

Disciplinary Procedure for Staff on Grades 1 - 4



1. Introduction

- 1.1 The Disciplinary Procedure provides a fair and consistent framework for dealing with disciplinary matters in a prompt and efficient manner and is to be used where there are concerns regarding the conduct or behaviour of employees. The Procedure is informed and guided by the ACAS Code of Practice on Disciplinary and Grievance Procedures (April 2009).
- 1.2 This procedure applies to all employees employed on Grades 1-4¹ within the University. The disciplinary procedures will not normally apply to concerns regarding capability which will normally be dealt with under the University's capability procedures. However, where issues of performance and conduct are interrelated, they will be dealt with under this procedure.
- 1.3 Concerns regarding conduct or behaviour of staff are normally addressed promptly and informally by line management, with recourse to mediation where appropriate. The Isolated minor infringements will normally be dealt with informally by Schools. Formal disciplinary procedures are invoked when necessitated by the nature or frequency of the alleged concerns.
- 1.4 The procedure is underpinned by the principles of natural justice, fairness and equality and will be applied without distinction.
- 1.5 The University seeks to ensure that confidentiality is maintained throughout the process in the interests of protecting the employee's reputation with colleagues. The employee is also expected to maintain the confidentiality of the process and to respect the right of others to raise concerns and the University's duty to investigate them. The undertaking of confidentiality during the process does not prevent the University from providing relevant information including the nature of the proven allegations and the outcomes to any person with a legitimate need to know and where it is in the public interest to disclose that information.
- 1.6 If it is not possible for an employee to attend any meeting during this process, one further attempt will be made to reconvene at an alternative date and time suitable for all. If the employee is unable to attend the reconvened meeting, the meeting will be conducted in their absence. In cases where the employee against whom the allegations have been made commences a period of sickness absence, the investigation will continue as far as possible in their absence. Advice will be sought from Occupational Health on the prognosis for recovery and the fitness of the employee to take part in the disciplinary process. It is in the interests of all parties that disciplinary matters are resolved promptly and in cases of sickness absence the procedure may be adjusted to allow the matter to come to a conclusion.

¹ Also includes KTP Associates and all other staff in receipt of grades 1 – 4 Terms and Conditions

- 1.7 If an employee raises a grievance during a disciplinary process and the grievance and disciplinary cases are related, the matters will be dealt with concurrently. If any temporary suspension of the disciplinary investigation is required, all affected individuals will be informed.
- 1.8 Any reference to a Head of School² or representative from Human Resources under this procedure includes nominees. It is anticipated that, in most instances, it will be the responsibility of the employee's line manager to progress any issues to which this procedure relates.
- 1.9 At all stages of the formal process the employee who is the cause for concern will be entitled to be accompanied by a local Trades Union Representative or work colleague of their choice not acting in a legal capacity. A Trades Union Representative who is not an employed official must have been certified by the union as being competent to accompany the employee.
- 1.10 Throughout the disciplinary process advice and support will be available for all parties from the Human Resources Division.
- 1.11 Where deemed appropriate the University reserves the right to suspend an employee on full pay. Suspension is not a disciplinary penalty and would occur, for example, where the University believes that otherwise there may be an unreasonable risk to the interests of the University or to those of any person to whom the University owes a duty of care. The terms and conditions of the suspension will be confirmed in writing to the employee and the suspension kept under regular review.
- 1.12 Individuals may make a complaint in Welsh or respond in Welsh to a complaint raised about them.
- 1.13 The procedure has two stages: an "Informal" and a "Formal" stage.

2. Informal Procedures

- 2.1 Wherever possible, line managers will deal with the issues in an informal manner as a part of their management responsibilities with a view to improving the behaviour /conduct of the employee. The line manager at the informal stage, will make a written note of discussions confirming the main points of concern with the individual and will advise the employee of the University's expectations and the potential consequences of a failure to improve.
- 2.2 Where matters are more serious or where informal actions have not resolved the situation, the formal disciplinary procedure will be invoked.

3. Formal Procedures

- 3.1 The disciplinary procedure will be invoked on the basis of measured consideration of the facts available.

² Where the term Head of School is used for the purposes of these procedures this reference also includes Head of Department.

- 3.2 If informal action has failed to address the issue or the issue appears to be of the necessary seriousness, the Head of School will initiate the formal disciplinary procedures and will appoint an Investigating Officer(s) to undertake a formal investigation to gather all the necessary information. The investigation will be commenced as soon as possible and conducted without unreasonable delay.
- 3.3 The Head of School will inform the employee in writing of the cause for concern and provide details of the Investigating Officer(s).
- 3.4 As part of the investigation the employee whose conduct is the cause for concern will be invited to provide a response to the allegation.
- 3.5 The Investigating Officer will prepare a report outlining their findings for the Head of School who will determine whether a formal Disciplinary Hearing should be convened.
- 3.6 The employee will be informed in writing of the decision of the Head of School.

4. Formal Disciplinary Hearing

- 4.1 If a formal disciplinary hearing is to be convened, the employee will be informed in writing of the arrangements for the hearing and the cause for concern. The Hearing will be held as soon as possible and without unreasonable delay.
- 4.2 The Head of School will normally conduct the Hearing. A member of the Human Resources Division will be present to advise. Where the cause for concern is for gross misconduct or may result in a dismissal, the hearing will be conducted by a panel.
- 4.3 At the hearing the investigating officer will explain the complaint against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer any allegations that have been made. The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. Where an employer or employee intends to call relevant witnesses they should give advance notice that they intend to do this.
- 4.4 If the employee has a companion, s/he may address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing. The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it or prevent the investigating office from explaining the employer's case.
- 4.5 After the investigating officer and the employee have left, the person(s) hearing the case will consider the matter and decide on the basis of the information presented:
 - whether or not the allegations are substantiated,
 - the level of seriousness of the conduct or behaviour within the employment context,
 - whether disciplinary action is to be taken and if so the nature and level of the penalty.

A disciplinary penalty to be imposed depends on the facts of the case. Gross misconduct leads to dismissal. In other cases the appropriate penalty may vary from a warning to dismissal. The level of warning issued will depend on the seriousness and circumstances of each individual case. While the following table and the ACAS Code

give indicative guidance, the person(s) hearing the case will impose the appropriate penalty, omitting stages of warning;

Formal Oral Warning	Normally held on personal file for 6 working months
First Written Warning	Normally held on personal file for 6 working months
Final Written Warning	Normally held on personal file for 12 working months. In exceptional cases the warning will remain on file for a period of up to 24 months

Dismissal

Further details of these actions are appended in Appendix 1.

4.6 The outcome will be confirmed in writing to the employee.

5. Appeals

5.1 The employee has a right of appeal against the outcome of a formal disciplinary hearing. The employee should write to the Director of Human Resources, setting out the grounds for the appeal in writing. The appeal must be submitted within seven working days of the date of the letter confirming the outcome.

5.2 Appeals will be considered by a Head of School or other senior member of the University who has not been previously involved in the case. An appeal against dismissal will be considered by a panel.

5.3 The decision of the person(s) hearing the appeal is final.

Appendix 1 - Disciplinary Penalties

If the person(s) conducting the hearing decide that there has been a disciplinary offence, an appropriate disciplinary penalty will be imposed. There are four possible levels of formal disciplinary penalty that may be applied after a disciplinary hearing. The sanction applied will depend on the seriousness of the alleged conduct. Further guidance is given in the ACAS Code of Practice on Disciplinary and Grievance Procedures (April 2009).

Formal Oral Warning

A Formal Oral Warning is a sanction for conduct or an offence which is regarded as warranting disciplinary action. The member of staff involved will be informed of the underlying rationale for the concern; what improvements are expected; review dates and the help that is available to them to assist in achieving the required improvements. A note of the formal oral warning will be recorded on the member of staff's personal file for the duration of the warning, which will normally be no longer than six working months. A copy of the file note of the formal oral warning will be sent to the member of staff.

Written Warning

This is a sanction for a serious offence or for an accumulation of minor conduct or other offences for which an informal warning and/or a verbal warning has been given or which are viewed as serious enough to warrant immediate implementation of a written warning. The member of staff will be informed of the improvements that are required; the timeframe of the warning; review dates and of the help that is available to them. A copy of the written warning will be sent to the member of staff and another copy will be kept on the member of staff's personal file for the duration of the warning. This will normally be for a period of six working months.

Final Written Warning

This is the sanction used for very serious conduct or offences falling short of warranting dismissal or for continued disciplinary problems following a Formal Oral or First Written Warning. Any further recurrence of the offence or other serious misconduct or issue will result in dismissal. The final written warning will be sent to the member of staff and a copy will be kept on the member of staff's personal file for the duration of the warning. This will normally be for a period of 12 working months, except where a final written warning is used as an alternative to dismissal in cases of gross misconduct, when normally an interval of up to 24 working months will apply.

Dismissal

If the member of staff's conduct is sufficiently serious or if their conduct is still unsatisfactory following a final written warning, this sanction will normally be applied. Notice to terminate the contract will be given in accordance with the statutory rights. Dismissal will usually be the sanction in cases of Gross Misconduct when there is no entitlement to notice.

Appendix 2 – Gross Misconduct

Employment may be terminated without notice in the event of a finding of gross misconduct. Examples of behaviour which may constitute gross misconduct include (but are not limited to): -

- 1 fighting, assault or physical violence;
- 2 theft, fraud, dishonesty, deliberate falsification of records (including research misconduct);
- 3 deliberate damage to the property of the University;
- 4 serious breaches of University codes of practice, policies, rules, procedures or regulations;
- 5 being charged with, convicted of or imprisoned for any criminal offence (whether or not relating to employment) which has the effect of seriously undermining the University's confidence in the member of staff;
- 6 serious disobedience of reasonable instructions from people with authority to give them;
- 7 harassment or bullying of another employee, student or visitor, whether on sexual, racial, religious or any other grounds;
- 8 serious breaches of regulations relating to health and safety or data protection;
- 9 breach of IT/acceptable policies;
- 10 Conduct calculated or likely to lead to a breakdown in the University's trust and confidence in the member of staff.

DOCUMENT CONTROL				
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