



LEEDS  
BECKETT  
UNIVERSITY

# Disciplinary Policy and Procedure

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# Policy Statement

## Purpose and Core Principles

The purpose of this policy and procedure is to help and encourage all employees to achieve and maintain satisfactory standards of conduct at work, and to ensure that any employees against whom any allegation of misconduct is made, have the benefit of a fair investigation, hearing, representation and decision.

It is recognised that in most cases, potential issues of misconduct will be dealt with through the normal day to day discourse between colleagues and their manager. The Disciplinary Policy and Procedure should only be used when management advice and guidance has failed to produce the required improvement or when the disciplinary matter is sufficiently serious.

The Procedure, including any time limits, may be varied as appropriate and reasonable in any case in consultation with the employee or, where the employee so wishes, with the employee and their trade union representative.

All records relating to Disciplinary matters will be maintained in accordance with the requirements of the General Data Protection Regulations.

## Scope

The Disciplinary Policy and Procedure applies to all University employees with the exception of holders of a senior post, as defined in the Articles of Government, for whom separate arrangements apply.

The Disciplinary Policy and Procedure does not constitute part of the contract of employment. Amendments will be subject to consultation with the recognised trade unions except those necessitated by a change in the law.

Issues relating to health or attendance will be dealt with under the Sickness Absence Management Policy and Procedure. Matters relating to performance will be dealt with under the University's Performance Management Policy and Procedure.

All of the above policies and procedures are available through the People Team and on the People Team webpages.

## Responsibility

All managers are responsible for supporting and encouraging employees to conduct themselves properly when at work.

All parties involved in a disciplinary case must maintain appropriate confidentiality and comply with data protection requirements in relation to any information and documentation. All related records (including those of the investigation and disciplinary hearing) will remain strictly confidential.

The People Team is responsible for providing training, advice and guidance on the use of this procedure, and for ensuring that employees are aware of the required standards as detailed in the Disciplinary Rules.

Employees should co-operate fully with disciplinary investigations and hearings, and must attend relevant meetings when requested.

## Review

The procedure will be monitored and discussed with the Trade Unions on an annual basis and reviewed every three years or sooner in light of legislative changes and organisational requirements as appropriate. This will include an annual Equality Impact Assessment.

## Procedure

### 1. Introduction

- 1.1. Reasonable steps shall be taken to establish the substance of complaints or allegations against an employee before any of the sanctions or other steps provided for in this procedure are applied. Informal action will be considered, where appropriate, to resolve matters.
- 1.2. The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.
- 1.3. An employee will not be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice. The University's Disciplinary Rules provide employees with guidance on the standards of conduct expected of them and examples of action and behaviour that is not acceptable.

### 2. Formal Procedure

- 2.1 The University has identified the following levels of management authorised to take action under the Disciplinary Procedure. The manager will be advised by a representative from the People Team:

#### Sanction – Written Warning or Final Written Warning

<b>Disciplinary Against</b>	<b>The manager (will normally be):</b>
Employees on Grades 1 - 9	Head of Subject/Head of Service/Associate Director or nominee*
Employees on Grades 10-11 and Professors	Dean/Director or nominee*
Member of University Senior Management Group	Vice Chancellor or Deputy Vice Chancellor or nominee*

\*The complexity of the case will be taken into consideration when assigning the manager.

## Sanction – Dismissal or alternative sanction to dismissal

<b>Disciplinary Against</b>	<b>Panel Membership:</b>
Employees on Grades 1 – 11 and Professors	Panel of three appropriate managers chaired by a Dean or Director or DVC (as appropriate)
Member of University Senior Management Group	Panel of three appropriate managers chaired by the Vice Chancellor or Deputy Vice Chancellor or nominee

- 2.2 At all stages of the formal procedure (including investigatory meetings) employees will have the right to be accompanied and represented by a full-time Trade Union officer, a Trade Union representative (who is an employee of the University) or a work colleague. While the same standard of conduct applies, before disciplinary action is taken against an employee who is an accredited representative of a recognised Trade Union, that matter will be discussed with an appropriate Full-time Official of that Union.
- 2.3 Employees must make every effort to attend an investigatory interview or a disciplinary hearing. If the employee requests a postponement, the request will be considered and, if deemed appropriate, an alternative date will be offered, normally within five working days. Any further request for postponement will be refused unless the University accepts that there are exceptional circumstances. Where necessary, an alternative representative should be considered by the employee. If the employee fails to attend a disciplinary hearing a decision may be taken in his/her absence, unless the employee can show a valid reason for this absence, in which case a new interview/hearing shall be arranged.
- 2.4 Intimidation or harassment of witnesses by any party will not be tolerated. Any such behaviour will lead to disciplinary action being taken.
- 2.5 Employees absent due to sickness prior to an investigatory interview or disciplinary hearing will normally be required to attend. If there is concern regarding the employee's fitness to attend the University Occupational Health Service may facilitate an assessment of the employee's fitness to attend the interview/hearing.
- 2.6 Where an employee facing disciplinary action raises a grievance, the University may determine that it is appropriate to consider and address the employee's complaint(s) within the operation of the disciplinary procedure.
- 2.7 Employees have the right to appeal against any disciplinary action. Details of the University's appeal processes are available within the Staff Appeals Policy and Procedure. Disciplinary sanctions will take immediate effect (and not remain on hold pending an appeal).
- 2.8 Where an allegation about an employee's conduct is subsequently shown to have been unsubstantiated, the employee will be notified in writing. All records relating to the matter will be removed from the employee's personal file and destroyed.

### **3. Disciplinary Investigation**

- 3.1 It is important to carry out necessary and reasonable investigations of potential disciplinary matters without unreasonable delay, to determine the facts of the case and to determine whether the case should be considered at a formal disciplinary hearing. The extent of the investigation will be determined by the nature and complexity of the allegations and the information readily available.
- 3.2 In more complex cases it may be appropriate to appoint an investigating officer who will meet with relevant persons to establish the facts of the case. Where it is determined that a disciplinary hearing should take place, the investigating officer will normally present the University's case to the disciplinary hearing.

### **4. Suspension of an Employee**

- 4.1 In the event of alleged gross misconduct, or for other good and urgent cause, the Vice Chancellor, or nominee, may suspend the employee with full pay.
- 4.2 The suspension will be confirmed in writing to the employee within three working days of the commencement of the period of suspension, including the grounds on which the decision to suspend has been taken.
- 4.3 The period of suspension will be as brief as possible and steps will be taken for the investigation and/or disciplinary hearing to be held as soon as practicable.

### **5. Disciplinary Hearing**

- 5.1 Where it is considered that there may be a case for taking disciplinary action, the employee will be given at least 5 working days' notice of the requirement to attend a disciplinary hearing (10 working days' notice for allegations of gross misconduct). The employee will be advised of the nature of the complaint against him or her and provided with all relevant documents to be relied upon in the hearing.
- 5.2 The employee must provide the manager/panel with all relevant documents, including the names of witnesses and witness statements as appropriate at the earliest opportunity and no later than 2 working days' before the hearing (5 working days for allegations of gross misconduct).
- 5.3 Generally, witnesses will attend the hearing so that their evidence can be tested by questioning. However, where the case involves particularly sensitive matters, the manager/chair of the panel will consider and determine the most appropriate way to hear and consider witness evidence.
- 5.4 The conduct of a disciplinary hearing is set out in Appendix 1.

## 6. Outcomes

- 6.1 The following outcomes may be applied under the procedure, depending on the seriousness of the offence (where there is a history of substantiated misconduct, this may be taken into consideration):
- No disciplinary sanction
  - A written warning
  - A final written warning
  - Dismissal (with or without notice)
- 6.2 Written warning – this will be in writing and set out the nature of the misconduct, the change in behaviour required and the right of appeal. The warning will also inform the employee that a more serious disciplinary sanction may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept, but it will be disregarded for disciplinary purposes, normally after 12 months, subject to achieving and sustaining satisfactory conduct.
- 6.3 Final written warning – if the offence is sufficiently serious, or if there is further misconduct during a prior warning period, a final written warning may be given to the employee. This will be in writing and set out the nature of the misconduct, the improvement required and the timescale (minimum 12 months). It will also warn that failure to improve may lead to dismissal (or some action short of dismissal) and will refer to the right of appeal. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after the specified period subject to achieving and sustaining satisfactory conduct.
- 6.4 Dismissal – where an individual commits a repeated or a similar offence following a final written warning, or gross misconduct, this is likely to result in dismissal. In the case of gross misconduct, the employee will normally be summarily dismissed without notice or pay in lieu of notice.
- 6.5 Where dismissal is appropriate, but significant mitigating circumstances exist (see 7.1 below), one or more of the following may be substituted for dismissal, together with a final written warning:
- a period of suspension without pay;
  - demotion to a post at a lower grade, and an immediate corresponding reduction in salary and grade associated benefits;
  - salary sanction within grade (e.g. to withhold an increment);
  - transfer to another area;
  - extension of the period of the final written warning for a period not exceeding 5 years.
- 6.6 The employee will be informed of the outcome of a disciplinary hearing in writing.
- 6.7 The People Team will maintain a log of disciplinary sanctions in a secure location.

## **7. Mitigating Circumstances**

- 7.1 Where the allegations are substantiated the manager/panel will take into account any mitigating factors, including the employee's record of service and conduct and any evidence of mitigating circumstances provided by the employee before a decision on an appropriate sanction is reached.

## **8. Related policies and documentation**

[Staff Appeals Policy and Procedure](#)

[Disciplinary Rules](#)

[Dismissal Policy and Procedure](#)

[Policy on Safeguarding Vulnerable Groups](#)

[ACAS Code of practice on disciplinary and grievance procedures](#)

[ACAS Guide – Discipline and grievances at work](#)

[ACAS Guide – Conducting Workplace Investigations](#)

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### Conduct of a Disciplinary Hearing\*

The following procedure will normally be followed. The University may make changes to this process where it is deemed that there are sensitive issues being considered:

1. At the beginning of the Hearing the manager/chair of the panel hearing the disciplinary case and the advisor to the manager/panel (from the People Team) will be present. The parties will be called to enter; witnesses will remain outside the room until they are invited to give evidence. A note taker will also be present.
2. The manager/chair of the panel will:
  - Introduce those present to the employee and explain their role in the proceedings;
  - Explain that the purpose of the hearing is to consider what, if any, disciplinary sanction should be applied in accordance with the University's disciplinary procedure;
  - Explain how the hearing will be conducted.
3. The investigating officer (supported by a representative from the People Team) shall make a statement of the case and may call any witnesses in support. The employee (and representative) should be reminded of the right to put questions to each of the witnesses at the end of their statements, where reasonable, and to the investigating officer and People Team representative.
4. The employee may then respond and call any witnesses in support. The investigating officer (and People Team representative) and the manager/panel (and advisor) will have the opportunity to ask questions of the employee and any witnesses.
5. Requests for adjournments may be made by any party.
6. Once all of the evidence has been presented and all questions asked, both parties will then be invited to make concluding statements, the investigating officer followed by the employee. Both parties will then withdraw and the manager/panel hearing the disciplinary case and the advisor will remain and consider the evidence presented in private.
7. The manager/panel may recall both parties to seek further clarification on any point.
8. The decision will be confirmed in writing, including the right of appeal, normally within five working days of the hearing.

\* This appendix describes the conduct of a disciplinary hearing where an investigating officer presents the case for disciplinary action. In less complex cases a relevant manager or other relevant person will present the case for disciplinary action under paragraph 3 above, including calling any witnesses. Otherwise, the conduct of the disciplinary hearing is unchanged with the exception that the references to a separate investigating officer (supported by a People Team representative) are inapplicable.