



BUCKINGHAMSHIRE
NEW UNIVERSITY

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Disciplinary Policy and Procedure

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Introduction

- 1 The University's *Disciplinary Policy and Procedure* is designed to ensure that there is a procedure for dealing with issues of misconduct/ gross misconduct and this is done fairly and consistently for all employees.
- 2 This policy and procedure is not intended to be a contractual term and condition of employment. The University reserves the right to amend this policy and procedure from time to time, following our normal consultation arrangements.

Applicability and Scope

- 3 This policy applies to all employees of the University, including Associate Lecturers and atypical employees. It does not apply to agency or self-employed contractors.
- 4 No disciplinary action will be taken against a trade union representative (except suspending the employee in a case of suspected or known gross misconduct) until the circumstances of the case have been discussed with the appropriate full-time official of the relevant union.
- 5 For members of the University Strategy Group (USG) please refer to the Governance Handbook Boards and Committees which details the procedures for the Senior Employee Special Committee.
- 6 This policy covers employees within their probationary period, with regards to issues of misconduct / gross misconduct. Capability concerns within the probation period will be dealt with via the Probationary Review process.

Principles

- 7 We will treat all employees fairly. When appropriate, reasonable adjustments will be made to support disabled employees.
- 8 This policy follows the principles set out within the ACAS Code of Practice for Disciplinary and Grievance Procedures:
 - Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
 - Employers and employees should act consistently.
 - Employers should carry out any necessary investigations to establish the facts of the case. No disciplinary action will be taken against the employee until the case has been fully investigated.
 - Employers should inform employees of the basis of the problem and allow them to put their case in response before any decisions are made and any mitigation taken into consideration.
 - Employers should allow employees to be accompanied at any formal disciplinary meeting.
 - Employers should allow an employee to appeal against any formal decision made.
- 9 Employees will be able to seek support from our [employee assistance helpline](#).

- 10 The employee should make every reasonable attempt to attend a meeting on the date it is scheduled for. If they or their companion are not able to attend on the original date, the employee will be offered an alternative date for the meeting.
- 11 If an employee fails to attend a disciplinary investigation meeting or disciplinary or appeal hearing without good reason, a decision may be taken in their absence.
- 12 Annual increments, paid on 1 August, may be withheld, as payment is subject to six months satisfactory conduct and performance.

Disciplinary Procedure – Informal action

- 13 Most minor issues of misconduct should, in the first instance, be resolved by a prompt and open conversation. The line manager should meet with the employee to discuss the expected standard of behaviour and allow them to respond to the issue and make improvements.
- 14 Informal discussions do not attract the right to be accompanied. However, employees may wish to discuss the matter with their Trade Union representative and/or an [Employee Assistance Programme](#) Advisor. Should the employee wish to be accompanied by their trade union representative, this would not be unreasonably refused.
- 15 Where an informal approach does not bring about an improvement, or the allegations are so serious that an informal approach is inappropriate, the formal disciplinary procedure will be initiated.

Disciplinary Procedure – Formal procedure

- 16 When a formal process is required, it is imperative that managers discuss the matter with the relevant People Business Partner.

Suspension from duty

- 17 Following an investigation, where the case appears to involve gross misconduct, the employee may be suspended from duty by the most senior employee or nominee pending a disciplinary investigation. Suspension will take immediate effect and will be on full pay.
- 18 Before a suspension an initial fact finding would take place and a risk assessment conducted. This would include consideration for redeployment or alternative duties.
- 19 The employee will be informed of the reason for the suspension, that it does not constitute disciplinary action, nor is a presumption of guilt and that it will be for as short a time as possible whilst the investigation is undertaken.
- 20 Any employee who has been under suspension for 3 weeks or more may appeal to the Chief People Officer against the suspension by stating the grounds for appeal in writing. Any appeal will be considered by a USG member or nominee as soon as is practicable, and the suspension will continue to operate pending the determination of the appeal.
- 21 All reasonable steps will be taken to ensure that suspension does not preclude the employee's ability to gather and provide evidence to support their case.

Agreed Outcomes

- 22 In some instances, and only where an employee has admitted the misconduct, it may be possible to agree with the employee an appropriate disciplinary sanction without the need for

a full disciplinary hearing. This course of action will require approval from the Chief People Officer and the Dean of College / Director. This will also only be applicable in the case of a first or final written warning and the employee or their representative will have the opportunity to make representations on the level of the sanction. The details of the outcome issued will always be confirmed in writing. There is no right to appeal against the sanction.

Investigation

- 23 The purpose of the investigation is to determine whether there is a case to answer at a formal disciplinary meeting.
- 24 The scope of the investigation will vary depending on the seriousness of the allegation. In some situations, an investigating officer (IO) may simply need to check the relevant records and speak directly with the employee. Other situations may require the IO to meet with any witnesses or review witness statements and further evidence.
- 25 The investigation will be carried out within a reasonable timeframe. It will normally be the relevant line manager who will act as Investigating Officer and Chair. The IO will have had relevant training in how to conduct an investigation. If the line manager is implicated in the misconduct, an IO of similar standing from within the University, who has had no previous involvement in the case, will be appointed by the Chief People Officer or nominee.
- 26 After consideration of the relevant statements, documentation and investigation meetings the IO will write an investigation report outlining whether there is a disciplinary case to answer.

Formal Disciplinary Meeting

- 27 The purpose of the disciplinary meeting is to consider the evidence presented by all parties and decide whether a disciplinary outcome is required.
- 28 The disciplinary meeting should take place as soon as is reasonably practical. The employee will be given 10 working days' notice of the disciplinary meeting to enable them to prepare.
- 29 The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of outcomes will be if the allegations are, on the balance of probability, proven.
- 30 The following will be provided to the employee.
 - The IO's report and the supporting evidence, including witness statements as appropriate
 - Employee Disciplinary Policy and Procedure.
- 31 The employee will be advised of the time and date of the meeting, the person chairing the meeting and the People Business Partner and note taker present.
- 32 Any written response and supporting evidence the employee intends to submit in response to the allegations should be circulated to those hearing the case five working days before the disciplinary meeting.
- 33 The disciplinary hearing will normally be conducted by the employee's Dean of College or Director of Professional Service (the 'Chair') unless they have had prior involvement in the case.
- 34 In cases of alleged gross misconduct, or where a final written warning has already been issued and dismissal is a potential outcome, the hearing will be chaired by a member of the University Strategy Group.

- 35 In all cases a People Business Partner will attend to provide People-related advice to all parties. A note taker will also be present to take notes, which will be sent to the employee and their representative following the meeting.
- 36 During the disciplinary hearing the employee, supported by their companion will be allowed to state their case and put forward any explanation, defence, arguments, or mitigation. They can also comment on what disciplinary sanction, if any, is appropriate and call witnesses as required.
- 37 The Chair or any panel member may question the employee and any of the employee's witnesses if present.
- 38 The employee and their companion can also ask questions. The companion may not answer questions directed to the employee, on their behalf.
- 39 The Chair of the disciplinary hearing may choose to adjourn the meeting so further evidence can be gathered. If this happens, the meeting will be reconvened, and the employee will be given the chance to respond to the new evidence.
- 40 The Chair of the disciplinary hearing will usually adjourn for a period to consider the outcome. The outcome will usually be communicated when the meeting is reconvened but will also be confirmed in writing (see below).
- 41 The recording of disciplinary hearings and investigation meetings will not be permitted except where this is necessary as a reasonable adjustment related to a disability.

Disciplinary Sanctions

- 42 Where it is deemed necessary to take disciplinary action, the following outcomes are available in the disciplinary meeting:
 - **First written warning**

If following the disciplinary hearing, an employee is found guilty of misconduct, they will be given a WRITTEN WARNING detailing the misconduct and behavioural change required. The employee will be informed that the consequences of failing to change behaviour or further misconduct could lead to a final written warning and, ultimately, dismissal. The employee will be advised in writing of their right to appeal. A copy of the warning will be kept on the employee's file but it will then normally be removed after 12 months, subject to satisfactory conduct.
 - **Stage 2: Final written warning**

If following a disciplinary hearing, there is a further occurrence of misconduct within the previously set timescale, or if the misconduct is sufficiently serious to warrant issuing a final written warning from the onset, a FINAL WRITTEN WARNING will be given to the employee. The employee will be informed that the consequences of failing to change behaviour or further misconduct could lead to the termination of their employment contract. The employee will be advised in writing of their right to appeal. A copy of the warning will be kept on the employee's file, but it will then normally be removed after 12 months, subject to satisfactory conduct.

An expired warning will not be the basis of a decision to dismiss however the fact that there is an expired warning may be taken into account when deciding the appropriate sanction.

- **Stage 3: Dismissal**

If conduct remains unsatisfactory or there is gross misconduct, the likely outcome will be DISMISSAL. A decision to dismiss can only be taken by a member of the USG or a manager who has the delegated authority of a member of the USG to do so. The employee will be provided, as soon as possible, with written reasons for dismissal, the date on which employment will terminate and the right of appeal. An employee shall not be dismissed for a first offence, except under circumstances of gross misconduct.

Notification of Decision

- 43 The employee will receive a letter and notes confirming the outcome of the disciplinary meeting, within a reasonable timeframe giving reasons for the decision and advising the employee of their right of appeal. 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

- 44 If in the course of a disciplinary process, an employee raises a grievance that is related to the case, the University will consider temporarily suspending the disciplinary procedure for a short period while the grievance is dealt with. Alternatively, where the grievance and disciplinary cases are related, we may decide, at our discretion, to deal with both issues concurrently.

Appeals procedure

- 45 The employee has the right to appeal against the finding of the disciplinary meeting and/or level of sanction awarded following the disciplinary hearing. An appeal against a penalty short of dismissal should be made in writing to the Chief People Officer (CPO) within 10 working days of receiving the written response. The employee must set out the full grounds of appeal, explaining why they are unhappy with the decision.
- 46 The Chief People Officer will decide who shall deal with the appeal.
- 47 For an appeal against dismissal an employee appeals panel will be convened which includes members of the University Strategy Group. An appeal should be made in writing to the Clerk to the Council within 10 working days of receipt of the letter.
- 48 The employee must submit appropriate evidence and the names of any witnesses in support of their appeal.
- 49 The employee will be invited to attend an appeal meeting and their reasons for appealing will be discussed.
- 50 The employee has the right to be accompanied at the appeal meeting by a work colleague or trade union representative.
- 51 The employee must take all reasonable steps to attend the meeting.
- 52 We will write informing the employee of the outcome, within a reasonable timeframe after the appeal meeting. The decision shall be final, subject to the employee's rights at law.
- 53 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

- 54 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

- 55 Matters dealt with under this policy should be kept confidential, taking into account the organisation's statutory reporting duties. It is important to explain the need to maintain confidentiality to all employees involved. An employee will be allowed to discuss the matter with their trade union representative.

Monitoring

- 56 The *Disciplinary Policy and Procedure* will be monitored by the People team.

Appendices

Appendix I: Types of Misconduct

<p>Suspension</p>	<p>Suspension should only be considered if there is a serious allegation of misconduct and:</p> <ul style="list-style-type: none"> • Working relationships have severely broken down • The employee could tamper with evidence, influence witnesses or impact the investigation into the allegation • A risk to other employees, students and stakeholders • A risk to property or IT systems.
<p>Minor shortcomings</p>	<p>These could cover a range of issues that are best dealt with informally, for example, abuse of dynamic working or unsatisfactory attendance, excessive personal telephone calls, or conduct of a similar nature.</p>
<p>Misconduct</p>	<p>This can be defined as improper behaviour on the part of an employee that damages the proper functioning of the University's business. 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"> • disruptive or inappropriate behaviour • discriminatory and prejudiced behaviour and actions not in line with our <i>Respect, Fairness and Inclusion Policy</i>. • unauthorised absences; • persistent failure to meet deadlines, including those related to the assessment process; • failure to carry out reasonable instructions; • persistent abuse of dynamic working flexibility; • breach of IT acceptable use policy; • negligence of a minor kind; • minor breaches of health and safety; • misuse of equipment or facilities; • breach of the University's code of conduct; • failure to complete mandatory training.
<p>Gross Misconduct and serious misconduct</p>	<p>Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the University. If 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 instead of notice.</p> <p>Matters that the University views as amounting to gross misconduct include (but are not limited to):</p> <ul style="list-style-type: none"> • Abuse of power: a situation where a relevant staff member* exploits a position of power in relation to a student to apply pressure for an intimate relationship (e.g., in exchange for academic benefits or threatening lower grades) • Failure to disclose an intimate relationship between a member of staff and a student

	<ul style="list-style-type: none"> • A personal relationship between any relevant staff member and a student for whom they have direct responsibility <p>*For the purpose of this policy, a 'relevant staff member' is defined as any employee, contractor, or agent of the University who has direct academic, pastoral, or professional responsibility for a student. This includes, but is not limited to: personal tutors, dissertation supervisors, lecturers, seminar leaders, and student support staff</p> <ul style="list-style-type: none"> • serious dishonesty such as theft, fraud, deliberate falsification of records, reports, accounts, salary, self-certification or expense claims, whether or not for personal gain. • discrimination or harassment of a fellow worker on the grounds of sex; sexual orientation; gender reassignment; race; disability; age; marriage or civil partnership; pregnancy or maternity; or religion or belief. Examples may include (but are not limited to): <ul style="list-style-type: none"> ○ misogynistic and sexist behaviour and actions towards another employee or student. ○ racist, Antisemitic and/or Islamophobic actions or unlawful speech. ○ homophobic or transphobic behaviour, actions or unlawful speech. • falsifying any information given in applying for a post and/or failure to declare criminal convictions. • fundamental breach of the University's Staff Code of Conduct • fighting, assault on another person or threatening behaviour. • deliberate damage to university property. • sexual misconduct at work • serious bullying or harassment or any other form of discrimination. • serious infringement of health and safety policy and procedures. • serious incapability through alcohol or drug abuse. • serious negligence that causes unacceptable loss, damage or injury. • proven, intended unauthorised entry to computer records and intended misuse of computer records, or serious breach of confidentiality under the GDPR. • bringing the University into disrepute through inappropriate use of social media • undertaking unauthorised private paid work at a time when the employee should be working for the University. • wilfully ignoring responsibilities or reasonable instructions on a repeated basis, particularly, where there is a serious risk to other employees and/or students. • gross negligence in repeatedly failing to attend to or undertake the duties of the post. • behaviour or actions that are deemed to bring the University into disrepute.
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	<ul style="list-style-type: none">• serious breach of the organisation’s rules, including, but not restricted to, health and safety rules and rules on computer use• bribery offences under the Bribery Act 2010• smoking or the use of an e-cigarette in non-designated areas of the University’s premises. <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.