

# DISCIPLINARY PROCEDURE

## 1. About this procedure

- 1.1 The aims of this Disciplinary Procedure are to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the Disciplinary Rules contained in the online Staff Handbook and other policy documents issued by the University from time to time.
- 1.2 It is the University's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action. All steps taken under this policy by the University will be carried out in accordance with the University's principles relating to equality and academic freedom, as enshrined in the Charter of Incorporation and the principles of fairness, reasonableness and natural justice.
- 1.3 The procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.
- 1.4 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure in the Staff Handbook.
- 1.5 This procedure has been implemented following consultation with the University and College Union and the University of Reading Staff Forum.
- 1.6 This procedure does not form part of any employee's contract of employment and it may be amended at any time. Amendments will be subject to consultation and negotiation with the University and College Union and the University of Reading Staff Forum and the review and approval of the University's Council. Minor amendments or those necessitated by a change in the law will not be subject to this process. This procedure, including any time limits, may be varied as appropriate and reasonable in any case.
- 1.7 This procedure will be reviewed biennially with the University and College Union and the University of Reading Staff Forum and approved by the University's Council.
- 1.8 In this policy, reference to a member of the Academic Staff means a Lecturer, Associate Professor or Professor.

## **2. Disabilities**

- 2.1 The University is committed to complying with its obligations under the Equality Act 2010. If you are disabled within the meaning of the Equality Act 2010, reasonable adjustments will be considered and made as appropriate.
- 2.2 In applying this procedure, consideration will be given that conduct may be related to a disability and, if so, whether there are reasonable adjustments that could be made to your working arrangements, including changing your duties or providing additional equipment or training.
- 2.3 In appropriate cases, we may consider making further adjustments to this procedure to accommodate disability and ill-health. Such adjustments may include extending time limits, permitting you additional support in meetings or arranging meetings away from the campus.
- 2.4 You are encouraged to contact your line manager or Human Resources to discuss or inform us of any medical condition you consider relevant. Such information will be treated sensitively and confidentially by those who need to know it.

## **3. Confidentiality**

- 3.1 It is the University's aim is to deal with conduct matters sensitively and with due respect for the privacy of any individuals involved. All parties must treat as confidential any information communicated to them in connection with a matter which is subject to this procedure, subject to the need to seek appropriate advice and guidance.
- 3.2 It is not the University's normal procedure for meetings or hearings to be tape recorded by either party unless there are exceptional reasons why this should be considered. However, from time to time there may be a request to tape record a hearing. The decision to do so will be taken by the person chairing the meeting in consultation with HR and in advance of the meeting. A recording may be made only where all parties agree to the use of tape recording. Minutes will be prepared of formal meetings and a copy of those minutes will be provided to the employee attending the meeting.
- 3.3 You will normally be told the names of any witnesses whose evidence is relevant to your disciplinary hearing, unless the person chairing the meeting exceptionally and reasonably believes that a witness's identity should remain confidential. There should be no normal expectation that the identity of witnesses will be kept confidential and witnesses should understand that evidence provided by them will, other than in exceptional circumstances, be provided to the employee who is subject to disciplinary proceedings.

## **4. Informal Procedure**

- 4.1 Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern and to enable you to improve your conduct. You will be given such guidance as is reasonable and appropriate about the steps you can take to ensure your conduct meets the standards expected of you. A note of any informal discussions, including any guidance given, may be made.
- 4.2 Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

## 5. Formal Procedure

- 5.1 The formal procedure described in the remainder of this procedure shall be invoked where the seriousness or persistence of the issue justifies action beyond that prescribed under the informal procedure.

## 6. Investigations

- 6.1 Investigations can be commenced by University managers (usually the manager of the person subject to the procedure), Human Resources, Internal Audit or as a result of a recommendation arising from another procedure (such as the grievance procedure).
- 6.2 The purpose of an investigation is for the University to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. The Human Resources Department will usually appoint an Investigating Officer to carry out the investigation.
- 6.3 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. The investigation interview will be attended by the Investigating Officer and a representative of Human Resources. The Investigating Officer may attend any subsequent disciplinary hearing to present his or her investigation or to answer questions on it. However, he or she will not decide the case against you.

You do not normally have the right to bring a companion to an investigative interview, however reasonable requests will, where practicable, in most circumstances be agreed. If it helps you to overcome any disability, or any difficulty in understanding English, or in other reasonable circumstances, the Investigating Officer may allow you to bring a companion. If you want to bring a companion to an investigation meeting, you must raise this with HR at the earliest opportunity, setting out your reasons.

- 6.4 All employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.
- 6.5 Where your conduct is the subject of a criminal investigation, charge or conviction Human Resources and (if appropriate) an Investigating Officer will investigate the facts before deciding whether to take formal disciplinary action. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is reasonably considered relevant to your employment. It will not usually be reasonable or appropriate to wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend an investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may be taken based on the available evidence.

## **7. Suspension**

- 7.1 In some circumstances it may be appropriate to suspend you from work. The decision to suspend will be made by the Vice-Chancellor or the Director of Human Resources. The suspension will be for no longer than is necessary to investigate the allegations and the arrangements for suspension will be confirmed to you in writing. While suspended you should not visit the University's premises or contact any of its students, suppliers, contractors or staff, unless you have been authorised to do so by the Director of Human Resources or you are seeking advice and guidance from a companion (in accordance with paragraph 9), an advisor or a trade union representative.
- 7.2 Suspension of this kind is not a disciplinary sanction and does not imply that any decision has already been made about the allegations. You will continue to receive your full salary and benefits during the period of suspension. If suspension continues for more than four weeks then the decision to suspend will be reviewed by the Director of Human Resources and will be reviewed every four weeks whilst the suspension continues.

## **8. Notification of a hearing**

- 8.1 Following any investigation, if there are grounds for taking formal action, you will be required to attend a disciplinary hearing. You will be informed in writing of the allegations against you, the basis for those allegations, and the potential outcomes of the hearing. You will also receive:
- (a) a summary of relevant information gathered during the investigation;
  - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
  - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case you will be given as much information as possible whilst maintaining confidentiality.
- 8.2 You will be given written notice of the date, time and place of the disciplinary hearing and who will be attending it. The hearing will be held as soon as reasonably practicable. You will be given a reasonable amount of notice of the hearing, which will usually be no less than 10 working days.
- 8.3 The method of communications regarding hearings and outcomes will be agreed with you. In the absence of agreement, the preferred method of communication will be by email to your University email account.

## **9. The right to be accompanied**

- 9.1 You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. Your companion may be either a trade union representative or a colleague. You must tell the Manager conducting the hearing who your chosen companion is, in good time before the hearing, which will normally be five working days before the hearing.
- 9.2 In circumstances where dismissal may be the sanction and, if proven, the allegations against you would be likely to be career ending, you may be accompanied by a legal representative. You must tell the Chair of the disciplinary hearing/Panel that you consider this paragraph to apply to you at the earliest opportunity, in order that it may be considered and, if agreed, provide the details of your chosen companion in good time before the hearing, which will normally be five working days before the hearing. The Chair of the disciplinary hearing/Panel will seek advice from the Director of Human Resources or his or her nominee, as appropriate, before disallowing the attendance of a legal representative under this paragraph.

- 9.3 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 9.4 If your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, the University may ask you to choose someone else.
- 9.5 The University may, at its discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family), for example if this will help overcome a disability, or if you have difficulty understanding English.
- 9.6 During a hearing your companion may make representations and ask questions but he or she cannot answer questions on your behalf. You may talk privately with your companion at any time during the meeting.

## 10. Procedure at disciplinary hearings

- 10.1 You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), the University may have to take a decision based on the available evidence. You will be informed of this in writing.
- 10.2 The hearing will be chaired by an appropriate manager who will be more senior than you in accordance with the following table:

	DISCIPLINARY WHERE THE SANCTION IS LIKELY TO BE AT STAGE 1 OR STAGE 2	DISCIPLINARY WHERE THE SANCTION MAY BE DISMISSAL
Staff in grades 1-5	Line Manager <u>plus</u> support from HR	Line Manager or other appropriate manager (with sufficient seniority) <u>and</u> an HR representative
Professional and managerial staff in grades 6-9	Line Manager <u>plus</u> support from HR	Head of Function (in Services) or Head of School (in Schools) <u>and</u> another appropriate manager <u>plus</u> support from HR
Academic Staff in grades 6-9	Head of School <u>plus</u> support from HR	Head of School <u>and</u> another appropriate manager <u>plus</u> support from HR

- 10.3 For the purposes of the above table, dismissal may be the sanction in cases of alleged gross misconduct, where you have a Final Written Warning for misconduct or where dismissal may otherwise be a reasonable sanction. If during the course of any other disciplinary meeting the Chair of the disciplinary hearing considers dismissal may be an appropriate sanction, he or she may refer the matter to a panel constituted in accordance with the final column above.

- 10.4 Where dismissal may be the sanction, if you consider that the conduct that is the subject of the disciplinary process raises questions of academic freedom, you may make an application to the Vice-Chancellor. The Vice-Chancellor will consider your application and, if he or she considers that there are questions of academic freedom, he or she will direct that the "other appropriate manager" on the panel shall be an independent person from a list of such independent persons which shall be reviewed and agreed with the University and College Union each year.
- 10.5 You may bring a companion with you to the disciplinary hearing, as set out in paragraph 9.
- 10.6 At the disciplinary hearing the Disciplining Officer/Panel will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. The Investigating Officer may be present at the hearing. You will have the opportunity to ask questions of clarification concerning the process and findings of the investigation.
- 10.7 You or the Investigating Officer may ask that relevant witnesses appear at the hearing, which will be permitted provided that it is reasonable for such witnesses to appear and provided you or the Investigating Officer give the University sufficient advance notice to arrange their attendance, which will normally be five working days before any hearing. You and the Investigating Officer will be given the opportunity to respond to any information given by a witness. In appropriate circumstances, where the Chair of the disciplinary hearing /Panel decides that it is reasonable for you to do so and/or that a fair hearing could not be held otherwise, you and/or the Investigatory Officer may be permitted to ask questions directly of the witness. Aggressive or adversarial questions or questioning will not be allowed.
- 10.8 The Chair of the disciplinary hearing/Panel may adjourn the disciplinary hearing if it is determined that any further investigation, such as re-interviewing witnesses in the light of any new points raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.9 You will be informed in writing of the decision and the reasons for it, usually within 10 working days of the disciplinary hearing; the letter, will include reference to the outcome and where appropriate, any actions, support, and timescales for improvement, the sanction, the right of appeal and to whom any appeal should be made.

## 11. Disciplinary penalties

- 11.1 The usual penalties for misconduct are set out below. The University aims to treat all employees fairly and consistently, and a sanction imposed on another employee for similar misconduct will usually be taken into account, but should not be treated as a precedent. Each case will be assessed on its own merits.
- 11.2 You will not normally be dismissed for a first act of misconduct, unless the University reasonably considers that it amounts to gross misconduct, or you have not yet completed your probationary period (this does not include academic probation beyond the first six months employment with the University), or, rarely, you demonstrate no willingness to change behaviours that amount to misconduct.
- 11.3 **Stage 1 - First written warning.** A first written warning will usually be appropriate when your conduct does not meet acceptable standards.

- 11.4 **Stage 2 - Final written warning.** A final written warning will usually be appropriate where there is:
- (a) misconduct where there is already an active written warning on your record and your conduct remains unsatisfactory; or
  - (b) misconduct that the University considers sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
- 11.5 **Stage 3 - Dismissal.** Dismissal will usually be appropriate where there is:
- (a) further misconduct where there is an active final written warning on your record; or
  - (b) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in the attached annex; or
  - (c) misconduct and you have demonstrated during the disciplinary hearing or in your conduct thereafter that you are unwilling to change the behaviours that are subject to the disciplinary proceedings.
- 11.6 **Alternatives to dismissal.** In some cases the University may at its discretion consider alternatives to dismissal, including but not limited to retraining, counselling or transfer to another department or job. These will usually be accompanied by a final written warning.
- 11.7 Any of the above stages of disciplinary action may be omitted, depending on the seriousness of the misconduct.

## 12. The effect of a warning

- 12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 12.2 First written warnings will usually remain active for 9 months and final written warnings will usually remain active for 12 months, which will run from the date on which the warning is given. In exceptional cases verging on gross misconduct a final written warning may state that it will remain active indefinitely.
- 12.3 After the active period, the warning will remain permanently on your HR file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## 13. Appeals

- 13.1 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Director of Human Resources within 10 working days of the date on which you were informed of the reasons for the decision.
- 13.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay and, subject to any lesser sanction imposed, the overturned decision will not prejudice your current employment or future career prospects.
- 13.3 You will be given written notice of the date, time and place of the appeal hearing. This will normally be at least 10 working days after you receive the written notice.

- 13.4 The appeal hearing will be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light.
- 13.5 The appeal hearing will be chaired by an appropriate manager who is more senior than the manager who chaired the disciplinary hearing, in accordance with the following table, who has not been previously involved in the case:

	APPEAL AGAINST WRITTEN WARNING OR OTHER SANCTION SHORT OF DISMISSAL	APPEAL AGAINST DISMISSAL
Staff in grades 1-5	Manager of Line Manager <u>plus</u> support from HR	Manager of the person who took decision to dismiss <u>and</u> an HR representative
Professional and managerial staff in grades 6-9	Manager of Line Manager <u>plus</u> support from HR	Head of Service or Pro-Vice-Chancellor <u>and</u> another appropriate manager <u>plus</u> support from HR
Academic Staff in grades 6-9	Pro-Vice-Chancellor <u>plus</u> support from HR	A lay member of the University's Council <u>and</u> the Vice-Chancellor, Deputy Vice-Chancellor or a Pro-Vice-Chancellor <u>plus</u> support from HR

- 13.6 In cases where you have been dismissed, if you consider that the conduct that is the subject of the disciplinary process raises questions of academic freedom, you may make an application to an appointed member of the University's Council, who will consider your application. If he or she considers that there are questions of academic freedom, he or she will direct that the Vice-Chancellor, Deputy Vice-Chancellor or Pro-Vice-Chancellor position on the panel shall be instead undertaken by an independent person from a list of such independent persons which shall be reviewed and agreed with the University and College Union each year.
- 13.7 You may bring a companion with you to the appeal hearing as set out in paragraph 9.
- 13.8 The University may adjourn the appeal hearing if Chair of the appeal hearing/Panel considers it needs to carry out any further investigations in the light of any new information. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 13.9 The outcome of the appeal hearing may be to:
- confirm the original decision;
  - revoke the original decision; and/or
  - substitute a different sanction which shall not be more serious than the one imposed following the disciplinary hearing.

You will be informed in writing of the final appeal decision as soon as possible, usually within 10 working days of the appeal hearing. There will be no further right of appeal.

# Annex 1

## Examples of Gross misconduct

This annex sets out examples of conduct that the University's considers may amount to gross misconduct. All allegations of misconduct will be considered taking into account their seriousness and all the circumstances surrounding them. As such, the examples listed below have the potential to amount to gross misconduct but may not, in the particular circumstances of the case, do so.

No example listed below will interfere with the principle of academic freedom as enshrined within the University's Charter of Incorporation.

Examples of gross misconduct may include, but are not limited to:

- Theft, fraud or deliberate falsification of records (or other dishonesty)
- Unauthorised removal of, misuse, abuse or deliberate and serious damage to University property, including intellectual property on the University campuses.
- The supply or possession of illegal drugs, or serious incapability due to being under the influence of alcohol or illegal drugs on the University's premises or during working hours
- Actual or threatened physical violence
- Serious act of insubordination
- Deliberately accessing internet sites containing pornographic, offensive or obscene material or otherwise using University of Reading Information Technology (IT) Facilities and systems in breach of the university regulations.
- Conduct likely to give serious offence to customers, students, visitors or other employees.
- Bullying, unlawful harassment or discrimination on any grounds
- Indecent behaviour
- Accepting or offering a bribe or any other breach of the University's anti-corruption and bribery policy
- Deliberate, reckless or negligent disclosure of confidential information
- Serious breach of the health and safety rules
- Serious or repeated negligent acts in the performance of your duties
- Deliberately or negligently giving significant false or misleading information to the University
- Leaving the workplace without permission or reasonable excuse where such permission is usually required
- Serious or repeated failure to comply with the University's rules, regulations or policies or serious or repeated failure to follow reasonable instructions
- Serious disregard for rules or instructions given by the University
- Serious or repeated acts of unauthorised absence
- Bringing the University into serious disrepute
- Conviction of a criminal offence which in the reasonable opinion of the University demonstrates an unsuitability to carry out your role within the University, or prevents an employee from fulfilling their contractual duties.