



BUCKINGHAMSHIRE  
NEW UNIVERSITY

EST. 1891



# DISCIPLINARY POLICY AND PROCEDURE

Employees

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## Background

- 1 Bucks New University is committed to an organisational culture where concerns and poor behaviour will be addressed through this policy. The University's *Disciplinary Policy and Procedure* is designed to ensure that there is a procedure for dealing with issues of misconduct as and when they arise, and this is done in a fair and consistent manner for all employees.

## Purpose Statement

- 2 The purpose of this policy details how conduct issues will be dealt with in the University and explains the procedure to be followed by Managers and Employees. The University seeks to also implement the procedures lawfully and openly and consistent with the principles of natural justice.

## Applicability and Scope

- 3 This policy applies to all employees of the University including atypical and associate lecturers.
- 4 Any disciplinary issues which may relate to Students should be addressed under the *Student Disciplinary Procedure*.
- 5 Where a complaint is made under the *Student Complaints Procedure* about a member of staff and the investigation finds that there is evidence, the matter will be referred to the relevant University *Disciplinary, Capability or Grievance Procedures* and the Head of School/Director will review findings and take necessary action. If appropriate the evidence from the *Student Complaints Procedure* will be considered as part of any further action.
- 6 Where there are concerns about an employee which relate to their ability to perform their role reference should normally be made in the first instance to the *Employee Capability Procedures*.
- 7 Problems of absence related to genuine cases of illness and other issues with sickness absence should normally be dealt with under the *Sickness Absence Policy*.
- 8 Where matters relate to drug or alcohol abuse, reference should normally be made in the first instance to the employee *Alcohol and Substance Abuse Policy*.
- 9 Where an employee has a complaint about any issue where disciplinary procedures would appear to be inappropriate, reference should be made to the *Grievance Policy and Procedure*.
- 10 This policy follows the principles of the ACAS Code of Practice for Disciplinary and Grievance.
- 11 For trade union representatives no disciplinary action will be taken against a trade union representative (with the exception of suspending the employee in a case of suspected or known gross misconduct). This will be until the circumstances of the case

have been discussed with the appropriate full-time official of the relevant union to avoid such action being misconstrued.

- 12 For members of the Senior Management Team in addition to this policy please refer to the Governance Handbook Boards and Committees which details the procedures for the Senior Employee Special Committee.

## Responsibilities

- 13 **Employees** are responsible for familiarising themselves with the Disciplinary policy and procedure. They are responsible for upholding the expected standards of conduct and behaviour as set out by the University and complies with this policy where matters of concern are addressed with them. To prepare for and organise representation as required at formal and disciplinary meetings.
- 14 **Line Managers** are responsible for familiarising themselves with the Disciplinary policy, attending training and seek advice at the earliest opportunity.
- 15 **An Investigating officer (IO)** will be appointed to carry out a full and thorough investigation into the allegation (s) which have been made against an individual(s). They should have attended training prior to undertaken any investigations in the University. The investigation process should be independent and ensure a fair process. To identify all witnesses, questioning and have documented evidence which supports or challenges the allegations that have been made and to provide a comprehensive report in a timely manner.
- 16 **Witnesses** assist the disciplinary process by submitting information and evidence that is relevant to a particular investigation and/or subsequent disciplinary meeting. Witnesses will be asked to withdraw having given their evidence at a disciplinary meeting, but may be recalled if necessary.
- 17 **Senior Manager or relevant Leadership team member** means the Deputy Vice-Chancellor, Pro-Vice Chancellor, Director or Head who has overall responsibility for the School / Directorate in which the employee works.
- 18 **HR Directorate** to provide advice and support on the implementation of this policy. Normally an HR Business Partner will be assigned to the case.
- 19 **Trade Unions (TU)** will offer support and assistance to individuals and attend meetings/hearings including advising employees on their rights and assist them in the compilation of statement and presentation of their case at investigation meetings. The representative can address the Chair of meetings on behalf of the employee. The TU representative is not authorised to answer questions on their behalf.

## Definitions

- 20 **Days** means working days, which, for the purposes of these procedures are Monday to Friday other than bank holidays or other days when the University is closed to all employees and students.
- 21 **Disciplinary action** means the administration of a penalty.

- 22 **Natural Justice:** An employee who is accused of an allegation should be fully aware of all those allegations and evidence that supports those allegations. This will allow the employee to present relevant factual evidence to address those issues.
- 23 **Anonymity:** Employees may request anonymity when making a complaint. Those making a complaint should be encouraged to act as a witness to the investigation and attend the hearing if required.
- 24 **Right to be accompanied** by a work colleague or trade union representative to formal meetings.
- 25 **Suspension** means the exclusion of an employee from University premises other than for the purpose of attending meetings in connection with these procedures. Suspension pending investigation is not a penalty and pay will not be suspended. Suspension without pay for up to 5 working days may be used as a penalty.
- 26 **Investigation meeting** is when the investigation officer will interview an employee or a witness who is involved in, or has information, on the matter under investigation. An investigation meeting must not turn into a disciplinary meeting.
- 27 **Misconduct** can be defined as improper behaviour on the part of an employee that damages the proper functioning of the University's business.
- 28 **Gross Misconduct** is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the University. Further details can be found in Appendix 1.
- 29 **Data Protection:** The University processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.
- 30 **Personal File** means the individual, confidential employment record, both electronic and paper records maintained for each employee and held by the Human Resources Directorate.

## Principles

- 31 Where appropriate, informal action will be considered before recourse to the formal procedure.
- 32 The procedure may be implemented at any stage if the employee's alleged misconduct warrants it.
- 33 All employees will be treated in line with the *Equality, Diversity and Inclusion (EDI) Policy*.
- 34 No disciplinary action will be taken against an employee until the case has been fully investigated and the action is reasonable in the circumstances. In cases of alleged

gross misconduct and some instances of serious misconduct, employees may be suspended on full pay prior to investigation.

- 35 For formal action the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made at a disciplinary meeting.
- 36 Employees will be provided, where it pertains to the allegations, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.
- 37 At all stages of the procedure the employee will have the right to be accompanied by a trade union representative or work colleague.
- 38 At all stages of the procedure an employee may also be accompanied by an appropriate person to provide support in the case of disability or language issues.
- 39 An employee will have the right to appeal against any disciplinary action.
- 40 Employees will be able to seek support from our employee assistance helpline and the HR Business Partner will refer employees to Occupational Health as appropriate.
- 41 If an employee fails to attend a disciplinary interview or disciplinary or appeal hearing without good reason, a decision may be taken in their absence.

## Managing Standards of Conduct – Informal action

- 42 Many disciplinary issues can be avoided by having a conversation at an early stage. All managers and staff are encouraged to discuss problems or concerns that have arisen informally as and when they arise with a view to resolving them as early as possible. The line manager will hold a conversation raising a concern with the employee to provide feedback, to ensure they understand what is expected of them and to give them an opportunity to respond to the issue to enable a change in behaviour. The member of staff will be advised as to what needs to be done, an agreed timescale and how the conduct will be reviewed within the agreed period. The manager will provide a brief email outlining the conversation and agreed actions for improvement. **See Appendix 2 for guidance to undertake these meetings.**
- 43 At this stage the HR Directorate do not need to be involved on a formal basis but it is advisable to ensure that your HR Business Partner is aware of any concerns.
- 44 Learning and Development offer managers training on how to deliver Honest conversations and this can be booked by emailing them on [bucksLearn@bucks.ac.uk](mailto:bucksLearn@bucks.ac.uk)
- 45 If informal action does not bring about an improvement or does not achieve the desired result, it may be necessary to stop and initiate the formal procedure.
- 46 In some situations, where a matter is deemed serious enough, it may be necessary to proceed directly to the formal procedure. Such instances may involve gross misconduct which could result in summary dismissal.

## Managing Standards of Conduct – Formal procedure

- 47 Where an informal approach has failed or the matter is serious enough to move directly to the formal procedure it is imperative that managers discuss the matter with the relevant HR Business Partner.

### Suspension from duty

- 48 Where the case appears to involve gross misconduct the presence of an employee may hinder the investigation, the employee may be suspended from duty by the most senior employee or nominee on duty pending a disciplinary investigation. A full risk assessment will be undertaken by the manager and HR Business Partner as to whether an employee can be moved to other duties or depending on the severity it warrants suspension. Suspension will take immediate effect and will be on full pay.
- 49 In all cases, the Senior Employee or nominee or a representative from the University management group is responsible for ensuring that the employee is told clearly that they are suspended on full pay. The employee will be informed of the reason for the suspension, that it does not constitute disciplinary action nor is a presumption of guilt that it will be for as short a time as possible whilst the investigation is being carried out and that they will be called back for meetings. If there is a disciplinary meeting, at which they have the right to be accompanied by a representative. The HR Director, or nominee, will write to confirm the suspension, setting out the grounds on which the decision has been taken.
- 50 However, suspension may only be confirmed following an initial investigation of the case and a report made to the HR Director who will advise the Vice Chancellor or nominee. In the event that an incident occurs outside normal office hours, a decision should be made by the most senior employee present in the light of evidence available at the time and the incident reported to the relevant senior manager and the HR Director the next day or at the earliest opportunity.
- 51 During a period of suspension, employees must remain contactable and attend meetings as required. If an employee has pre-booked annual leave contact will not be made during this time. Employees must not attempt to contact or influence anyone connected with the investigation or to discuss the matter with other employees or students of the university. Further advice should be sought from a designated HR Business Partner.
- 52 If an employee has been suspended from the University but is then signed off by their GP with a fit note this will still be recorded as sickness absence. Normal sick pay allowances will apply.
- 53 Any employee who has been under suspension for 3 weeks or more may appeal to the University Council against the suspension by writing to the Academic Secretary and Registrar to the Council stating the grounds for appeal. Any appeal will be considered by a Council member as soon as is practicable, normally within 10 working days, and the suspension will continue to operate pending the determination of the appeal.

- 54 The risk assessment should be reviewed throughout the course of the investigation. Where there are changes in the perceived risk, suspension may be lifted before the end of the disciplinary process.

## Investigation

- 55 Where formal disciplinary action is being considered, a full and thorough investigation of the allegation(s) will normally take place which will take into account any statements from witnesses or opinion(s) as appropriate. The purpose of the investigation is to determine whether there is a case to answer at a formal disciplinary meeting.
- 56 A Human Resources Business Partner (HRBP) will be assigned to the case and will be available for clarification and advice on procedures to both the employee and their representative and the relevant managers at all stages of the procedure.
- 57 This investigation will be carried out within a reasonable timeframe and this normally will be the relevant line manager who will act as Investigating Officer (IO). In the event that the line manager is implicated in the misconduct, or if there are reasonable grounds for the employee to think that the line manager will not be impartial, an IO of similar standing from within the University, who has had no previous involvement in the case, will be appointed by the HR Director or nominee.
- 58 The employee concerned will be informed of the allegation, and that an investigation is being undertaken and by whom. The IO will request a meeting with the employee to establish the facts and responses to the allegation. The employee is entitled to be accompanied by a representative.
- 59 The IO will interview all employees/persons connected with the allegation, whom the IO deems relevant, and will gather any relevant documentation or statements as soon as possible.
- 60 If any new facts come to light during the investigation, the investigating officer may need to agree changes to the terms of reference or authorise a further investigation.
- 61 After consideration of the relevant statements, documentation and interviews, within 5 days unless there has been prior notification to all parties informing of an extension the IO will make a full report recommending an appropriate course of action. This may be:
- that the matter should be dropped as there is no evidence to support the allegation;
  - that there is some substance to the allegation but other possible solutions or support should be arranged informally, such as counselling, mediation; or
  - that the matter should go forward to a full disciplinary hearing.
- 62 When making this decision, the IO must be clear about the nature of the allegation, take any mitigating circumstances into account and consider each case on its merits.

## Evidence

- 63 The employee will be given 10 working days' notice of the disciplinary meeting. The letter will contain the allegations, detail any breaches of standards, policies and



procedures, details of the panel, the right to representation and if witnesses are required, a copy of the investigation report and the outcomes of the disciplinary meeting (see point 69).

- 64 The IO's report and all supporting evidence will be collated, placed in chronological order with a covering index and submitted to those hearing the case no later than 5 working days prior to the date of the disciplinary meeting. Any written response and supporting evidence the employee wishes to submit in response to the allegation and IO's report will be circulated to those hearing the case and the IO at the same time. In exceptional circumstances, and by agreement of all parties, additional evidence may be submitted within the 5 days prior to the meeting.
- 65 No other documentation may be presented at the disciplinary meeting itself unless all parties agree to its inclusion. If any new material facts emerge during the meeting, which are likely to have a bearing on the outcome, the parties will have discretion to agree that the meeting should be adjourned in order for an investigation to be carried out and re-convened at the earliest opportunity. The Chair will make the final decision.

## Disciplinary meeting

- 66 The purpose of the disciplinary meeting is to consider the evidence presented by all parties and decide whether further action is required, for examples by imposing a disciplinary sanction. The process is outlined in Appendix 3.
- 67 Where dismissal is a possible outcome the employee will be advised of this prior to the meeting. Under Article 9 of the *Articles of Government 2010*, the employee or their representative will be given an opportunity at the meeting to make a full statement of the case against dismissal. The employee will also be told of their right of appeal.
- 68 No penalty may be administered without a formal disciplinary meeting first taking place at which the employee is given the opportunity to state their case and answer the allegations that have been made. A disciplinary meeting to hear the disciplinary case will be convened as follows:
- a Where dismissal is a possible outcome, that is for cases of
    - i. Cases of gross misconduct or
    - ii. Cases of serious misconduct with a live warning or
    - iii. Repeated misconduct where the employee is under a Final Written Warning

Those hearing the case will normally comprise of; the Vice Chancellor or nominee and a University management team member which can be; the Head of School or Directorate Director (and who has undergone appropriate training) and an HR Business Partner will attend the meeting to act as an adviser. The Vice Chancellor or nominee will chair the meeting and appoint a note taker. In the event that the relevant senior manager is implicated in the misconduct, or if there are reasonable grounds for the employee to think that the senior manager will not be impartial, a senior manager of similar standing from within the University, who has had no previous involvement in the case, will be appointed by the HR Director.

For members of the Senior Management Team the constitution of the panel is included in the Governance Handbook Boards and Committees which details the procedures for the Senior Employee Special Committee.

- b Where dismissal is not expected to be an outcome, that is for other cases of alleged misconduct than those in a) above, those hearing the case will normally comprise of at least the relevant senior manager or nominee and another member of management from within the school/directorate. The senior manager or nominee will chair the meeting and appoint a note taker. Where possible, the senior manager conducting the meeting should not have had any significant prior involvement in the case. If they have been so involved, a senior manager of similar standing from within the University, who has had no previous involvement in the case, will be appointed by the HR Director or nominee. Where a second manager is not available from the school/directorate, a manager from another school/directorate who has had no prior involvement in the case may attend. The HR Business Partner will attend the meeting to act as an adviser.

## Disciplinary Sanctions

- 69 Where it is deemed necessary to take disciplinary action, the following outcome are available in the disciplinary meeting.

Type of Outcome	Summary	Length
No case to answer		None
First Written Warning	For most cases of misconduct, a written warning will be given to the employee. The letter will give details of the complaint, the improvement required and the timescale in which improvement is expected. It will warn that further action will be considered if there is no satisfactory improvement in the timescale stated and will advise of the right of appeal. A copy of the written warning will be kept on their Personal File but will be disregarded for disciplinary purposes after the specified term (a maximum of 12 months), subject to satisfactory service.	12 months
Final Written Warning	If there is failure to improve during the currency of a prior written warning for the same kind of offence or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, a final written warning will be given to the employee. This will give details of the complaint, will warn that dismissal may result if there is no satisfactory improvement and will advise of the right of appeal. A copy of the final written warning will be kept on their Personal File but will be spent after the specified term (a maximum of 12 months), subject to satisfactory service	12 months

Dismissal / Summary dismissal	<p><b>Penalties available for Gross/ Serious / Repeated Misconduct:</b></p> <p>In the case of Gross Misconduct, the penalty is dismissal without notice. In the case of repeated or persistent misconduct (where the employee has a final written warning for the same kind of offence which is still in force) and some cases of serious misconduct, the normal penalty will be dismissal with notice. The disciplinary meeting may, however, where there are mitigating circumstances, impose a Final Written Warning, and where appropriate, another outcome (see below).</p>	
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### Other Penalties

The following penalties may be considered in addition to a final written warning depending on the circumstances of the case:

- *Withholding incremental progression:* this may only be instigated where evidence suggests that the misconduct has affected the overall performance of the role. It is not to be used as a “fine”.
- *Compulsory transfer to a post at a lower grade and salary:* this is a technical dismissal and may only be considered where dismissing the employee could have been justified had the alternative post not been available. For instance, this might be more acceptable in the case of a newly promoted employee being offered a role of less responsibility, if available.
- *Suspension with loss of pay for up to 5 days:* this penalty may be used for misconduct of various kinds and is separate from temporary suspension pending investigation which is not a penalty.

### Notification of Decision

- 70 The employee will receive a letter and notes confirming the decision of the disciplinary meeting, giving reasons for the decision and advising the employee of their right of appeal as soon as possible and no later than 10 working days after the meeting. A copy of the letter will be kept on the employee’s Personal File for the period stated at the hearing in accordance with University policy on record management and will be disregarded for disciplinary purposes after that period.

### Grievance raised during the Disciplinary process

- 71 If a grievance is lodged during an on-going disciplinary matter, advice should be sought from Human Resources to ascertain if it has a direct bearing on the investigation process. This should not normally delay on-going proceedings, and the expectation is that this would be dealt with after the conclusion of the disciplinary meeting or, if appropriate, run concurrently with it.

## Appeals procedure

### Appeal against a penalty short of dismissal

- 72 The employee has the right to appeal against the finding of the disciplinary meeting and/or level of penalty awarded following the disciplinary hearing. An appeal against a penalty short of dismissal should be made in writing to the HR Director within 10 working days of receipt of the letter conveying the outcome of the hearing, stating clearly the reasons for the appeal. The employee must submit appropriate evidence and the names of any witnesses in support of his or her appeal.
- 73 A panel comprising the Vice Chancellor or nominee and another member of the Senior Management Team who has not had any prior involvement in the case will be convened by the HR Services Director, or nominee, within 10 working days of receiving the appeal. A note taker will be appointed. The employee has the right to appear before the panel in person, accompanied by their representative, to state their case. The decision reached will be final and will be conveyed in writing to the parties concerned within 5 working days.

### Appeal against a dismissal

- 74 Employees have the right to appeal against dismissal to an Employee Appeals Panel which includes members of the University Council. This should be made in writing to the Academic Secretary and Registrar to the Council within 10 working days of receipt of the letter conveying the outcome of the hearing and state clearly the reasons for the appeal. In an exceptional circumstances where new evidence is presented, reasonable time will be given to be submitted before the meeting.
- 75 If the original decision was to dismiss the employee, but this is overturned as a result of an appeal, the University should reinstate the employee with immediate effect.

## Criminal convictions and police involvement

- 76 If criminal proceedings do commence, the University will reserve the right to continue the investigation appropriately. It will however, assess the effect of the employee's ability to do their job and their relationships with their line manager, colleagues and students.

## Confidentiality

- 77 Matters dealt with under this policy should be kept confidential wherever possible. It will be important to explain the need to maintain confidentiality to all staff involved. An employee will be allowed to discuss the matter with their trade union representative.

## Monitoring

- 78 The Disciplinary policy and procedure will be monitored by the Human Resources Directorate. Human Resources will provide updates to the Senior Management Team as part of regular KPI reporting which will include equality data.

- 79 All dismissals will be reported to the University council through its Resourcing Committee as a reserved item.

## Appendices

### Appendix 1: Types of Misconduct

<b>Suspension</b>	<p>Suspension should only be considered if there is a serious allegation of misconduct and:</p> <ul style="list-style-type: none"> <li>• Working relationships have severely broken down</li> <li>• The employee could tamper with evidence, influence witnesses or impact the investigation into the allegation</li> <li>• A risk to other employees, students, property</li> </ul>
<b>Minor shortcomings</b>	<p>These could cover a range of issues that are best dealt with informally, for example poor timekeeping or attendance, excessive personal telephone calls, or conduct of a similar nature.</p>
<b>Misconduct</b>	<p>This can be defined as improper behaviour on the part of an employee that damages the proper functioning of the University's business. Many will be less serious examples of the types listed in Gross misconduct and serious misconduct and some other examples are given below. This also includes misconduct off duty where this affects other employees or the reputation of the University, this may include University organised trips.</p> <ul style="list-style-type: none"> <li>• persistent poor time-keeping;</li> <li>• unauthorised absences;</li> <li>• failure to carry out reasonable instructions;</li> <li>• breach of IT acceptable use policy;</li> <li>• negligence of a minor kind;</li> <li>• minor breaches of health and safety;</li> <li>• misuse of equipment or facilities.</li> </ul>
<b>Gross Misconduct and serious misconduct</b>	<p>Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the University. In the event that an employee commits an act of gross misconduct, the University will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice. Matters that the organisation views as amounting to gross misconduct include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• serious dishonesty such as theft, fraud, deliberate falsification of records, reports, accounts, salary, self-certification or expenses claims, whether or not for personal gain;</li> <li>• falsifying any information given in applying for a post and/or failure to declare criminal convictions;</li> <li>• fighting, assault on another person or threatening behaviour;</li> <li>• deliberate damage to University property;</li> <li>• serious bullying or harassment or any other form of discrimination;</li> <li>• serious infringement of health and safety policy and procedures;</li> <li>• serious incapability through alcohol or drug abuse or serious breach of the Drugs and Alcohol Policy;</li> </ul>

	<ul style="list-style-type: none"> <li>• serious negligence that causes unacceptable loss, damage or injury;</li> <li>• proven, intended unauthorised entry to computer records and intended misuse of computer records, or serious breach of confidentiality under the Data Protection Policy;</li> <li>• undertaking unauthorised private paid work at a time when the employee should be working for the University;</li> <li>• wilfully ignoring responsibilities or reasonable instructions on a repeated basis, particularly, where there is a serious risk to other employees and/or students;</li> <li>• Gross negligence in repeatedly failing to attend to or undertake the duties of the post.</li> <li>• Behaviour or actions that are deemed to bring the University into disrepute.</li> <li>• Serious breach of the organisation’s rules, including, but not restricted to, health and safety rules and rules on computer use</li> <li>• Bribery offences under the Bribery Act 2010</li> <li>• Smoking or the use of an e-cigarette in non-designated areas of the University’s premises.</li> <li>• Sexual misconduct at work</li> <li>• Discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, race, disability, age or religion or belief.</li> </ul> <p>‘Serious misconduct’ is conduct in the areas above which, judging the case in its context, falls short of ‘gross misconduct’. If substantiated, it would not normally lead to dismissal. Where dismissal is recommended, full notice will be given.</p>
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**This is not an exhaustive list.**

## Appendix 2 – Guide to Managing Standards of Conduct

### Informal action and Conversation raising a concern

The purpose of a conversation raising a concern will be to identify the root cause of any problem (for example; where it might be a case of minor misconduct) that may have arisen. The conversation will focus on whether any alternatives, for example coaching, training, mediation and counselling can be put in place prior to instigating the University's Disciplinary procedures. Where the matter is more serious, it may be necessary to proceed to the formal procedure.

Key pointers about informal action and conversation raising a concern:

- It should be held in a private area where there will be minimal risk of disturbance and it cannot be overheard.
- Listen to whatever the employee has to say about the issue. It may become evident there is no problem – if so make this clear to the employee.
- This should be a two-way discussion/conversation is aimed at discussing possible shortcomings in conduct and encouraging improvement and their behaviour.

Think about questions that will assist the discussion:

- What standards are required?
- Where they are falling short in meeting the standards?
- What improvement is required over a given period of time?

Where the conversation identifies a lack of training or knowledge at the root cause, consideration should be given as to whether the matter may be more appropriately handled under the University's Employee Capability Policy.

- Keep brief notes of any agreed informal action for reference purposes and establish a plan of action with the employee about what improvement you expect, agree how the problems are addressed and review dates.
- An employee does not require representation at this meeting however; they are not prevented from seeking advice from their union representative.
- Human Resources do not need to be involved on a formal basis but advice can be sought from your Human Resources Business Partner. It would be advisable to make them aware of any concerns and where necessary, Occupational Health can provide advice and support including details of the Employee Assistance Programme (EAP) Helpline number as appropriate.
- The HR Business Partner will arrange a referral to Occupational Health as appropriate in accordance with the Managing Sickness Policy.
- The manager will provide a brief email to the employee outlining the conversation and agreed actions for improvement. A copy will be sent to the HR Business Partner.

**Managers will need to remind employees that if the informal approach does not achieve the desired result or the matter is deemed more serious then they will adjourn and initiate the University's Formal Disciplinary policy and procedure.**

### Reference:

ACAS Guide on Discipline and Grievances at Work - [www.acas.org.uk](http://www.acas.org.uk)



## Appendix 3 – Disciplinary Meeting/Hearing process

The disciplinary meeting will normally be conducted as follows:

1. The Chair of the Panel will introduce all those present, explains the purpose of the meeting and how it will be conducted.
2. The Chair of the Panel will invite the Investigation Officer to confirm the allegation and present the evidence on which it is based. Once the Investigation Officer has presented the evidence and responded to any relevant questions they will leave the meeting.
3. Witnesses will be called, if attending, and/or written statements read to support the allegation.
4. The employee will be asked to respond to the allegation and present his or her case.
5. Witnesses will be called for the employee, if attending, and/or written statements read.
6. General questioning by both parties and discussion will then take place.
7. The meeting may be adjourned at any time where those hearing the case or the employee and their representative need to confer privately or for any good reason.
8. The employee will be given the opportunity to make a final statement including a statement of mitigating circumstances and good character if not included earlier in the presentation of the employee's case.
9. The Chair will summarise the main points of discussion after the questioning is completed.
10. The meeting will be adjourned whilst the decision is considered.
11. Those hearing the case will take into account the seriousness of the offence, any current previous warnings on file and, having come to a judgement about the facts and provisional penalty, any mitigating factors which may lead them to modify the penalty. Disciplinary action is limited to the penalties outlined in point 69.
12. The meeting will be reconvened, if circumstances allow, and the employee advised of the decision. If it is decided that disciplinary action should be taken, the employee will be advised of the action and of the right to an appeal and that they will receive a letter to this effect. If the meeting is not reconvened, the Chair will seek to relay the decision personally within 3 days of the hearing.

## **Appendix 4 – Employee Appeals Panel**

### **Constitution of the Employee Appeals Panel**

1. An Employee Appeals Panel is made up of 2 Independent or Co-opted Council members, both of whom will have senior management experience and a member of the Senior Management Team of the University who has had no previous involvement in the case.
2. The employee and student Council members may not be members of the panel. The Chair of the Panel is appointed by the Chair of Council or the Deputy Chair. The Secretary to the panel is the Academic Secretary and Registrar to the Council. A note taker is appointed by the Academic Secretary and Registrar to the Council or the Human Resources Directorate.
3. For the constitution of the panel where the employee at the Capability Hearing is a member of the Senior Management Team please refer to the Governance Handbook Boards and Committees regarding the constitution of the Senior Employee Special Committee.
4. The process for calling a meeting an Employee Appeals Panel is outlined below.

### **Calling an Employee Appeals Panel**

5. The Academic Secretary and Registrar to the Council arranges for the panel to meet as soon as possible, normally within 20 days of receiving the statement of appeal.
6. The Academic Secretary and Registrar to the Council invites the Vice Chancellor to nominate a management representative to represent the University's case for dismissing the employee, who would normally be the Chair of the Capability Hearing. The employee's statement of appeal is sent to the management representative.
7. The employee has the right to be accompanied at the meeting by their trade union representative or a work colleague. This cannot be either a member of the legal profession or a family member.
8. At least 7 working days before the panel is due to meet, the Academic Secretary and Registrar to the Council notifies all parties of the time, date and venue of the appeal hearing. If the employee or their representative cannot attend on that occasion then a further opportunity is provided for the panel meeting. If, without good reason, the employee is unable to attend a second time, the appeal may take place in the absence of the employee.
9. The Academic Secretary and Registrar to the Council invites the University management representative to respond in writing to the employee's initial statement of appeal, to collate written evidence and call witnesses to support the case for dismissing the employee.
10. The Academic Secretary and Registrar to the Council invites the employee to add to their statement of appeal, to collate written evidence and to call witnesses to support their appeal against dismissal.
11. The Academic Secretary and Registrar to the Council sends the statement of appeal and all the information in above to the members of the Panel, the employee and the University's representative at least 10 working days before the meeting of the Panel.

### **Proceedings of the Employee Appeals Panel**

12. The proceedings of the panel are not invalidated by the absence of the employee, their representative, the University management representative or any witnesses if they have been given a reasonable opportunity to be present.
13. No other person attends the meeting of the panel than those mentioned above.
14. The Chair of the Panel conducts the proceedings in an efficient way, while safeguarding the fairness of proceedings. Subject to allowing a full airing of views, he or she may guide the participants in minimising repetitious, irrelevant or frivolous evidence.
15. The Chair determines the order of proceedings which is outlined in Appendix 6:
16. At the request of the employee, University management representative or panel member, the meeting may be adjourned for a period of time agreed by all parties.
17. The Employee Appeals Panel has delegated authority from Council to decide on one of the following outcomes, either to:
  - a) confirm the decision to dismiss the employee; or
  - b) confirm the decision to dismiss the employee subject to such conditions as the panel may determine; or
  - c) rescind the decision to dismiss the employee; or
  - d) rescind the decision to dismiss the employee subject to such conditions as the panel may determine.
18. Having reached its judgement on the facts, the panel takes the employee's statement of mitigation and references of good character into account and confirms or modifies the outcome.
19. The panel reaches its' final decision by a simple majority and, if time allows, this is relayed orally to the employee, their representative and the University management representative as soon as the decision has been made. If this is not possible the decision will be confirmed in writing within 10 working days of the meeting.
20. The Academic Secretary and Registrar to the Council arranges for a formal record of the proceedings to be made, to be confirmed by the panel, taking into account comments on factual accuracy by the employee, their representative and the University management representative. A copy of the record is sent to all participants. In the case of actions to be taken the Academic Secretary and Registrar to the Council issues the confirmed decision before completing the full record of the proceedings.

## Appendix 5 – Outline agenda for Employee Based Appeal Hearing

- a. the employee states their case.
- b. the employee calls witnesses in turn whom any panel member or the University management representative may question.
- c. the University management representative states the University's case.
- d. the University management representative calls witnesses in turn whom any panel member or the employee may question.
- e. the employee, their representative and University management representative ask questions of each other and make responses.
- f. the Academic Secretary and Registrar to the Council asks questions where further clarification is needed.
- g. the Chair sums up the evidence and asks the parties to make a final statement.
- h. the University management representative sums up and makes a final statement.
- i. The employee sums up and makes a final statement; this may include statements of mitigation.
- j. The panel retires into closed session to consider its decision.