

Disciplinary & Capability Procedure

APPROVED: 22/10/19

FOR REVIEW: October 2021

1 About this procedure

1.1 This procedure is intended to help maintain standards of conduct and performance and to ensure fairness and consistency when dealing with allegations of misconduct or poor performance.

1.2 Minor conduct or performance issues can usually be resolved informally with your line manager. This procedure sets out formal steps to be taken if the matter is more serious or cannot be resolved informally.

1.3 This procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors. It does not form part of any employee's contract of employment and we may amend it at any time.

2 Recorded Conversations

2.1 Recorded conversations are used for minor issues that emerge that cannot be resolved informally.

2.2 Recorded conversations should be written down and outline what the key issue or issues are. They will include how the issue can be resolved and any training or support required as well as any agreed steps to monitor the issue or issues that has emerged.

2.3 There is no obligation to undertake a recorded conversation before undertaking further steps of this procedure.

3 Investigations

3.1 Before any disciplinary hearing is held, the matter will be investigated. Any meetings and discussions as part of an investigation are solely for the purpose of fact-finding and no disciplinary action will be taken without a disciplinary hearing.

3.2 In some cases of alleged misconduct, we may need to suspend you from work while we carry out the investigation or disciplinary procedure (or both). While suspended, you should not visit our premises or contact any of our students, clients, customers, suppliers, contractors or staff, unless authorised to do so. Suspension is not considered to be disciplinary action.

4 The hearing

4.1 We will give you 7 days written notice of the hearing, including sufficient information about the alleged misconduct or poor performance and its possible consequences to enable you to prepare. You will normally be given copies of relevant documents and witness statements.

4.2 You may be accompanied at the hearing by someone. They may be a trade union representative or a colleague or someone else. If it is a Union colleague they will be allowed reasonable paid time off to act as your companion. Whoever accompanies you should keep the information discussed during such a hearing confidential. If it suspected confidential information has been disclosed, then further disciplinary action may be taken against you and it is your responsibility to ensure anyone who accompanies you is aware that they must keep the contents of the hearing confidential.

4.3 You should let us know as early as possible if there are any relevant witnesses you would like to attend the hearing or any documents or other evidence you wish to be considered.

4.4 We will inform you in writing of our decision, usually within one week of the hearing.

5 Disciplinary action and dismissal

5.1 The usual penalties for misconduct or poor performance are:

5.1.1 Stage 1: First written warning. Where there are no other active written warnings on your disciplinary record, you will usually receive a first written warning. It will usually remain active for six months.

5.1.2 Stage 2: Final written warning. In case of further misconduct or failure to improve where there is an active first written warning on your record, you will usually receive a final written warning. This may also be used without a first written warning for serious cases of misconduct or poor performance. The warning will usually remain active for 12 months.

5.1.3 Stage 3: Dismissal or other action. You may be dismissed for further misconduct or failure to improve where there is an active final written warning on your record, or for any act of gross misconduct. Examples of gross misconduct are given below (Paragraph 6). You may also be dismissed without a warning for any act of misconduct or unsatisfactory performance during your probationary period.

We may consider other sanctions short of dismissal, including demotion or redeployment to another role (where permitted by your contract), and/or extension of a final written warning with a further review period.

6 Appeals

6.1 You may appeal in writing within one week of being told of the decision.

6.2 The appeal hearing will, where possible, be held by someone senior to the person who held the original hearing. You may bring a colleague or trade union representative with you to the appeal hearing.

6.3 We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. There is no further right of appeal.

7 Gross misconduct

7.1 Gross misconduct will usually result in dismissal without warning, with no notice or payment in lieu of notice (summary dismissal).

7.2 The following are examples of matters that are normally regarded as gross misconduct:

- 7.2.1 Theft or fraud;
- 7.2.2 Physical violence or bullying;
- 7.2.3 Deliberate and serious damage to property;
- 7.2.4 Serious misuse of the organisation's property or name;
- 7.2.5 Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- 7.2.6 Serious insubordination;
- 7.2.7 Unlawful discrimination or harassment;
- 7.2.8 Bringing the organization into serious disrepute;
- 7.2.9 Serious incapability at work brought on by alcohol or illegal drugs;
- 7.2.10 Causing loss, damage or injury through serious negligence;
- 7.2.11 A serious breach of health and safety rules;
- 7.2.12 A serious breach of confidence.

This list is intended as a guide and is not exhaustive