuse of the University's property, facilities or name,
- Acts or omissions which might damage the University's operations and/or which bring the University into serious disrepute.