

Human Resources



Conduct Procedures – Guidance for Managers

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Conduct Procedures – Guidance for Managers

1. Introduction

The University expects its staff to be aware of and to maintain high standards of personal and professional conduct at all times. The conduct procedures detailed in the Support Staff Procedure Agreement and the Ordinances related to Statute VII (for Academic and Professional staff) set out the agreed arrangements for managing conduct issues.

This guide highlights the pertinent points from those procedures; for ease of reference paragraphs in the tables depict either the Statute/Ordinances requirements or those under the Procedure Agreement. The sections underneath highlight good practice and provide helpful hints and tips on how to manage these situations. HR support is available, but their role should be limited to providing assistance and advice, e.g. on law and procedure. HR should not make or change decisions on outcomes.

2. Scope

This guide is intended to provide assistance to managers in dealing with cases of misconduct by any individual covered by Statute/Ordinances or the Support Staff Procedure Agreement.

3 Preliminary Investigation (to determine whether informal or formal procedure applies)

Good Practice

Where a complaint or allegation is received, a preliminary enquiry should be undertaken swiftly to determine whether there appears to be any substance to it. This should be discussed with HR at the earliest opportunity. Where there appears to be a prima facie case an investigation team should be appointed and consideration given as to which stage of the procedure is applicable and whether suspension is necessary.

When deciding on the above a number of factors should be considered including the nature of the alleged misconduct, impact or damages potentially arising from it, whether a live warning is in place, whether there are any criminal or professional repercussions (please refer to appendix 1 for examples of misconduct).

4. Suspension from Duty

Statute/Ordinances	Procedure Agreement
At any stage in the disciplinary process, if considered appropriate, in light of the suspension principles outlined in the overview statute, the member of staff may	At any stage in the disciplinary process, if considered appropriate, the member of staff may be suspended from work without detriment to normal full pay by the Director of

be suspended from work on full pay by the Vice-Chancellor, a Deputy Vice-Chancellor or Pro-Vice-Chancellor, or, when one such is not available, other person or persons designated by the Vice-Chancellor (the 'suspending officer'). Suspension is not a disciplinary penalty and is not an indication of culpability. Such suspension will be reviewed periodically by the Vice-Chancellor, a Deputy Vice-Chancellor or Pro-Vice-Chancellor and may be lifted at their discretion.

Human Resources (or nominee) (the 'suspending officer') or other designated person. Suspension is not a disciplinary penalty and is not an indication of culpability. Any suspension will be reviewed fortnightly by the Director of Human Resources (or nominee) and may be lifted at their discretion.

Good practice

Suspension will normally only be considered appropriate in more serious cases of misconduct where there is a serious risk of further misconduct, the continued presence of the staff member may either impede or prejudice the investigation, the health and safety of themselves or others, or where there has been a serious breakdown in working relationships.

The decision will depend on individual circumstances and should only be made having considered alternative options (e.g. alteration of their duties/working from a different location).

Where suspension is considered appropriate contact your HR Manager who will assist in preparation of a short report typically no more than 2 x A4 detailing the reasons why suspension is necessary which will be submitted to the relevant senior manager. This should also outline the proposed review period. The need for continuing suspension should be reviewed periodically, it should not continue any longer than is necessary and the member of staff should be kept informed of the progress/timescales for any next steps.

Where the suspension is approved (and in cases where the individual's practice is governed by Professional Statutory and Regulatory Body (PSRB), for example the General Medical Council or Nursing Midwifery Council) urgent further advice should be sought from HR to determine whether there is also a need to refer the matter to the relevant body. In some cases we may need to consider a referral to DBS or to the Police.

Communication regarding suspension should be carefully considered. It should be made clear to the member of staff that it is a precautionary measure and not a punishment or an indication of guilt. They should also be told that they will continue to be subject to their other employment obligations and should comply with any instructions. Where possible, communication to others (e.g. colleagues) should be limited to the fact of absence, as opposed to the reason.

Statute/Ordinances	Procedure Agreement
<p>During any period of suspension, the member of staff will be required to cooperate fully with any investigation and to be available for interview during normal office hours, but they will be entitled to access any University premises and to engage in their normal day to day duties only with the prior agreement of the head of school or service in consultation with the suspending officer. The suspending officer may also deny a suspended member of staff access to the University's e-mail or other digital facilities where the suspending officer considers it necessary or appropriate in the context of the case.</p>	<p>During any period of suspension, the member of staff will be required to cooperate fully with any investigation and to be available for interview during normal office hours, but they will be entitled to access any University premises and to engage in their normal day to day duties only with the prior agreement of the head of school or service in consultation with the suspending officer. The suspending officer may also deny a suspended member of staff access to the University's e-mail or other digital facilities where the suspending officer considers it necessary or appropriate in the context of the case.</p>

Good practice

Should the suspended member of staff need to contact colleagues for example for the purpose of preparing for a disciplinary meeting, or to access counselling services, then they should be advised to obtain prior permission from a designated person, usually the investigating officer with support from the HR Manager.

If the member of staff becomes ill, or wishes to take annual leave during the period of suspension, they should follow the normal notification procedures.

Statute/Ordinances	Procedure Agreement
<p>When a member of staff's conduct is called into question but the line manager does not consider the formal procedure in Part IV (Statute Vii) to be necessary, the line manager will meet with the member of staff to discuss the issue with them informally. A written record of discussions will be made.</p>	<p>When a member of staff's conduct is called into question but the line manager does not consider the formal procedure to be necessary in the first instance, they will meet with the member of staff to discuss the issue with them informally.</p> <p>A written record of informal discussions will be made by the manager and shared with the individual.</p>

5. Managing informal (minor) conduct issues

Good Practice

When managing a minor conduct issue the discussion should be held confidentially and in private. The discussion will focus on the specific conduct/behaviour issue that has been identified as falling short of the required standard and outline the steps that need to be taken to rectify the issue. The manager should ensure that the individual is clear about what standards are expected and of the potential consequences if there are further occurrences. The manager should share a summary of the key points of any discussions including the outcome and agreed actions and if necessary may decide to hold further review meetings.

Where the required standard of conduct is subsequently met and maintained no further action will be necessary.

Statute/Ordinances	Procedure Agreement
Where the informal process has not led to improved conduct, or where the alleged misconduct is of such seriousness that the informal process is considered to be inappropriate, the University may consider taking formal action under Stage 1 of this procedure.	Where the informal process has not led to improved conduct, or where the alleged misconduct is such that the informal process is considered to be inappropriate, the University may consider taking formal action under Stage 1 of this procedure.

6. Investigation Process

Statute/Ordinances	Procedure Agreement
An investigation may be conducted if, having taken into account the scope and nature of the alleged misconduct or gross misconduct, the relevant manager considers that this is necessary. This may require holding an investigatory meeting and collating evidence for use at any hearing. In such instances, the investigating officer will not hear any subsequent disciplinary case or otherwise take any disciplinary decisions.	An investigation may be conducted if, having taken into account the scope and nature of the alleged misconduct or gross misconduct, the relevant manager considers that this is necessary. This may require holding an investigatory meeting and collating evidence for use at any hearing. In such instances, the investigating officer will not hear any subsequent disciplinary case or otherwise take any disciplinary decisions.

Where the University considers it appropriate, the contents of an investigation undertaken under another statutory or other equivalent procedure may be used as part of this procedure.

Good Practice

In most cases a full investigation will be required before any formal disciplinary action is taken. When undertaking an investigation you should ensure that it is carried out in a timely manner that it is fair, proportionate, objective, and undertaken by individuals who are impartial and who must maintain appropriate confidentiality.

The purpose of the investigation is to establish the facts of the case, and/or to identify whether the matter should proceed to a disciplinary hearing. Your HRM/O will be able to support you with the investigation.

The member of staff should be informed in writing that an investigation will be undertaken and be given details of the following (template letters are available from HR):

- The nature of the alleged misconduct
- The date and time of the investigation interview that they are required to attend
- That they have a right to be accompanied at any investigation interview by a work colleague or a trade union representative
- That disciplinary action may be taken as a result of the outcome of the investigation

It is important to remember that notes taken as part of the investigation will form part of the information presented to a disciplinary panel and if challenged externally may form part of a tribunal claim. Arrangements should be made for a note taker to be present.

Following the above meeting the investigation manager will need to allow sufficient time to identify relevant sources of evidence, potential lines of enquiry and collect relevant witness statements. It may be necessary depending on the nature of the allegation to seek specialist advice, e.g. if an allegation relates to fraud or research misconduct.

If a new matter relating to the case comes to light either during or after the investigation, a discussion should be held with the HRM/O as to whether it is appropriate to expand the scope of the investigation, or (in exceptional circumstances) to recommend a further separate investigation.

It should be noted that where an employee is an accredited representative of a recognised trade union and is suspected of having committed a disciplinary offence no action should be taken (with

the exception of suspending the employee in a case of alleged gross misconduct) until the matter has been discussed with the prior agreement of the employee with a full time official of the trade union.

Collecting evidence

The Investigating Officer will in the course of planning the investigation consider the potential sources of any evidence and whether there may be witnesses to the alleged incident/event.

Where the Investigating Officer identifies witnesses who will need to be interviewed as part of the investigation they will need to ensure that the witnesses understand what is expected of them and that they may be required to attend a disciplinary hearing. They should make sure that relevant support is available.

Notes of meetings with witnesses will be taken and witnesses will be asked to sign and agree that they accurately reflect the matters that were discussed.

The Investigating Officer should be clear on the requirement for and the boundaries of confidentiality and ensure that witnesses understand that should the case move to a disciplinary hearing the notes may be used as evidence.

In the event a witness requests anonymity you should refer the request to the relevant HR Manager for advice, but do not make any promises that this will be possible.

Preparing the investigation Report

On completion of the investigation a report will be prepared for the Disciplinary Manager. The report will detail the approach that has been taken, summarise the evidence that has been obtained and highlight relevant areas of dispute. The Investigating Officer should if possible give a view as to whether they reached a belief that the alleged misconduct occurred. This should be based on the balance of probabilities (i.e. it is more likely than not?) and should make a recommendation as to whether the case should proceed to formal disciplinary action - though the investigator should not suggest sanction. The report will ask the Disciplinary Manager to review and decide whether to proceed to a disciplinary hearing.

The Disciplinary Manager will advise the relevant parties of their decision. The member of staff will be informed in writing of the requirement to attend the meeting and be advised of which stage of the formal process applies.

7. The formal disciplinary procedure

The formal disciplinary procedure comprises of 3 possible stages. As you progress through the stages the sanction increases with the most serious of cases potentially resulting in a dismissal. Alleged gross misconduct would be heard at Stage 3.

Statute/Ordinances	Procedure Agreement
Where misconduct may have occurred, the member of staff will be required to attend a formal disciplinary meeting at which they will be given the opportunity to respond and state their case. At least five working days' notice of the hearing will be given in writing to the member of staff, and any documents to be relied on at the hearing will be given to the member of staff at least three working days before the hearing.	The member of staff will be required to attend a formal disciplinary meeting at which the alleged misconduct will be outlined and they will be given the opportunity to respond and state their case. At least ten working days' notice of the hearing will be given in writing to the member of staff, and any documents to be relied on at the hearing will be provided to all parties at least 5 working days before the hearing.

Good Practice – Stages 1 and 2

The Disciplinary Manager should write to the member of staff to confirm the details of the hearing, where possible enclosing a copy of the Investigation Report and any other relevant documentation. The letter should confirm:

- The nature of the allegations and that the meeting will be a formal disciplinary meeting held in accordance with the procedure
- The date, time and location of the meeting
- That they have a right to be accompanied by a work colleague or a trade union representative
- The names and roles of people who will be present at the meeting, including witnesses
- That a possible outcome may be that disciplinary action is taken
- A request that any documents, statements or evidence e.g. from witnesses or in mitigation should be submitted at least 3/5 working days before the meeting

On the basis of the information submitted, the Disciplinary Manager can determine whether or not witness evidence is required, and confirm whether witnesses will be required to attend. The Disciplinary Manager will chair the meeting, and will be supported by a HR representative. Please refer to Appendix 10 for further information about the role of the Disciplinary Manager.

Where a member of staff has chosen to exercise their right to be accompanied they will receive support from their trade union representative or companion during the meeting. The representative cannot however answer questions on behalf of the member of staff unless the Disciplinary Manager agrees.

Stage	Procedural information	Potential Sanction	Panel Membership
1	<p>STATUTE/ORDINANCES:</p> <p>If, having considered the evidence, the Disciplinary Manager is satisfied that the member of staff has committed misconduct, the Disciplinary Manager will write to the member of staff informing them whether it is appropriate for a formal disciplinary warning to be given. If such warning is given the letter will set out the nature of the misconduct, the change in conduct required, the period during which the warning will remain active (no longer than one year) and the consequences of further misconduct. The letter will also set out the member of staff's right of appeal against the decision.</p> <p>PROCEDURE AGREEMENT:</p> <p>If, having considered the evidence, the Disciplinary Manager is satisfied that the member of staff's conduct has not met the required standard, the Disciplinary Manager will write to the member of staff informing them whether it is appropriate for a formal written warning to be given. If such warning is given the letter will set out the nature of the misconduct, the change in conduct required, the period during which the warning will remain active (no longer than 1 year) and the consequences of further misconduct. The letter will also set out the member of staff's right of appeal against the decision.</p>	<p>Written warning (will remain active no longer than one year)</p> <p>Written warning (will remain active no longer than one year)</p>	<p>At Stage 1, the formal meeting will be conducted by the head of the relevant school or service or their nominee ('the Disciplinary Manager').¹</p> <p>At Stage 1, the formal meeting will be conducted by the head of the relevant school or service or their nominee ('the Disciplinary Manager').²</p>
2	<p>STATUTE/ORDINANCES:</p> <p>If the member of staff does not meet the required standard of conduct set out under Stage 1, commits any further misconduct during the currency of an existing warning, or where the alleged misconduct is such that it is appropriate to dispense with Stage</p>	<p>Final written (will remain active no longer than 2 years)</p>	<p>At Stage 2, the Disciplinary Manager will be the Executive Dean of the relevant faculty or service equivalent or nominee.</p>

¹ HR support will be provided at all stages of the procedure

² HR support will be provided at all stages of the procedure

Stage	Procedural information	Potential Sanction	Panel Membership
	<p>1, the University may consider whether a formal disciplinary meeting should be convened under Stage 2 of this procedure.</p> <p>If, having considered the evidence, the Disciplinary Manager is satisfied that the member of staff has committed misconduct, the Disciplinary Manager will write to the member of staff informing them whether it is appropriate for a final disciplinary warning to be given and if such warning is given, the nature of the misconduct, the change in conduct required, the period during which the warning will remain active (no longer than two years) and the consequences of further misconduct. The letter will also set out the right of appeal against the decision.</p> <p>PROCEDURE AGREEMENT</p> <p>If the member of staff does not meet the required standard of conduct set out under Stage 1, commits any further misconduct during an existing warning period, or where the alleged misconduct is such that it is appropriate to dispense with Stage 1, the University may convene a formal disciplinary meeting under Stage 2 of this procedure.</p> <p>If, having considered the evidence, the Disciplinary Manager is satisfied that the member of staff's conduct has not met the required standard, the Disciplinary Manager will write to the member of staff informing them whether it is appropriate for a final written warning to be given and if such warning is given, the nature of the misconduct, the change in conduct required, the period during which the warning will remain active (no longer than 2 years) and the consequences of further misconduct. The letter will also set out the right of appeal against the decision.</p>	<p>The Disciplinary Manager may also consider the removal of any title or office held in addition to the substantive appointment.</p> <p>Final written (will remain active no longer than 2 years) The Disciplinary Manager may also consider removal of title or office held in addition to substantive appointment.</p>	<p>The line manager of the member of staff whose conduct is under examination will not be appointed to act as Disciplinary Manager.</p> <p>At Stage 2, the Disciplinary Manager will be the dean of the relevant faculty or service equivalent or nominee. The line manager of the member of staff whose conduct is under examination will not be appointed to act as Disciplinary Manager.</p>

Good Practice

The Disciplinary Manager should confirm in writing the outcome of the meeting as soon as possible. For any outcome other than dismissal the letter will include the following:

- Detail of the outcome and the potential consequences if the required improvements are not met within the timeframe, e.g. that failure to make the necessary improvement and/or meet the required standard of conduct may result in further formal disciplinary action and ultimately, potential dismissal
- Confirmation that a copy will be placed on their personnel file and will remain live for the relevant period of time after which it will expire
- Any further instances of misconduct in that period may result in further disciplinary action following further investigation
- Confirm that any salary increment due in the following 12 months will be withheld
- Explain that they have the right of appeal and that they must appeal within 15 working days of receiving the outcome letter

Statute/Ordinances	Procedure Agreement
A copy will be placed on the member of staff's personal file and will be removed six months after the caution expires, subject to achievement and maintenance of the required improvement(s).	A copy will be placed on the member of staff's personal file and will be removed after the warning expires.

Stage 3

Statute/Ordinances
<p>Stage 3 – Potentially leading to dismissal</p> <p>If the member of staff does not meet the required standard of conduct set out in the final disciplinary warning issued under Stage 2 of this procedure, commits further misconduct during the currency of an existing warning, or where allegations of gross or very serious misconduct are raised such that it is considered appropriate to dispense with Stages 1 and 2, the University may take formal action under Stage 3 of this procedure.</p> <p>If there are grounds to indicate that an act of further, or gross, or serious, misconduct may have occurred, the member of staff will be required to attend a formal disciplinary hearing before a three-person panel established by the Secretary or nominee; the membership of the panel shall include one lay member of the Council and a member of the Senate. The letter requiring</p>

attendance at the formal disciplinary hearing will include a statement of the alleged misconduct and will warn the member of staff that one consequence of the hearing may be the termination of their employment with or without notice. The member of staff will be given at least fifteen working days' notice of the hearing, and any documents to be relied on at the hearing will be given to the member of staff at least ten working days before the hearing.

At the hearing the member of staff will be given the opportunity to state their case and raise any factors which they wish to have considered.

Where allegations are partly or wholly upheld by a panel, the panel may impose sanctions, including but not limited to:

- dismissal (without notice in the case of gross misconduct);
- withholding of any forthcoming increment of salary;
- demotion to a post of lower grading;
- redeployment;
- removal of any title or office held in addition to the substantive appointment.

The panel will forward its decision to the Secretary or nominee, who will make arrangements for its implementation.

The decision, the reasons for that decision and any sanction(s) will be set out in writing and the member of staff will be notified of their right of appeal.

Procedure Agreement

Stage 3 – Potentially leading to dismissal

If the member of staff does not meet the required standard of conduct set out under stage 2, commits any further misconduct during an existing warning period, or where allegations of gross or very serious misconduct are raised such that it is considered appropriate to dispense with Stages 1 and 2, the University may take formal action under Stage 3 of this procedure.

If there are grounds to indicate that an act of further, or gross, or serious, misconduct may have occurred, the member of staff will be required to attend a formal disciplinary hearing before a three-person panel established by the Secretary or nominee, none of whom will have had prior involvement in the case. The letter requiring attendance at the formal disciplinary hearing will include a statement of the alleged misconduct and will warn the member of staff that one consequence of the hearing may be the termination of their employment with or without notice. The member of staff will be given at least fifteen working days' notice of the hearing, and any documents to be relied on at the hearing will be provided to all parties at least ten working days before the hearing.

At the hearing the member of staff will be given the opportunity to state their case and raise any factors which they wish to have considered.

Where allegations are partly or wholly upheld by a panel, the panel may impose sanctions, including but not limited to:

- dismissal (without notice in the case of gross misconduct);
- withholding of any forthcoming salary increment;
- demotion to a post of lower grading;
- a move to a job elsewhere in the University;
- removal of any title or office held in addition to the substantive appointment;
- formal warning for a duration appropriate to the case.

The panel will forward its decision to the Secretary or nominee, who will make arrangements for its implementation.

The decision, the reasons for that decision and any sanction(s) will be set out in writing and the member of staff will be notified of their right of appeal.

8. Decision to dismiss the member of staff

Statute/Ordinances	Procedure Agreement
A copy will be placed on the member of staff's personal file and will be removed six months after the caution expires, subject to achievement and maintenance of the required improvement(s).	The decision, the reasons for that decision and any sanction(s) will be set out in writing and the member of staff will be notified of their right of appeal.

Good Practice

Where the outcome of the hearing is dismissal the member of staff will cease to be an employee of the University from the date the dismissal takes effect (taking account of whether the dismissal is with or without notice), irrespective of whether or not an appeal against dismissal has been lodged. The letter to the member of staff should include the following details:

- The reason for dismissal
- A summary of any mitigation taken into account
- Confirmation of their leaving date and any notice/pay in lieu of notice
- Confirmation of their right of appeal and timeframe for submitting the appeal e.g., within 15 days of receiving the outcome letter

Statute/Ordinances

The member of staff will have the right to appeal against any decision under this procedure and must specify the grounds for their appeal. The appeal must be made in writing and, without prejudice to the generality of the right of appeal, should normally address one or more of the following possible grounds of appeal: that the original decision was, on the evidence, perverse or the penalty unfair; that there has been a procedural defect causing material disadvantage; and that new evidence has become available which could not reasonably have been taken into account originally.

An appeal against a warning at Stages 1 or 2 must be sent to the Director of Human Resources within fifteen working days of the member of staff receiving the decision. The Director of Human Resources or nominee will invite an appropriate senior member of staff who has had no prior involvement in the matter to consider the appeal.

An appeal against a sanction at Stage 3 must be sent to the Secretary within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel consisting of the Vice-Chancellor (or a Deputy Vice-Chancellor), a member of the Senate and either a lay member of the Council or an independent practising lawyer.

Procedure Agreement

The member of staff will have the right to appeal against any decision made under the formal stage of this procedure and must specify the grounds of their appeal. The appeal must be made in writing and should normally address one or more of the following possible grounds of appeal:

- that the original decision was, on the evidence, perverse or the penalty/improvement measures unfair;
- that there has been a procedural defect causing material disadvantage; or
- that new evidence has become available which could not reasonably have been taken into account originally.

An appeal against a warning at Stages 1 or 2 must be sent to the Director of Human Resources within fifteen working days of the member of staff receiving the decision. The Director of Human Resources or nominee will invite an appropriate senior member of staff who has had no prior involvement in the matter to consider the appeal.

An appeal against a sanction at Stage 3 must be sent to the Director of Human Resources within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel, none of whom will have had prior involvement in the case.

9. Appeals Procedure

The member of staff should clearly state why they believe the grounds alter the original decision. Their appeal will be acknowledged and HR will make contact if the grounds for the appeal are not clear.

The Appeal Hearing

Good Practice

The Director of HR or the University Secretary should acknowledge the appeal and issue the employee with a date for the appeal hearing in writing giving at least 15 days' notice.

The letter should confirm:

- the purpose of the appeal hearing;
- the date, time and location of the hearing;
- their right to be accompanied at the hearing by a work colleague or a trade union representative;
- the names and roles of people who will be present at the meeting, including witnesses (where appropriate).

Please see Appendix 6 for the checklist for arranging the appeal hearing. An HR representative should be available to attend and support the senior staff member or panel (as appropriate) during the Appeal Hearing

Statute/Ordinances	Procedure Agreement
The decision of the appeal panel will be final and cannot be further appealed. It will be communicated with all due expedition.	The decision of the appeal panel will be final and cannot be further appealed. This concludes the University's internal procedures.

In the event an appeal against dismissal is received and subsequently upheld, the member of staff will be reinstated.

10. Other considerations

Personal illness during the procedure

If the member of staff indicates that they are unwell and may not be able to engage in the process and/or attend any meetings managers may seek advice from Occupational Health (or the member of staff's GP) to find out if and when they are likely to be well enough to engage. The level of fitness required to attend a meeting will be different to that required to work and it may be beneficial to conclude matters swiftly rather than delay the conclusion of the investigation.

If the individual is deemed fit enough to participate the process will proceed, with due regard for any adjustments that may have been recommended and which are considered reasonable.

Where the medical advice indicates that an individual is not well enough to attend a meeting and/or the hearing, it will normally be rescheduled. Consideration may be given to other options e.g. written representations, the attendance of a representative instead or a meeting at an alternative location. However, if the member of staff is persistently unable to engage or attend and/or does not offer any reasonable explanation for not engaging or attending, any process and/or hearing may proceed in their absence and will rely on documentary evidence already provided.

Misconduct outside the workplace

Misconduct that occurs outside of the workplace can still lead to disciplinary action. For example, this may arise where the impact of a staff member's actions may be detrimental to the University, its staff or students, and/or has undermined trust and confidence in the member of staff's ability to conduct their role.

Temporary exclusion from work

There may be exceptional occasions when, due to the timing and seriousness of the situation, it may be appropriate to temporarily and immediately exclude a member of staff from work in advance of, or instead of, suspension to safeguard themselves and/or work colleagues. For example, a member of staff is under the influence of alcohol and is unfit to work. In these circumstances, the manager may instruct the member of staff to leave work and remain at home until further notice. This will allow them to take appropriate advice on the necessary course of action.

Any such exclusion will normally last for 1 or 2 days and ideally no longer than 5 days, and must be reported to the Director of Human Resources (or nominee in their absence) as soon as possible. Whilst temporarily excluded, staff will continue to receive their contractual pay and other benefits but are not allowed to enter University premises, undertake any work or contact staff or students without the written consent of HR.

Potential Criminal Investigation/Conviction

If a member of staff is charged with, or convicted of a criminal offence, this is not in itself reason for disciplinary action. The member of staff is required to inform the University as soon as possible, and consideration will be given to the seriousness and nature of the allegation or offence and any penalty imposed, in relation to the member of staff's work position. Where it decides to take action, the University does not need to wait for the criminal investigation or outcome of the prosecution to do so however consideration should be given as to whether an internal investigation would undermine a criminal investigation.

The manager should inform their HR Manager at the earliest opportunity for further advice.

Illegal working

If a member of staff is believed to be working illegally they will be suspended from duty immediately. Following suspension a disciplinary hearing will be arranged within 10 working days from the date of suspension. This will allow the manager to make reasonable efforts to make enquiries with the UKVI and other agencies, and allow the employee time to assemble and provide documentary evidence that they are entitled to work in the UK. The Investigating Officer will prepare a brief written chronology for the formal meeting and this should be sent out in advance of the hearing.

Duty to Refer to DBS

For roles where individuals are engaged in Regulated Activity the University may be under a legal obligation to refer details on to the DBS. Further information should be sought in this case to ensure that we comply with the law surrounding this.

For further details please refer to the following documents which can be found on the Secretariat website:

Policy on Safeguarding children, young persons and adults in vulnerable circumstances:

http://www.leeds.ac.uk/secretariat/documents/safeguarding_policy.pdf.

Guidance on organising activities for children or Adults in vulnerable circumstances:

http://www.leeds.ac.uk/secretariat/documents/safeguarding_guidance.pdf

Professional, Statutory and Regulatory Bodies/Registration

Where the individual is a member of a professional body (e.g. General Medical Council or General Dental Council) consideration should be given as to whether there is a requirement to report to the relevant body.

11. Sources of information and support

- Human Resources
- ACAS
- Equality Policy Unit
- Trade Unions
- Staff Counselling and Psychological Support Service

12. Document Governance

The guidance will be reviewed and amended periodically.

Appendix 1 - Examples of Misconduct

The actions below are examples of misconduct which are sufficiently serious as to warrant disciplinary action. The examples are illustrative and are not exclusive or exhaustive. There may be actions which do not appear here but may nevertheless be the subject of disciplinary action.

- Not conducting themselves with integrity and professionalism and/or not treating colleagues, students and customers/clients of the University with dignity and respect
- Unauthorised absence
- Abuse or misuse of sick pay/holiday provisions
- Abuse or misuse of study leave provisions
- Breach of contract/terms and conditions of employment
- Breach of confidentiality – disclosure of privileged and confidential information to unauthorised persons
- Participating without authority in other employment, trade, business or profession which is prejudicial to or which adversely affects employment with the University
- Failure to carry out reasonable and legitimate instructions given by management
- Failure to follow the University's laid down processes and procedures
- Willful/deliberate failure on the part of the member of staff to perform to the standards which they are capable of and which are required of their role
- Poor timekeeping, including taking excessive breaks
- Harassment, bullying of staff
- Failure to comply with the provisions of the University's Policy on Equality and Inclusion
- Failure to comply with the University's Health & Safety Policy

Appendix 2 - Examples of Gross Misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship. In the event that a member of staff is found to have committed an act of gross misconduct the University will be entitled to terminate their contract following a full investigation. Acts which are viewed as Gross misconduct include (but are not limited to):

- Theft of University property or property belonging to members of staff
- Malicious or reckless damage to University property or the property of other members of staff
- Assault, physical and/or verbal abuse upon a member of staff or student
- Sexual harassment
- Corruption and or fraud
- Dishonesty relating to employment (e.g. fraudulent travel claims, deliberate
- Falsification of qualifications required for the role
- Breach of the University's Fraud and or Bribery Policy
- Breach of health and safety regulations resulting in serious or imminent danger
- Breach of the University's Policy on Equality and Inclusion regarding the malicious, deliberate or persistent discrimination, harassment, or bullying of a member of staff or the public
- Serious breach of the Computer Use Regulations
- Serious negligence which causes unacceptable loss, damage or injury
- Serious or persistent failure and/or deliberate refusal to carry out reasonable and legitimate instructions given by management
- Gross fundamental breach of terms and conditions of employment
- Serious incapability to perform duties due to the influence of alcohol and/or drug misuse (Policy can be found [here](#) or on the HR website)
- Serious carelessness/negligence in the performance of duties
- Soliciting gifts/gratuities for services rendered
- Research misconduct, including: fraud, dangerous or negligent deviations from accepted research. Refer to research misconduct policy
- Misuse of social media (whether personal use or in a work-related capacity on behalf of the University)

Appendix 3 - Regulated Activity

The definition of regulated activity is set out in legislation and determines eligibility for an enhanced DBS check including a check of the relevant barred list.

You should consider the nature of the role, where and who the person will be working when determining if it involves regulated activity, e.g. children and/or vulnerable adults.

Regulated activity - Children

Regulated activity relating to children is split into two main categories, activities and places of work.

Those working in specified activities will be classed as engaging in regulated activity. Put simply, this is anyone who is teaching/training/instructing/coaching/caring for or supervising children.

Persons working in a specified establishment would be also classed as working in regulated activity. These include, but are not limited to:

- Schools, Children's homes and Nurseries.

Those permanently working in these establishments would be engaged in regulated activity, e.g. those working as teachers, nursery nurses, or caretakers.

Persons such as contractors who work in these establishments sporadically would only be eligible for a check if they worked in any one of these specified places more than three times in a 30-day period.

Regulated activity - vulnerable adults

Whether someone is working in regulated activity in relation to vulnerable adults is not necessarily determined by their place of work, but on six defined types of activity. A basic outline of these is:

- Providing personal care
- Providing healthcare
- Providing social work
- Assistance with conducting an individual's own affairs
- Assistance with household matters
- Conveying to a place of care/social work

All of these activities encompass specific examples of actions/roles which would be classed as regulated activity. A comprehensive guide is available from the Department of Health.

The activities described above are only classed as regulated activity if they're done as part of a commercial role e.g. paid or voluntary through an organisation.

It's important to note that anyone who is responsible for the day to day management/supervision of those carrying out regulated activity is also engaging in Regulated activity. Consequently, they would also be eligible for an enhanced DBS check with applicable barred lists.

Appendix 4 - The role of the representative/companion

- An employee has a **statutory right to be accompanied** by a **colleague or a trade union representative of their choosing**
- The union **does not have to be recognised** by the employer
- The employee does not have to be a member of the trade union to ask a representative to attend with them.
- If your companion can not make the date of the meeting, you can ask for the hearing to be rearranged within five working days of the original meeting.

The representative / companion can:



Put forward the employee's case



Query or seek clarification of the procedures or any points raised



Examine and question any evidence or papers produced for the hearing



Address the hearing manager in writing or verbally, including bringing to attention any mitigating circumstances



Take notes on the employee's behalf

The representative / companion cannot:



Answer questions on the employee's behalf, unless the Disciplinary Manager is in agreement. The Disciplinary Manager reserves the right to ask questions directly to the employee. The representative cannot be disruptive or prevent others taking part in the hearing.

Appendix 5 - Format of Disciplinary Hearing

Person	Action
Disciplinary Manager / UEG member (supported by HR)	<ul style="list-style-type: none"> • Will Chair the meeting and be supported by HR • Introduces those present • Explains their roles and confirms the purpose of the meeting • Confirms that the individual and Investigating Officer will be present throughout the meeting • Explains role of accompanying person if present
Investigating Officer	<ul style="list-style-type: none"> • Will outline the case against the member of staff and present any evidence/witnesses as appropriate
All Parties	<ul style="list-style-type: none"> • Will be given an opportunity to question the Investigating Officer and any witnesses to clarify facts
Member of staff	<ul style="list-style-type: none"> • Will be asked to state their case and present any evidence/witnesses as appropriate (The member of staff may nominate their representative to do this)
All Parties	<ul style="list-style-type: none"> • Will be given an opportunity to question the member of staff and any witnesses to clarify facts • Arrangements to reconvene should be made at the meeting or as soon as possible after the adjournment. The adjournment should be no longer than necessary in the circumstances
Disciplinary Manager / Panel member and HR Manager	<ul style="list-style-type: none"> • Will also have an opportunity to seek further clarification of the facts and any issues raised
Investigating Officer	<ul style="list-style-type: none"> • Will be asked by the Chair to summarise the management case
Member of staff/representative	<ul style="list-style-type: none"> • Will be asked by the Chair to summarise their response
Chair	<ul style="list-style-type: none"> • Will adjourn the meeting to consider their information and arrive at a decision. (The meeting may be adjourned at any time but any adjournment should be as short as practically possible)
Member of staff	<ul style="list-style-type: none"> • Will be informed by the Disciplinary Manager of the outcome asap preferably on the same day. Written confirmation will follow within 10 working days
Member of staff	<ul style="list-style-type: none"> • Will have the right of appeal. Any appeal must be received within 15 working days of receipt of the outcome letter

Appendix 6 - Checklist for arranging the Appeal Hearing

Person(s) Responsible	Task
Director of Human Resources or nominee	(Stages 1 and 2 - appeal only) Selecting an appropriate senior member of staff with no prior involvement who can consider the appeal. For all appeals, a member of the HR Team who has not previously been involved in the case will also be in attendance.
University Secretary or Nominee (academic and professional staff) / Director of Human Resources (support staff)	Stage 3 Appeal (only) For establishing a panel of three (none of whom will have had prior involvement in the case). For academic and related staff the panel should consist of the Vice Chancellor (or Deputy Vice Chancellor) a member of senate and either a lay member of the council or an independent practicing lawyer. For support staff the panel should be of similar composition
Director of Human Resources	Acknowledge the appeal issue employee with written confirmation of appeal hearing giving at least 15 days' notice).
Employee	If exercising their right to be accompanied confirm name of work colleague or Trade Union representative they wish to accompany them at least 5 working day before hearing.
Employee and decision maker at Stage 1 or 2	The Appeal Hearing will be attended by both the person who made the decision at stage one/stage two disciplinary meeting and the member of staff making the appeal;
Manager and Employee	Provide copy of any documents they will be referenced to the HR representative supporting the appeal and the Chair of the panel (at least 5 days before hearing).
Employee	If the grounds of the appeal relate to new evidence this must be submitted to the Chair at least 5 days in advance of the hearing with a clear explanation about why they believe it will alter the original decision.
Director of Human Resources / Nominee	In the event the employee is unable to attend due to circumstances beyond their control the hearing should be rearranged where possible within 10 days of the original date. (normally limited to two occasions)
Chair to decide	If the employee persistently fails to attend the hearing may progress and a decision may be made in their absence
Director of HR / Nominee	Both parties will be notified of the outcome in writing normally within 5 working days of the Appeal Hearing.

Person(s) Responsible	Task
Panel stage 1/2	The decision of the appeal panel is final. The panel may decide to uphold the appeal OR reject the appeal. Where increments were withheld and the decision is overturned the individual will receive all outstanding pay.
Dismissal Panel	The decision of the appeal panel is final. The panel may decide to uphold the appeal and reinstate the employee (with recommendations for review) OR to reject the appeal and uphold the dismissal.

Appendix 7 - Format of the Appeal Hearing

Person	Action
Senior Manager hearing the appeal / Panel Chair	<ul style="list-style-type: none"> Introduces the panel explains their roles, the purpose of the Hearing and how it will be conducted.
Employee	<ul style="list-style-type: none"> Will be asked to state the grounds of their appeal and to present their case
Management representative	<ul style="list-style-type: none"> Will be asked to present their case
Employee	<ul style="list-style-type: none"> Will be invited by the Chair to state the grounds of their appeal
Senior Manager / Chair of appeal hearing	<ul style="list-style-type: none"> Will have an opportunity to question both parties to clarify facts
Both Parties	<ul style="list-style-type: none"> Will be asked to conclude by providing a summary of their case
Senior Manager hearing the appeal / Panel	<ul style="list-style-type: none"> Will consider the grounds for the appeal and the information presented during the appeal hearing and will make a decision and inform the University Secretary They may in some cases feel an adjournment is necessary. If this is the case a date and time for reconvening should be agreed and made clear to all parties. Any adjournment should be kept to a minimum. (Normally a maximum of 10 working days).
The panel can decide	<ul style="list-style-type: none"> To reject the appeal and uphold the original decision. There is no further right of appeal OR To uphold the appeal and overturn the original decision <p>Where the outcome of an appeal is to reinstate the employee they will receive any remuneration or other benefits which they would have received had the decision to dismiss not be taken and continuity of service will be preserved.</p>
Director of Human Resources (or nominee)	<ul style="list-style-type: none"> Will write to the individual within 5 working days of the hearing to confirm the decision. If the appeal is rejected and the decision is upheld no further right of appeal exists and this exhausts the university procedure <p>Where the decision was dismissal the individual will receive pay and benefits they would have received had the dismissal decision not been made. Continuity of employment is maintained.</p>