What is a disciplinary procedure?

A disciplinary procedure is designed to encourage staff to achieve and maintain acceptable standards of conduct and to provide a fair and consistent procedure for dealing with situations where misconduct is alleged. The procedure also alerts staff to the likely consequences of failure to meet these standards.

There are separate disciplinary procedures for staff at levels 1 to 3 and staff at levels 4 and above. Both procedures are underpinned by the principles of natural justice and the ACAS code of practice.

What is the difference between the capability and the disciplinary procedure?

The aim of the capability procedure is to deal with matters relating to unsatisfactory performance and attendance, whereas the disciplinary procedure exists to manage effectively matters considered to be misconduct. The University has discretion in determining which procedure is most suitable given the circumstances of the case.

What can be expected during the informal stage of the disciplinary procedure?

If a member of staff’s conduct does not meet the required standards the manager should try to help that employee to improve. This may be achieved through an informal discussion with the employee as soon as problems arise, to explain the concerns and to agree actions for going forward. Dealing with issues in this way can often prevent the issue escalating, so it is always advisable to try to resolve the issue at the earliest opportunity. It may be helpful to follow up the discussion in writing.

When having this type of discussion it may be useful to consider the following:

- What is the issue and are there any contributing factors or causes?
- Where improvement is required, have you explored the way forward?
- Does the employee understand what is required of them?
- Has a clear timescale for improvement been set?
- Have the implications of failing to maintain these standards been explained?

When should matters be taken down the formal route?

If informal action has not resulted in an acceptable standard of conduct or if a member of staff is considered to have breached the University's standards of conduct, it may be appropriate to take formal action under this procedure.

It is hoped that the informal management of conduct issues will produce the necessary improvements and avoid the use of formal procedures. However, the use of informal measures as a precursor to formal procedures is not always appropriate and for the avoidance of doubt, in order to start formal proceedings it is not necessary to precede this by informal action.

Under what circumstances would you expect a member of staff to be suspended?
In some situations it may be appropriate for a member of staff to be suspended pending the outcome of a preliminary investigation and disciplinary hearing. Suspension is usually taken as a precautionary measure where it is considered in the best interests of the University, students or staff. For instance, it may be appropriate to suspend a member of staff for their own safety or the safety of others, to prevent him or her being influenced by others or influencing others, or to prevent possible interference with evidence etc. A member of staff will be suspended from duty at the normal rate of pay and the terms of the suspension will be confirmed in writing. An employee should be left on suspension for as short a period as is reasonably possible.

An alternative to a full suspension from work may be to redeploy the member of staff to another role with the Academic Unit/Professional Service with clear instruction on any restrictions placed on them.

It is important to note that suspension is not a disciplinary sanction or punishment and does not imply guilt. Always speak to your HR contact before suspending an employee.

**What is gross misconduct?**

Gross misconduct is misconduct that is deemed so serious that the University may dismiss a member of staff for a first offence without notice or payment in lieu of notice. In cases of gross misconduct the allegations still need to be investigated and a hearing must take place in accordance with the disciplinary procedures.

**What is the purpose of the preliminary investigation?**

Disciplinary action will not be taken against a member of staff until there has been a full and fair preliminary investigation to determine the facts of the matter and to establish if further action is necessary.

The conduct being investigated should normally have occurred or come to light in the preceding six months.

**Who is the initiator and what is their role?**

The person who starts the disciplinary proceedings is the initiator. The initiator is normally the next level manager of the line manager of the person facing allegations. The initiator requests that a preliminary investigation is carried out and appoints an investigating officer. On completion of the investigation report, the initiator will determine what action, if any, is appropriate.

**Who should be appointed as investigating officer?**

The investigating officer will normally be the line manager of the member of staff whose conduct has been called into question. The investigating officer will not have been implicated in any of the actions to be investigated.

In some situations it may be appropriate to ask someone from outside the Academic Unit, Service or Department to undertake the investigation. The initiator will decide on an appropriate investigating officer in conjunction with HR, if necessary.

Carrying out an investigation can be time consuming and consideration should be given to whether the investigating officer has the ability and time to commit to such a process.

**What is the role of the investigating officer?**

The role of the investigating officer is to establish the facts of the disciplinary matter. Their role is to investigate the allegations by reviewing documentation, meeting with the accused member of staff and any potential witnesses to find out if there is evidence to support or rule out the allegations, etc. The meetings also allow the accused member of staff to respond to the allegations made against them. Once the investigation is complete, the investigating officer will prepare a report of their findings including an evaluation of the evidence obtained. The investigating officer does not have a decision making role but can make conclusions for the initiator to consider.

It is important that the Investigating Officer is provided with the resources and reasonable time to allow for an appropriate investigation within a reasonably short timescale.

It is recommended that the investigating officer contact their HR Adviser to obtain information on how to conduct an investigation.
What is a reasonable timescale for completing an investigation?

It is anticipated that a preliminary investigation will normally be completed within 15 working days of the appointment of the investigating officer and the anticipated completion date will be made clear at the outset. However, it is recognised that many investigations will take longer to complete, for instance, the case may be particularly complex, there may be a number of witnesses to meet with, or availability of those involved is limited, and in such cases an extended timetable can be made. If it becomes clear during the course of the investigation that the original timescale will not be met, the date should be modified and the employee informed.

What happens once the investigation report has been submitted to the initiator?

The initiator will review the report and decide what course of action, if any, is appropriate. If it is decided that there is a disciplinary case to answer, the employee will be notified of this in writing and invited to a disciplinary hearing.

If it is determined that there is no further action is necessary the member of staff will be informed.

What is the role of the member of staff’s representative/companion?

The member of staff has the right, if they wish, to be accompanied by a workplace colleague or a trade union representative. The representative/companion is permitted to address the hearing in order to put forward the member of staff’s case; they can sum up the case and respond on their behalf to any view expressed at the hearing. The representative/companion is also permitted to confer with the member of staff during the hearing.

It should be noted that the representative/companion has no right to answer questions on behalf of the member of staff, to address the hearing if the member of staff does not wish him or her to do so, or to prevent the employer explaining its case.

Representatives/companions have an important role to play in supporting a member of staff and are allowed to participate as fully as possible.

What happens if the representative/companion is not available at the time of the disciplinary meeting?

If the member of staff’s representative is not available at the time proposed for the hearing then the member of staff may request that the hearing is postponed to another reasonable time. The member of staff should offer a date which is not later than five working days from the original time proposed.

Can an electronic recording of interviews, meetings and Hearings be taken?

No, neither the manager nor an employee can insist on making an electronic recording of any interview, meeting or Hearing.

In exceptional circumstances it may be appropriate to agree to a recording where the employee is disabled and requests such a recording as a reasonable adjustment to the usual procedure to enable them to cope with the process or where English is not the first language.

The usual course of action for producing a record of meetings is for another employee (often someone from Human Resources) with note-taking skills to attend and take notes on a confidential basis. The employee and their companion are also free to take their own notes.

How long are warnings held on an employee’s personnel file?

For staff at levels 1 to 3: A first level warning will be retained on file and will be regarded as spent between six months and one year subject to satisfactory conduct and/or performance. A second level warning will be retained on file and will be regarded as spent between one year and two years subject to satisfactory conduct and/or performance.

For staff at levels 4 and above: A first level warning will retained on file and will be regarded as spent after one year subject to satisfactory conduct and/or performance. A second level warning will be retained on file and will be regarded as spent after two years subject to satisfactory conduct and/or performance.
In all cases, once the warning is spent it will remain on the member of staff’s file for other relevant employment purposes.

**What happens if a member of staff facing disciplinary action has a live warning on file?**
If a member of staff has a live warning on file, this may be considered when deciding on an appropriate sanction at the second disciplinary hearing. For instance, if a first level warning is live and further misconduct occurs then it may be appropriate to issue a second level warning.

**Can a member of staff appeal against formal disciplinary action?**
Where an employee feels that disciplinary action taken against them is wrong or unjust they can appeal against the decision. Employees should set out the grounds of their appeal in writing to the Director of Human Resources within the timescale indicated.

**What if a grievance is raised during disciplinary proceedings?**
If the grievance raises issues which are the subject of the disciplinary process, the grievance should be raised as part of the disciplinary procedure.
If the grievance concerns the conduct of the investigation the matter should be raised with the person instituting the procedure.

**What happens if someone involved in a disciplinary process becomes absent through ill health?**
If a member of staff becomes unwell during the course of a disciplinary procedure, the member of staff should normally be referred to Occupational Health. This should be discussed with the member of staff and their consent obtained. An employee may become anxious and stressed in the run–up to a disciplinary hearing and it is therefore important to establish from Occupational Health whether the employee is fit to attend a disciplinary hearing, even if signed off sick. It is normally recommended by occupational health that it is in the interests of the member of staff’s wellbeing for the hearing to proceed as this removes the anxiety and stress.

**What support is available to staff going through the capability process?**
The University has an Occupational Health Service and members of staff who are unwell can access this service either by a referral from their manager or they can self–refer. Please refer to the sickness absence policy for further details on the role of Occupational Health. The University Counselling Service is also available.
Trade Union members may wish to draw support from their union.