



Disciplinary Policy

1. Policy Statement

The University expects all employees to conduct themselves in an appropriate manner in their day to day work, including in their dealings with colleagues, students and external organisations. Employees are also expected to adhere to the principles set out in the University's Dignity and Respect Policy.

Employees should familiarise themselves with those University policies which set out expected standards of behaviour. Where employee conduct falls short of these standards, managers¹ will attempt to resolve the matter through informal means where appropriate so that employees are given the opportunity to improve.

If these actions do not provide a resolution, then the Formal Disciplinary Procedure set out in this document should be followed.

The University aims to deal with all disciplinary issues in a fair and consistent manner. It recognises that, for the employee and manager concerned, involvement in a Disciplinary Procedure can be difficult and stressful. The University will therefore ensure that those involved are made aware of available guidance and support, and that disciplinary issues are dealt with as quickly as the specific circumstances allow.

2. Scope and Purpose

This Policy applies to all employees, except for those in a probationary period and those explicitly employed on non-standard terms and conditions². Guidance on dealing with disciplinary issues for staff on probation can be found at:

[http://www.docs.csg.ed.ac.uk/HumanResources/Policies/Probation Interim Guidance for Managin g.pdf](http://www.docs.csg.ed.ac.uk/HumanResources/Policies/Probation%20Interim%20Guidance%20for%20Managers.pdf)

This Policy has been designed to deal with instances of misconduct. The University has defined some illustrative examples of such offences which are outlined at Appendix A. The list is not exhaustive.

The examples given indicate how offences will normally be regarded, including those which might result in dismissal for a first offence on the grounds of gross misconduct. An offence will also be regarded as more serious if it is repeated.

There is however no rigid code of disciplinary action for particular examples of misconduct. The treatment of the misconduct will reflect what is reasonable taking into account all the circumstances

¹ For the purposes of this Policy the term 'manager' will be defined so as to include the nominated or line manager or another designated person of suitable seniority and responsibility within the relevant work unit or group

² Staff TUPE transferred to the University and remaining on pre-existing terms and conditions; Knowledge Transfer Partnership Associates, the Principal, Vice-Principals, Heads of Support Group and comparable level Directors

of the case; precedent; the employee's record of employment; previous patterns of behaviour (including any current warnings on record); and whether the actions were wilful or malicious.

This Policy also covers any other disciplinary matter not addressed by other policies and procedures (i.e. Capability, Research Misconduct). In cases of suspected fraud, the Fraud and Misappropriation Policy must be considered before the disciplinary process is initiated.

3. Principles of the Policy

The University will observe the following principles in all disciplinary matters:

- All disciplinary matters will be treated with due confidentiality
- Managers will initially aim to resolve minor disciplinary issues through an informal procedure
- The University will make every effort to deal with disciplinary allegations as quickly as possible, at the appropriate management level
- Allegations dealt with under the formal procedure will be subject to a thorough and prompt investigation
- No disciplinary action will be taken before a case has been fully investigated and until a Disciplinary Hearing has taken place
- Except in cases of gross misconduct, employees will not normally be dismissed for a first disciplinary offence
- At every stage in the Disciplinary Procedure, employees will be clearly advised in writing of the nature of the allegations against them, and will have the opportunity to state their case before any decision regarding disciplinary action is made
- Employees will be provided with evidence gathered through the investigation before any Disciplinary Hearing. This will include any statements by third parties and records of interviews
- At all stages of the formal Disciplinary Procedure, employees have the right to be accompanied by a Trade Union representative or workplace colleague
- The appointment of an Investigating Officer, the Chair of a Hearing (Responsible Manager³) or a Panel, will always be subject to avoiding current and potential conflicts of interest
- Where the formal Disciplinary Procedure has commenced, employees should be reminded of the support available from the Staff Counselling Service
- At no stage in the procedure can meetings or hearings be recorded using audio or video recording equipment without the prior written agreement of all present
- Employees always have the right of appeal against any disciplinary action taken as a result of a Disciplinary Hearing.

Note: Where alleged misconduct has been investigated under another policy (e.g. Dignity and Respect, Fraud and Misappropriation, Research Misconduct) the initial fact-finding and formal investigations carried out under that policy will constitute the investigation stages referred to in this policy

³ For the purposes of this policy the term 'Responsible Manager' could be the line manager, the manager's manager or the nominated deputy (with responsibility for Chairing the Hearing)

4. Responsibilities

Managers are responsible for ensuring that:

- All employees are aware of the Disciplinary Policy
- Disciplinary issues are dealt with as soon as they become apparent
- Guidance is sought from their HR Advisor where there is a possibility of formal action being taken
- They respect the need for confidentiality in relation to disciplinary issues
- They implement this Policy in line with all data protection legislation.
- Where an allegation of unsatisfactory conduct relates to a student complaint, the manager will refer to the University Complaint Handling Procedure to ensure that all necessary processes are followed.

Employees are expected to:

- Conduct themselves in an appropriate manner in their day to day work
- Familiarise themselves with those University policies which set out expected standards of behaviour.

5. Cooling Off Periods

There may be occasions where managers need to address a situation at work quickly. This could include asking any employees involved in the situation to stop work and go home for the day to allow a 'cooling off period' before a decision is taken on how to handle the matter. This is not classed as suspension from work or annual leave.

6. Initial Fact-Finding Investigation

When managers become aware of an alleged breach of discipline, they should carry out a brief fact-finding investigation. The information gathered during this process will enable managers to decide whether there is potentially a case to answer, and if so, whether to treat the matter as an informal or formal one.

7. The Informal Procedure

Where appropriate, minor instances of misconduct may be dealt with informally through the provision of advice, coaching or training. Examples of such offences include isolated instances of:

- Poor time keeping
- Non-compliance with sickness notification rules
- Inappropriate comments or behaviour at work
- Minor breaches of Health and Safety regulations.

In these circumstances, the employee's manager is responsible for bringing the matter to the employee's attention and discussing it with them.

The employee should be clearly advised of the specific standard of behaviour expected of them, and should be warned that if there is no improvement they may be subject to formal disciplinary action in the future.

If there are any actions arising from this discussion, managers should confirm them in writing to the employee, setting out any agreed objectives, expectations and timescales.

8. The Formal Disciplinary Procedure

More serious allegations or repeated allegations of minor breaches will be dealt with under the formal Disciplinary Procedure.

If a manager believes a matter should be dealt with formally, they must immediately contact their HR Advisor to agree the next steps. The HR Advisor will provide guidance and support through the procedure.

If the case is to proceed as a formal disciplinary matter, the manager must put the allegation in writing to the employee, along with an explanation of the stages of the process and the name of the person who will carry out the investigation.

Where formal meetings are necessary the 'Guidance for Handling Formal Meetings' should be followed.

There are three stages to the Formal Disciplinary Procedure:-

Stage 1 - Investigation. This involves an investigation into the alleged misconduct to establish whether there is a case to answer.

Stage 2 - Hearing. This involves a Disciplinary Hearing with the employee. A decision will be taken following a hearing as to whether any disciplinary action is necessary, and if so, what is appropriate.

Stage 3 - Appeal against any disciplinary action taken.

[A Flow Chart outlining the main steps can be found at Appendix 1]

8.1 Representation

At all formal meetings held as part of the formal Disciplinary Policy, employees have the right to be accompanied by a Trade Union representative / official or workplace colleague. When arrangements for meetings are confirmed, employees are responsible for notifying their chosen representative of the arrangements, and notifying the chair of the meeting of the name of the person accompanying them in advance.

8.2 Confidentiality

All those involved in a disciplinary procedure must keep all information relating to the case confidential. Any inappropriate disclosure of information relating to the case may result in disciplinary action.

Where employees intend to make, or have made, a disclosure in relation to a disciplinary procedure through the University's Whistleblowing Policy, the guidance in that Policy should be followed.

8.3 Suspension

In some circumstances, it may be appropriate to suspend employees with full normal pay (including allowances) while a matter is investigated. Any suspension should be for the minimum period possible and usually no longer than four weeks. The reasons for the suspension must be made clear to employees in writing.

Where suspension is considered to be appropriate, the manager making this recommendation must refer the matter to the relevant College/Support Group Head of HR or an appropriate deputy before making a decision.

If a manager decides that suspension is necessary, it is important to ensure that the matter is dealt with sensitively, maintaining confidentiality as far as possible and reassuring the employee that there is no presumption of guilt. The suspension should be for as short a time as possible and priority should be given to completing the investigation to allow the disciplinary process to conclude as soon as possible. In cases involving serious misconduct, suspension may be appropriate in the following circumstances:

- Where the presence of the employee may inhibit the investigation
- Where there are grounds to believe that the employee may intentionally disrupt the day-to-day work in the School/Support Department and/or not work to agreed standards during the course of the investigation
- Where the presence of the employee presents a risk to the welfare of other employees, or may increase the likelihood of further misconduct
- Where there is a serious risk to the University's reputation or business in allowing the employee to remain at work during the investigation.

Suspension will be regularly reviewed throughout the investigation. It may be brought to an end if the Investigating Officer, in consultation with an HR Advisor and the employee's manager, believes there are no longer sufficient reasons for it to continue.

9. Stages of the Formal Disciplinary Procedure

9.1 Formal Stage 1 - Investigation

The manager with responsibility for deciding the outcome of the case (the Responsible Manager⁴) and the HR Advisor will identify which manager should investigate the case (the Investigating Officer). In situations where there is no prospect of a conflict of interest this would normally be the employee's line manager, unless the line manager is Chairing the Hearing.

⁴ For the purposes of this policy the term 'Responsible Manager' could be the line manager, the manager's manager or the nominated deputy (with responsibility for Chairing the Hearing)

If the employee concerned identifies a potential conflict of interest with the appointed Investigating Officer they should immediately let the Responsible Manager or HR Advisor know. The Responsible Manager will discuss the matter with the HR Advisor and, if appropriate, arrange for the appointment of a different Investigating Officer.

The Investigation will seek to determine the facts of the case, according to the methods outlined in the University's 'Guidance for Managing Investigations' document, which can be found at: http://www.docs.csg.ed.ac.uk/HumanResources/Policies/Guidance_for_Managing-Investigations.pdf

Note: Should the misconduct relate to research misconduct, the case will be investigated using the procedure detailed in the Research Misconduct policy.

9.2 Confirming the Outcome of an Investigation

The investigation should, where possible, be completed within two weeks, after which the findings will be reported to the Responsible Manager and their HR Advisor. At this point the Responsible Manager will decide if there is a case to answer or not.

Where it is established that there is no case to answer, this will be confirmed in writing to the employee and their line manager, and all associated documentation will normally be destroyed and disposed of. In these circumstances, their manager should consider if any informal guidance for the employee (or others involved) is appropriate.

Where it is concluded that there is a case to answer, the employee will be invited in writing to attend a Disciplinary Hearing and will receive a copy of the Investigating Officer's report. The employee will be given at least one week's notice of the hearing, which will normally take place within two weeks of notification.

9.3 Formal stage 2 - Disciplinary Hearing

The College/Support Group Head of HR or their nominated deputy (in consultation with the Head of School or Support Department in cases involving more serious allegations) will appoint members of the Disciplinary Panel.

In cases where dismissal is identified as a potential outcome, the Head of School or Support Department, or their nominated deputy, will chair the hearing (Responsible Manager). There will be two other panel members, one of whom will be outside the management chain of the employee concerned.

In all other cases, the Chair of the Panel (Responsible Manager) will be in the management chain of the employee concerned, unless there is an identified conflict of interest, and there may be either one or two other panel members, at least one of which must be outside the employee's management chain

In all cases, an HR Advisor will attend the hearing to provide support and guidance to the Responsible Manager.

The request to attend the hearing will be issued by the Responsible Manager and will:

- Set out the nature of the alleged misconduct
- Confirm the names and designations of those attending the Hearing and give the employee the opportunity to identify any perceived conflict of interest
- Give written details of the evidence collected and attach copies of any documents to be referred to
- State the time, date, location and expected duration of the hearing
- Remind the employee of their right to be accompanied by a Trade Union representative or workplace colleague
- Advise the employee that if they have any additional evidence that did not come to light during the investigation, they should send it in advance to the Responsible Manager
- Confirm the possible outcomes of the hearing.

The Investigating Officer (or Chair of the Investigation Panel, if allegation relates to research misconduct) will normally attend the hearing to present their findings.

In some exceptional circumstances, it may be appropriate for third party (e.g. witness) statements to be anonymous. If this is the case, the Responsible Manager, in consultation with the HR Advisor, will consider how to balance the interests of the parties involved (i.e., the need to protect witnesses and the right of the employee to a fair hearing). However, there is no absolute guarantee of confidentiality as Courts and tribunals may order disclosure of documents, irrespective of whether or not they are confidential.

There may be occasions where hearings have to be formally adjourned. This could be because the Responsible Manager needs to discuss an issue briefly in private, with the HR Advisor in which case the Hearing may continue on the same day. Where the Responsible Manager needs to seek further information, it may be necessary to arrange another date; if so; this will normally take place within a week of the original hearing date. A written record of the hearing will be produced and a copy provided to the employee within one week of the hearing.

9.4 Outcome of the Hearing

When all of the evidence has been heard, the Responsible Manager will adjourn to consider the decision. Normally on the day of the hearing, the Responsible Manager will decide whether to accept or dismiss any or all of the allegations and what (if any) disciplinary action to take. The decision will, where possible, be conveyed to the employee verbally that day by the Responsible Manager, and confirmed in writing to the employee and line manager within one week.

If the Responsible Manager decides to dismiss the allegations, all associated documentation will normally be destroyed and disposed of. The HR Advisor will confirm this in writing to the employee. In these circumstances, the line manager should consider if any informal guidance for the employee (or others involved) is appropriate, dependent on the matter in question.

If the Responsible Manager accepts the allegations, then depending on the seriousness or frequency of the misconduct, disciplinary action may take one or more of the following forms:

- Written warning
- Final written warning including a statement that any further breach of discipline within the period of the warning may lead to dismissal
- Dismissal
- Another sanction, e.g. loss of formal office or demotion (as alternatives to dismissal).

Where the Responsible Manager recommends disciplinary action, the letter of confirmation will include details of:

- The nature of the misconduct
- The nature of the disciplinary action to be taken
- The reason for the decision and factors taken into account
- The length of time any disciplinary warning will be active
- The likely consequences of further misconduct where appropriate
- Who the decision will be communicated to, e.g. the employee's Head of School/Support Department
- The timescale for lodging an appeal and how it should be made.

9.5 Warning Periods

Formal warnings given to employees through the Disciplinary Policy will normally last for the periods of time specified below.

- A written warning – one year
- A final written warning – two years.

After the warning period has expired, a note of its existence will remain on the employee's record, however this will not be used towards any escalation of warnings but may be used to provide context where relevant. This expired warning will be kept in accordance with the University Data Retention Schedule for HR Records.

9.6 Dismissal

In cases where dismissal is the outcome decided by the Panel, the employee may be dismissed with pay in lieu of notice, or summarily without notice if the circumstances of the case are sufficiently serious to warrant it. Employees will not normally be dismissed for a first offence unless their actions amount to gross misconduct.

9.7 Formal stage 3 – Appealing against Disciplinary Action

Employees have the right to appeal against any formal action taken against them. Employees wishing to appeal must submit their appeal, in writing, to their College/Support Group Head of HR (Head of HR) within two calendar weeks of receiving the written decision. The employee's letter must set out the grounds of their appeal and provide new evidence, where appropriate.

The appeal processes are outlined in the document 'Employment Related Appeals Procedures' which are underpinned by Court Resolution 55/2010.

10. Criminal Offences outside Employment

There is no automatic application of the Disciplinary Policy if an employee becomes the subject of police enquiries or charges relating to a criminal offence outside employment or if they are absent from work because they have been remanded in custody. This applies regardless of whether the offence has any direct relevance to the employee's duties.

In determining whether or not it is appropriate to apply the Disciplinary Procedure in this context, managers must discuss the matter with their College / Support Group Head of HR.

If, on conviction for any offence, an employee is sentenced to a period of imprisonment, this will not automatically be treated as a reason for dismissal. However, after discussion with the College / Support Group Head of HR, the Head of School or Support Department will need to consider the effect of the employee's enforced absence, and if any further action is required before making a decision.

11. Timescales

Although it is in everyone's best interests to conclude the Disciplinary process as quickly as possible, in some circumstances an extension to the timescales associated with this Policy may be required. Where an extension is required, the Responsible Manager will contact those involved to advise of the reasons for the extension and likely timescales.

12. Policy History and Review

This Policy was approved by CJCNC on 30 March 2011 and took effect from 1 April 2011. It replaced the following policies/documents: 'Disciplinary Policy, Procedure and Regulations (Academic and Academic Related Staff)'; 'Disciplinary Policy and Procedure (non-Teaching Staff) (SAM 3:2)' and 'Rules for the Guidance of Staff', which ceased to apply from the same date.

A full review of this Policy was carried out, and amended as noted at Section 12.1, and was approved by CJCNC on 12 December 2013. A minor amendment was made to section 9.7 to reflect changes made to the Employment Related Appeals Procedure in October 2016. In June 2017 bullying and harassment was added to the list of examples in Appendix A. In May 2018 further amendments to Appendix A were made to reflect changes to the revised Research Misconduct policy. In September 2018 an amendment was agreed by HRPDG to reflect the introduction of the Policy on Disclosure of Intimate Relationships.

In the event of any significant change to the legal position on Disciplinary issues, relevant statutory requirements or any other related matter, this Policy will be subject to immediate review in consultation with the Trade Unions. In the absence of such a change, the policy will be reviewed by December 2019.

12.1 Change control record

No.	Approval date:	Amendment made:	Approved by:
1.	12 Dec. 2013	<p>Full Review: This Policy was reviewed which resulted in the following amendments being applied:</p> <p>Clarification throughout on the term 'Responsible Manager.</p> <p>Section 4: Inclusion of a reference to the University Complaint Handling Procedure.</p> <p>Section 8.3: Clarification of the suspension process.</p> <p>Sections 9.1, 9.2 and 9.5: Reformatted and some textual amendments to improve readability and to clarify the stages of investigations, and warning periods.</p> <p>Section 9.7 and 11: Clarification on timescales for appeals against disciplinary action and extensions to the process.</p>	CJCNC.
2.	October 2016	Section 9.7 updated to reflect revisions made to the Employment Related Appeals Procedure	HRPDG for CJCNC

3.	June 2017	Appendix A: under examples included bullying or harassment.	HRPDG for CJCNC
4.	May 2018	Sections 3, 9.1 and 9.3 updated to reflect changes to the Research Misconduct Policy. Appendix A: examples updated to include: paying or receiving bribes, and academic/research misconduct.	HRPDG; CJCNC
5.	September 2018	Appendix A updated to reflect introduction of Policy on Disclosure of Intimate Relationships	HRPDG; CJCNC

13. Alternative Format

This document can be provided in alternative formats on request by email to UHRS@ed.ac.uk or by calling 0131 650 8127.

The following examples are offences which may lead to disciplinary action. This list is not exhaustive.

Potential Serious Offences

- Repeated minor misconduct
- Unauthorised absence
- Wilful neglect of duties
- Refusal to obey a reasonable instruction by a relevant manager or other appropriately authorised employee
- Smoking outside designated areas
- Giving false information (e.g., on a job application form)
- Failure to disclose a conflict of interest, including those covered by the Policy on Disclosure of Intimate Relationships
- Mishandling of official contracts or transactions
- Inappropriate use of official vehicles
- Unauthorised disclosure of confidential information
- Academic misconduct and research misconduct
- Offences against Health and Safety regulations
- Misuse of drugs or alcohol to an extent which impairs the employee's ability to carry out their duties ⁵
- Bullying or harassment ⁶
- Conduct detrimental to the University outside employment
- Misuse of computer software, hardware or other University property
- Malicious accusations against a colleague.
- Improper use of social media⁷

Potential Gross Misconduct Offences

- Serious bullying or harassment⁶
- Threatening or abusive behaviour
- Acts of physical violence
- Deliberate damage to University property or reputation (includes improper use of social media)
- Gross misuse of University computers
- Serious academic and research misconduct
- Criminal offences within employment
- Criminal activities outside work, where such conduct is judged to be incompatible with the individual's employment, or where it could bring the University into disrepute
- Reckless, wilful or deliberate disregard of safety regulations
- Theft, paying or receiving bribes, fraud⁸ or deliberate falsification of records, e.g. expense claims
- Failure to disclose a serious conflict of interest, including those covered by the Policy on Disclosure of Intimate Relationships
- Deliberate contravention of the University's financial regulations
- The misuse of drugs or alcohol to an extent which seriously impairs the employee's ability to carry out their duties ³

⁵ The 'Alcohol and Drugs Policy' should be referred to

⁶ The 'Dignity and Respect Policy' should be referred to

⁷ The 'Policy on Employee Use of Social Media' should be referred to

⁸ The 'Fraud and Misappropriation Policy' and the "Anti-Bribery & Corruption Policy" should be referred to

- Acts constituting discrimination or victimisation (including on the grounds of sex, race, disability, sexual orientation, religious belief or age)
- Deliberate serious breaches of confidentiality, except for disclosures made through the University's Whistleblowing Policy
- Improper use of the employee's position for private advantage, or an attempt to do so
- Improper use of University resources or property for private advantage, or an attempt to do so

Disciplinary Policy – Flow Chart

Flow Chart to be read in conjunction with the full Policy



