

## **DISCIPLINARY PROCEDURE**

*This Procedure should be read in conjunction with: Disciplinary Guideline and Employee Relations Appeals Procedure*

### **1. INTRODUCTION**

We are committed to ensuring that our employees are treated consistently, fairly and equally in disciplinary situations and our procedure has been developed in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures (2015), with a strong emphasis on informal resolution.

Managers will always, where possible, seek to resolve disciplinary issues informally. However, in situations where that is not possible or informal resolution has resulted in no improvement, the formal disciplinary procedure will be initiated.

All parties concerned will ensure that all disciplinary matters are dealt with as quickly as the circumstances allow.

Disciplinary matters will be treated in confidence by all parties involved and at every stage of the procedure. A record of the proceedings will be maintained in accordance with the ACAS Code of Practice and the data protection legislation.

The University reserves the right to start the disciplinary procedure at any level depending on the seriousness of the allegation or where an earlier pattern of unacceptable conduct or behaviour has been established.

Individuals have the right to be accompanied by a trade union representative or work colleague throughout all stages of the disciplinary procedure.

A flowchart of the procedure is available in Appendix 1.

### **2. OBJECTIVES OF PROCEDURE**

The objective of this procedure is to provide a framework that:

- encourages informal resolution of issues;
- encourages a working environment where conduct is managed positively and appropriately;
- ensures issues are managed sensitively, fairly and consistently.

### **3. MISCONDUCT/GROSS MISCONDUCT**

In cases of alleged misconduct/gross misconduct it may be appropriate to suspend an employee until an investigation has been completed.

Examples of misconduct and gross misconduct are available within the Guidelines: Disciplinary Procedure.

## 4. DISCIPLINARY PROCEDURE

### 4.1 Informal Resolution

Our aim is to resolve minor cases of misconduct informally. Wherever possible, all relevant parties will work together at the informal stage in an effort to avoid formal stages of the disciplinary procedure being initiated.

Once an issue has been identified, the Line Manager should arrange to meet with the individual and raise the issue/concern with them. At the meeting, the Line Manager should also discuss ways in which the issue can be resolved and how this will be monitored, if appropriate.

The Line Manager should make notes of any issue raised and discussed informally, including any agreed outcomes and support, storing them securely and confidentially in accordance with data protection principles.

If informal resolution has not been successful, the Line Manager should seek advice from their HR Business Partner to discuss initiating the formal procedure. If so, the manager should advise the individual that formal action is being considered.

### 4.2 Suspension

Following an incident, it may be necessary to remove an employee from their current duties and this may involve suspending them on full pay. Suspension is not an assumption of guilt and is not considered a disciplinary sanction.

Suspension is a precautionary measure that should only be considered **if all other alternative options have been explored**, such as redeploying them to other duties or location. The suspension should **initially be for no more than 28 days**, which may be extended if the investigation has not been finalised.

If an incident occurs that may require suspension, the Line Manager must seek advice from an HR Business Partner, ideally **before** any decision to suspend an individual is taken.

If it is believed there are grounds for suspension, the Line Manager (and where possible the HR Business Partner) will meet with the individual at the earliest possible time. Where the HR Business Partner is not available, an alternative management representative will attend the meeting.

The individual will be given the opportunity to be accompanied by their trade union representative or work colleague and every effort will be made to accommodate this.

At the meeting, the Line Manager will advise the individual why the suspension is taking place, that it will be with full pay and the likely duration. The individual will be required to remain contactable and available to support the investigation.

The Line Manager will confirm the suspension and reasons for it in writing within 2 working days of the meeting.

The individual and their representative will receive notes of the meeting normally within 5 working days of the meeting.

The HR Business Partner will inform the Director of People and OD of the suspension, who will keep it under review.

The individual has no right of appeal against the suspension.

### **4.3 Investigation**

No formal disciplinary hearing will be arranged until the matter has been fully investigated without unreasonable delay.

An Investigating Officer will be appointed to fully investigate the alleged misconduct and establish all facts and information in relation to the case, ideally within 28 days.

The Line Manager will notify the individual in writing of the investigation, the allegation that is being investigated and who will be carrying out the investigation.

On completion of the investigation, the Investigating Officer will provide a report and any supporting documentation to the Line Manager, who is responsible for reviewing the report and determining the next steps:

- No further action
- Informal resolution
- Formal Disciplinary Hearing

The Line Manager will notify the individual of the outcome of the investigation normally within 7 days of them receiving the investigation report.

### **4.4 Notification of Formal Proceedings**

Where the Line Manager has determined that the formal disciplinary procedure will be initiated, the individual will be invited to attend a Disciplinary Hearing.

The individual will be provided with at least 5 working days' notice of the Disciplinary Hearing and will notified in writing of:

- the date, time and location of the hearing along with the allegation(s) that will be considered during the hearing
- the disciplinary manager chairing the Disciplinary Hearing
- the timescales in which they need to submit any evidence to be considered at the Disciplinary Hearing (2 working days prior to the hearing)
- their right to be accompanied by a trade union representative or work colleague
- their right to call any witnesses
- the possible outcomes, which may include dismissal.

Prior to the hearing, the individual will also receive a copy of the investigation report, along with any appropriate witness statements or supporting documentation relating to the case. Witness statements may be anonymised if appropriate.

Should the individual or their representative/work colleague have any information that they wish to be considered at the hearing, they should submit this to the HR Business Partner at least 2 working days in advance of the hearing.

#### **4.5 The Disciplinary Hearing**

The disciplinary manager will be determined in accordance with our '**Authority to Take Action**' guidance (Appendix 2).

The disciplinary manager will make appropriate introductions and outline the procedure before presenting the findings of the investigation and if appropriate, calling any witnesses.

The individual will then be invited to state their case and respond to the allegations made against them, which may include calling witnesses or any mitigating circumstances that they would like the manager to take into consideration.

The disciplinary manager and the individual will have the opportunity to challenge the evidence provided and question any witnesses called.

The disciplinary manager will carefully consider the evidence presented and any mitigating circumstances before determining the appropriate outcome. They can either do this at the end of the hearing or adjourn and confirm the outcome in writing within 7 days of reaching a decision.

Any formal action will reflect the serious nature of the misconduct and will be either:

- Level 1 – First Written Warning
- Level 2 – Final Written Warning
- Level 3 – Dismissal (including Summary Dismissal) or Action Short of Dismissal

#### **4.6 Level 1- First Written Warning**

A first written warning will set out the nature of the misconduct, the details of the expected change in behaviour and any available support. It will remain on the individual's file for 6 months subject to satisfactory conduct.

The individual will also be notified of their right to appeal.

Any further breaches of misconduct may lead to a final written warning or dismissal if the misconduct is sufficiently serious.

#### **4.7 Level 2 – Final Written Warning**

If the individual has a current warning, a further breach of misconduct may warrant a final written warning. This may also be the case where a 'first offence' misconduct is sufficiently serious, but would not justify dismissal.

A final written warning will set out the nature of the misconduct, the details of the expected change in behaviour and any available support. It will remain on an individual's file for 12 months.

The individual will be notified of their right to appeal.

Any further breaches of misconduct may lead to dismissal.

#### 4.8 Level 3 – Dismissal or Action Short of Dismissal

In reaching a decision to dismiss, prior careful consideration of other options will be given. If, on balance other sanctions are deemed inappropriate due to the seriousness of the case, they will be dismissed.

Individuals will be notified, in writing, the reason(s) for their dismissal, the date on which their employment will terminate and their right to appeal.

Alternatively, depending on the circumstances of the case, other action short of dismissal such as demotion or transfer to another department within the University might be appropriate.

The disciplinary manager must ensure that they have taken advice from an HR Business Partner prior to confirming dismissal or action short of dismissal. This is to ensure procedures are appropriately adhered to and to advise managers on equitable employment practice and consistency of approach.

An individual dismissed for misconduct is entitled to be given their contractual notice. A decision should be made as to whether the individual will work the period of notice as opposed to being paid in lieu of notice. This decision should be made by giving close consideration to the circumstances of the case.

Cases concerning gross misconduct may warrant summary dismissal without notice, even in the event where the gross misconduct is a first offence. An individual who is summarily dismissed without notice is not entitled to payment in lieu of notice.

### 5 OTHER PROVISIONS

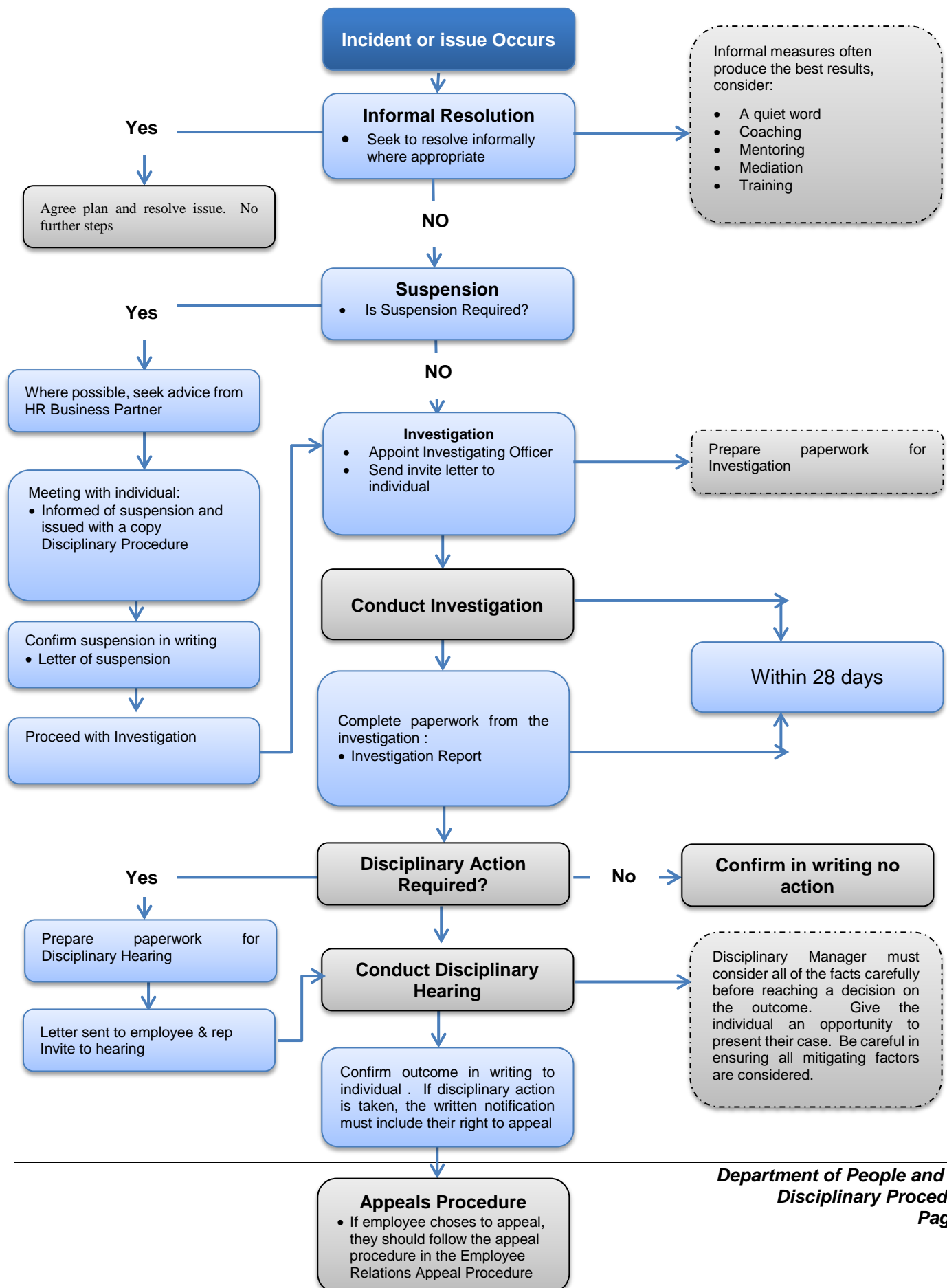
No formal disciplinary action should be taken against accredited trade union representatives until there has been a discussion with the appropriate official employed by the trade union. This is to ensure compliance with the provisions of employment legislation. Suspension during investigation will also be discussed in advance of its use.

Individuals are expected to make every effort to attend a disciplinary hearing and will normally be given the opportunity to attend 2 arranged hearings. If they fail to attend the second hearing without good cause, the Disciplining Manager may make a decision on all of the evidence available in their absence. This decision will then be communicated in writing to the employee and advice should always be sought from the HR Business Partner prior to any decision being made in the absence of the individual.

Reasonable adjustments will be made in the application of this procedure for staff or companions who have a disability within the scope of the Equality Act 2010.

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Version 6 – Approved June 2018	Changes and Reason for Changes – <b>POD Policy Review Project 2017/2018</b>

Appendix 1: Overarching Disciplinary Procedure



**Appendix 2: Authority to Take Action**

Disciplinary Penalty	Professional Support Services Staff		Academic Staff		Leadership Forum/ULT		Vice Chancellor's Executive Group		Principal	
	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal	Disciplinary Hearing	Appeal
First Written Warning	Appropriate Line Manager	Manager senior to line manager or suitable depute	Appropriate Line Manager	Manager senior to line manager suitable depute	Line Manager	Manager senior to line manager or suitable depute	Principal	Court Appeals Committee	Chair of Court	Court Appeals Committee
Final Written Warning	Appropriate Line Manager	Manager senior to line manager or suitable depute	Appropriate Line Manager	Manager senior to line manager or suitable depute	Line Manager	Manager senior to line manager or suitable depute	Principal	Court Appeals Committee	Chair of Court	Court Appeals Committee
Alternative Sanction	Director, Senior Manager or designated depute	Disciplinary Appeals Committee	Dean of School, Senior Manager or designated depute	Disciplinary Appeals Committee	Line Manager	Disciplinary Appeals Committee (LF)	Principal	Court Appeals Committee	Chair of Court	Court Appeals Committee
Dismissal/Summary Dismissal	Director, Senior Manager or designated depute	Disciplinary Appeals Committee	Dean of School, Senior Manager or designated depute	Disciplinary Appeals Committee	Line Manager	Disciplinary Appeals Committee (LF)	Principal	Court Appeals Committee	Chair of Court	Court Appeals Committee

**Notes:**

- Disciplinary Appeals Committee for Professional Services and Academic Staff will consist of 1 member of the University Leadership Team who will act as Chair and 2 members of the Leadership Forum.
- Appeals Committee (LF) will consist of 1 member of the Executive Group and 2 members of Court.
- Court Appeals Committee will consist of 3 lay members of Court, the Director of People & OD, or Head of HR Services/Head of HR (Reward, Performance & Employee Relations will be in attendance at Disciplinary Appeals Committee and Court Appeals Committee