

Disciplinary Procedure

Ownership

Document Ownership	
Policy/Procedure/Guidance owned by:	People Team
Policy/Procedure/Guidance written/amended by:	Tracey Adekoya, People Partner (Policy and Employee Relations)
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Version Control

Version Control Table

All changes to this document are recorded in this table.

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Aug 2024	V2 – Branding added to Procedure and Human Resources changed to The People Team	TA
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1. Purpose and Scope

1.1 This procedure is designed to deal with situations where behaviour falls below an acceptable standard.

It is designed additionally to ensure that there is an opportunity for the formal expression of concerns, the methods to resolve these concerns, and, where there is a continuing and/or substantial failure to achieve an acceptable standard, a clear process for action to be taken, recorded, communicated and understood.

Also, it aims to ensure that any alleged failure/s to observe these standards are dealt with fairly, consistently and equitably and that clear instructions on improvements required are provided and where necessary that appropriate levels of sanction are applied.

1.2 This procedure applies to all employees of the University other than the Vice-Chancellor and holder of such Senior Staff posts as the University may determine from time to time. Such staff are subject to procedures related to Senior Staff.

This procedure should be read in conjunction with the Probationary Procedure, contained in the staff handbook. Any action taken under this procedure will be taken into account for staff who have not completed their probationary period in determining their suitability or otherwise for confirmation of such probationary period.

This procedure should also be read in conjunction with the Capability Procedure and the Incapacity Procedure as contained in the staff handbook and consideration should be given to the procedure appropriate to the circumstances.

This procedure should also be read in conjunction with the Dismissal Procedure and consideration should be given to the procedure appropriate in the circumstances.

This procedure is contractual and may be amended and/or updated by the University from time to time.

The [Office for Students \(OFS\) definitions](#) for harassment, sexual misconduct and bullying have been used in this Procedure. Within this procedure the term 'staff', 'colleague' and 'employee' are used interchangeably.

The OFS define staff as: includes but is not limited to employees (whether permanent, fixed-term or temporary) and all other individuals engaged by the University or acting on its behalf, including senior managers, officers, directors,

consultants, contractors, trainees, seconded staff, homeworkers, casual workers, volunteers, interns, agents and sponsors.

2. Principles

2.1. General principles

Before the procedure is invoked, discussion between the employee and the line manager will normally have taken place with the objective of identifying any matters of concern, the possible causes and any necessary plan of action to rectify them.

The difficulties may arise as a result of a lack of understanding of the University's regulations and procedures in which case a clear plan of action and timescale should be agreed between your line manager and you to ensure that you quickly become familiar with the required standards of conduct and behaviour.

Alternatively, the difficulties may arise as a result of the deliberate disregard of standards of behaviour acceptable to the University (misconduct), in which case a disciplinary sanction may be imposed, and clear instructions given as to the improvements required.

Any disciplinary action, sanction or any other action will only be applied as a result of a properly conducted disciplinary hearing, as outlined in 3.2. – Stage 2

Disciplinary action will normally be progressive where subsequent offences have occurred. Appropriate sanctions will be determined by the gravity and the frequency of the offence/s and in some circumstances, for more serious offences or situations, may commence at a level higher than the first level of action even for a first offence. Any previous disciplinary actions which are “spent” will be ignored.

Warnings will not be relevant for the purpose of progressive disciplinary action after the time limits have expired. Time limits can be extended in extenuating circumstances if required standards have not been met and both parties accept that it is likely that the standards can quickly be met and that an extension of time is preferable to moving to the next stage of the procedure.

At every stage you will be advised of the nature of the complaint or concern and will be given the opportunity to state your case before any decision is made.

You will not be dismissed for a first breach of discipline except in the case of gross misconduct.

You will have the right to appeal against any disciplinary sanction or other action imposed.

The procedure will be documented at each stage, except stage 1, by a member of staff from The People Team and copied to all parties.

All parties will have the opportunity to provide written statements from witnesses at any disciplinary hearing. Witnesses may be called to the hearing to give statements in person.

An important principle enshrined with these procedures is that at all stages of the formal procedure you will have the right to be accompanied by a trade union representative or fellow employee.

The University reserves the right not to pay an incremental salary increase (which might otherwise have been due) during the current year as an outcome of a disciplinary hearing (see 3.2 below). The University reserves the right to delay the decision on an incremental salary increase pending a disciplinary investigation or hearing under stage 2 as described in 3.2 below. If the decision is made at the hearing not to pay an incremental increase, no payment will be made during the current year. However, if this decision is not made, the payment will be made in the next pay run and will include backdated pay.

2.2 Elected trade union representatives

The University recognises the right of a duly elected trade union representative to be represented by a full time official at all stages of this procedure should you so wish. Action under this procedure will not normally be taken against an elected trade union representative, until the circumstances of the case have been fully discussed with a full time official of the appropriate recognised trade union. If concerns relating to the behaviour of an elected trade union representative are to be dealt with at a hearing, then a full time official of the appropriate union, or a fellow employee or a trade union representative may accompany the individual concerned and adequate notice of at least 2 weeks will be given for a full time official to arrange to accompany the elected representative. No warnings or other action will be taken against an elected trade union representative without their full time official being notified in writing.

2.3 Criminal charges or convictions outside employment

Criminal charges outside employment will not be treated as an automatic reason for disciplinary action. However, consideration should be given to whether the alleged offence is one which would render you unsuitable for the type of work you are

employed to undertake or prohibited from undertaking the type of work for which you are employed. In these circumstances, you may be suspended on full pay pending the outcome of the criminal action or the University's investigation, as appropriate.

The University reserves its right to investigate an alleged or proven criminal act under the disciplinary procedures separately from any criminal case being pursued or having been concluded.

A criminal conviction outside employment will not be treated as an automatic reason for disciplinary action. If a conviction results in imprisonment the University will be entitled to consider whether the contract of employment has been frustrated.

Any action under this section will be subject to a disciplinary investigation and where, prima-facie, there is evidence which, on the balance of probabilities, suggests that there is a case to answer, a disciplinary hearing (see 3.2 below)

2.4 Suspension

Where it is considered appropriate, you may be suspended on full pay pending an investigation. Where the action may be considered to be gross misconduct, you will normally be suspended. Suspension from duty is not a pre-judgement of guilt and is not a disciplinary sanction. The Suspension Procedure is contained within the staff handbook.

Suspension will only be used where there is, prima-facie, a risk to you, or other employees, or where your continued presence on the premises could prevent or substantially hinder any impartial investigation.

2.5 Failure to attend a disciplinary hearing

The disciplinary hearing will take place within a reasonable timescale, normally within 2 weeks. This timescale may be varied by agreement of all parties.

If you or your representative cannot attend, for a reason unforeseeable at the time the meeting was arranged, then an alternative meeting must be arranged.

In addition, you have the right to request the postponement of a meeting if your representative is unavailable. The postponement can normally be for up to one week after the originally proposed date.

Otherwise, normally, if you fail to attend the postponed disciplinary meeting, it will be held in your absence and the decision together with information concerning the

procedure related to the right of appeal will be confirmed to you in writing within one week.

3. Procedure

In cases of alleged minor breaches of discipline or acceptable standards of behaviour the matter of concern will, in the first instance be raised, by the line manager, who in discussion with you will give evidence to support their concerns. It is part of day to day activities that line managers offer professional advice and guidance to staff and that any concerns relating to conduct and/or behaviour are dealt with initially in this way.

At all stages of the following procedure you will have the right to be accompanied by a trade union representative or fellow employee.

3.1 Stage 1

Where the manager is sufficiently concerned about your alleged minor breaches of discipline or the standards of behaviour, they should provide advice and instruction which should be clear and explicit relating to the nature of the concern and confirmed to you in writing within one week.

An adequate and specified time, which has been mutually agreed wherever possible shall be given for you to respond to the advice/instruction given.

3.2 Stage 2

Any action under this section will be subject to a disciplinary investigation and, where prima-facie, there is evidence which, on the balance of probabilities, suggests that there is a case to answer, a disciplinary hearing.

If you do not respond in the specified time to the advice/instruction given under the Stage 1 of this Procedure, or if, following an investigation of allegations of misconduct, a manager decides that the Disciplinary Procedure should be implemented, then a disciplinary hearing will take place.

You will be advised by the relevant manager that the Stage 2 procedure is being invoked. The People Team will contact you in writing to give the details of the allegation/concern and of the arrangements for a disciplinary hearing. Two weeks' notice will be given of the hearing arrangements and you will be advised of the right to be accompanied by a trade union representative or fellow employee. You will be provided with copies of any documentation to be relied upon no less than one week

in advance of the hearing. The hearing will be chaired and a decision made by a manager without prior involvement in the case. Other than in exceptional circumstances, the chair will be senior to the manager who is instigating the hearing.

Although, normally, the line manager will undertake the investigation, in complex cases, however, the advice of the Chief People Officer or nominee should be sought and it may be determined that a separate investigating manager should be appointed.

Normally, the hearing will be attended by the manager who instigated the hearing, a member of The People Team who will provide advice to the manager who instigated the hearing, you and, if chosen, your trade union representative or fellow employee. The member of The People Team who is providing advice to the manager who instigated the hearing will not present the case as their primary role is to advise the manager instigating the hearing. All parties will have the opportunity to provide written statements from witnesses at any disciplinary hearing. Witnesses may be called to the hearing to give statements in person, wherever appropriate and reasonable. A further member of The People Team will also be present at the hearing to provide advice to the chair and to keep a formal record of the hearing. In general, the number of people present should be kept to the minimum necessary.

The format of disciplinary hearings will be as follows:

- the manager who instigated the hearing will present the matters of concern relating to you and will detail how your conduct/behaviour has fallen short of what can reasonably be expected providing any written statements by witnesses to support the allegation/s, or by calling witnesses to give statements in person, as appropriate and reasonable
- you and/or any accompanying person will have the opportunity to ask questions
- you and/or any accompanying person will have the opportunity to respond and produce any written statements by witnesses to support your case, or by calling witnesses to give statements in person, as appropriate and reasonable
- both parties may ask questions/clarify points arising from statements made by witnesses or of other evidence produced
- the manager hearing the case can ask questions at any stage of the hearing both parties will be allowed to sum up

- an adjournment will take place to enable consideration of all the facts by the chair so that a decision can be made as to what, if any, sanction or other action needs to be taken

At the end of the disciplinary hearing, the manager hearing the case (the chair) will make one of the following decisions:

- there is no evidence of misconduct on behalf of the employee and action under the disciplinary process will cease
- the case is not proven and no warning or other disciplinary sanction is necessary
- there are issues which need to be addressed but that a warning is not appropriate. In such cases recommendations will be made as to the steps which need to be taken to avoid a repetition of the behaviour/conduct which caused the disciplinary hearing to be instigated. The recommendation should include the process and timescale for review.
- the case is proven and a warning at a specified level is confirmed together with details of the steps to be taken to avoid further disciplinary action in the future

The meeting will be reconvened and all parties except witnesses will be informed verbally of whether a decision has been made. If a decision has been made the parties will be informed verbally of both the decision made and the reason for the decision. If the chair has not yet made a decision, the meeting will normally be reconvened at a later time or date, or the decision and the reason for the decision will follow in writing. The decision of a disciplinary hearing and any other relevant information will be confirmed in writing by The People Team within one week of the decision being communicated to the parties.

If the chair decides there is no misconduct on your part and the chair believes the disciplinary procedure has been invoked either negligently or maliciously the chair should recommend that an investigation into the conduct of the manager bringing the case should take place.

4. 4 Sanctions/actions covered by the Disciplinary procedure

Each of the following sanctions/actions is designed to cover the varying level of severity of cases of misconduct which arise. These give an ordered sequence for persistent cases of misconduct, but disciplinary action may be taken at whatever

level of sanction is deemed to be appropriate. The following actions are possible outcomes of a disciplinary hearing (see 3.2 above).

4.1 Level 1 – Oral Warning

If conduct or performance does not meet acceptable standards you will normally be given an oral warning by the manager. You will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of your right of appeal. Advice will also be given on the improvement required, and the timescale for improvement and the consequences of failing to meet the required standards within the required timescale. Copies of the oral warning will be given to you and kept on your personal file, but it will be considered spent after six calendar months from the date of issue, subject to satisfactory conduct/behaviour.

4.2 Level 2 - Written Warning

If the misconduct is of a serious nature or if a further offence occurs within 6 months of the oral warning having been issued a written warning will normally be issued following a further disciplinary hearing. The warning will be confirmed in writing by The People Team to the employee within one week and will give details of the reason for the warning, and of their right of appeal.

Advice will also be given on the improvement required and the timescale for improvement and the consequences of failing to meet the required standards within the required timescale. A copy of the written warning will be kept on your personal file, but it will be considered spent after one year from the date of issue, subject to satisfactory conduct/behaviour.

4.3 Level 3 - Final Written Warning

If there is still a failure to improve or a further offence occurs within 12 months of the written warning having been issued or if the misconduct is sufficiently serious to warrant more than a written warning but insufficiently serious to justify dismissal, a final written warning will normally be issued following a further disciplinary hearing taking place.

The warning will be confirmed in writing by The People Team to you within one week and will give details of the reason for the warning, and of their right of appeal.

Advice will also be given on the improvement required and the timescale for improvement and the consequences of failing to meet the required standards within the required timescale which could include dismissal. A copy of the final written

warning will be kept on your personal file, but it will be considered spent after two years from the date of issue, subject to satisfactory conduct/behaviour.

4.4 Level 4 - Dismissal

If conduct is still unsatisfactory and you still fail to reach the prescribed standards, dismissal will normally result. Similarly, in the case of gross misconduct, action will be taken under the Dismissal Procedure, which is contained in the staff handbook.

4.5 Other sanctions

In particular cases consideration may be given to other sanctions as an outcome of a disciplinary hearing (see 3.2 above). These may include considering not paying an incremental salary increase (which might otherwise have been due) during the current year as an outcome of a disciplinary hearing as described in 2.1 above or other appropriate sanction short of dismissal.

5. Gross Misconduct

The University may dismiss with immediate effect and without prior notice any member of staff of the University, other than the holder of a senior post, in the case of gross misconduct, as outlined in the Dismissal Procedure contained in the staff handbook.

The following list provides examples which are normally regarded as gross misconduct (this is not intended to be exhaustive):

- serious breach of contract
- theft, fraud, deliberate falsification of records;
- fighting, assault on another person, deliberate damage to University property;
- serious incapability through alcohol or being under the influence of illegal drugs (subject to the provisions of the University's Drugs & Alcohol Policy);
- serious negligence which causes, or has the potential to cause, unacceptable loss, damage or injury;
- wilful refusal to comply with reasonable instructions;
- serious act of harassment;
- any form of discrimination which is unlawful and/or conflicts with the University's policies and procedures
- bringing the University into disrepute;
- possession of illegal drugs on University premises;

- breach of confidentiality (excepting breaches of confidentiality protected under the Public Interest Disclosure Act 1998);
- serious breach of security or financial procedures;
- unauthorised access to computer systems or records;
- obtaining/disseminating/storing/displaying material within the workplace, which is deemed to be obscene, pornographic, excessively violent or illegal (unless agreed in the furtherance of academic pursuit and the specific activity having received prior approval from the Ethics Committee)

6. Appeals

If you wish to appeal against a decision relating to a disciplinary sanction short of dismissal (ie a disciplinary sanction applied under this procedure) you should inform The People Team, in writing, within ten working days of the date of the decision, setting out the grounds for appeal. At the appeal any warning or other sanction imposed will be reviewed but it cannot be increased.

Appeals will normally be heard by an independent manager (ie who has not previously been involved in the disciplinary action against you) at the same level or more senior to the manager who decided upon the sanction. Decisions by managers hearing appeals are final.

The appeal hearing will operate on the basis of reviewing the decision to which the appeal relates. Ordinarily it will not be conducted as a re-hearing of the evidence given when the initial decision was taken but will rather be concerned with reviewing the application of the procedures, whether, on the basis of the evidence presented at the hearing whether the decision was appropriate, whether the sanction is proportionate to the misconduct/behaviour, and considering any new material evidence not available at the original hearing which you wish to introduce. Witnesses may be called upon to provide statements to the appeal hearing in writing or in person.

The People Team will be responsible for the arrangements for the hearing of appeals heard under this procedure and these arrangements will be notified to you in writing, giving two weeks' notice of the appeal date.

Normally, the hearing will be attended by the manager who made the decision against which you are appealing, a member of The People Team who will provide advice to the manager who made the decision, you and, if chosen, your trade union representative or fellow employee. The member of The People Team who is providing advice to the manager who made the decision will not present the case as

their primary role is to advise the manager who made the decision. A further member of The People Team will also be present at the hearing to provide advice to the chair and to keep a formal record of the hearing.

The stages of the appeal hearing are as follows:

- You and/or any accompanying person will present their case for appeal including any fresh evidence not available at the time of the original hearing and directly related to the case under appeal, and any written statements by witnesses may be presented. Any fresh evidence should be submitted one week in advance of the appeal hearing, unless there is good reason why this is not possible, in which case the chair may decide not to allow it. Witnesses may be called upon to provide statements in person where reasonable and appropriate. New information on unrelated issues cannot be introduced.
- the manager who decided upon the sanction will present evidence related to the case on behalf of the University, including any fresh evidence in response to fresh evidence submitted by you, and any written statements by witnesses may be presented. Witnesses may be called upon to provide statements in person where reasonable and appropriate. New information on unrelated issues cannot be introduced.
- both parties may ask questions/clarify points arising from statements made;
- the manager hearing the appeal may ask questions at any stage;
- both parties sum up in the order of you and/or any accompanying person first, and the manager second;
- an adjournment will take place to enable the consideration of all the facts by the manager hearing the appeal, so that a decision can be made;
- if time allows you and any accompanying person will be informed verbally of the decision made and reason for the decision; otherwise this will follow in writing;
- the decision and reason for the decision will be confirmed in writing by The People Team within one week.