



Disciplinary Policy

Effective from 31 March 2015

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Author: Human Resources Division

Detail of Policy

1.0 Purpose

- 1.1 The University operates a disciplinary policy to ensure the effective management of its employees and students. The University's disciplinary policy is aimed to help and encourage employees to improve and maintain an effective standard of conduct and it is the means by which rules are observed and standards are maintained.
- 1.2 Wherever possible the University will seek to deal with issues on an informal basis, however, where an issue cannot be resolved informally then it may be pursued formally.

2.0 Implications of non-adherence

- 2.1 The Disciplinary Policy has been written in line with the ACAS Code of Practice on discipline. It is a legal requirement that the University adhere to the Code of Practice. Compensatory awards may be made to an employee through an Employment Tribunal for non-compliance; resulting in cost, damage to reputation and image of the University.

3.0 Scope

- 3.1 The disciplinary policy applies to all employees in full or part-time employment, on permanent, fixed term contracts of employment (regardless of length of service). The policy does not constitute part of the contract of employment.
- 3.2 The University reserves the right to apply modified procedures during any probationary period in accordance with any probationary scheme in place at the time. Issues of conduct would be dealt with through probationary procedures during the probationary period.

4.0 Roles & Responsibilities

- 4.1 The Management team within the affected areas will be responsible for implementing the policy in a fair and consistent manner.
- 4.2 All employees will be responsible for engaging with and adhering to the policy and procedures.
- 4.3 Trade Unions will be party to for consulting on and engaging with this policy.
- 4.4 Human Resources Division will be responsible for ensuring compliance with this policy and procedure and providing guidance and direction.
- 4.5 All parties will be expected to apply the policy correctly, in instances where this is proven not to be the case investigations will be undertaken and appropriate consequences applied

5.0 Policy Statements

- 5.1 To ensure the effective management of its employees and services to students, the University operates a disciplinary policy.

- 5.2 The University's disciplinary policy is aimed to help and encourage employees to observe rules and maintain an effective standard of conduct. Wherever possible the University will seek to deal with issues on an informal basis, however, where an issue cannot be resolved informally then it may be pursued formally.
- 5.3 Certain instances of misconduct may include an employee development action to help with the achievement of the required standard of conduct e.g. misconduct relating to behaviour. The policy is to be used in cases of misconduct. For issues relating to poor performance please refer to the Performance Improvement Policy and Procedure.
- 5.4 The University of Salford is committed to professional management in all areas of its operation and to equitable, fair and consistent application of the policy in all instances. It is the responsibility of all parties involved in its operation to behave in a fair, cooperative and responsible manner. The University will implement procedures that are fair, equitable and reasonable, whenever misconduct occurs.

Detail of Procedure

6.0 Informal Stage

- 6.1 Cases for minor misconduct are usually best dealt with informally on a one to one basis. This may take the form of an informal discussion, additional training, coaching or advice. If informal action does not bring about required improvement or the misconduct is more serious the University will take formal action.
- 6.2 The manager will communicate their concerns and the employee will be advised how conduct should be reviewed and monitored and over what period. An aide memoir should be agreed on the outcomes of the discussions and made available to both parties. The aide memoir will be kept on personal file held in Human Resources and should be retained for a period of six months.
- 6.3 Informal stages of the disciplinary process do not attract the right to be accompanied and HR and Trade Unions/employee representatives will not be present.

7.0 Investigation

- 7.1 Where a full investigation is required this will be carried out without unreasonable delay by a relevant Investigating Officer who is impartial, not directly involved in the allegations, appropriately trained, and dedicated to establishing the facts. Ordinarily, though depending on the circumstances, it will be necessary to hold an investigatory meeting with the employee.
- 7.2 An investigation is about establishing facts and does not in itself constitute disciplinary action and it does not follow that a disciplinary hearing or a sanction will follow.
- 7.3 An investigatory meeting does not attract a statutory right to be accompanied. However, the University will allow an individual to be accompanied on strict condition that:

- the representative does not speak for the employee and/or answer any questions on behalf of the employee
- the representative may address reasonable points of clarification to the Investigating Officer in relation to the investigation process
- that it does not prevent the Investigating Officer from gathering information and establishing the facts.
- the investigation is held within 5 days of the manager becoming aware of the issue. If the Trade Union representative/colleague is not available to attend the investigatory meeting within the 5 day limit then the investigation will go ahead without representation.

7.4 The Investigating Officer will conclude their findings in a report including all witness statements, evidence and minutes. The Hearing Manager will consider the report and determine whether the matter should progress to a disciplinary hearing. A copy of the report will be available to the employee and their representatives upon completion.

8.0 Suspension

8.1 Suspension is only carried out in the most exceptional of circumstances. It should only occur where the allegations may constitute gross misconduct; or where the employee's presence at work may hinder the investigation e.g. where there is reasonable grounds for concern that evidence has been tampered with, destroyed or in cases where witnesses are being intimidated; or where there are health and safety concerns and or where it would be difficult for the University to provide a duty of care to the member of staff and other staff and students.

8.2 The Deputy Vice Chancellor (or the designated PVC) or Registrar can only ordinarily make the decision to suspend. Where a situation arises 'out of hours', is an absolute emergency and is serious enough to warrant suspension then the manager should send the employee home immediately and then seek approval through the normal decision making channels to suspend the employee at the first available opportunity.

8.3 Where a period of suspension is agreed, this should be for a limited period and reviewed on a weekly basis by the HR professional. Authorisation to extend the period of suspension will be sought from the DVC (or designated PVC) or Registrar i.e. whoever gave the initial authorisation to suspend. Whilst on suspension the employee will receive full pay.

8.4 Wherever possible employees will not be suspended but investigations will be carried out whilst he/she remains in the workplace unless it is considered prejudicial to the smooth running of the investigation and other interventions may be put in place during the investigation.

8.5 Options other than suspension include working from home for a limited time i.e. initially a maximum of 4 weeks. If a longer period of time is required an extension will be sought

through the authorisation mechanism (mirroring the arrangements for suspension mentioned). Whilst working from home objectives and timescales will be agreed along with the expected outcomes. Alternatives to working from home include; change of work location; change of duties or a temporary variation to duties; increased management supervision.

- 8.6 Suspension itself is not a disciplinary sanction and does not imply pre-judgment. The suspension meeting does not attract the right to be accompanied.

9.0 Performance Issues

- 9.1 For issues relating to poor performance please refer to the Performance Improvement Policy and Procedure.

10.0 Disciplinary Procedure

- 10.1 Employees will not be dismissed for a first disciplinary offence, unless it is proven to be a case of gross misconduct, which is deemed sufficiently serious to warrant dismissal. A disciplinary hearing will be held if, following an investigation, there are reasonable grounds to believe an employee has carried out an act of misconduct.

11.0 Notification of Disciplinary Hearing

- 11.1 The employee will be notified of the disciplinary hearing in writing. This will include the detailed reasons for the hearing, the possible consequences and copies of any written evidence including Investigating Officer's report and witness statements that will be referred to at the hearing. Should the employee wish to submit evidence to the hearing manager the exchange of evidence should normally take place 5 days before the hearing is due to be held. The disciplinary hearing will be held without unreasonable delay whilst allowing the employee reasonable time to prepare.
- 11.2 The employee must take all reasonable steps to attend the disciplinary hearing. Where the employee's representative is unable to attend the initial hearing, the employee will be given the opportunity to reschedule the meeting within 5 working days so that another representative can be found. If there is a failure to attend the 2nd meeting the Hearing Manager and HR professional will take a decision whether to hold the hearing in the absence of the employee. The employee will be notified immediately in writing of any decision to hold the hearing in the employee's absence.
- 11.3 Where an employee is absent due to sickness and unable to attend the disciplinary hearing the individual will normally be required to meet the University Health and Wellbeing Advisor to assess whether the member of staff is fit to attend the hearing.

12.0 Right to be accompanied

- 12.1 Employees have a statutory right to be accompanied to a disciplinary or appeal hearing, if they so wish. The companion must be an employee within the University, a trade union

representative or an official employed by a trade union. In exceptional circumstances and with the mutual agreement and at the discretion of the hearing manager the employee may be allowed to bring a companion who is not a member of staff / Trade Union official i.e. a family member where this will help to overcome difficulties.

12.2 The companion is allowed to make representations and ask questions on behalf of the employee. The member of staff may confer privately with his/her companion at any time during meetings. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

12.3 Representatives of the Human Resources Division will attend meetings at each formal stage to assist the relevant manager in the process and to ensure compliance with the policy. A representative will also be present to record in writing what is discussed at the meetings.

13.0 Mediation

13.1 Only in exceptional cases may an independent third party or mediator help resolve disciplinary issues. Your HR professional will advise when this approach may be appropriate e.g. bullying and harassment.

14.0 The Hearing (Disciplinary/Appeal Hearings)

14.1 The hearing will consist of a manager who is more senior than the employee, has undertaken appropriate training and has had no prior involvement in the investigation. The hearing manager will be accompanied at all stages of the process by an HR professional.

15.0 The Disciplinary Hearing

15.1 The hearing manager will ensure that a fair and equitable hearing is held and that details of the case remain confidential. Account will be taken of all information including witness statements.

15.2 The employee and companion will be given all details of the complaint(s) against them and will have sight of evidence that has been gathered. The employee will have the opportunity to set out their case and answer allegations that have been made. The employee / TU rep or companion will be given reasonable opportunity to ask questions and present evidence. The employee will be expected to answer direct questions, the TU representative / companion should not answer on their behalf

15.3 Both the hearing manager and employee can call witnesses and advance notice should be given to the other party via HR. Should the employee wish to call witnesses to the disciplinary hearing it is their responsibility to contact the witnesses concerned and to advise the HR representative 5 days in advance of the hearing.

15.4 Where it is evident that further investigation is required, or where a key witness is not available the Hearing Manager should adjourn the hearing. Where significant new evidence is introduced through the hearing the Hearing Manager and employee will jointly agree a

period of adjournment. Any further evidence gathered during adjournment, and to be considered in the proceedings will be given to the employee prior to reconvening and with reasonable notice.

- 15.5 The HR representative will ensure that the Hearing Manager complies with the Disciplinary Hearing Checklist

16.0 Decision & Disciplinary Sanctions

- 16.1 The Hearing Manager will make a decision as soon as possible after the hearing and confirm the outcome and the right of appeal in writing to the employee without unreasonable delay. This confirmation will include the reasons and implications of the decision. Where allegations are dismissed this will also be confirmed in writing.

16.2 First Written Warning:

Where all informal channels have been exhausted or where misconduct is confirmed, but is not sufficiently serious to merit a final written warning, it is usual to give the employee a written warning. The first written warning will expire normally after 12 months.

16.3 Final Written Warning:

If an employee's first misconduct is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation. Where the employee has a current first written warning and a further act of misconduct occurs within a set period of time it will normally result in a final written warning. The final written warning will normally expire in 12 months.

17.0 Cyclical trends

- 17.1 There may be exceptional cases where an employee's conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern of conduct emerges, the employee's disciplinary record should be borne in mind in deciding what disciplinary action should be taken in terms of leniency and giving someone the benefit of doubt. For example. A decision to dismiss an employee should not be based on an expired warning but may be the reason why the University did not impose a lesser sanction.

- 17.2 Patterned misconduct will be taken into account will be used in determining how long a warning will last and may result in a warning being extended beyond the normal 12 month period specified in this policy e.g. for 18 months

- 17.3 A first or final warning should set out the nature of the misconduct and the change in conduct that is required within a set timescale. The employee should be advised how long the warning will remain current and the consequences of further misconduct or failure to improve performance, within the set period following the warning.

18.0 Dismissal

- 18.1 Acts of gross misconduct are likely to result in dismissal. Some acts of gross misconduct are so serious in themselves or have such serious consequences that they may call for summary dismissal without notice for a first offence.
- 18.2 Where an employee has a current final written warning, further misconduct or failure to improve conduct within a set period following the warning may result in dismissal.
- 18.3 The employee should be informed as soon as possible of the reasons for the dismissal; the date on which the employment contract will end, the appropriate period of notice and/or payment in lieu of notice (if applicable) and their right of appeal.
- 18.4 As an alternative to dismissal, a proposal of a lesser sanction may be put to the employee which may include where appropriate:
- Down grading (without pay protection)
 - A period of suspension without pay

19.0 Appeal

- 19.1 Employees have the right to appeal against a disciplinary decision. The employee should appeal in writing to the Executive Director of Human Resources within 10 days of receiving the letter confirming the decision and state in writing full reasons for the appeal.
- 19.2 The appeal will be heard without unreasonable delay normally within 10 working days of receiving the letter of appeal. The hearing will consist of a Hearing Manager who was not involved in the original hearing or decision. This manager should be more senior to the manager who took the original decision – however, where this not practicable, the manager must be the same level of seniority as the original decision maker. Employees have the right to be accompanied at an appeal hearing.
- 19.3 Employees will be advised of the outcome as soon as possible, normally within 10 working days with the reasons detailed in writing. Employees will also be advised that the outcome of the appeal is final and no further recourse available.

20.0 Disciplinary Offences

- 20.1 The University shall regard the following as matters potentially justifying disciplinary action. The list is not exhaustive and is indicative only of the types of matters justifying the application of disciplinary procedures. Many of the examples of misconduct, if sufficiently serious, could be regarded as gross misconduct and lead to dismissal. The degree, seriousness and severity of the offence would determine whether the case is considered to be something which could be managed informally in the first instance or, subject to the conclusion of an investigation, needs to be considered within the formal stage of the Disciplinary Policy which could lead to summary dismissal for gross misconduct.

Examples of misconduct:

- inappropriate attitude/behaviour towards students, colleagues, and contacts external to the University
- personal appearance including none use of required work wear
- breaches of any policy, rules or regulations adopted by the University, any legal requirements or code of conduct placed upon the individual by virtue of his/her employment with the University;
- any actions or omissions bringing the University into disrepute or prejudicial to good order in the University;
- causing loss, damage or injury through negligence;
- breach of health and safety rules;
- breach of confidence e.g. unauthorized disclosure of information relating to an individual or the University;
- unauthorised absence, or unacceptable attendance or punctuality;
- insubordination, failure to follow management instructions;
- deliberate and/or damage to, or misuse of the University's property or name and reputation;

Examples of misconduct which may be considered as gross misconduct:

- theft or fraud;
- acts or threats of physical violence;
- acts of dishonesty e.g. misrepresentation of academic or professional qualifications, provision of inaccurate or misleading information in the initial application for employment
- breaches of academic or professional standards e.g. plagiarism, deliberate or reckless lack of fairness in carrying out marking examination papers and/or the assessment of students, research misconduct;
- deliberate and/or serious damage to, or misuse of the University's property or name and reputation;
- accessing of internet sites containing pornographic, offensive or obscene material;
- unlawful discrimination;
- bullying, harassment or offensive conduct, either physical, verbal or psychological;

- incapacity at work brought on by alcohol or drugs or any other substance abuse;
- any other act or omission that repudiates the contract of employment and/or leads to loss of trust and confidence in an employee, and or his/her ability to fulfil the duties for which he or she is employed;
- de-registration from a professional, statutory or regulatory body, where that registration is a condition of employment;
- Damage to the University by vexatious claims. This includes claims or allegations designed vexatiously to secure penalties under this procedure;
- Bribery; any act of bribery covered by the Bribery Act 2010.
- Serious instances of those examples listed under “misconduct”

21.0 Where an employee is dismissed and the University believes that the offence may constitute a criminal offence and/or breach the standards set by the individual’s professional body, the University will report the matter to the relevant organisation.

Miscellaneous

22.0 Confidentiality

22.1 Employees of the University who are tasked with managing disciplinary hearings and appeals should maintain total confidentiality and cases should not be discussed with anyone other than Human Resources and those employees who are involved.

23.0 Trade Union Representatives

23.1 Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed. Depending on the circumstances and after obtaining the employee’s agreement, it will also be necessary to inform the relevant Regional office of the relevant union.

24.0 Grievances During a Disciplinary Case

24.1 If the employee has concerns regarding the reasons for the disciplinary, the disciplinary process or any other issue then this will be dealt with as part of the disciplinary hearing. Concerns should be raised to the Hearing Manager who will consider the representations.

24.2 An employee may not raise a grievance purely because the University has decided to take disciplinary action against them. Where it is deemed necessary to hear the grievance both the disciplinary and grievance processes will run concurrently.

25.0 Employees who are also Students at the University

- 25.1 In the event that there is an issue with an employee's conduct as a student, this will be dealt with in accordance with the Student Disciplinary Procedure. If this process results in a penalty being imposed on the student, Governance Services Unit will inform the employee's manager as to what action has been taken. The manager, with the advice and support of Governance Services and Human resources, will decide whether or the employee's conduct, as student, warrants further investigation in accordance with this (employee) Disciplinary Policy.
- 25.2 In exceptional circumstances, disciplinary sanctions imposed through the (employee) Disciplinary Policy in relation to conduct as an employee may be referred to Governance Services Unit to consider whether or not it is appropriate to review this conduct as part of the Student Disciplinary Procedure.

26.0 Record Keeping

- 26.1 Written records from the disciplinary process will be kept and shared with the employee. Records will be treated as confidential and will be held in accordance with the Data Protection Act 1998. Some confidential monitoring of outcomes will also be recorded to evaluate the impact on the procedure upon University staff.

27.0 Criminal Convictions

- 27.1 Being charged with or convicted of a criminal offence does not automatically result in disciplinary action. However, where the charge or conviction is such as to affect, or be likely to affect the suitability of the employee for the position in which they are employed and will seriously undermine the University's trust and confidence in the employee, the disciplinary procedure may be applied.

28.0 Discrimination & Whistle Blowing

- 28.1 In any disciplinary proceedings where discrimination or whistle blowing is raised as an issue, advice should be sought from the HR Division in the first instance. Matters relating to whistleblowing will be directed to Governance Services.

29.0 Employees as Witnessed

- 29.1 Employees are expected to behave responsibly and co-operate fully with a disciplinary investigation and give evidence at an investigation, disciplinary or appeal hearing if so required by the University.
- 29.2 However, if there are genuine grounds for the employee being concerned about giving evidence the University will take steps to protect the individual e.g. the employee's identity will be kept confidential, or the seating arrangements for the hearing will be organised sensitively, written questions may be asked of the witness and written responses considered. In certain circumstances the Hearing Manager and HR professional may wish to

Speak to the witness privately to verify the statements e.g. where protection is required for witnesses.

- 29.3 Where any employee is involved with vexatious claims or where there is a failure to carry out a reasonable management instruction this may result in disciplinary action being taken against the individual concerned.

30.0 Annual Leave Entitlement

- 30.1 Where a disciplinary hearing is pending no annual leave entitlement will be approved. Where holidays have been booked in advance each situation will be reviewed on a case by case basis.

31.0 Other Complaints

- 31.1 From time to time complaints may be raised alleging misconduct by a member of staff under another University Policy e.g. the student complaints procedure, the whistle blowing policy or the data protection policy. Where an investigation is carried out under that procedure this may be used in disciplinary proceedings, where the outcome of that investigation shows a potential disciplinary offence has occurred and no further investigation under this policy is likely to be required.

32.0 ACAS

- 32.1 These guidelines have been developed in line with the ACAS statutory Code of Practice on discipline. Tribunals are legally required to take the ACAS Code of Practice into account when considering relevant cases. Tribunals will also be able to adjust any compensatory awards made in these cases by up to 25 per cent for unreasonable failure to comply with any provision in the Code. Conversely, if they feel an employee has unreasonably failed to follow the guidance set out in the code they can reduce any award made by up to 25 percent.

Related Documents and Other Policies

33.0 Related documents

- Managers Guidance
- Performance Improvement Policy & Procedure
- Performance Development Review Policy
- Review of Staff on Probation
- Grievance Policy
- Student Disciplinary Procedure

- Sickness absence Policy

Monitoring and Performance of Policy

34.0 Monitoring

- *Records:* All written records from the disciplinary process will be kept and shared with the employee. Records will be treated as confidential and will be held in accordance with the Data Protection Act 1998.
- *Monitoring application of the policy:* The policy will be monitored through the HR Division.
- *Training & Support for the Policy:* Managers and HR professionals will be provided with training on how to manage the policy.
- *Printed document control:* All printed versions of this document are classified as uncontrolled. A controlled version of this document is available from Human Resources or in the 'HR Documents' section of the Staff Channel. Questions on this process should be initially directed to HR Reception on 0161 295 2121 or HRAdvice@salford.ac.uk