

# **Disciplinary Procedure**

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## **Index**

- 1. Introduction**
- 2. Scope**
- 3. General Principles**
- 4. Informal Action**
- 5. Formal Disciplinary Procedures**
- 6. Investigation**
- 7. Suspension**
- 8. Disciplinary Hearing**
- 9. Disciplinary Action**
- 10. Appeal**
- 11. Special Cases**
- 12. Conflicts of Interest**
- 13. Annex A**

## **1 Introduction**

### **1.1**

The University of London believes that to promote good employee relations it is necessary to demonstrate that employees will be treated fairly, reasonably, promptly, and consistently in matters relating to discipline.

### **1.2**

The University promotes high standards of behaviour and conduct for all employees and takes appropriate action where those standards are not met. The Disciplinary Procedure is designed to assist in the standard setting for conduct and behaviour and it is important that managers and employees understand the procedure.

### **1.3**

It is intended that potential disciplinary cases are dealt with at an early stage, with a view to resolving problems as quickly and reasonably as possible; and that employees are encouraged to improve their conduct.

### **1.4**

This procedure supports the University's Dignity and Respect Policy, Grievance Procedure, and the Relationships Code of Conduct, ensuring no employee receives less favourable treatment on the grounds of their sex, race, religion/ belief, disability, age, marital status, sexual orientation, gender reassignment, trade union membership, or that they are pregnant or on maternity leave.

## **2 Scope**

### **2.1**

The following procedure applies to all employees of the University, including CoSector Limited, Senate House Worldwide Limited and University staff deployed to Health Education England who have successfully passed their probationary period. (Please see the University's Probation Procedure for guidance on managing staff conduct during the probationary period.) Where a concern involves an academic member of staff, this policy should be read alongside [Ordinance 20](#). It does not apply to agency workers, or those with a contract for services.

## **3 General Principles**

### **3.1**

Most problems at work can be resolved informally at an early stage. Please refer to section 4 for further information. Where this is not possible the formal stages of the University's Disciplinary Procedure will be applied. Managers should consult with their HR Partner for advice on how to manage a potential disciplinary matter.

### **3.2**

The University reserves the right to implement the procedure at any stage as set out below taking into account the nature of your alleged misconduct. Annex A provides

examples of disciplinary offences that may constitute misconduct or gross misconduct. These examples are not exhaustive.

### 3.3

Time limits expressed below may be extended at the discretion of the University where reasonably necessary to facilitate the University's investigations. If you request an extension to the time limits so you can gather evidence or make representations, the University will not unreasonably withhold agreement. Where possible, agreement will be sought between the University and you as to the limit of any extension in time.

### 3.4

You are entitled to be accompanied at any formal meeting under this procedure by a colleague from the University or a trade union representative.

Your companion may:

- address the meeting;
- ask questions on your behalf;
- present and summarise your case;
- respond on your behalf to any views expressed at the meeting;
- confer with you during the meeting;
- request adjournments.

Your companion may not:

- answer questions on your behalf;
- address the meeting against your wishes;
- prevent management from explaining the case.

### 3.5

If you have a disability (as defined by the Equality Act 2010) then arrangements for any formal meeting under this procedure will include consideration of any requirements for reasonable adjustments.

### 3.6

If you are unable to attend a formal meeting under this procedure due to ill health, a medical certificate will normally be required.

### 3.7

You are not permitted to use any form of electronic recording device during any meeting under this procedure. Should the University later find that any recording devices were used, this will be regarded as a serious breach of trust and confidence and you may be subject to disciplinary action.

### 3.8

Where witnesses are involved, they will be given a brief summary of issue (to the extent that it is relevant to the enquiries being made with them), in order to enable a full investigation to be undertaken.

### 3.9

The issue of confidentiality is an important aspect of any Disciplinary Procedure. Not only is confidentiality important to protect those involved, it is also critical in protecting the integrity of any investigation and any other subsequent procedures. All parties involved in the Disciplinary Procedure should be mindful of confidentiality at all times and any unnecessary breaches of this will be dealt with appropriately.

#### **4 Informal Action**

4.1 Where minor concerns about your conduct arise, the matter may be resolved quickly and effectively through informal means. Your line manager will meet with you on a one-to-one basis, giving reasonable notice of such a meeting. They will discuss their concerns with you, and seek any views or explanations from you. Your manager will also outline the improvement that is required, the timeframe within which this should be achieved, and what will happen if you fail to achieve the standards of conduct set. If you are unsure of the required standard, you should discuss this with your line manager.

4.2 Your manager will write to you with a summary of the discussion and the actions that you are required to take. No record of informal action will be kept on your personnel file, but your manager will keep a record for reference.

Progress should be reviewed regularly following an informal meeting and feedback should be given to you by your manager. Positive support and encouragement should be offered to help you meet the required standards, as well as additional training if relevant.

4.3 If, during the informal action stages, your line manager believes the situation may be more serious than initially envisaged, they will suspend the informal process and you will be informed in writing that the matter will be addressed through the formal stages of the Disciplinary Procedure.

#### **5 Formal Disciplinary Procedures**

##### **5.1**

Where informal action does not bring about the required improvements, or the misconduct is considered too serious to be classed as minor, the University will consider the use of formal disciplinary measures.

##### **5.2**

Gross misconduct is a serious breach of University disciplinary rules that amounts to a fundamental breach of trust and confidence. It can result in a summary dismissal for a first breach. Summary dismissals for gross misconduct will be without notice or payment in lieu of notice (see Annex A below).

#### **6 Investigation**

## 6.1

If you are suspected of breaching any of the University's disciplinary rules, your line manager (or another appropriate manager) will be appointed as the Investigating Officer and will promptly and thoroughly investigate the matter. The purpose of the investigation will be to establish the facts with a view to determining whether there is a continuing cause for concern that needs to be considered at a disciplinary hearing. HR will provide guidance to the Investigating Officer. You will be informed as soon as possible of an investigation and the allegation(s) against you.

## 6.2

As part of the investigation process, you will normally be invited to attend an investigatory meeting with the Investigating Officer. You are entitled to be accompanied at such a meeting (see 3.4 above). In addition, any witnesses to the alleged incident(s) will also be contacted for a written statement or, depending on the circumstances, may be interviewed by the Investigating Officer.

## 6.3

HR will normally provide a suitably competent note taker to take a note of the investigatory meeting. Following the meeting, HR will send the meeting notes to the Investigating Officer for agreement. Once agreed by the Investigating Officer, a copy of the notes will be circulated to you for review as soon as is practicable. These notes are not intended to be verbatim but will contain the key representations made at the meeting.

## 6.4

Once they have concluded their enquiries, the Investigating Officer will prepare a report of their findings. The report will confirm which of the following three recommendations apply in the circumstances:

- That the matter is dropped because there is no case to answer.
- That there is a cause for concern but it can be dealt with informally.
- That there is a cause for concern and it is sufficiently serious to warrant a disciplinary hearing.
- The outcome of the investigation will be confirmed to you in writing.

## **7 Suspension**

### 7.1

Where it is believed that the matter to be investigated involves serious misconduct, you may be suspended from work. Suspension will be considered carefully and will only be used if there is a potential risk to the business, or if your continued presence at work would prejudice an investigation. Alternatives to suspension, such as temporary redeployment, will be considered first where possible. The decision to suspend may be taken at any point during the disciplinary process. The line manager will normally advise a staff member in a meeting that they are to be suspended. Any decision to suspend will be confirmed to you in writing within three working days. The line manager should seek guidance from HR before arranging a meeting.

## 7.2

Suspension is a neutral and precautionary measure pending the outcome of the disciplinary process. It is not a disciplinary sanction and does not presume guilt. Suspensions will be for as brief a period as possible and will be kept under review. During the period of suspension your contract of employment will continue and normal pay arrangements will apply. You will not be permitted to enter University premises or to contact University employees (with the exception of your trade union representative) without prior written consent. Your HR Partner will be in touch to discuss arrangements required following a suspension.

## 8 Disciplinary Hearing

### 8.1

Where, upon completion of an investigation, there is sufficient evidence to suggest that you may have committed an act of misconduct, you will be invited to attend a disciplinary hearing. In the event of a disciplinary hearing taking place the University will:

- give you a minimum of five working days' advance notice of the hearing;
- tell you the purpose of the hearing and that it will be held under the University's Disciplinary Procedure;
- give you written details of the nature of your alleged misconduct;
- provide you with all relevant evidence not less than five working days in advance of the hearing;
- explain your right to be accompanied at the hearing by a colleague from the University or a trade union official (see 3.4 above).

### 8.2

If you are unable to attend a disciplinary hearing because your chosen companion is unavailable, it will be rearranged for a date within five working days of the original hearing date. If you are unable to attend the rearranged hearing, it will normally take place in your absence, unless there are exceptional circumstances. If a hearing goes ahead in your absence, your chosen companion may attend to present your case. You will also be permitted to make written submissions in such a situation.

### 8.3

The disciplinary hearing will be chaired by a suitably competent manager who has previously been uninvolved in the case. They will be supported by a representative from Human Resources, who will provide procedural advice and take notes. The Investigating Officer may also attend the hearing, at the request of the Chair, to present any supporting facts and material. In addition, the Chair may decide to call witnesses to the hearing, if it is deemed that their presence is necessary. You will be informed of the attendance of any witnesses called by the Chair when you are invited to the hearing. Where there is sufficient evidence to suggest that an academic member of staff may have committed misconduct, the Disciplinary Panel will be convened as laid out in [Ordinance 20](#).

#### 8.4

At the hearing you will be given the opportunity to respond to the evidence presented, to state your case in full, and to put forward any mitigating factors. With the agreement of the Chair, you may call witnesses to the hearing. To do this, a request should be made to the Chair at least three working days before the hearing. You should have a reasonable belief that any witnesses you wish to call have information that is pertinent to the matter being considered. You are not permitted to call character witnesses. It is your responsibility to arrange the attendance of any witnesses that the Chair agrees for you to call.

#### 8.5

The University may adjourn the disciplinary hearing if it appears necessary or desirable to do so, for instance, to allow further information to be gathered. You will be informed of the period of any adjournment. If further information is gathered, you will be allowed a reasonable period of time to consider the new information prior to the hearing being reconvened.

#### 8.6

Following the meeting, HR will send the meeting notes to the Chair for agreement. Once agreed by the Chair, a copy of the notes will be circulated to you for review.

#### 8.7

The outcome of the hearing will be communicated to you in writing normally within five working days. The written outcome will confirm the Chair's decision in relation to the allegations (whether they are well founded or not), what disciplinary action will be taken (if any), and your right of appeal (if applicable).

### **9 Disciplinary Action**

#### 9.1

Where the Chair of the disciplinary hearing decides that the allegations against you are well founded, the following action may be taken:

9.1.1 Where a minor offence or offences have been committed, a first written warning may be given. This will be confirmed in writing as soon as is practicable after the hearing, usually within 10 working days, and will:

- set out the nature of the misconduct and the improvement required;
- inform you that further misconduct is likely to result in further, more serious, disciplinary action;
- specify the period for which the warning will remain 'live'. Normally a first written warning will remain live for 12 months and during this period, the University may rely on such a warning in the event of further misconduct;
- state that you may appeal against the warning and the procedure for doing so.

9.1.2 Where you commit further disciplinary offences after a first written warning has been issued and remains 'live', or where a sufficiently serious first disciplinary offence has been committed, a final written warning may be given. Such a warning will:

- set out the nature of the misconduct and the improvement required;
- inform you that further misconduct is likely to result in your dismissal;
- specify the period for which the warning will remain 'live'. Normally a final written warning will remain live for 24 months and during this period, the University may rely on such a warning in the event of further misconduct;
- state that you may appeal against the warning.

9.1.3 Where you have committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given under section 9.1.2 above, you may be dismissed with notice. Termination must be authorised by a university Director.

9.1.4 Where the University establishes that you have committed an act of gross misconduct, you may be summarily dismissed without notice.

## 9.2

A disciplinary warning may also be accompanied by other forms of disciplinary action where appropriate. This may include but is not limited to:

- Your incremental pay progression being suspended during the period of any live disciplinary warning.
- Demotion (with the applicable pay reduction) and/or a transfer to a different role or work area. This may be appropriate where compelling mitigation has been presented in a case that would have otherwise resulted in dismissal.
- A deduction from pay in cases of unauthorised absence. The deduction will be equal to the period of absence, and will be made for the purposes of recompensing the University for the loss.

## 10 Appeal

### 10.1

You may appeal against any formal disciplinary action that is taken against you. An appeal must be made in writing to the Director of HR Services within five working days of you being notified of the action. You should clearly state the grounds for your appeal, and why you feel they apply in the circumstances. Your grounds must be one or more of the following:

- The sanction applied is inconsistent or too harsh;
- New evidence has come to light that you believe would affect the decision;
- The procedure was not followed.

### 10.2

On receipt of your written appeal, a suitably competent manager will be appointed to hear your appeal. The appointed manager will normally be from the next level of management above the Chair of the disciplinary hearing, and will have previously been uninvolved in the case.

### 10.3

Within ten working days of receipt of your appeal, you will be invited to a formal appeal

hearing. You will be given at least five working days' notice of the meeting. A representative from Human Resources will normally attend the meeting to provide procedural advice and to take notes.

#### 10.4

You are entitled to be accompanied at the appeal hearing by a colleague from the University or a trade union representative. See 3.4 for further details.

#### 10.5

An appeal will not take the form of a rehearing of the evidence. The purpose of the appeal hearing is to consider your grounds for appeal and review the information you present in relation to those grounds.

#### 10.6

Following the appeal meeting, the Chair will confirm the outcome to you in writing, normally within 10 working days. Where further time is required to investigate/consider your appeal this will be advised to you in writing, along with an estimate of the additional time required.

#### 10.7

The written confirmation of the outcome will confirm the Chair's decision to either:

- Uphold the appeal and remove or reduce the sanction issued at the previous stage; or
- Reject the appeal.
- The Chair's decision is final, and there is no further right of appeal.

## 11 Special Cases

### 11.1

If you are an accredited representative of a trade union recognised by the University for collective bargaining purposes and are suspected of having committed a disciplinary offence, the University will take no action under this procedure (with the exception of suspending you, where this is considered necessary – see 7.1 above) until the University has discussed the matter with a full-time official of that trade union.

### 11.2

If you are charged with or convicted of a criminal offence during your employment with the University, this is not normally in itself a reason for disciplinary action. Consideration will be given to what effect the charge or conviction has on your suitability to do your job and what impact this may have on your relationship with work colleagues and customers. We will not usually wait for the outcome of any criminal proceedings before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

### 11.3

If you raise a grievance during a disciplinary process, both processes will normally run concurrently. However, where this is clearly inappropriate, the disciplinary process

may be suspended whilst the grievance is heard. In either case, a separate manager will be appointed to hear the grievance.

## **12 Conflicts of Interest**

### **12.1**

There may be situations where conflicts of interest arise during the disciplinary process, examples of which include but are not limited to:

The selection of the individual in the role of Investigating Officer, or Chair of the disciplinary or appeal hearing - the University will ensure that individuals selected to undertake formal roles during a disciplinary case have had no previous involvement in the case and are not personally connected to any individual involved. If you have any concerns about anyone appointed in a formal role you should raise these immediately with the Director of Human Resources who will decide whether another individual should be appointed.

The role of the companion - it would not normally be reasonable for you to be accompanied by a companion whose presence would prejudice the meeting or who might have a conflict of interest. For instance, this would include anyone who is responding to the same or similar allegations, or who is involved as a witness.

## **Human Resources**

### **April 2018**

This procedure was subject to an Equality Impact Assessment and the identified actions completed. This has ensured that this policy complies with the terms of the Equality Act (2010) and reflects our commitment to equality, diversity and inclusion.

This policy is not contractual and can be amended at any time by the University.

The Director of HR Services will review this procedure within its first year of operation, and periodically thereafter.

## **Annex A**

### **Misconduct**

The following are examples of breaches of conduct, other than gross misconduct, which could lead to disciplinary action. The list is not exhaustive:

- persistent unsatisfactory timekeeping;

- unauthorised absence;
- poor attendance;
- failure to observe University published policies, Relationships Code of Conduct, procedures, rules and working practices;
- failure to comply with a reasonable instruction issued by a manager or supervisor;
- smoking in a non-designated area;
- careless, wilful or reckless use of (or damage to) University property;
- unreasonable behaviour, either in or outside the workplace, if it could reasonably be believed to adversely affect the University's reputation;
- excessive use of personal mobile devices, unauthorised use of the internet, messaging and/or email, including excessive use during work time or intentionally receiving and/ or downloading pornography or other offensive material (in contravention of the University's IT Policies and Codes of Conduct).
- Academic misconduct

### **Gross Misconduct**

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 the University has reason to believe that you have committed an act of gross misconduct, your employment may be terminated summarily without payment of notice.

Matters that the University views as amounting to gross misconduct include (but are not limited to):

- being under the influence of alcohol and/ or drugs (not medically prescribed) and/ or any illegal substance (whether on the University's premises or otherwise) which would affect the performance of your role and duties at the University;
- theft of University property, or from other employees, workers, students or visitors of/ to the University;
- fighting, physical and/or sexual assault, whether at or away from the University's premises but during hours of work, or on social occasions for which the University is responsible, or with which the University and/ or its employee(s) is/ are associated, whether away from the University's premises or outside normal working hours. (Proven self-defence is not considered gross misconduct for the purposes of this procedure);
- falsification and irregular practice in respect of cash, vouchers, records, returns or accounts, including false claims for expense reimbursement and overtime;
- careless, wilful or reckless damage to property belonging to employees, workers, students, visitors, the University and/ or its contractors (including its suppliers);

- defrauding or attempting to defraud the University;
- deliberate and unreasonable removal or transfer of any documentation or data pertaining to the University's business, without the appropriate authorisation;
- deliberate and unreasonable disclosure of the University's confidential information without authorisation;
- bribery offences, including offences under the Bribery Act 2010;
- using the University's information/ systems for personal gain, e.g. running one's own business on the University's systems;
- any form of direct or indirect discrimination contrary to the University's equal opportunities and diversity policies, whether at the University's premises or away from the University's premises during the course of your employment;
- bullying (including cyber bullying), harassment or victimisation, including on the grounds of any actual or perceived protected characteristic in the Equality Act 2010 (sex, sexual orientation, gender reassignment, race, religion/ belief, disability, marital status, age, pregnancy/ maternity). This also includes bullying and harassment on the grounds of an individual's association with someone covered by the Equality Act 2010;
- giving false and/ or deliberately misleading information in order to be appointed, promoted, transferred or retained by the University;
- serious breach of the University's health and safety policies and procedures, or serious breach of health and safety legislation;
- unauthorised signing of documentation committing the University to a financial obligation;
- serious breach of or non-compliance with the University's rules, regulations, policies or procedures;
- deliberate or repeated failure to undergo mandatory training when requested;
- illegal use, possession, sale or distribution of drugs at or, in some circumstances, away from the University's premises or to the University's employees, workers or students, whether during or outside hours of work;
- bringing the name of the University into disrepute by reckless, abusive or grossly irresponsible behaviour;
- repeated failure to obey reasonable management instructions/ orders;
- vexatious or malicious behaviour;
- failure to declare any relevant personal relationships, business and/ or financial interests, and in particular any that would conflict with your role and duties with the University (as required by the University's Financial Regulations and Relationships Code of Conduct);
- Negligence with serious consequences which causes or might cause unacceptable loss, damage or injury;
- Serious academic misconduct;
- Other acts of misconduct may come within the general definition of gross misconduct.