



Keele University

Staff Disciplinary and Appeals Procedure

Human Resources Department

Lead Director: Director of Human Resources and Student Services
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STAFF DISCIPLINARY AND APPEALS PROCEDURE

Note: This Procedure is not applicable to members of staff whose employment is governed by the University Statute 31 who should refer to the 'Disciplinary and Appeals Procedure for Academic Staff'

1. PURPOSE AND SCOPE

- 1.1 The primary purpose of this procedure is to ensure acceptable standards of conduct are met and maintained. Managers can obtain further guidance on this procedure from the Human Resources Department.
- 1.2 The procedure set out in this document applies to all Keele University staff, except those whose employment is governed by the University Statute 31.
- 1.3 If a grievance is raised by a member of staff which is material to a disciplinary case, it will normally be considered within the context of the disciplinary investigation and this procedure.
- 1.4 This procedure will be applied fairly and consistently in accordance with the University's commitments to Equality and Diversity.

2. GENERAL PRINCIPLES FOR THE APPLICATION OF THE PROCEDURE

- 2.1 The University has a responsibility to ensure that managers using and operating these procedures have the necessary skills and support. Human Resources will provide full guidance and support to managers in using the Staff Disciplinary and Appeal procedure.
- 2.2 Responsibility for applying the provisions of this procedure lies with the Deans/Directors/Heads of School/Heads of Departments/Research Institute Directors and other line managers (hereafter referred to as 'manager'). Details on the level of authority required to issue warnings, to dismiss and to hear appeals under this procedure can be found in Annex A.
- 2.3 Managers should seek the advice of the Human Resources Department prior to initiating any formal action under this Procedure. This will ensure fair and equitable application throughout the University. Further details of the general principles applying to the formal stages of this procedure can be found at Annex B.
- 2.4 A Human Resources Manager/Adviser will normally attend suspension, disciplinary and appeal meetings. Reference should also be made to Annex C regarding the involvement of the Human Resources Department.
- 2.5 All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the University.

3. LEVELS OF MISCONDUCT

- 3.1 There is no code automatically assigning particular sanctions to particular offences. Managers will take full account of the specific circumstances of each case in deciding what the sanction should be.
- 3.2 The list below is not exhaustive and is illustrative only of the types of matters which may be reviewed in accordance with these disciplinary procedures. Each disciplinary offence, if considered to be sufficiently serious, could be regarded as gross misconduct.
- 3.2.1 Examples of misconduct might include:
- a) refusing or neglecting to comply with reasonable and legitimate management instructions;
 - b) breach of any legal requirements placed upon a member of staff by virtue of his or her employment with the University;
 - c) refusing or neglecting to comply with University policies, procedures, rules and regulations;
 - d) rude, offensive, or unacceptable behaviour towards colleagues, students or others;
 - e) bullying, harassment or offensive behaviour, of either a physical, verbal or psychological nature;
 - f) negligence;
 - g) failure to disclose any situation which may be a potential conflict of interest, for example, professional, personal, financial or employment related;
 - h) negligent infringement of Occupational Health and Safety policies, rules or procedures;
 - i) negligent infringement of data protection policies, rules or procedures;
 - j) insubordination (i.e. engaging in activities that could undermine the confidence in, or authority of, management);
 - k) being an accessory to a disciplinary offence
 - l) negligent damage to property of the University;
 - m) incapacity or unacceptable behaviour due to alcohol or the misuse of drugs;
 - n) unauthorised absence, or poor timekeeping;
 - o) unauthorised use of or unauthorised removal from the University of the property of the University;
 - p) smoking in a University building or other designated no smoking area;

- q) breach of any academic or professional standards, including, inter alia, plagiarism;
- r) research misconduct (see Research Misconduct Procedure);
- s) obstruction or attempted obstruction of others in the performance of their duties to the University;
- t) abuse of any statutory or other leave, including for example parental leave or sick leave;
- u) failure to comply with the University's IT Conditions of Use;
- v) breach of any University employment policies or procedures, e.g. Recruitment & Selection;
- w) any form of unlawful discrimination;
- x) gross misconduct as defined below.

3.2.2 The following is a list of actions which, in addition to being included in the Disciplinary Offences above, could be regarded as gross misconduct and could lead to summary dismissal. This list is purely illustrative and is not exhaustive of the type of action which could amount to gross misconduct:

- a) inappropriate disclosure of confidential information relating to examinations or any other form of assessment;
- b) plagiarism;
- c) gross negligence in the performance of duties or responsibilities which may cause unacceptable loss, damage or injury;
- d) failure to disclose a substantial conflict of interest;
- e) lack of fairness in carrying out the marking of examination papers or any other form of assessment of students;
- f) fraud, for example falsification of qualifications, timesheets, expenses and overtime claims;
- g) acts or threats of physical violence towards other members of staff, students of the University or other persons performing duties or services for the University or towards any other person who is lawfully upon University premises;
- h) theft of, or wilful damage to, property of the University, or of other members of staff of the University, or of students of the University or of other persons performing duties or services for the University;
- i) provision of inaccurate or misleading information in the initial application for employment which would have influenced the employment decision;
- j) provision of false or inaccurate information in response to a specific request/requirement laid down by the University at any time;

- k) engaging in unauthorised employment during contracted hours with the University or during periods of sick leave or other periods of absence from work;
- l) serious infringement of the health or safety regulations of the University;
- m) serious breach of the Data Protection Regulations of the University;
- n) serious bullying, harassment or discrimination¹;
- o) repeated or serious cases of incapacity due to alcohol or misuse of drugs;
- p) serious breach of the University's IT Conditions of Use;
- q) refusing or neglecting to comply with reasonable and legitimate management instructions;
- r) breach of confidentiality;
- s) conviction of a criminal offence which prevents a member of staff from being able to fulfil his or her other contractual duties or which makes continued employment untenable;
- t) any act or omission that amounts to the repudiation of the contract of employment.

4 INVESTIGATIONS

- 4.1 If a decision is taken to undertake an investigation into allegations against a member of staff, the member of staff's immediate manager will normally conduct the investigation (hereafter referred to as Investigating Officer) unless he or she is materially involved in the investigation. In such cases the next, more senior, manager in the line, in conjunction with Human Resources, will assign an appropriate, alternative manager.
- 4.2 It is the purpose of the investigation to establish whether there is a 'prima facie' disciplinary case to be answered. It is not the purpose of the investigation to decide, if a prima facie case is established, what sanction may be appropriate, if the manager hearing the disciplinary meeting establishes that misconduct has occurred. The Investigating Officer will report the facts as they appear to him or her and will submit an investigation report to the next, more senior manager in the line. If the manager receiving the investigation report determines that a disciplinary meeting needs to be arranged, the member of staff will receive a copy of the report in advance of the meeting.
- 4.3 Investigation Guidelines have been produced by the University to assist the Investigating Officer to conduct an appropriate investigation. Investigations will be conducted in as timely a manner as possible, and wherever possible within 2 weeks of the start of the investigation. Progress of investigations will be reviewed by Human Resources on a fortnightly basis.

¹ Incidences of harassment or discrimination in any form may, (dependent upon the nature and degree involved) be considered as Gross Misconduct. Harassment or discrimination of any nature or degree, however, may be considered to be a disciplinary offence.

5. DISCIPLINARY ACTION AND STAGES (NOT INCLUDING DISMISSAL)

5.1 Informal Stage

- 5.1.1 Minor lapses of conduct will be dealt with informally. This may include an informal investigation into the facts. Following an informal meeting, standards of acceptable conduct will be clarified and expected improvement set out in writing.
- 5.1.2 Standards set out in this manner will not form part of the formal disciplinary procedure. They should be issued merely as an aid to try to ensure conduct is of an acceptable standard.
- 5.1.3 If a member of staff is dealt with under the informal stage of these Procedures and meets the required standards, this will not normally form the basis of subsequent formal disciplinary action. However, failure to meet standards issued at the informal stage of these Procedures may lead to the instigation of the formal stages and may be referred to during those procedures.
- 5.1.4 Where a member of staff's conduct is considered to be unsatisfactory, the manager may first of all consider whether guidance/advice or training might be a more appropriate and effective method of addressing the issues. If such guidance/advice or training is offered to any member of staff and the individual declines or does not complete or adequately comply with the guidance/advice or training and as a result there continue to be ongoing concerns he or she may be subject to disciplinary action in accordance with these Procedures.

5.2 Formal Disciplinary Action

- 5.2.1 Where there is an allegation of misconduct the Investigating Officer must ensure that the case is investigated before any decision to proceed with disciplinary action is taken.
- 5.2.2 Formal disciplinary action may be taken if:
- a) informal attempts to resolve a problem have not succeeded; or
 - b) the member of staff has previously received a warning which is still current at the time of the alleged misconduct; or
 - c) a first instance of misconduct is sufficiently serious to warrant formal action being taken.
- 5.2.4 Where an allegation of a serious offence has been made against a member of staff, it may be appropriate to suspend the member of staff from duty (refer to Annex B).
- 5.2.5 Arrangements for disciplinary meetings, including the documentation that should be sent to the member of staff can be found in Annex B.

5.3 Warnings

5.3.1 Where misconduct is established at a disciplinary meeting, the sanctions which may be applied are as follows:

- Level One Warning;
- Level Two Warning;
- Level Three Final Warning.

5.3.2 The level of sanction to be applied should be determined according to the seriousness of the misconduct, and taking account of the circumstances of the case including any mitigation.

5.3.2.1 Warnings at Level One and Level Two will not be issued to members of staff who are within the first 12 months of a probationary period¹. The first formal warning given under these circumstances will be a Level Three Final Warning.

5.3.3 The outcome of the disciplinary meeting will be confirmed in writing, normally within five working days of the decision, and shall:

- a) state the disciplining manager's rulings on the allegations;
- b) state the penalty imposed, if any;
- c) state the period of the warning (see 5.3.4);
- d) state the consequence of any further misconduct during the period of the warning including, where relevant, that the consequence of further misconduct may be an escalation of disciplinary warnings and ultimately dismissal;
- e) remind the member of staff of his or her right to appeal and how this right may be exercised.

5.3.4 Where a warning is given, a record of the warning will be placed on the member of staff's file in the Human Resources Department, and a copy of the warning shall also be kept by the member of staff's line manager. These records will be removed at the end of the designated duration of the warning as specified below:

Level One Warning	12 months;
Level Two Warning	18 months;
Level Three Final Warning	2 years (or longer where the circumstances warrant a longer period).

¹ Also where the initial probationary period is for less than 12 months but is extended beyond the first year of employment.

- 5.3.5 Where a period of long-term absence, whether planned or unplanned, would render a warning meaningless, the period of operation for the warning may be suspended during the absence, thus extending the date on which the warning expires. Alternatively, the date on which the period of warning will commence may be deferred until the member of staff resumes his or her duties.
- 5.3.6 Where a member of staff with a current formal warning on file moves to an alternative role within the University the warning will remain in place for the designated warning period. Where a member of staff is on a fixed-term contract, and is given a formal warning, this can be continued beyond the end of the fixed-term contract where the contract is extended or the member of staff secures alternative employment within the University.

6. PROCEDURE WHERE DISMISSAL IS CONTEMPLATED

- 6.1 Where dismissal is contemplated, it may be appropriate to suspend a member of staff from duty. The manager should ensure that the relevant facts of the case are investigated (refer to Annex B) before taking any decision to proceed with disciplinary action.
- 6.2 Arrangements for disciplinary meetings, including the documentation that should be sent to the member of staff can be found in Annex B.
- 6.3 In addition to the documentation referred to at Annex B, the member of staff must be informed, in writing, that an outcome of the formal disciplinary meeting could be dismissal.
- 6.4 Where an allegation of gross misconduct is substantiated, dismissal may be a summary dismissal, i.e. without notice or payment in lieu of notice.
- 6.5 Before any final decision is taken in respect of dismissal, each individual situation will be judged upon its own merits with due regard for the principles of equity and fairness while taking into account the full circumstances of the case.
- 6.6 The outcome of the disciplinary meeting will be confirmed in writing within five working days of the decision. Where a decision is taken to dismiss, the precise reasons for the dismissal will be stated and the right to appeal will be confirmed.

7. APPEALS

- 7.1 Any member of staff, who is issued with a formal warning or is dismissed under this Procedure, will have the right to appeal to the designated Appeals Manager detailed in the letter confirming the outcome of the meeting.
- 7.2 Appeals should be lodged, in writing, within ten working days of the date on which the letter confirming the outcome of the disciplinary meeting is sent. If the appeal letter does not specify the grounds for appeal the member of staff will be asked to detail their grounds for appeal in the letter acknowledging the appeal.

- 7.3 The member of staff will be notified of the date of the appeal meeting within ten working days of the receipt of the appeal (the meeting itself will not normally take place within this timescale although every effort will be made to hold the meeting as soon as possible). This timescale may be extended by mutual agreement.
- 7.4 A member of staff will normally be given at least five working days written notice of the date of an appeal meeting, except in the case of an appeal against dismissal, in which case seven working days written notice will be given.
- 7.5 In advance of an appeal meeting, the member of staff must provide, in good time, and normally no later than 5 working days prior to the appeal meeting, copies of any documents on which he or she intends to rely on and/or his or her statement of case. The member of staff will also receive, in good time, and normally no later than 5 working days prior to the appeal meeting, copies of any documentation, on which the University intends to rely.

8. PRESERVATION OF RIGHTS

Nothing in this procedure will in any way detract from or impinge upon an individual member of staff's statutory employment rights. Where changes to a statutory provision affect this policy, the University retains the right to amend the policy accordingly.

9. REVIEWING PROCEDURE

- 9.1 The operation of the Staff Disciplinary and Appeals Procedure will be reviewed by the HR Department in consultation with trade unions at least every two years.
- 9.2 The University will monitor the outcomes in respect of staff entering the formal stages of the procedures in order to meet its statutory equality duties.

This Procedure was agreed by the Council of Keele University on 3rd July 2008 and is effective from 1st August 2008.

Additional Notes

A Flowchart of the Disciplinary Process can be found at Annex D.

ANNEX A: LEVELS OF AUTHORITY FOR CONDUCTING FORMAL MEETINGS AND APPEAL MEETINGS UNDER THE STAFF DISCIPLINARY AND APPEALS PROCEDURE

- A1. The term "Designated University Manager" refers to any member of the University's Executive Committee, Heads of Schools/ Research Institute Directors/ Deputy Directors/ Heads of Department or Service.
- A2. Exceptionally, the manager conducting the meeting may be assisted by another manager in addition to a member of the Human Resources Department.

Level One and Level Two Warnings	School Manager, Research Institute Manager, Faculty Business Manager, managers at Grade 6 or above
Appeal against Level One and Level Two Warnings	School Manager, Research Institute Manager, Faculty Business Manager, managers at Grade 6 or above
Level Three Final Warning	School Manager, Research Institute Manager, Faculty Business Manager, managers at Grade 6 or above
Appeal against Level Three Final Warning	Designated University Manager. For Operational staff groups, managers at Grade 8 or above.
Dismissal	Designated University Manager. For Operational staff groups, managers at Grade 8 or above.
Appeal against Dismissal	Panel of two, comprising one Designated University Manager and a member of staff at Grade 7 or above

- A3. Where a member of staff at the level of Head of School / Department/ Research Institute, or above is to be the subject of formal action under this procedure, a Designated University Manager will be assigned to conduct the disciplinary meeting and any appeal meeting. In exceptional circumstances, the matter may be referred to the Vice Chancellor.

ANNEX B: GENERAL PRINCIPLES APPLYING TO THE FORMAL STAGES OF THE STAFF DISCIPLINARY AND APPEALS PROCEDURE

B1. Definitions and Principles

- B1.1 No disciplinary action will be taken against an accredited representative of a recognised Trade Union until the matter has been discussed with an employed Trade Union Official of the Union concerned.
- B1.2 The disciplinary procedure may be initiated at an informal or formal stage depending on the seriousness of the alleged offence.
- B1.3 Staff will not be dismissed for a first breach of discipline, except in the case of gross misconduct.
- B1.4 Members of staff will have the right of appeal against any formal action under this procedure, up to and including dismissal and will be advised of this right and the procedure for submitting an appeal, as appropriate.
- B1.5 Any member of staff who has been involved in determining the outcome of a disciplinary meeting will automatically be excluded from playing such a role in an appeal meeting.

B2. Right to be Accompanied

- B2.1 Members of staff have a right to be accompanied at all formal meetings convened under any procedure that could result in:
- a) a formal warning;
 - b) dismissal;
 - c) the confirmation of a warning or dismissal (such as an appeal meeting).
- B2.2 The representative may be:
- a) a University work colleague; or
 - b) an Official employed by a Trade Union, or a lay Trade Union Official¹.

B3. Arrangements and Principles for Formal Meetings

- B3.1 If a formal meeting is to be convened under this procedure (i.e. a meeting that could result in a formal warning or dismissal), the member of staff should be given a reasonable opportunity to consider his or her response to the issues to be discussed. The member of staff will receive the following, in writing, at least five working days in advance of the meeting:

¹ Lay Trade Union officials not employed by the University will be required to provide proof in writing that they have been certified by their union as having experience of, or having received training in, acting as a representative at such meetings.

- a) the date and time and location of the meeting;
 - b) details of the alleged misconduct, and any other related information, which leads the University to contemplate taking formal action (which may include dismissal) against the member of staff;
 - c) the name of the person who may be asked to present the case to the manager conducting the disciplinary meeting;
 - d) the names of any witnesses;
 - e) the member of staff's right to be accompanied;
 - f) any other documentation to which the University will refer.
- B3.2 Not later than two working days before the meeting the member of staff should similarly provide:
- a) the name and status of the member of staff's representative, if any;
 - b) any documents the member of staff may wish to rely on at the meeting;
 - c) the names of any witnesses.
- B3.3 Where reasonable adjustments need to be made relating to a disability, the member of staff should inform the manager in advance of the meeting so that appropriate action may be taken.
- B3.4 The role of the person conducting the disciplinary meeting is to adjudicate impartially based on evidence provided to the disciplinary meeting. The member of staff will be given an opportunity to present his or her case and any evidence in mitigation of the alleged misconduct.
- B3.5 At the disciplinary meeting the alleged misconduct will be explained and witness evidence may be called. The manager conducting the disciplinary meeting shall consider the allegations made against the member of staff and go through the evidence that has been gathered. The Investigating Officer will normally attend to present his or her report and to answer questions on it from the member of staff and the manager conducting the disciplinary meeting. The member of staff will be afforded an opportunity to present his or her case and any evidence in his or her defence.
- B3.6 Consideration will be given to re-scheduling the meeting where a key witness is unable to attend.
- B3.7 Each party may ask questions of the witnesses called by them or by the other party.

B4. Failure to Attend a Meeting

- B4.1 If a member of staff fails to attend a meeting without reasonable justification and without notifying the manager in advance, the meeting may go ahead in the member of staff's absence, based on the available evidence. The outcome of the meeting will be communicated to the member of staff in writing.

- B4.2 If the representative cannot attend the meeting on the proposed date, the member of staff can offer an alternative time and date so long as it is reasonable and it is not more than five working days after the original date.
- B4.3 All members of staff are expected to cooperate with any requests from the University for evidence to support their reasons for non-attendance at meetings. This can include medical evidence and/or a statement from the member of staff justifying his or her non-attendance with supporting documentation, if it is available.

B5. Time Limits

- B5.1 Time limits are included in these procedures in order to ensure that matters are dealt with promptly and without undue delay. However, in complex matters it may be appropriate to extend these time limits.

B6. Suspension (pending Investigation and/or a Disciplinary Meeting)

- B6.1 Where an allegation of a disciplinary offence has been made against a member of staff, it may be appropriate to suspend the member of staff from duty pending a disciplinary investigation and/or disciplinary meeting. Suspension from duty is not a disciplinary measure in itself and will be reviewed to ensure that it is not unnecessarily protracted. Suspension will normally be limited, but not necessarily restricted, to circumstances in which:
- a) the member of staff may interfere, or compromise any investigation;
 - b) there are 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;
 - c) the safety of staff and the University's duty of care to its employees may be compromised by the presence of the employee at work;
 - d) it is necessary to protect the University's interests (e.g. for reasons of safety or financial probity).
- B6.2 In these circumstances, a suspended member of staff will receive his or her normal pay, i.e. the pay the member of staff would have received had he or she not been suspended from duty, although if the individual is, at that time, also absent for another reason whilst suspended, (e.g. sickness absence, parental leave, maternity/adoption/paternity leave) the individual will receive the appropriate pay for absence for that reason. Except for approved leave of absence, the member of staff must remain contactable and available during normal working hours in order that he or she can attend meetings. Any changes of address or telephone number during this period should be notified immediately. Members of staff who would be unable to work due to sickness whilst suspended are expected to inform their manager and submit medical certificates in the normal way; similarly, he or she will be expected to request any annual or other leave in the normal way.
- B6.3 Suspension will provide an opportunity for a full investigation to be undertaken to gather relevant evidence and determine whether a disciplinary meeting

should take place. In all cases, suspension may only be carried out by a member of the University with the authority to dismiss the member of staff concerned under the provisions of this procedure. Prior to any member of staff being suspended, the agreement of a member of the Human Resources Department no less senior than Human Resources Adviser, wherever possible, should be sought. The University may consider alternatives to suspension, for example temporary re-deployment, additional supervision, or the restriction of duties, as is deemed appropriate in the circumstances.

- B6.4 Any conditions of suspension will be notified to the member of staff at the time of suspension and confirmed in writing at the same time the suspension is confirmed. The conditions will be the minimum necessary to protect the integrity of an investigation and/or any subsequent disciplinary meeting. If a member of staff is unavailable to attend a suspension meeting he or she will be informed of the decision to suspend in writing. At the time of suspension, and in the written confirmation, the member of staff will be informed of the conditions of his or her suspension. For example, he or she may not be allowed to enter University premises without prior approval. The individual's personal circumstances will be taken into consideration in relation to the terms of the suspension (for example, staff living on campus).
- B6.5 The period of suspension is to be kept to a minimum and will last no longer than four weeks before the situation is formally reviewed. If suspension continues beyond the initial 4 week period the situation will be regularly reviewed thereafter.
- B6.6 A member of staff who has been suspended from duty will have the suspension confirmed in writing within three working days. He or she will also be advised how the investigation will proceed.

ANNEX C: ROLE OF THE HUMAN RESOURCES DEPARTMENT

- C1. A member of the Human Resources Department, no less senior than a Human Resources Adviser, will provide advice and support to the manager conducting the disciplinary or appeal meeting and this will include asking questions relevant to the case and advising on process. He or she will also ensure that notes are taken of the meeting and if necessary appoint an appropriate person to undertake that task.
- C2. In circumstances where it is necessary to appoint a manager outside the management line to conduct the disciplinary or appeal meeting, this will be agreed with the appropriate Link Human Resources Manager.
- C3. Paragraphs 1 and 2 of this Annex (above) also apply to investigations and suspension meetings.

ANNEX D: SUMMARY OF THE DISCIPLINARY PROCESS

This diagram provides a general overview of the disciplinary process (excluding serious disciplinary matters that may involve suspension and/or those that could result in dismissal) and should be read in conjunction with the University’s Disciplinary and Appeals Procedures.

