

Disciplinary Policy

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DOCUMENT DISTRIBUTION

This policy is accessible to all employees of Oxford Brookes University

MONITOR AND NEXT REVIEW

To be reviewed by 12/7/26 or sooner if impacted by best practice or legislative changes.

REVISION HISTORY

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Introduction

1. In line with the purpose and values of the University, Oxford Brookes University aims to engender a high performance culture for all of its employees, in order to maintain its position as one of the UK's leading modern universities with an international reputation for teaching and world-class research. Oxford Brookes University, UNISON and UCU recognise that employees should be treated fairly and that managers should not discriminate against employees in the way they manage behaviour.

Purpose

2. The purpose of the Disciplinary Policy and Procedure is to:
 - a. Enable employees at Oxford Brookes University to maintain the required standards of conduct and behaviour at work.
 - b. Provide a transparent framework to deal with any perceived shortcomings in conduct and behaviour - for the benefit of employees and the University.
 - c. Ensure that disciplinary action is applied consistently, fairly, promptly and confidentially.

Legislation

3. The following pieces of legislation impact on this policy
 - a. Employment Rights Act 1996
 - b. Employment Relations Act 1999
 - c. Data Protection Act 2018
 - d. General Data Protection Regulation (2016/679 EU)
 - e. Equality Act 2010

Date Policy Reviewed

4. July 2023

Scope

5. The Disciplinary Policy and Procedure applies to all University employees including those holding casual contracts. The only exclusions to this policy and procedure are the Vice-Chancellor and the Registrar and Chief Operating Officer, where the [Articles of Governance](#) should be referred to.

6. Where the subject of the investigation is a PVC Dean/Director, their line manager will decide whether an investigation will commence and, where it is approved, will appoint an independent investigator at PVC Dean/Director level to work with the [People Management Team](#). Where it is found there is a case to answer, the Registrar and Chief Operating Officer will Chair a disciplinary hearing and subsequent appeals will be heard by the Vice-Chancellor. From this point forward in the policy, please refer to this paragraph when a PVC Dean/Director is

being investigated or disciplined.

7. First and foremost trade union representatives who are employed by Oxford Brookes University are employees and therefore this policy and procedure applies to the representatives of the University's recognised trade unions. There will be a discussion with the local senior official or full-time representative or the appropriate full-time regional official in advance of any formal disciplinary action being taken with regard to an employee who is an accredited Trade Union representative.

Use of the Disciplinary Procedure

8. The Disciplinary Procedure may be used to deal with breaches of conduct and behaviour. Normally, the informal stage will be used for isolated first time minor misconduct. The formal stage will be used for a repetition of a minor breach or a serious breach, which may constitute gross misconduct but not necessarily be gross misconduct.

9. The University's Code of Conduct provides guidance on the standards of conduct expected from employees.

10. Examples of misconduct and gross misconduct are given in Appendix 2. This list is not exhaustive but is designed to give a sense of the conduct and behaviour matters that may be dealt with under the informal stage of the Disciplinary Procedure or progressed directly to the formal stage.

Principles

11. Disciplinary matters will be dealt with quickly and equitably.

12. No disciplinary action will be taken until the matter has been fully investigated.

13. At each stage, the employee will be advised fully of the nature of the complaint.

14. An employee has the right to be accompanied by a workplace colleague or trade union representative at each stage of the formal procedure. If an employee nominates a representative to support them through the formal stage of the disciplinary procedure, all correspondence will be copied to the representative/workplace colleague. A Union representative and People Directorate representative would not normally attend meetings at the informal stage unless it is mutually agreed that both should be present which will depend on the

circumstances

15. The employee will only be dismissed for a first breach of discipline in cases of gross misconduct.

16. The employee has the right to appeal against any disciplinary action at the formal stage.

17. The procedure may be initiated at any stage as appropriate to the circumstances of the alleged misconduct.

18. Standards of confidentiality will be maintained and any documentation relating to the case, including witness statements, will only be made available to those directly involved in the investigation and the disciplinary hearing(s).

19. The Chief People Officer and Deputy Chief People Officer must be kept informed of progress through all the formal stages of the disciplinary procedure and may offer advice and/or guidance to staff involved in order to maintain consistency and fairness within the procedures on behalf of the University. Whichever role will hear the case, out of the Chief People Officer and Deputy Chief People Officer, will not normally provide advice.

20. It is a serious disciplinary offence to encourage any employee to make a misleading statement or to withhold evidence in the course of any disciplinary case.

21. Hearings will be held either in person or via video call as agreed with those involved.

22. In the event that the Disciplinary Hearing Panel cannot reach agreement in relation to the case then the Chair will decide the outcome which must be clearly explained and justified in writing to evidence their decision. Please see the section headed Disciplinary Hearing for more details about the Disciplinary Hearing Panel composition.

Confidentiality

23. The details of all Disciplinary cases will be kept confidential and only shared with those directly involved in the case or where there is a legal requirement to share them (including subject access requests under the UK Data Protection Act 2018). This confidentiality clause applies to any witnesses or other people who may be involved in the case.

24. In situations where criminal proceedings and/or serious employment infringements come to light the University may consider and involve all relevant parties necessary to ensure matters are dealt with appropriately, for example, the University may consider involving the Police where it is apparent that criminal proceedings may have taken place.

25. Where any complaints are withdrawn the University will decide whether to continue any investigations or disciplinary action, on the basis of the circumstances of the case and the information they already possess.

26. Where during an investigation any individual has referred to something that does not pertain to the case, this will be redacted e.g. a witness might mention a health diagnosis of another person, this should be redacted if it is not appropriate to be included.

27. All case documentation will be retained by the university inline with University Retention Schedule as shown in the table below:

6.10.12	Disciplinary proceedings against an employee, where employment continues	Closure of case + 6 years	Review	JISC Guidelines
6.10.13	Disciplinary proceedings against an employee, where employment does not continue	Closure of case + 6 years	Review	JISC Guidelines

28. **First Written Warning** - will be kept on the employee's personal file for 12 months. after this period the record will be retained as per the retention schedule but will not be referred to in future cases or external references if asked, when the sanction is no longer live.

29. **Final written warning** - will be kept on the employee's People Directorate personal file for 24 months after this period the record will be retained as per the retention schedule but will not be referred to in future cases or external references if asked, when the sanction is no longer live.

ACAS

30. The UK's Advisory, Conciliation and Arbitration Service (ACAS) sets the minimum standards for employers to deal with workplace problems. This Disciplinary

Procedure and Policy reflects and exceeds the recommended approach specified in the ACAS Code of Practice for Disciplinary and Grievance Procedures.

Support from the University

31. A Disciplinary process can be stressful for all of the parties involved. The following support is available: Referral to Occupational Health, EAP (Employee Assistance Programme), Unison and UCU, People Management Team who can explain the process and support available, the employee's line manager.

32. Where an employee who is subject to disciplinary proceedings begins a period of sickness absence during the formal process, guidance from Occupational Health may be sought as to whether the employee is well enough to continue with the process at that time..

Informal Procedures

33. The informal disciplinary procedure is normally used for minor issues of misconduct. Any repetition of a minor breach may be dealt with using the formal stage of the Disciplinary Procedure.

34. The informal stage involves the line manager talking privately and constructively with the employee to raise the alleged misconduct, listen to their point of view, consider any mitigating circumstances, and, where appropriate, agree on improvements to be made with an agreed timeframe for completion and review. If there are any papers or supporting documents that will be referenced in the meeting these will be provided in advance. The employee should be provided with any papers or supporting documents in advance that will be referenced in any informal meeting. A summary of the discussion is confirmed in writing by the line manager to the employee.

35. There is no right to be accompanied by a workplace colleague or union representation during the informal stage of the Disciplinary Procedure although employees may consult with their union representative or workplace colleague about an informal matter and it is often helpful if they do. A Union representative and People Directorate representative would not normally attend meetings at the informal stage unless it is mutually agreed that both should be present which will depend on the circumstances and where the roles of each party (union and PD staff) will differ from formal and informal e.g. if PD and union staff attend it will be to provide a conflict resolution approach.

36. Discussions at the informal stage should be confirmed in writing by the line manager, afterwards, stating what the concerns were, and the standard(s) that is

expected, plus any support or training that is being provided if required. This should be kept on file locally by the line manager.

Informal Procedure - Casual and Casual Student Mode of Employment contracts

37. Staff on a casual contract, including Casual Student Mode of Employment will be required to achieve the required standards of discipline for their role. Where a line manager has concerns about the employee's behaviour they should:

- a. Raise these concerns with the employee
- b. Explain the standard of behaviour that is required
- c. Listen to any mitigating information the employee provides
- d. Explain what level of behaviour is required and confirm this in writing
- e. Provide additional training to help to bring the employee up to the required level
- f. If the employee is unable to demonstrate the level of behaviour required, then no further shifts will be offered to the staff member as there is no obligation to offer shifts on a casual contract of any kind. The line manager is responsible for ensuring that all IT access to confidential systems is withdrawn.

Formal Disciplinary Procedure

38. The formal stage of the Disciplinary Procedure is used to deal with any repetition of misconduct which has not already been resolved through the informal procedure of the Disciplinary Policy. It is also the entry point for dealing with serious misconduct and/or conduct which could be regarded as gross misconduct and which is too serious to be dealt with informally (see Appendix 2 for examples of misconduct and gross misconduct).

39. Before any formal investigation commences, the PVC Dean/Director should be consulted by the line manager, and be presented with the evidence on which the manager bases the recommendation to conduct an investigation, which could be an account of the alleged behaviour, or the result of a brief fact-finding exercise. The PVC Dean/Director will review and approve/not approve, as considered appropriate, in writing.

40. Where approval for a formal investigation is given, the PVC Dean/Director should appoint an independent investigating manager who will be supported by the People Management Team. The independent investigating manager should be a senior manager.

41. To assist the investigating manager guidance on investigations can be found in Appendix 1.

Suspension

42. An employee may be suspended by the Chief or Deputy Chief People Officer on standard pay during an investigation into a disciplinary issue, in circumstances where:

- a. the presence of the employee in the workplace during the period of the investigation might prejudice the investigation; or,
- b. there are serious difficulties in the relationship between the employee and other people (e.g. colleagues, students etc.) with whom they would normally expect to come into contact in the workplace, which would be exacerbated by continuing to work in close proximity; or,
- c. the safety of staff or students and the University's duty of care to its employees and students may be compromised by the presence of the employee at work; or,
- d. to protect the financial probity and/ or the property of the University.

43. It is important to note that:

- . a suspension from duty is not a pre-judgement of guilt and is not a disciplinary penalty;
- a. a suspension can only be imposed (and lifted) by the Chief or Deputy Chief People Officer;
- b. the reasons for the suspension must be stated clearly to the employee in writing;
- c. the period of suspension will be as brief as possible and will be kept under weekly review; and
- d. any restrictions on access to the University, its facilities (including IT access and University Payment Cards) or other employees in the workplace during the period of suspension, will be specified in the letter of notification, and any such restrictions will only be imposed in order to secure as objective and unprejudiced environment as possible for the investigation and/or to minimise potential difficulties in relationships with other people with whom they would normally expect to come into contact at work and/or to support safety and the University's duty of care. Employees will always be entitled to contact their trade union representative during a suspension.

44. In circumstances where it is necessary to protect the University's interests (e.g. for reasons of safety or financial probity), and where the Chief or Deputy Chief People Officer is not available to suspend an employee, the Registrar and Chief Operating Officer may instruct the employee to leave the place of work, and stay away until further notice, this may include IT access being suspended too. This will be reported to the Chief or Deputy Chief People Officer as soon as possible so that they can determine whether the employee should be formally suspended.

45. In exceptional circumstances, the Chief or Deputy Chief People Officer and the relevant PVC Dean or Director may move an employee from their normal place of work during the period of the investigation in order to facilitate a more objective investigation. The University will meet any additional transport to work costs involved in such a move.

46. An employee who is suspended from work or moved from their normal place of work may appeal in writing, within 72 hours of receiving notice of the decision, to the Registrar and Chief Operating Officer, with a copy of the appeal to the Chief People Officer. The Registrar and Chief Operating Officer will determine the outcome of the appeal as soon as possible and inform the employee of the outcome in writing.

Notification of the investigation

47. The investigating manager (the section headed Formal Disciplinary procedure explains who can be an Investigating Manager) will contact the employee to inform them of the following::

- a. that a formal investigation is to be undertaken;
- b. that they have been appointed to undertake to carry out the investigation;
- c. what the allegation(s) are;
- d. what the purpose of the investigation is,
- e. the date and time of the investigative meeting.
- f. where to access a copy of the University's Disciplinary Policy and Procedure and link provided or printed copy if the employee is not a computer user
- g. details of the support that is available from the University to the employee (as described in the section headed "Support from the University").
- h. The employee may bring a union representative or workplace colleague to this meeting.

Purpose of the investigation

48. The purpose of the investigation is to establish the facts of the case and to determine whether or not there is a case for the employee to answer. The investigation will involve a review of any relevant documentation and investigation meeting/s with the employee and, where appropriate, with any other people/witnesses who may have information or evidence relevant to the case.

Support for the employee and reasonable adjustments

49. The employee may be accompanied at the investigation meeting by their union representative or a workplace colleague. The workplace colleague or union representative may address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing. The workplace colleague or union representative

does not, however, have the right to answer questions on the worker's behalf, address the meeting and/or hearing if the worker does not wish it or prevent the employer from explaining their case. The investigating manager should be notified in advance of the investigation meeting, by the employee, of the details of the union representative or workplace colleague. Both sides have the right to ask for an adjournment during the meeting.

50. Under the Equality Act 2010 the University will ensure that any reasonable adjustment is made in order that the employee can make their case and is not disadvantaged in any way. Any special requirements will be accommodated if practically possible e.g the employee may bring an interpreter if required.

Notifying the employee of the outcome of the investigation

51. On completion of the investigation, the investigating manager will write to the PVC Dean/Director, provide the case report and make recommendations about how to proceed. The PVC Dean/Director will then decide upon next steps with advice from the People Management Team. This could include the following options:

- a. no further action will be taken, where there is no further action the employee will not be provided with a report regarding the investigation but will be provided with a letter from the PVC Dean/Director confirming that there will be no further action
- b. action will be taken which is outside the formal stage of the Disciplinary Procedure - for example, the PVC Dean/Director will discuss the case with the staff member and confirm in writing to the employee the standards that have not been met and the standards that are expected and a record of this will be kept locally for 12 months. A copy of the investigatory report will not be provided, in line with ACAS guidance.
- c. the employee will be invited to a Disciplinary Hearing.

52. The PVC Dean/Director who has made the decision will then write to the employee and confirm the decision of the PVC Dean/Director and provide a copy of the case report, within reasonable time (normally ten working days of the conclusion to the investigation stage)

Official record of the investigation

53. Formal notes of investigation meetings with the employee and any witnesses must be kept and agreed with the people involved - as part of the official record of the case. If there is a disagreement about the content of the notes which cannot be resolved, the differing views should be recorded. If a witness does not agree to their testimony being included in a case, it will not normally be possible to take their evidence into account. The only exception will be if the University has a duty of care to maintain and the witness wants to remain anonymous because of the serious and sensitive nature of the case.

Recommendation for a Disciplinary Hearing from a Different Procedure

54. An investigation may be conducted under a different procedure such as the [Grievance procedure](#) and following the investigation the investigators may recommend the case progress to a disciplinary hearing. Where this is the case, the investigation report should be provided to the PVC Dean/Director for the Faculty/Directorate concerned for them to consider. The PVC Dean/Director can choose to manage the recommendations within their own Faculty/Directorate themselves or can agree to the case going to a Disciplinary hearing. Where the case goes forward to a disciplinary hearing the management side of the case can be presented by the investigators if that is appropriate or can be presented by the PVC Dean/Director themselves or their nominated deputy.

Disciplinary Hearing

Arrangements

54. The Disciplinary Hearing will be heard by a Panel which would consist of an independent PVC Dean or Director as chair with guidance from an independent senior People Directorate representative who has not previously been involved.

55. The Senior PD Representative and Chair of the Hearing will write to the employee with the following details:

- a. Sufficient information about the alleged misconduct to enable the employee to prepare their case to answer at the Disciplinary Hearing. This includes the investigation report, and copies of written evidence and witness testimonies.
- b. Inform them about the possible outcomes of the Disciplinary Hearing Panel.
- c. The date, time and venue of the hearing, giving notice of 5 working days or more.
- d. Who will be sitting on the Disciplinary Hearing panel.
- e. Inform them that the hearing is being conducted under this Disciplinary Procedure, with a link to this Disciplinary Policy and Procedure or hard copy for non computer users.
- f. That the employee may be accompanied at the Formal Disciplinary Panel by their union representative or a workplace colleague. Where it has been identified i.e. by Occupational Health, that the employee has a medical condition e.g. anxiety which may prevent them from presenting their case effectively, reasonable adjustments will be made by the Chair/People Directorate Representative to support them in doing so. This may include appropriate support from the Union.
- g. That the Disciplinary Hearing Panel should be notified in advance of the hearing, by the employee, of the details of any union representative or workplace colleague the employee wishes to bring to the hearing, so that they can be invited to the meeting and copied in on all information relating to the case.

Attendance at the Disciplinary Hearing

56. The employee should take reasonable steps to attend the Disciplinary Hearing on the scheduled date. If they or their union representative or workplace colleague have unavoidable commitments at the chosen time which cannot be rearranged, the Disciplinary Hearing can be rescheduled to another mutually convenient date usually within the next month. If the employee is still unable to attend the Disciplinary Hearing after it has been rescheduled, the Chair has the option to decide to proceed with the Disciplinary Hearing as rescheduled and based on the available evidence.

Proceedings at the Disciplinary Hearing Panel

57. The Formal Disciplinary Hearing Panel will:

- a. Hear evidence from the manager and the employee. Where the PVC Dean/Director has chosen to follow a different course of action than that recommended by the Investigating Manager then the Investigating Manager should also explain this. The employee will be allowed to set out their case and answer any allegations that have been made. The employee will be given a reasonable opportunity to ask questions and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses. Where the employer or employee intends to call relevant witnesses they should give at least five working days' advance notice to the Disciplinary Hearing Panel that they intend to do this. Witnesses should be people who can give evidence relating to the case, rather than character witnesses. The Disciplinary Hearing Panel has the final say on which witnesses can be called, and must provide a reason for any refusal.

58. Once all the evidence has been heard, the Disciplinary Hearing Panel will deliberate in private, and make their decision and inform the employee of the outcome in writing within 5 working days. In the event that this timeframe cannot be complied with the Disciplinary Hearing Panel will inform the employee accordingly. Further details of the Disciplinary Hearing Procedures can be found in Appendix 3.

The Decision of the Disciplinary Hearing Panel

59. Based on the evidence, the decision of the Disciplinary Hearing Panel could be one of the following sanctions (this list is not exhaustive):

- a. **Case dismissal** - with no further action.
- b. **First Written Warning** - should be used if there has been no satisfactory response at the informal stage or the conduct or behaviour issue has been a serious breach of discipline. This will be kept on the employee's personal file for 12 months. The employee will be informed that if there is a repetition within this timescale, they may be issued with a final written warning.

c. **Final written warning** - should be used if there has been no satisfactory response to previous warnings or the misconduct is serious enough to warrant a final written warning but not dismissal. This will be kept on the employee's People Directorate personal file for 24 months.

d. **Dismissal** - the Disciplinary Hearing Panel may make a recommendation to the Vice-Chancellor to dismiss the employee with notice. They will provide their rationale for this recommendation.

e. **Summary Dismissal** - the Disciplinary Hearing Panel may make a recommendation to the Vice-Chancellor to dismiss the employee without notice, where the misconduct has been so serious that summary dismissal (i.e. the employment contract would end immediately) is appropriate. They will provide their rationale for this recommendation.

60. N.B. There may be other sanctions or conditions applied such as a change in role which may not be at the same grade and no salary protection will be made, there could be changes to duties and limits on access, these examples are not exhaustive.

61. The People Directorate representative will confirm the decision of the Disciplinary Hearing Panel to the employee in writing and copied to their union representative or work colleague.

62. Where dismissal or summary dismissal is recommended by the Disciplinary Hearing Panel, the employee will be notified of this recommendation in writing by the Chief People Officer (or their nominee). The recommendation will be submitted to the Vice-Chancellor or the nominated deputy, and the employee will be invited to make representations, either in writing or orally, before a decision on the recommendation. The employee has five working days from the notification of the Disciplinary Hearing Panel's recommendation to notify the Chief People Officer if they wish to make representations, and the representations will be made within a further ten working days from the date of the notification.

63. In order to come to a decision on the recommendation, the Vice-Chancellor or the nominated deputy will receive the full set of documentation that was available to the members of the Disciplinary Hearing Panel, together with any written representations from the employee. If the employee has opted to make oral representations, they will be made through the procedure set out in Appendix 3. Supplementary information may be sought from any of the parties, and any such information shall also be communicated to the employee and the Chief People Officer.

64. If the recommendation for dismissal is approved, the employee will be notified and informed of the right of appeal. If an appeal is lodged the dismissal does not

take effect until the appeal has been heard, but the employee will be suspended without pay from the date of the letter of notification of the Vice-Chancellor's decision. In the event of a successful appeal any pay that has been withheld will be reinstated.

65. An official record will be kept of all cases heard by the Formal Disciplinary Hearing Panel, including those where the outcome is no further action. These details will be kept on the employee's personal file in the People Directorate for 12 months (First Written Warning) or 24 months (for a final written warning).

66. When a decision is made by the Chair of a Disciplinary Hearing Panel and disciplinary sanction is given, the University will consider whether there are any third parties who may have a legitimate interest in the outcome e.g. a relevant Funding Body such as the UKRI (and any of its constituent parts) with regard to compliance with their award terms e.g. the UKRI's, Preventing Harassment Policy and those funders will be formally notified.

67. Oxford Brookes University and its employees are obliged under the terms and conditions of some of our external third party processes for applications for grant/funding (and ability to sustain existing grant/funding), to inform such parties of any live disciplinary sanctions awarded to relevant employees. Relevant employees are those named in a grant/funding application. Oxford Brookes University will do this by informing the internal Research and Business Development Office in confidence of any live sanction issued to a named employee, and the Research and Business Development Office will pass this information on in confidence, to the relevant external grant/funding body.

68. Please see the [Academic Integrity Policy](#) for further information

When a grievance is raised during formal disciplinary proceedings

69. If a grievance is raised during formal disciplinary proceedings, consideration can be given to temporarily suspend the disciplinary process to deal with the grievance. However, in most cases it will be possible to consider any issues raised as part of the disciplinary hearing or the appeal process. It will be for the Chair of the Disciplinary or Appeal Panel to determine whether this is appropriate. Alternatively, it may be appropriate to deal with the disciplinary and grievance cases concurrently.

Appeal against formal disciplinary action short of dismissal

70. An employee has the right to appeal against all formal stages if they feel that the disciplinary action taken against them is wrong or unjust.

71. A decision of the Disciplinary Hearing Panel (other than a recommendation to dismiss) may be appealed to the Registrar and Chief Operating Officer and the Chief People Officer or nominated alternative from within the People Directorate who has not previously been involved with the case. Appeals must be lodged with the Chief People Officer within five working days of the decision of the Disciplinary Hearing Panel, and will be considered at a mutually convenient date within 15 working days of receipt.

72. The appeal process is not an opportunity to repeat the Disciplinary Hearing or investigation, but to consider the basis of the appeal i.e. the reasons the employee considers the process or outcome to have been incorrect or unfair.

73. The Registrar and Chief Operating Officer will consider all the written evidence, including the record of the Disciplinary Hearing Panel. The employee, their Union representative or Workplace Colleague and the chair of the Disciplinary Hearing Panel will be asked to meet together with the Registrar and Chief Operating Officer to make a submission in support of their respective cases.

74. The Registrar and Chief Operating Officer may confirm the decision of the Disciplinary Hearing Panel, substitute an alternative decision, or ask the Chief People Officer to convene either the same Disciplinary Hearing Panel or a new Disciplinary Hearing Panel to reconsider the case. The course of action will be confirmed in writing by the Registrar and Chief Operating Officer.

Appeal against formal disciplinary action - dismissal

75. An employee has the right to appeal against dismissal or summary dismissal.

76. The appeal process is not an opportunity to repeat the Disciplinary Hearing or investigation, but to consider the basis of the appeal i.e. the reasons the employee considers the dismissal to have been incorrect or unfair.

77. The grounds for the appeal must be stated in writing and specify the grounds for appeal, must be submitted within 10 days of the receipt of the disciplinary decision, to the Chief People Officer or their nominated deputy if they are away. Appeals will be heard without unreasonable delay.

78. An appeal against a decision by the Vice-Chancellor or the nominated deputy to dismiss will be heard by an Appeals Committee, which will consist of one independent Governor of the University, and two other parties who are either Deans, Directors or other member of the Senior Management Team, nominated by the Chief People Officer. None of the participants will have previously been involved in the

case. Decisions made on appeal shall be final and the employee will be informed in writing within five days after the appeal hearing. The Committee will be chaired by the Governor member.

79. Employees have the right to be accompanied by a union representative or a work colleague.

80. The outcome of the appeal will be notified in writing to the employee within a reasonable timeframe.

81. While the appeal is being heard, the outcome of the formal disciplinary action stands. It is only overturned if the appeal is upheld. Further details outlining the Appeal Procedures can be found in Appendix 5.

Appendix 1 Guidelines on conducting an investigation

This is an aide memoire to support investigating managers but should always be used in conjunction with advice and support from the People Management Team, who can provide specific advice regarding letters and scripts where required. The section headed Formal Disciplinary procedure explains who can be an Investigating Manager.

The checklist below is for guidance purposes only, as it is recognised that an investigating manager will need to determine how best to manage any investigation given the individual circumstances of each case.

Planning and Preparation

- Clearly define the allegations/issue(s) in need of investigation. An investigation can simply be the gathering of facts based on existing documentation e.g. relating to the previous in/formal management processes undertaken to address an issue. In other instances, it may require the planned and systematic gathering of data, interviewing of relevant witnesses and analysing relevant documents, records, policies, etc. to determine next steps.
- Consider the avenues of evidence, what information you need to gather, from whom and how this will be obtained. Identify if there are any potential barriers to obtaining information and how these can be addressed.
- If appropriate, prepare an interview plan(s) i.e. the sequence and schedule of those being interviewed and consider the specific issues that need to be

explored during these interviews.

- Prepare the questions you wish to ask, ensuring that the questioning (open, closed and probing questions) is appropriate e.g. for obtaining information/facts, exploring feelings or opinions. Avoid using leading questions.

Informing the Employee

- Any employee subject to an investigation should be made aware that an investigation will be undertaken, and should be provided with a brief summary of the reasons for this and the practical measures involved. A union representative or workplace colleague can also attend this meeting if the employee so requires it if it is at the Formal stage of the process.
- When writing to the employee to invite them to the investigation meeting include any paperwork/information which will need to be seen or considered prior to the interview.
- Make the employee aware of the counselling and support available to them as detailed in the section headed Support From The University.

Conducting Interviews

- The People Manager can advise on the content of scripts to use
- Confirm that it is an investigation meeting
- Explain the need for confidentiality.
- Explain that written notes will be taken throughout the interview to form a statement. Recording might be possible where appropriate and agreed by all parties as a reasonable adjustment but the preference is for written notes.
- All statements are shared with the employee/witness concerned, to amend if incorrect, and sign and date as a record of what they have stated. If agreement cannot be reached, both versions will be kept on file.
- Confirm the area/allegation around which the employee or witness will be asked to comment and ensure their understanding.

- Explain that the evidence/information may be used in a subsequent formal disciplinary hearing and that they may be required (or in the case of witnesses requested) to attend, depending on the outcome of the investigation.
- Check if the interviewee has any questions regarding the process.
- Seek evidence/information using any prepared and supplementary questions.
- In questioning the employee under investigation, explore possible explanations/special circumstances. Ask them to respond to any allegations and if they are able to produce any evidence/information to support their response.
- Check if the interviewee wishes to provide any further information or raise any questions before the interview concludes. If the interviewee recalls something after the meeting to be included then they can provide that separately in writing to the Investigating Managers and it can form an addendum to the statement if appropriate or be a separate piece of evidence in its own right.
- Explain next steps and indicative timescales and that it may be necessary to hold additional interviews should further evidence arise.

Seeking and Clarifying Further Information

- Seek any relevant supporting information/evidence to substantiate information provided by the employee/witnesses.
- Identify any witnesses who could help with investigations, determining whether they should be interviewed or whether a written statement should be sought. Initial contact with a potential witness is often in the form of an email to: explain the situation; check their potential relevance; seek their agreement to participate in the process etc. The People Manager can advise on the content of emails that the line manager or investigator, depending on which stage of the process the case is at, should send
- Consider whether other documentation may be helpful for the investigation. For example: work rotas, attendance records, medical reports, incident reports, minutes from meetings, appraisal/training/development records, emails, letters etc. (permission of the employee may be required for some of these examples and evidence relating to third parties which are not relevant should be redacted). Also consider any wider documentation that may feed into informing expectations e.g. departmental handbooks/local agreements, etc.

- Should you identify any information that may warrant immediate action, please raise this with the manager who instigated the investigation as a matter of urgency.

Record Keeping

- After each interview forward the statement, as appropriate, for signing or agreeing by email, to the interviewee. Agreement that the statement is correct must be confirmed in writing by the interviewee.
- If the interviewee disputes the accuracy of the statement, ask them to: identify what is in dispute; offer their interpretation/recollections of the discussions by annotating the record provided, before signing and returning the record. If the investigator does not agree with the accuracy of the interviewee's annotations, the original and annotated versions will be kept on the record.
- In the case of witness statements, the investigator should inform the witness at the interview or when requesting a written statement that relevant parts of the statement will be shared with other parties where necessary and the list of people who could see the statement will not be exhaustive.
- The line manager or investigator, depending on whether this is the informal or formal stage, will maintain a record of all evidence gathered. This will be kept as part of the investigation inline with the time scale mentioned in the Disciplinary policy that relates to the warning types for each stage.

Drafting the Investigation Report

- The investigator should draft an Investigation Report. If this is at the informal stage then the line manager will draft this report which should be shared with the PVC Dean/Director if they would like to move the case to the formal stage. For details about the formal stage please see the section headed Formal Disciplinary Procedures in the main policy.
- Be aware of the tone and style of the drafting, since the report will be shared with key parties including the employee under investigation. The report should be factual and not written in a manner that prejudices the outcome of the case, the People Manager should be consulted on the report so that they can ensure that it is legally compliant and factual.

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Appendix 2 - Examples of Misconduct and Gross Misconduct

Examples of Misconduct

82. The following list, which is not exhaustive, provides examples of the kinds of behaviour and conduct which may be treated as misconduct, either minor or serious, under the University's Disciplinary Procedure.
- a. Bullying and Harassment
 - b. Unjustifiable or unauthorised absence.
 - c. Poor time-keeping.
 - d. A minor failure to observe health, safety and hygiene regulations.
 - e. Failure to comply with no smoking and no vaping areas on University premises or other premises used on University business.
 - f. Misuse of University property.
 - g. Misuse of social media or the internet.
 - h. Failure to maintain confidentiality relating to work matters or a formal process.
 - i. The unauthorised recording of disciplinary or other proceedings.
 - j. Behaviour which is likely to bring the University into disrepute (subject, always, to any relevant contractual conditions relating to academic freedom and the provisions of the whistleblowing procedure).
 - k. Aggressive, offensive or malicious behaviour, including in person, by email, on social media or on a voice or video call.
 - l. A breach of trust and confidence.
 - m. A refusal to follow a reasonable management instruction over a minor matter.
 - n. Failure to comply with University policies.
 - o. A minor breach of the University Regulations or Financial Regulations.
 - p. A minor breach of UK Data Protection and Privacy legislation or the University's Information Security Regulations.

Examples of Gross Misconduct

83. The following list, which is not exhaustive, provides examples of conduct and behaviour which may be regarded as gross misconduct and may lead to summary dismissal without notice:

- a. Serious bullying and harassment in any form be it psychological, physical or on-line
- b. Racial Harassment and/or racially-motivated bullying behaviour
- c. Taking any detrimental action against a member of staff for exercising any rights under this or any other University procedure.
- d. Dishonesty, theft, fraud, deliberate falsification of records or misuse of University property, including malicious damage to University property.
- e. Theft of University property or from members of the University or general public.
- f. Malicious damage to University property or the property of another employee or the general public.
- g. Obscene or indecent behaviour or sexual misconduct.

- h. The publication and/or circulation of offensive/pornographic material. Using University equipment or premises to view offensive or pornographic material.
- i. Serious aggressive or offensive behaviour.
- j. Any form of unlawful discrimination on the grounds of, but not limited to, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation and/or conflicts with the University's policies and procedures; and discrimination on the basis of membership of a recognised Trades Union.
- k. A serious breach of University Regulations or Financial Regulations.
- l. A serious breach of trust and confidence.
- m. A serious failure to maintain confidentiality.
- n. Incapacity whilst on duty due to alcohol or illegal drugs.
- o. A refusal to follow a reasonable management instruction over a serious matter.
- p. Being in the possession of illegal drugs in the workplace.
- q. A serious breach of health, safety and hygiene regulations.
- r. Acting in a manner dangerous to others.
- s. Behaviour bringing University into serious disrepute (subject, always, to any relevant contractual conditions relating to academic freedom and the provisions of the whistleblowing procedure).
- t. Professional incompetence or gross negligence.
- u. Failure to comply with the University's Prevent Duty or the requirements of the Bribery Act 2010.
- v. A serious breach of the UK Data Protection and Privacy legislation or the University's Information Security Regulations especially where malice or an employee's failure to exercise due care contributed directly to the breach.

84. Note: Forms of serious misconduct or criminal activities outside the workplace may lead to disciplinary action where it is considered there may be a negative impact upon the employment relationship, effective working relationships or the reputation of the University.

Appendix 3 - Procedure for Disciplinary Hearing

- The investigating manager who has conducted the investigation will present the management case and will identify the witnesses that they intend to call. The People Manager, or alternative People Directorate member, will provide an advisory role to the Investigating Manager during the hearing.
- The investigating manager will call their witnesses in turn. (N.B. the employee is entitled to know who is to be called as a witness at least 3 working days before the hearing). Witnesses will be questioned by the Investigating manager and subsequently by the employee or their representative. Where the witness does not feel safe to be questioned by the employee due to the nature of the case then the panel will agree an alternative way for the employee's questions to be asked and answered so that the witness feels

safe and ensures the employee has had the opportunity for their case to be heard and understood.

- Members of the Disciplinary Hearing Panel may ask questions of the witnesses and of the Investigating manager.
- The employee or their representative will present the employee's case and call their witnesses in turn (N.B. the investigating managers are entitled to know who is to be called as a witness at least 3 working days before the hearing).
- The witnesses will then be questioned by the employee or their representative and subsequently by the investigating managers.
- The employee or their representative may question the investigating manager.
- Members of the Disciplinary Hearing Panel may ask questions of the witnesses and the employee.
- The investigating manager will summarise the management case.
- The employee or their representative will summarise the employee's case.
- The Disciplinary Hearing Panel will deliberate in private and will let all parties know their decision within 5 working days.

Guidance notes

- A hearing may be adjourned by the Chair if new evidence is introduced and one or both sides request an adjournment to consider how to respond.
- Witnesses may be re-called by the Chair if one side or another requests the right to ask additional questions.
- Witnesses will only be present when they are giving evidence and will normally be interviewed individually.

Appendix 4 - Procedure for making oral representations to the Vice-Chancellor against a recommendation for dismissal

The employee will have up to 30 minutes to make representations to the Vice-Chancellor, supplementing or supporting the information covered in the written documentation provided from the disciplinary hearing. The employee will be able to bring their Union Representative or a workplace colleague with them to this meeting. The Vice-Chancellor may ask whatever additional questions they think are necessary to obtain a sufficiently sound basis for making a decision to confirm or turn down the recommendation for dismissal. The Chair of the disciplinary hearing panel shall be invited to attend and may be invited by the Vice Chancellor to clarify any point arising from the written documentation or oral representations.

Appendix 5 - Appeal at the final stage of the Disciplinary Procedure

Where the appeal relates to a recommendation for dismissal this process should be followed after the VC has decided whether a dismissal will take place. An appeal against a decision by the Vice-Chancellor or the nominated deputy to dismiss will be heard by an Appeals Committee, which will consist of one independent Governor of the University, and two other parties who are either Deans, Directors or other member of the Senior Management Team, nominated by the Chief People Officer. None of the participants will have previously been involved in the case. Decisions made on appeal shall be final and the employee will be informed in writing within five days after the appeal hearing. The Committee will be chaired by the Governor member. The senior member of University staff from the People Directorate, who has not previously been involved in the case, will act as Secretary to the Committee.

An appeal can be made against the VC's decision to dismiss if that is the decision that the VC makes. Where the appeal is against an outcome short of dismissal then the process in the section above headed **Appeal against formal disciplinary action short of dismissal** should be followed.

Procedure

- The Chair of the Disciplinary Hearing Panel will present the findings of the Disciplinary Hearing Panel and the reasons for the Disciplinary Hearing Panel's recommendations.
- The appellant or their representative will then have the opportunity to present their case and may present further written documentation in support.
- The members of the Appeal Panel may ask questions of the Chair of the Disciplinary Hearing Panel and the appellant to satisfy themselves as to the facts of the case and the interpretation to be placed upon them.
- The Chair of the Disciplinary Hearing Panel and the appellant or their representative (in that order) may make final submissions, summing up their case. They shall not introduce new evidence at this stage.
- The Appeal Panel may, for good reason submitted by either party or at its own discretion, either adjourn or postpone the appeal for such period as it may specify or it may refuse a request from either party to adjourn or to call witnesses.
- Prior to resumption any new information will be shared with all parties who will be given the opportunity to comment.
- Where requests for witnesses are refused that decision and the reason's why will be recorded in writing.
- The Appeal Panel will deliberate in private and will inform the appellant and the Chief People Officer, in writing, of their decision within 5 working days. If significant new evidence comes to light in the course of the Appeal Hearing, the Appeal Hearing Panel may instruct the Chief People Officer to arrange a re-hearing of the case by a differently constituted Disciplinary Hearing Panel. This shall take place without unreasonable delay of the instruction being received by the Chief People Officer.

If the appellant is unable to attend an appeal hearing, the Appeal Hearing Panel will normally seek to set another mutually convenient date, but may decide, taking account of all the circumstances, to proceed in the appellant's absence.