



**University of Brighton**

## **Disciplinary Policy**

### Policy Statement

A disciplinary procedure is an essential management tool, permitting the university to deal fairly and consistently with members of staff who may have breached policies and/or procedures, or behaved in an inappropriate or unacceptable manner at work. It provides guidance and a toolkit to assist managers to take the necessary steps to investigate alleged misconduct, interview the member of staff (and witnesses) and decide what, if any, disciplinary action to take, with the support of Human Resources.

The Disciplinary Policy and Guidance should be viewed constructively – it is preferable to encourage employees whose conduct or behaviour is in some way unsatisfactory to improve.

When an issue with a member of staff's conduct arises it is important to take prompt steps to investigate the allegation.

Dealing promptly with misconduct does not mean dealing in haste, but instead without unnecessary delay. The effects of delay could be:

- The member of staff concludes that his or her conduct is acceptable;
- The conduct in question develops into habit;
- A precedent is set;
- Other staff begin to display the same type of behaviour;
- The relevant manager's credibility and authority are damaged;
- Delay can also cause additional anxiety for the member of staff involved.

None of the above outcomes are desirable. A delay in dealing with misconduct can ultimately mean that the University has to deal with a matter that has escalated from a minor issue into a major problem. A much better approach is to seek an early resolution. The policy, guidelines and toolkit follow the ACAS Code of Practice for handling disciplinary issues.

For the purpose of this guidance a manager is anyone who has responsibility for other members of staff, HR will confirm if the manager has the level of authority to deal with a disciplinary action or will assist in identifying a manager with suitable authority.

## 1 Principles

- 1.1 The university will seek to ensure that confidentiality is maintained. However, this does not prevent the university from disclosing information where necessary for the discharge of duties or as required by law.
- 1.2 Where possible, matters of minor misconduct should be resolved informally through discussion between the member of staff and the line manager.
- 1.3 No disciplinary action will be taken against a member of staff until a full investigation has been carried out. The investigation does not form part of the disciplinary procedure. Its purpose is to gather the relevant facts to determine the most appropriate course of action, which may, or may not, involve disciplinary action.
- 1.4 The university positively encourages participation at all stages but where a member of staff is persistently unable or unwilling to attend a formal meeting, the university may make a decision based on the information available in the absence of the member of staff, but a representative, i.e. Trade Union representative or work colleague, may be present if the member of staff chooses. The member of staff may also submit a written statement to the chair.
- 1.5 Except in the case of gross misconduct, a member of staff will not be dismissed for a first breach of discipline.
- 1.6 The procedure may be initiated at any stage, according to the alleged misconduct.
- 1.7 Managers should engage with Human Resources throughout the process and an HR Adviser should be present at the hearing.
- 1.8 Staff who have been notified about a disciplinary hearing may seek advice and guidance from their Trade Union if they belong to one and/or Human Resources (normally this will be a person who is not involved in the disciplinary case. Advice from HR will be contained to information regarding the procedure; they are unable to offer support or attend hearings on the member of staff's behalf). Personal support should be sought from the trade union or work colleague.
- 1.9 All investigations, subsequent hearings and appeals will be dealt with in a timely manner.

## 2 Representation

- 2.1 Members of staff have the right to be accompanied by a Trade Union representative or work colleague at each formal stage of the procedure. It is for the member of staff to seek representation and to keep their representative fully informed of dates, times and documentation etc.

2.2 The member of staff should give the name of their representative to the hearing Chair, or HR Adviser at least 2 working days prior to the hearing.

2.3 At the formal meeting the representative may present the member of staff's case, should the member of staff wish them to do so; they may confer with the member of staff and sum up their case and act as a general support. They may not answer questions on the member of staff's behalf.

### 3 Definitions of conduct

3.1 It is expected that every employee should conduct themselves with honesty and integrity, maintaining a high standard of conduct in relation to their role with the university. Disciplinary action would normally be considered in cases of misconduct of which there are two levels:

- Misconduct which would not lead to dismissal for a first offence on the part of the employee but which may result in a one of the outcomes outlined in the Disciplinary Guidance and Procedure document. However, repeated instances of misconduct can lead to dismissal
- Gross misconduct which is so serious, significant or wilful that it effectively breaches the contract of employment and could result in summary dismissal with no notice pay

3.2 General standards of performance and behaviour are outlined within the Disciplinary Guidance and Procedure together with examples of behaviour which could lead to disciplinary action.

### 4 Disciplinary Action against a Trade Union representative or Safety representative.

4.1 Where disciplinary action is being considered against a member of staff who is a trade union representative, the normal disciplinary policy will apply. However, formal action will not be taken until the circumstances have been discussed with a full-time official of the union concerned. HR must also be consulted.

### 5 Grievance

5.1 In the event that a grievance or complaint is raised against the investigating officer or line manager during the Disciplinary Procedure, an independent manager will be appointed via HR to manage the Grievance Procedure. The Grievance Procedure may run in parallel with the Disciplinary Procedure. With HR oversight and guidance, consideration will be given to the order in relation to the grievance and disciplinary issues and the relevant meeting/s or hearing/s.

## 6 Sickness Absence

- 6.1 If a member of staff who is subject to any of the stages of the disciplinary procedure has a period of sickness absence, advice will be sought from Occupational Health as to whether there are any reasonable adjustments that should be considered to enable the meetings to go ahead.
- 6.2 Advice and guidance will also be taken from Occupational Health if a member of staff has been signed off with stress and/or depression and/or another mental health condition (or suspected condition) to assess the member of staff's ability to understand and engage in such a disciplinary process, and the degree to which a finalisation of the matter will assist the member of staff's recovery.

## 7 Criminal Offences

- 7.1 Where a member of staff is under police investigation, or charged with or convicted of a criminal offence, the line manager should consult with a member of HR and, if appropriate, the Director of Internal Audit before taking further action.
- 7.2 Criminal offences (whether committed within or outside the course of employment) with potential implications for a member of staff's employment include:
- Any offence where the university's reputation could be brought into disrepute if the member of staff was to remain employed by the university.
  - Offences for which the university may be held vicariously liable e.g:
    - An act of assault by a member of staff on a person who they have reasonably suspected of stealing university property.
    - An act of serious negligence in relation to their role, committed by a member of staff whilst unfit through drink or drugs.
- 7.3 If the issue relates to theft or financial misconduct, the Director of Internal Audit should be notified. The Director of Internal Audit will commission a full investigation and a report will be submitted to the senior manager concerned. While the investigation is on-going, no further action should be undertaken, unless discussed and agreed with HR. If, following the investigation and report, a disciplinary hearing is deemed appropriate; the latter will be convened by the senior manager concerned in accordance with the Disciplinary Procedure/Guidance.
- 7.4 Whether or not it is reasonable to dismiss a member of staff for a crime committed in the course of, or outside of their employment will depend on a number of factors which influence the employment relationship. The HR Department should be consulted to advise on the most appropriate course of action.

- 7.5 Where as a result of a criminal offence, a member of staff is in fundamental breach of their contract of employment (expressly or implicitly e.g. unable to attend work due to a lengthy imprisonment), the employment will normally be terminated in accordance with the university's dismissal procedure.

## 8 Authority to take disciplinary action

- 8.1 Line managers have responsibility for ensuring that their members of staff have been informed and understand what is expected from them in terms of the standards of work and efficiency, the conduct expected of them and any specific rules in relation to their school or department. It is the line manager's responsibility to take appropriate action, including disciplinary action, where these standards or rules are breached.
- 8.2 Managers are required to use their discretion, where appropriate, to resolve minor issues or problems through informal discussion; the manager should note the discussion.
- 8.3 Where dismissal has been recommended, the authority to dismiss is held by the Vice-Chancellor or the Deputy Vice-Chancellor when acting on their behalf.
- 8.4 The manager (Hearing Chair) who reviews the investigation report, holds a hearing and makes a decision regarding any disciplinary action or sanction, must not have been directly involved in the circumstances of the case, or the investigation.
- 8.5 Where a member of staff from Human Resources is in breach of discipline, additional consideration will be given as to who should be involved in the proceedings.

## 9 Suspension

- 9.1 Suspension is not a disciplinary action and does not imply there has been any misconduct, and should not be seen to be a pre-determination of an outcome.
- 9.2 It is recognised that suspension can be stressful for the member of staff and may have an impact on the delivery of services. Therefore, suspension will only be applied where it is felt it is absolutely necessary and all alternatives have been considered (e.g. alternative working arrangements).
- 9.3 The period of suspension should be for as short a time as possible and the member of staff should be supported throughout this time; the line manager should maintain regular contact to keep them up to date with work related issues and general management, without discussing the allegation.

## 10 Records of Warning

- 10.1 If a disciplinary hearing outcome requires that a member of staff is to be issued with a warning, this will be retained with supporting documentation on the individual's personal file, and held in confidence within Human Resources.
- 10.2 During the specified time period of the warning it is considered 'live and active' and will be taken into account and highlighted to a Hearing Chair for consideration if there are subsequent misconduct or gross misconduct proceedings.
- 10.3 Time periods for warnings are:
- |                       |           |
|-----------------------|-----------|
| Written Warning       | 12 months |
| Final Written Warning | 18 months |
- 10.4 Throughout the time period that the warning is 'live', the appropriate line manager will regularly review the performance and conduct of the member of staff and ensure that feedback is given. If there have been no further disciplinary issues within the time period stated, the warning will cease to be 'live' and will be disregarded if there are any future disciplinary decisions in the future.

## 11 Exclusions

- 11.1 The procedure does not apply to the following:-
- Cases of incapacity due to ill health, for which the sickness absence policy and procedure should be used.
  - Where incapability can be shown to be an inherent lack of ability, when the Poor Performance policy should be used. However, where a member of staff has demonstrated an ability to do the work required to the standards expressed but does not continue to perform to standard the disciplinary policy should be considered due to wilful incapability.
  - Member(s) of staff who are made redundant.
  - Senior post holders (i.e. Vice-Chancellor, Clerk to the Board of Governors and any Deputy or Pro-Vice Chancellor) for which responsibility lies with the Chairman or the Deputy Chairman of the Board of Governors, as specified in the university's Article of Government.