

# Disciplinary Procedure

All Staff Categories

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# Disciplinary Procedure

## All Staff Categories

### 1 General Principles

- 1.1 This procedure applies to all University of Strathclyde employees irrespective of fixed term/open-ended contract status, grade and staff category. The University will act fairly and consistently when applying this procedure.
- 1.2 In all cases, the University will act promptly and will not unreasonably delay meetings, decisions or confirmation of decisions.
- 1.3 The University expects all employees to ensure that acceptable standards of conduct, behaviour, attendance and performance are maintained at all times. At all times the University will treat members of staff with dignity and be fair, consistent and equitable in its treatment.
- 1.4 This procedure will give effect to the principle that, in their areas of academic expertise, staff engaged in teaching, the provision of learning or research will have freedom within the law both to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without putting themselves at risk of losing their employment or privileges. This right of 'academic freedom' is balanced by the obligation to use that freedom responsibly and professionally.
- 1.5 The University reserves the right to commence disciplinary procedures at any appropriate level of formal warning depending on the seriousness of an offence or where there has been an earlier pattern of unacceptable standards with no satisfactory improvement. Warnings issued for different reasons will be cumulative.
- 1.6 An employee has the right to be accompanied at any formal investigatory meeting or hearing and related appeal meeting under the disciplinary procedure by a University work colleague, Trade Union representative or an official employed by a Trade Union.
- 1.7 Line managers may seek support at any point from the HR Directorate and HR staff will attend meetings where appropriate to partner with line managers in the decision making process and to provide professional advice on the operation and application of this procedure. This includes ensuring appropriate fairness and consistency of application across the University.
- 1.8 If an employee has particular requirements at any stage of the disciplinary procedures as a result of a disability, or wishes to inform the University of any medical condition which may be relevant, the employee should confirm this as early as possible during the process by contacting their line manager or a member of the HR team for their area.

- 1.9 Whilst the facts in relation to some instances of alleged misconduct will be clear, in other circumstances the alleged offence(s) will need to be investigated prior to the consideration of disciplinary action. In cases where there is a perceived serious risk to health, safety or welfare and/or the presence of the individual may inhibit the investigation or the conducting of University business, it may be appropriate for the employee to be suspended on full pay pending such an investigation and a final decision. If the period of suspension lasts beyond four weeks, the University will write to the individual to update him/her on the investigatory process and the likely timetable for its conclusion. Suspension does not preclude attending pre-arranged appointments with occupational health or with trade union representatives. Within this procedure, suspension is not a disciplinary act and there is no presumption of guilt as a result of an individual having been suspended. Suspension will be enacted by the relevant Head of Department/nominee following discussion with HR. The suspension will then be confirmed in writing by the University.
- 1.10 In the majority of cases, the person(s) carrying out a formal investigation will not be the person who conducts any subsequent disciplinary hearing. As part of any investigation it may be appropriate to interview the employee and/or witnesses before determining whether a disciplinary hearing is required. In other cases, a formal investigation may not be required.
- 1.11 In circumstances where there is a need for an investigation into a recognised trade union representative, the full time official will be informed. Disciplinary action will not be taken against a recognised Trade Union representative until the full-time official has been informed.
- 1.12 Notes of formal meetings will be taken to summarise key points rather than as a verbatim record. A copy of these notes will be given to the parties present and there will be an opportunity to comment. If it is not possible to agree the accuracy of the notes both views will be incorporated into the record but with the point of disagreement noted. Written records pertaining to disciplinary matters will be kept in accordance with the Data Protection Act 1998.
- 1.13 The University prohibits the covert audio or video recording of formal or informal meetings as well as discussions by colleagues or discussions with colleagues. Covert recording (ie without the express permission of all participants in the meeting or discussion) will be considered a disciplinary matter and may be dealt with under the University's Disciplinary Procedure.

## 2 Disciplinary Process

- 2.1 In the first instance minor offences will normally be dealt with informally
- The individual's line manager should discuss the matter with the employee, confirming that the conduct, performance or attendance is not acceptable and that formal action may be taken in future if the matter is not resolved.
  - The line manager should then confirm this discussion in writing, advising the employee that any further examples of similar issues will be dealt with via the formal disciplinary procedure.
- 2.2 If the informal action does not resolve the matter or the matter is more serious, then the following steps will be taken:
- 2.3 Investigations
- 2.3.1 In some cases, where the facts are already clearly established or where an investigation has previously been undertaken under another procedure, an investigation will not be required and the matter may proceed directly to a disciplinary hearing. In cases which are of a more complex nature or where the facts are less clear, a formal investigation may be required before proceeding to a disciplinary hearing.
- 2.3.2 Prior to initiating the investigation the member of staff will be notified of the issues or incidents to be investigated and advised they may, if they wish, contact a trade union

representative or University colleague who may accompany them to the investigatory meeting/s. Investigations will be completed timeously, normally within four weeks of an issue being raised. However in more complex cases it is recognised that this timescale may not be feasible. The findings of the investigation shall be sent to the employee and, where agreed, their trade union representative as soon as practicable after the investigation has been concluded.

2.4 The Allegation (s) to be heard: The University will inform the employee in writing of the allegation(s), inviting the employee to attend a hearing to respond. The letter will normally enclose copies of documents gathered during any investigation which has taken place so that the employee can be prepared to respond to the allegation(s). The letter will confirm the employee's right to be accompanied by a University work colleague or Trade Union representative. Where the allegation(s) are potentially deemed to be gross misconduct, this will be made clear in the letter.

2.5 The Hearing: A disciplinary hearing, normally convened by the employee's manager, will consider the allegation(s).

2.5.1 The hearing will explain the allegation(s) and allow the employee full opportunity to set out his or her case and to answer the allegation(s) made. The purpose of the hearing will be to decide whether or not disciplinary action is necessary and, if so, to establish which level of action is appropriate. Where an employee is persistently unable or unwilling to attend a disciplinary meeting the University will make a decision on the evidence available.

2.6 Outcome Notification: Normally within ten working days the notification of outcome will be sent out to the employee. If this is not possible, the employee will be told of the reasons for any delay. The manager convening the disciplinary hearing will decide on the outcome in partnership with HR. Disciplinary action which may be taken can include the following:

- First Written Warning, normally given for a first misconduct or following a previous informal discussion as outlined in 2.1, above. This warning will normally remain live for 12 months.
- Final Written Warning, issued where there is already a First Written Warning or where the offence is a serious one. This warning will normally remain live for 2 years.
- Dismissal will normally be appropriate in the event of further misconduct where there is a final written warning or, where especially serious, a first written warning. Dismissal will normally be appropriate in the event of gross misconduct, regardless of whether there is a previous warning. Gross misconduct is conduct which is so serious as to destroy the relationship of mutual trust and confidence between the employee and the University, thus making a continuing employment relationship impossible. In the event of gross misconduct, summary dismissal will normally ensue, this being dismissal without notice or pay in lieu of notice. Examples of conduct which is likely to be designated as gross misconduct are attached as Appendix I to this procedure.
- Other sanctions may be appropriate in certain circumstances.

Any warnings given will be confirmed in writing, normally within 10 working days of the decision being made. The warning letter will confirm the reasons for the warning, the improvements expected, the duration of the warning and the disciplinary consequences of not meeting the requirements of the warning. A copy of the written warning, plus other relevant documentation, will be held in the individual's personal file.

### 3 Appeal

- 3.1 An employee has the right to appeal against any formal disciplinary action taken against him/her.
- 3.2 An appeal should be submitted to the Director of Human Resources or an alternate if appropriate within 10 working days from the date of the letter which notified the individual of the University's decision following the Disciplinary Hearing. The letter should set out the reason(s) for the appeal.
- 3.3 Appeal meetings to consider appeals against a First Written or Final Written Warning will be heard by a senior member of staff, normally in the employee's line management structure, who has not previously been involved in the disciplinary decision making. Dismissal appeals will be heard by a panel of two, comprising one manager from outwith the individual's line management structure who has not been involved in the case and a member of University Court not employed by the University. A member of the HR Directorate will also be present at appeal hearings.
- 3.4 At the appeal stage, the original decision shall be reviewed and the appeal may be upheld, reduced or dismissed.
- 3.5 The decision of the appeal meeting will be communicated to the employee in writing, normally within five working days of the hearing.
- 3.6 The decision of the appeal hearing will be final and exhausts the University's procedures.

### 4 Conduct Not Directly Related to Place of Work

- 4.1 Whilst it would be normal for only conduct at work, or on the University's premises, to be taken into account in matters of discipline, there are some external matters which can have disciplinary consequences.
- 4.2 The University reserves the right to take appropriate disciplinary action in accordance with its policies and procedures, including summary dismissal, in the following circumstances:
  - Bringing the University into serious disrepute
  - Misusing the University's name or property
  - Breach of trust and confidence
  - Conviction of a criminal offence or in circumstances where there is police involvement or legal proceedings which make the employee ineligible to carry out his/her duties or have a bearing upon the employee's ability to continue his/her normal duties.

This list is intended as a guide and is not exhaustive.

### 5 Research Misconduct

Allegations of research misconduct, for example pertaining to research practices which may fall short of appropriate ethical or scientific standards, will normally be considered under the University's Research Code of Practice in the first instance. Where appropriate, the conduct procedures of relevant professional bodies will be taken into account when considering disciplinary matters.

### 6 Review

This policy will be reviewed and updated at periodic intervals to ensure continuing suitability for organisational needs and compliance with relevant legislation.

## Appendix 1 – Gross misconduct

The undernoted are examples of matters that will normally be regarded as gross misconduct:

- Theft, fraud or dishonesty where this is considered relevant to their employment with the University
- Deliberate and serious damage to property
- Actual or threatened physical violence which has implications for their employment with the University
- Serious discrimination, harassment, bullying or intimidation of any person or group
- Viewing materials and/or accessing internet sites containing pornographic, offensive or obscene material unless in accordance with a bone fide research programme
- Defamatory and/or abusive comments regarding the University or its employees including those made through the inappropriate use of social networking and other internet sites
- Refusal to comply with reasonable instructions or requests made by a line manager where this is repeated or where the refusal has serious consequences for the University
- Conduct which results in significant detriment to the interest of the University
- Providing false information regarding qualifications or entitlement to work, for example using a fraudulent identity
- Withholding or falsifying information or records e.g. falsification of timesheets or expenses claims, refusal to provide statutory documentation
- Serious negligence which causes loss, damage or injury where this is considered relevant to their employment with the University
- Lack of capability where the University has formed a reasonable belief through appropriate investigation that this is due to being under the influence of alcohol, illegal drugs or other substances e.g. prescribed drugs during working hours
- Serious breach of Health and Safety rules or misuse of safety equipment
- Supply or intention to supply illegal drugs
- Serious neglect of duties or deliberate breach of the University's procedures
- Making malicious false, vexatious or deliberately misleading claims against others, for example under the Public Interest Disclosure Policy
- Serious misuse of the University's IT system including use of unauthorised software or failure to comply with regulations and policies regarding access and use of systems
- Serious and/or malicious misconduct in connection with research activity
- Acceptance or offering of bribes or other undeclared payments
- Conviction of a criminal offence which makes the employee ineligible to carry out his/her duties

This list is intended as a guide and is not exhaustive.