



THE UNIVERSITY *of* EDINBURGH

Disciplinary Policy

1. Policy Statement

The University expects all its employees to behave and interact appropriately in the course of their work and to treat all colleagues, students and contacts with dignity and respect. Should your behaviour fall short of the standards expected of you or you are in breach of University policy, we will take action to help you to achieve and maintain the required standards and/or to protect the safety and wellbeing of others. This policy explains the action we will take to investigate and address any concerns regarding your conduct, i.e. behaviour at work.

The University has a zero tolerance stance on bullying and harassment. This means we will never ignore any allegations which amount to bullying and harassment.

2. Scope

This policy applies to all employees who have completed their probationary period and relates to conduct in all work and work related settings. It covers one-off incidents if sufficiently serious and repeated inappropriate/unacceptable behaviour.

Issues relating to conduct during an employee's probationary period will be managed in line with the [Guidance for Managing Probation](#). Issues relating to absence at work will be managed in line with the [Absence Management Policy](#). Issues relating to performance will be managed in line with the [Managing Capability Policy](#).

3. Principles

This policy is underpinned by the following principles:

- 3.1 Everyone involved in the process will be treated fairly, consistently and with dignity and respect.

- 3.2 Any concerns relating to your conduct will be raised with you at the earliest opportunity. Unless the misconduct is sufficiently serious you will be given time to address any concerns before any formal action is taken.
- 3.3 The aim of the process is to improve your behaviour or to protect the safety and wellbeing of others and is not primarily about imposing a punishment.
- 3.4 The process will be kept as confidential as possible and information about a case will only be shared with those directly involved or affected. This means that if you are the subject of disciplinary proceedings you must not talk about it with anyone else at work other than those people dealing with your disciplinary case and your chosen companion.
- 3.5 If an investigation has been carried out as part of another process or policy, e.g. staff grievance, student complaints, research misconduct etc. a further, separate investigation is not required. The outcome of the original investigation will determine if a case will progress to a disciplinary hearing.
- 3.6 Disciplinary panels should have diverse membership particularly in cases relating to potential discrimination or harassment.

4. Definitions

- Companion** is a person who can attend meetings/hearings with you. They are normally a work colleague or trade union representative. You may also ask for someone to be with you if you have particular needs e.g. if you have a disability you may ask to have someone with you who is familiar with your condition. Your companion is also someone you can talk to about your case outside of disciplinary meetings/hearings. A companion cannot be someone who is a witness in your case.
- Conduct** is how you behave at work. It includes how you interact with and treat others and what is expected of you as described in University policies.
- Conflict of interest** is a private, personal or commercial interest which could influence or interfere with a person's objectivity.
- Investigating Officer** is the person appointed to investigate concerns or complaints about your behaviour or an alleged breach of University policy. They will normally be your manager or another person who is at least the same grade as your

manager. There may however be times when someone external to the University will be appointed to undertake this role.

Misconduct is behaviour that is considered unacceptable or inappropriate by the University or is a breach of University policy.

Gross misconduct is behaviour that is considered unacceptable or inappropriate or is a breach of University policy and has a serious and/or harmful impact. Such acts cause damage to the University, harm to others or result in a break down in trust. Gross misconduct will result in your dismissal from the University without notice or pay in lieu of notice.

Examples of misconduct and gross misconduct can be found in Appendix I.

5. Links to Other Relevant Policies and Guidance

You may find it useful to refer to other relevant University policies and guidance which you can find on the [HR webpages](#):

[Absence Management Policy](#)

[Conflict of Interest Policy](#)

[Grievance Policy](#)

[Managing Capability Policy](#)

[Guidance for Managing Probation](#)

[Research Misconduct Policy](#)

[Statement on the handling of allegations of antisemitism](#)

6. Policy History and Review

Approved Date: March 2020

Approved By: CJCNC

Year of Next Review: 2023

Disciplinary Procedure

This procedure applies if you are the subject of a disciplinary process.

If you are asked to be a witness in a disciplinary case you should refer to Appendix II.

1. Day-to-day Management

If your manager has concerns about your behaviour or you have breached University policy, they will advise you at the earliest opportunity and explain what you need to do to improve. This will usually be when there are minor problems which your manager believes you can easily address, for example poor timekeeping. You will be given reasonable support and time to make an improvement and told when this will be reviewed.

Your manager will write to you summarising your discussion and confirming what you need to do to improve or change and by when.

Your conduct will be reviewed after the agreed timeframe and if you have achieved the required improvement, and there are no further concerns, the matter will be considered closed.

2. Formal Procedure

Your manager will progress matters to the formal procedure if:

- there is no improvement in your conduct , or
- a more serious issue has been identified or alleged.

3. Suspension

In some cases, if the issue or allegation about your conduct is very serious you may be suspended from work while an investigation is carried out. Your manager will discuss your suspension with your Head of HR or their nominated deputy before taking this action.

You will continue to receive your contractual pay and benefits during this time. Your suspension will be reviewed regularly by your manager and Head of HR and will not be longer than necessary. You will be advised about the arrangements for your suspension in writing and kept up to date about how the investigation is progressing.

Being suspended from work does not mean that a decision has been made about your conduct. You will be given the opportunity to respond to the issues or allegations at the investigation meeting and any disciplinary hearing that may follow.

4. Investigation

4.1 Types of Investigation

To assess what has happened your manager will arrange for an investigation to be carried out. This could be straightforward fact-finding and gathering of data which may be carried out by your manager. The manager will compile a report of their findings and confirm the outcome to you.

If the issue or allegation is more complicated or serious it is likely to require a more detailed investigation which will be carried out by a different manager, who will take the role of Investigating Officer. The Investigating Officer will have no prior knowledge of the concerns about your conduct so will have an impartial view about your case.

4.2 Investigation Meeting

The Investigating Officer will start their investigation by asking you to a meeting. They will write to you outlining the concerns about your conduct. You may bring a companion to this meeting if you wish. The Investigating Officer will have a note taker with them and may also have a representative from HR. If you need any adjustments or special arrangements to attend this meeting you must let the Investigating Officer know in advance, as they may not be aware of your circumstances, for example if you need a room with a hearing loop. You must let the Investigating Officer know in advance if you are bringing a companion to the meeting.

The Investigating Officer will interview you to find out what has taken place from your point of view and to gather the information they need to establish the facts of the case. You can provide a written statement or other evidence to the Investigating Officer at the meeting if you think this will be helpful information for them to have.

The notes of your interview will be sent to you after the meeting so that you can confirm that they accurately reflect what was discussed.

Once the Investigating Officer has interviewed you they may decide to interview or obtain statements from witnesses or others who can provide further information.

The Investigating Officer will aim to complete the investigation in a reasonable timeframe and will let you know how long this is likely to take. They will keep you informed if it is taking longer than originally anticipated.

4.3 Investigation Outcome

At the end of the investigation the Investigating Officer will produce a report of their findings. They will confirm to you in writing that the investigation stage has finished and what they have concluded based on the evidence gathered. This will be either:

- there is sufficient evidence to suggest that you have behaved inappropriately/breached University policy and that you have a case to answer, or
- you do not have a case to answer, or the issues are not sufficiently serious to progress further.

If there is a case to answer, you will be asked to attend a Disciplinary Hearing in writing in line with the process set out in Section 5. You will normally receive notification about the Disciplinary Hearing within two calendar weeks of the completion of the investigation.

If the Investigating Officer does not believe you have a case to answer they will write to you to explain their findings and confirm that the matter is closed. In some cases the Investigating Officer may make other recommendations, such as training or support to help you address the concerns that led to the investigation.

4.4 Investigation under an alternative procedure

If you have been the subject of an investigation under an alternative procedure, for example: staff grievance, student complaint, research misconduct etc. the following process will apply.

You will be notified in writing by the person who carried out the investigation that the investigation stage has finished and whether or not they have concluded that you have a case to answer.

If there is a case to answer, you will be asked to attend a Disciplinary Hearing in writing in line with the process set out in Section 5. You will normally receive notification about the Disciplinary Hearing within two calendar weeks of the completion of the investigation.

If the Investigating Officer does not believe you have a case to answer they will write to you to explain their findings and confirm that the matter is closed. In some cases the Investigating Officer may make other recommendations, such as training or support to help you address the concerns that led to the investigation.

5. Disciplinary Hearing

5.1 Written Notice of Disciplinary Hearing

Another manager (Chair) will be appointed to hold a Disciplinary Hearing with you. The Chair may be your manager or another manager from your area of work. They will write to you:

- asking you to attend a formal hearing and giving details of the arrangements
- advising you of the issues or allegations
- notifying you of the possible outcomes of the hearing
- advising you of your right to be accompanied by a companion
- advising you of the names of one or two other managers who will form the panel to consider your case.

The Chair will send you a copy of the Investigating Officer's investigation report and any other written evidence that has been gathered. This might include statements from witnesses or others who have been interviewed as part of the investigation. Due to data protection, some notes or statements may be redacted (i.e. blocked out so they cannot be read). This will normally be when someone involved in the investigation has mentioned another person whose personal data cannot be shared with you. It will not be to protect the identity of those who took part in the investigation.

You will be given at least one calendar week's notice of the hearing. You must let the Chair know, in advance, if you are bringing a companion to the hearing. It is your responsibility to notify your chosen companion of the arrangements and to provide them with any documentation they may require to prepare for the hearing.

If you need any adjustments or special arrangements to attend the hearing you must let the Chair know in advance, as they may not be aware of your circumstances.

If you have any further relevant information that you want to present and have considered at the hearing you must pass this to the Chair at least three working days in advance of the hearing.

5.2 Option not to attend the Disciplinary Hearing

If the facts about your case are straight forward and you do not dispute them, you may decide that you would prefer not to attend a hearing. If that is the case, you must write to the Chair advising of your preference and do so at least three working days in advance of the scheduled date of the hearing.

The Chair will decide if it is fair and appropriate for your case to be considered in your absence. If so you will be advised in writing of the outcome. If disciplinary action is taken you will be notified of your right of appeal.

If the Chair does not agree to your request you are expected to attend the hearing as scheduled. The option of not attending will never be agreed in cases of potential gross misconduct which could lead to your dismissal.

5.3 Rearranging the Disciplinary Hearing

You are expected to attend the Disciplinary Hearing on the scheduled date. If you or your companion cannot attend you must let the Chair know as soon as possible. You may request a postponement and suggest alternative times and dates normally within one week of the original date. Where a suggested alternative is feasible, the hearing will be postponed.

While every attempt will be made to accommodate the availability of your companion, a postponement can only be agreed provided it does not cause unreasonable delay or disruption. Therefore if your companion is unable to attend at the rearranged time you should select a different companion who is able to be there.

If you fail to attend the rearranged hearing without good reason the panel may continue with the hearing and make a decision in your absence, based on the evidence available.

5.4 The Hearing

At the Hearing, the Chair, together with one or two other managers (the Panel), will review your case and make a decision about the outcome, including if any disciplinary action is to be taken. If the potential outcome of your hearing is dismissal there will always be two other managers with the Chair.

One of the panel members will be from outside your area of work. A representative from HR may be there to advise the panel on process and there will be a note taker. The Investigating Officer will also be there to present and respond to questions about their report.

The meeting will usually take place as follows:

- the Investigating Officer will summarise their investigation findings
- the Panel will ask the Investigating Officer questions
- you will respond to the Investigating Officer's report, put forward your point of view and may ask questions about the Investigating Officer's findings
- the Panel will ask you questions.

After the discussion the Chair will adjourn the hearing so that the Panel can consider all they have heard. You will normally be called back to the hearing after the adjournment to be told the outcome. If the Panel needs more time to consider your case you will be told when you will hear the outcome.

5.5 Outcome of the Disciplinary Hearing

The possible outcomes of your hearing will be one of the following:

- a) **No disciplinary action:** although the Panel may recommend other remedies or requirements such as training or mediation
- b) **Written warning:** lasting one year
- c) **Final written warning:** lasting two years

- d) **A sanction short of dismissal:** as an alternative to dismissal, a final written warning may be issued together with a serious sanction such as demotion, loss of title, or withholding of a salary increment
- e) **Dismissal:** which will take immediate effect with pay in lieu of notice unless you are dismissed for gross misconduct when there will be no pay in lieu of notice.

If you already have a warning that has not expired, the Panel will take this into account when deciding the level of warning/sanction.

If you receive a warning it will remain current for the specified period. If there are no further concerns about your conduct for the duration of the warning it will expire at the end of the period.

The Chair will confirm the outcome of the hearing to you in writing within one calendar week. They will also explain your right of appeal.

6. Appeal

6.1 Letter of appeal

If you feel that the disciplinary action taken against you is wrong or unfair you can appeal the outcome by writing to your Head of HR. You must do so within two calendar weeks of receiving the written confirmation of the outcome from the Chair of the Disciplinary Hearing.

You must explain the reasons for your appeal which must be based on one or more of the following:

- the disciplinary process was not followed properly
- you have some new evidence that was not available at the time of the Disciplinary Hearing
- the sanction imposed was too severe.

If you have new evidence you should ideally submit this with your appeal letter, but additional evidence will be accepted up to one calendar week after you submit the appeal letter. If you do not provide any relevant grounds your appeal will not be taken further.

6.2 Written Notice of Appeal Hearing

Should you appeal, another manager will be appointed as the Appeal Convenor to hold an Appeal Hearing with you. They will be at least the same grade as the Chair of the Disciplinary Hearing.

They will write to you:

- asking you to attend a formal Appeal Hearing and giving details of the arrangements
- advising you of your right to be accompanied by a companion
- advising you of the names of one or two other managers who will form the panel to consider your appeal.

You will be given at least one calendar week's notice of the hearing which will normally take place within four calendar weeks of your letter being received by the Head of HR.

You must let the Appeal Convenor know if you are bringing a companion to the hearing. It is your responsibility to notify your chosen companion of the arrangements and to provide them with any documentation they may require to prepare for the hearing.

If you need any adjustments or special arrangements to attend the hearing you must let the Appeal Convenor know in advance, as they may not be aware of your circumstances.

6.3 Rearranging the Appeal Hearing

You are expected to attend the Appeal Hearing on the scheduled date. If you or your companion cannot attend you must let the Appeal Convenor know as soon as possible. You may request a postponement and suggest alternative times and dates normally within one week of the original date. Where a suggested alternative is feasible, the hearing will be postponed.

While every attempt will be made to accommodate the availability of your companion a postponement can only be agreed provided it does not cause unreasonable delay or disruption. Therefore if your companion is unable to attend at the rearranged time you should select a different companion who is able to be there.

If you fail to attend the rearranged Appeal Hearing without good reason a decision may be made regarding your appeal in your absence, based on the evidence available.

6.4 Appeal Hearing – Sanctions below dismissal

The Appeal Panel will be chaired by the Appeal Convenor. There will be up to two other panel members and no one will have been involved with your case previously. At least one panel member will be from the same job category as you. This means that if you are an academic at least one panel member will be an academic or if you hold a professional services role at least one panel member will have a professional services role. A representative from HR may be there to advise the panel on process and there will be a note taker. The Chair of the Disciplinary Hearing will normally attend and may have a representative from HR with them.

The Appeal Panel will not rehear your case. It will review and decide whether the action taken by the Disciplinary Panel was fair and reasonable based on the reasons you provided in your letter of appeal and during the Appeal Hearing.

The hearing will normally take place as follows:

- the Chair of the Disciplinary Hearing will summarise the reasons for the original outcome and sanction
- the Panel will ask the Chair questions
- you will respond to the summary given by the Chair of the Disciplinary Hearing, put forward your point of view and may ask the Chair questions
- the Panel will ask you questions.

After the discussion the Appeal Convenor will adjourn the hearing so that the Panel can consider all they have heard. You will normally be called back to the hearing after the adjournment to be told the outcome. If the Panel needs more time to consider your appeal you will be told when you will hear the outcome.

6.5 Appeal Hearing – Dismissal

The Appeal Panel will be chaired by the Appeal Convenor who will normally be from a different School or Professional Services Department to you. To ensure impartiality, it may occasionally be appropriate for the Appeal Convenor to be external to the University, for example in cases of research misconduct.

There will be up to two other panel members and no one will have been involved with your case previously. At least one panel member will be from the same job category as you. This means that if you are an academic at least one panel member will be an academic or if you hold a professional services role at least one panel member will have a professional services role. If you are an academic at grade 8 or above an external panel member will also be appointed. A representative from HR may be there to advise the panel on process and there will be a note taker.

The Chair of the Disciplinary Hearing will normally attend the Appeal Hearing and may have a representative from HR with them.

The Appeal Panel will not rehear your case. It will review and decide whether the action taken by the Disciplinary Panel was fair and reasonable based on the reasons you provided in your letter of appeal and during the Appeal Hearing.

The hearing will normally take place as follows:

- the Chair of the Disciplinary Hearing will summarise the reasons for the original outcome and sanction of dismissal
- the Panel will ask the Chair of the Disciplinary Hearing questions
- you will respond to the summary given by the Chair of the Disciplinary Hearing, put forward your point of view and may ask the Chair questions
- the Panel will ask you questions.

After the discussion the Appeal Convenor will adjourn the hearing so that the Panel can consider all they have heard. You will normally be called back to the hearing after the adjournment to be told the outcome. If the panel needs more time to consider your appeal you will be told when you will hear the outcome.

6.6 Outcome of Appeal

The possible outcomes of your Appeal Hearing are:

- your appeal is turned down and the original decision is confirmed
- your appeal is supported and your sanction is removed or replaced with a lower one.

If your appeal against dismissal is supported the Panel may additionally reinstate you to your role or recommend your appointment to a different position.

The Appeal Convenor will confirm the outcome of the hearing in writing to you within one calendar week. The decision of the Appeal Panel is final.

7. Employees on Guaranteed Minimum Hours Contracts

If you are employed on a guaranteed minimum hours (GH) contract and are required to attend a meeting or hearing at a time when you are not scheduled to be working, you will be paid for the time you spend in the meeting/hearing at your normal rate.

8. Conflict of Interest

You can ask for a different Investigating Officer, Chair or Appeal Convenor to be appointed if they have a genuine conflict of interest in relation to your case. You must write to your Head of HR if you believe there is a conflict and specify what it is. The Head of HR will make an assessment about the person's objectivity and confirm their decision to you. If it is concluded that there is a conflict of interest a different manager will be appointed to carry out the role. You must refer to the [Policy on Conflict of Interest](#) before deciding to make an objection.

9. Criminal charges or convictions

If you have been charged or convicted of a criminal offence you must tell the University as soon as possible. We will not automatically make a decision about your employment. An investigation will be carried out and, if appropriate, a disciplinary hearing will be arranged. Any decision to impose a sanction, including ending your employment, will be based on the nature of the criminal offence and its impact in relation to your role and on the University's reputation.

Misconduct

Misconduct is behaviour that is considered unacceptable or inappropriate by the University or is a breach of University policy. Misconduct will normally be considered serious enough to result in a disciplinary warning but not dismissal if it is the first time the issue has occurred. Below are examples of behaviours that would be considered misconduct:

- Unauthorised Absence
- Bullying or harassing others, including any form of discrimination (See Note)
- Failing to follow a reasonable instruction from your manager or another person in authority
- Neglecting your duties
- Giving inaccurate information e.g. in a job application
- Breaching confidentiality
- Breaching health and safety rules and regulations
- Misusing the University's IT resources e.g. accessing inappropriate sites or sending inappropriate messages or posts
- Making malicious or vexatious allegations about another person
- Breaching the Alcohol and Drugs Policy
- Using University vehicles inappropriately
- Smoking outside designated areas
- Failing to disclose any conflict of interest; failing to disclose an intimate relationship as required by the Disclosure of Intimate Relationships policy
- Behaving in a way that damages the reputation of the University, including behaviour outside work
- Mishandling official contracts or transactions.

This is not an exhaustive list.

Note: Zero Tolerance of Bullying, Harassment and Discrimination

The University has a zero tolerance stance on bullying, harassment and discrimination which means that any reported behaviour will never be ignored. Depending on the seriousness and impact of the behaviour it may be regarded as gross misconduct.

The University has adopted the International Holocaust Remembrance Alliance Working Definition of Antisemitism and will use this definition should an allegation of antisemitism be taken forward under the Disciplinary Policy. More information on the handling of allegations of antisemitism is available [here](#).

Gross misconduct

Gross misconduct is behaviour that is considered unacceptable or inappropriate or a breach of University policy and has a serious and/or harmful impact. It causes damage to the University, harm to others and/or results in a break down in trust.

Below are examples of behaviours that would be considered gross misconduct and would normally result in dismissal:

- Being physically violent
- Being abusive or threatening
- Bullying or harassing others, including any form of discrimination
- Damaging University property
- Behaving in a way that damages the reputation of the University, including behaviour outside work
- Theft, fraud or paying or receiving bribes
- Deliberately breaching the University's financial regulations
- Deliberately falsifying records or giving false information
- Failing to disclose a conflict of interest or an intimate relationship which has serious consequences
- Breaching the Alcohol and Drugs Policy with serious consequences
- Misusing the University's IT resources e.g. accessing inappropriate sites or sending inappropriate messages or posts which may cause serious offence or harm the reputation of the University or individuals
- Serious academic or research misconduct
- Serious breaches of Health and Safety rules

This is not an exhaustive list.

Being a witness in a disciplinary case

1. Introduction

The University recognises that being involved in a disciplinary process can be distressing for all parties including if you are asked to be a witness in a case. This section explains what you can expect if you are a witness.

2. The Disciplinary Process

The process starts when an allegation or issue is raised about an employee's conduct and it needs to be investigated to decide if that person has a case to answer.

3. The Investigation

A manager will be appointed as the Investigating Officer to look in to the allegation or issue that has been identified. In some cases someone from outside the University will be appointed to undertake the investigation.

As part of the investigation the Investigating Officer will interview those people involved in the case including any witnesses to events. If you are identified as a witness you will be asked to attend a meeting with the Investigating Officer who will have a note taker with them. They may have a representative from HR. You may have a companion with you if you wish but your meeting cannot be rescheduled if your companion is unavailable at the scheduled time. A companion is normally a work colleague or trade union representative.

In some cases the Investigating Officer may ask you to provide a statement rather than being interviewed.

If you are interviewed, a note of the meeting will be typed up after the meeting and shared with you so that you can confirm it accurately reflects what you said. The note will be a summary, i.e. it will not be a verbatim note of everything discussed in the meeting.

At the end of the investigation the Investigating Officer will produce a report which will include the note from your interview. This report will be seen by the managers dealing with the disciplinary case as well as the employee involved. You will not receive a copy of the report.

Due to data protection, some notes or statements may be redacted (i.e. blocked out so they cannot be read). This will normally be if, for example you mention another person whose personal data cannot be shared with other parties.

If you have any concerns about the note of your interview being shared you must tell the Investigating Officer the reasons and they will decide what to include in the report.

4. Disciplinary Procedure

After the investigation, if it is concluded that the employee has a case to answer, a Disciplinary Hearing will be set up. You will not normally need to attend this or any Appeal Hearing.

5. Conclusion of Disciplinary process

Your involvement will normally end after the investigation. You will not be told the outcome of the case as this must be kept confidential for data protection reasons.

6. Confidentiality

It is essential that everything relating to the disciplinary case, including any meetings you are involved in or any correspondence you receive, is kept confidential. This means that you must not discuss your involvement with anyone else at work other than those dealing with the case and your chosen companion, if you have one. You must not discuss the case with the person who is the subject of the disciplinary proceedings or other witnesses, if there are any.

If you need more information about the disciplinary process you should contact your HR Partner.

Appendix III – Disciplinary Formal Procedure

