

# DISCIPLINARY PROCEDURE

## 1 INTRODUCTION

The University of Aberdeen expects a professional and consistent standard of conduct and performance from all members of staff.

This procedure aims to encourage you to achieve and maintain acceptable standards of conduct and performance by providing a clear framework within which any instances of alleged failure to meet such standards will be addressed in a constructive, fair and equitable manner. It also aims to ensure that a positive and consistent approach to performance and disciplinary issues is adopted at all times across the University.

The University is committed to ensuring that you receive appropriate support and guidance to enable you to work effectively.

## 2 SCOPE

The Disciplinary Procedure applies to all staff employed by the University of Aberdeen and in all instances where formal disciplinary action is regarded as necessary.

Certain members of staff may be afforded additional protections under the Ordinance of the University Court of the University of Aberdeen No. 142 [Employment] and in line with the Further and Higher Education (Scotland) Act 2005. These individuals are referred to as "Relevant Persons" within this Procedure. \*

## 3 GENERAL PRINCIPLES

- At every stage of the Procedure, you will be advised of the nature of the complaint(s) made against you and be given the opportunity to state your case before any decision is made.
- No disciplinary penalty will be awarded until the allegations have been fully investigated.
- Each step and action under the Procedure will be undertaken as quickly as practicable and without unreasonable delay.
- Decisions on disciplinary matters will be taken as quickly as practicable and at the lowest managerial level within the University. No disciplinary action will be taken against a Relevant Person without the involvement of another Relevant Person in the Disciplinary Procedure.
- You have a right to appeal against the award of any disciplinary penalty.
- You are entitled to reasonable preparation time ahead of being required to attend an investigation, disciplinary or appeal meeting.
- Where appropriate, parties may seek to resolve issues on an informal basis, which may include the option of seeking resolution through a process of mediation or facilitated meeting(s).
- You will have the right to be accompanied by a work colleague or Trade Union representative at any formal investigation, disciplinary or appeal meeting and a Human Resources Adviser will be in attendance in the role of clerk.

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\* Footnote

In accordance with the Further and Higher Education (Scotland) Act 2005, the following definitions apply in relation to this Procedure:

*Relevant Persons* are those who are engaged in teaching and/or the provision of learning and/or research at the University of Aberdeen.

*Academic freedom* includes freedom (within the law) for Relevant Persons to:-

- a) Hold and express opinion;
- b) Question and test established ideas and received wisdom; and
- c) Present controversial or unpopular points of view

- You must take all reasonable steps to attend any meetings which you are required to attend. If you fail to attend a Disciplinary, Dismissal or Appeal Hearing, you will be provided with a final invitation to attend a second Hearing. If you do not attend the second Hearing, consideration will be given to reaching a decision in your absence on the evidence available.
- If new information emerges during the course of the investigation or Hearing stages, it may be necessary to adjourn pending further investigation. You will be afforded the opportunity to respond separately to any additional allegation(s) that may arise in line with the timescales specified in Section 7 of the procedure.
- Disciplinary penalties will be considered spent after the time specified or as otherwise notified to you at the time of the warning being given and will be held within the Human Resources Office in accordance with the University's records retention schedule.
- All written records, including documentary evidence and witness statements, will be classified as confidential in line with current legislation and held within the Human Resources Office in accordance with the University's records retention schedule.
- If you are a Trade Union Representative and you are being investigated under this procedure you will be advised that your Full Time Union Official will be contacted to inform them of the situation.

#### **4 OVERLAPPING DISCIPLINARY AND GRIEVANCE CASES**

If a grievance is raised during a disciplinary process, consideration will be given as to how the complaint will be taken forward, taking the individual circumstances of the case into account. The disciplinary process may be temporarily suspended in order to deal with the grievance.

#### **5 DISCRETIONARY LEAVE**

Sometimes, situations can arise which need to be addressed quickly and which may result in you being asked or requesting to stop work and go home for a period of time. Such situations may include times when you are very distressed about an incident, your Line Manager becomes seriously concerned about your welfare should you remain in the workplace, or if you are finding it difficult to cope at work in the period preceding an investigation.

Such action is not counted as suspension, sick leave or annual leave. There is no inference of guilt as a result of you being absent from work at this time and, therefore, normal remuneration will be maintained.

#### **6 SUSPENSION**

You may be suspended from work by your Head of School/Section at any stage of the Procedure while the University investigates the alleged matter. Suspension may be appropriate in the following circumstances:

- where your Head of School/Section considers that your continuation at work may be prejudicial to the ongoing investigation and/or detrimental to the work of your School/Section, students or to University property
- where the health and safety of yourself or others may be adversely affected by your continuation at work

You will be suspended for no longer than 4 weeks in the first instance, during which period the investigation will be taken forward. The period of suspension will be kept under review and you will be notified if an extension becomes necessary to enable the investigation to be concluded.

Suspension is intended to facilitate the investigation process and is not a punitive action. There is no inference of guilt as a result of suspension and, therefore, normal remuneration will be maintained.

#### **7 DISCIPLINARY PROCEDURE**

The Disciplinary Procedure comprises an Informal and a Formal Procedure.

## **7.1 Informal Disciplinary Procedure**

Where minor instances of misconduct or initial concerns about performance are identified by your Line Manager, it is the normal expectation that they will be dealt with informally.

Examples of such situations may include:

- Poor time keeping
- Non-compliance with reporting procedures for absence from work
- Mildly inappropriate comments or behaviour at work
- Minor breaches of existing University policies or procedures

Where appropriate, your Line Manager will informally investigate the concerns and this may include them speaking with appropriate individuals to ascertain the background to the situation.

Once your Line Manager is in possession of the relevant information, the concerns will normally be addressed through a discussion between yourself and your Line Manager, with the objective of encouraging or helping you to improve. This may include the identification of any support mechanisms which may be required e.g. training, coaching, work shadowing etc. Where appropriate, the use of mediation and/or other facilitated meetings will be considered. In addition, there may be circumstances where other University policies and procedures may be appropriate.

Your Line Manager will advise you of the standards expected and you will be notified that if there is no improvement or if any improvement is not sustained, formal action may be taken.

## **7.2 Formal Disciplinary Procedure**

The formal Disciplinary Procedure will be used when:

- informal support mechanisms have failed to bring about a demonstrable improvement in the standards expected
- persistent minor faults have been identified
- a serious issue of conduct or performance is identified

There are 3 stages within the formal Disciplinary Procedure:

- Stage 1 - Investigation
- Stage 2 - Hearing
- Stage 3 - Appeal

### **Stage 1- Investigation**

Investigations which are conducted under the formal Disciplinary Procedure will be carried out thoroughly, in strictest confidence and as quickly as practicable given the circumstances of the case.

#### **Investigating Officer**

An Investigating Officer will be appointed to undertake the investigation. S/he will normally be your immediate line manager. However, if the individual identified believes that this would result in a conflict of interest, the Head of School/Section (or Senior Vice Principal/University Secretary if the potential conflict involves the Head of School/Section) will nominate an alternative Investigating Officer.

For investigations under the University Fraud Policy the Fraud Investigation Group will appoint an Investigating Officer who will report back to them.

#### **Investigatory Meeting**

You will be required to attend an investigatory meeting with the Investigating Officer and you will be provided with an opportunity to respond fully to the allegations made against you. You will be provided

with a written statement outlining the allegation(s) made against you, accompanied by any supporting documentation (if available) prior to the meeting taking place.

You must take all reasonable steps to attend this meeting. If you or your companion cannot attend at the time specified, you should immediately inform the Investigating Officer in writing and reasonable efforts will be made to agree an alternative time.

### **Investigating Officer's Decision**

You will be advised of the Investigating Officer's decision in writing as quickly as practicable. Should the Investigating Officer decide that no further action is required, you will be advised that the matter has been concluded. The Investigating Officer may make recommendations and/or provide suggestions in relation to working practices or training and development if s/he deems it appropriate.

If, following careful consideration of all the evidence, the Investigating Officer decides that the matter should be progressed further, a Hearing will take place (Stage 2).

In cases involving fraud the Fraud Investigation Group will decide whether the matter should be progressed further and a Hearing should take place (Stage 2).

### **Stage 2 – Hearing**

If the matter is not concluded after the Investigation (Stage 1), you will be required to attend a formal Hearing. The purpose of the Hearing will be to review the outcome of the disciplinary investigation and to consider whether the application of any disciplinary penalty would be appropriate.

You will normally be provided with 3 working days' notice of the date of the Hearing.

You will be advised of the outcome of the Hearing in writing, normally within 3 working days of it taking place.

#### *Disciplinary Hearing (Action Short of Dismissal)*

Disciplinary Hearings to consider recommendations for further action falling short of dismissal will normally be heard by an individual at the next higher managerial level within the management structure to the Investigating Officer. Disciplinary cases involving Relevant Persons will be heard by another Relevant Person at an appropriate level within the University. This individual will not have been subject to or otherwise connected with the ongoing disciplinary proceedings.

#### *Dismissal Hearing*

Hearings to consider recommendations for dismissal will normally be heard by an individual at the next higher managerial level within the management structure to the Investigating Officer and at least one other individual at an equivalent level within the University. Neither individual will have been subject to or otherwise connected with the ongoing disciplinary proceedings.

Dismissal Hearings involving a Relevant Person will be heard by the Head of School/Section and at least one other Relevant Person who has not been subject to or otherwise connected with the ongoing disciplinary proceedings.

#### **Witnesses**

Both you and the Investigating Officer will have the right to call witnesses to attend Dismissal Hearings. Similarly, the convener may, in the light of the report received from the individual who heard the case, request witnesses to attend the hearing to provide further clarification on any issues. If witnesses are to be called, the papers circulated in advance of the hearing will include their names and their witness statements taken during the investigation process.

### **Stage 3 - Appeal**

You are entitled to appeal against any disciplinary penalty issued (up to and including dismissal). Notification of an intention to appeal must be made in writing within 5 working days from the date of the penalty. The detailed grounds of the appeal should normally be lodged within 10 working days from the date of the original intimation of intention to appeal. Appeal hearings shall be heard as expeditiously as possible and, for dismissal, wherever possible within the contractual notice period (if any notice period is applicable).

All appeals will be held in line with the University's Procedure for Hearing an Appeal which is available

at: <https://www.abdn.ac.uk/staffnet/documents/policy-zone-employment/AppealProcedure.pdf>

#### **Appeals Against Penalties Short of Dismissal**

The appeal will be heard by an individual in the next appropriate level of management structure. Appeals against disciplinary penalties applied against Relevant Persons will be heard by another Relevant Person at an appropriate level within the University. This individual will not have been involved previously in the disciplinary case.

The Appeal Hearing need not take place before the penalty takes effect and the level of any disciplinary penalty imposed will also be reviewed.

#### **Appeals Against Dismissal**

Appeals against dismissal from members of staff who are not Relevant Persons will be heard by the individual in the next appropriate level of management structure not previously involved in the disciplinary case.

If a Relevant Person wishes to appeal against their dismissal, the appeal will be heard by a person not employed by the University and who has had no previous involvement in the case. This person will be selected by the Principal (or a member of staff nominated by the Principal) from a panel constituted by agreement with the recognised Campus Trades Union. The panel is detailed in the Policy and Procedure for Hearing an Appeal.

If the appeal is upheld, the dismissal will be deemed not to have taken place. In the case where an appeal is upheld but the dismissal has already been actioned, the member of staff will be reinstated with full continuity of service, (including National Insurance and superannuation contributions), as if the dismissal had never taken place.

## **8 DISCIPLINARY PENALTIES**

The following penalties may be issued upon the conclusion of the formal Disciplinary Procedure. In addition, consideration may also be given to other consequences being applied upon the conclusion of the case e.g. transfer to another School/Section to facilitate the restoration of working relationships.

### **8.1 Penalties Short of Dismissal**

Oral Warning –	Held on record – 6 months
Written Warning –	Held on record – 12 months
Final Warning –	Held on record – 12 months

#### **Oral Warning**

An Oral Warning will be issued for minor offences or as a result of failure to heed informal warnings and will be held on record and considered spent after 6 months (unless otherwise notified to you at the time of the warning being given), subject to satisfactory conduct and performance.

The Warning will detail:

- the reason for it being given,

- the improvement required and
- the timescale within which improvement is expected.

You will also be advised that if there is no satisfactory improvement in your conduct or performance, you may be subject to further disciplinary action which could include a more serious disciplinary penalty. You will be advised that it is the first stage of the Disciplinary Procedure and of your right of appeal.

### Written Warning

A Written Warning will be issued for more serious offences or as a result of failure to heed an Oral Warning and will be held on record and considered spent after 12 months (unless otherwise notified to you at the time of the warning being given), subject to satisfactory conduct and performance.

The Warning will detail:

- the reason for it being given,
- the improvement required and
- the timescale within which improvement is expected.

You will also be advised that if there is no satisfactory improvement in your conduct or performance, you may be subject to further disciplinary action which could include a more serious disciplinary penalty. You will be advised that it is the second stage of the Disciplinary Procedure and of your right of appeal.

### Final Warning

A Final Warning may be issued in the following circumstances:

- in more serious cases of poor performance or conduct;
- in the case of persistent minor faults;
- as a result of failure to observe a Written Warning;
- if the misconduct is judged sufficiently serious

A Final Warning will be held on record and considered spent after 12 months (unless otherwise notified to you at the time of the warning being given), subject to satisfactory conduct and performance.

The Warning will detail:

- the reason for it being given,
- the improvement required and
- the timescale within which improvement is expected.

You will also be advised that dismissal will result if there is no satisfactory improvement and of your right of appeal.

In circumstances where a Final Written Warning is applied, your Head of School/Section may also give consideration to imposing some other disciplinary penalty, should the circumstances warrant this. This could include:

- demotion
- loss of salary
- loss of annual increment

## **8.2 Dismissal**

You may be dismissed if:

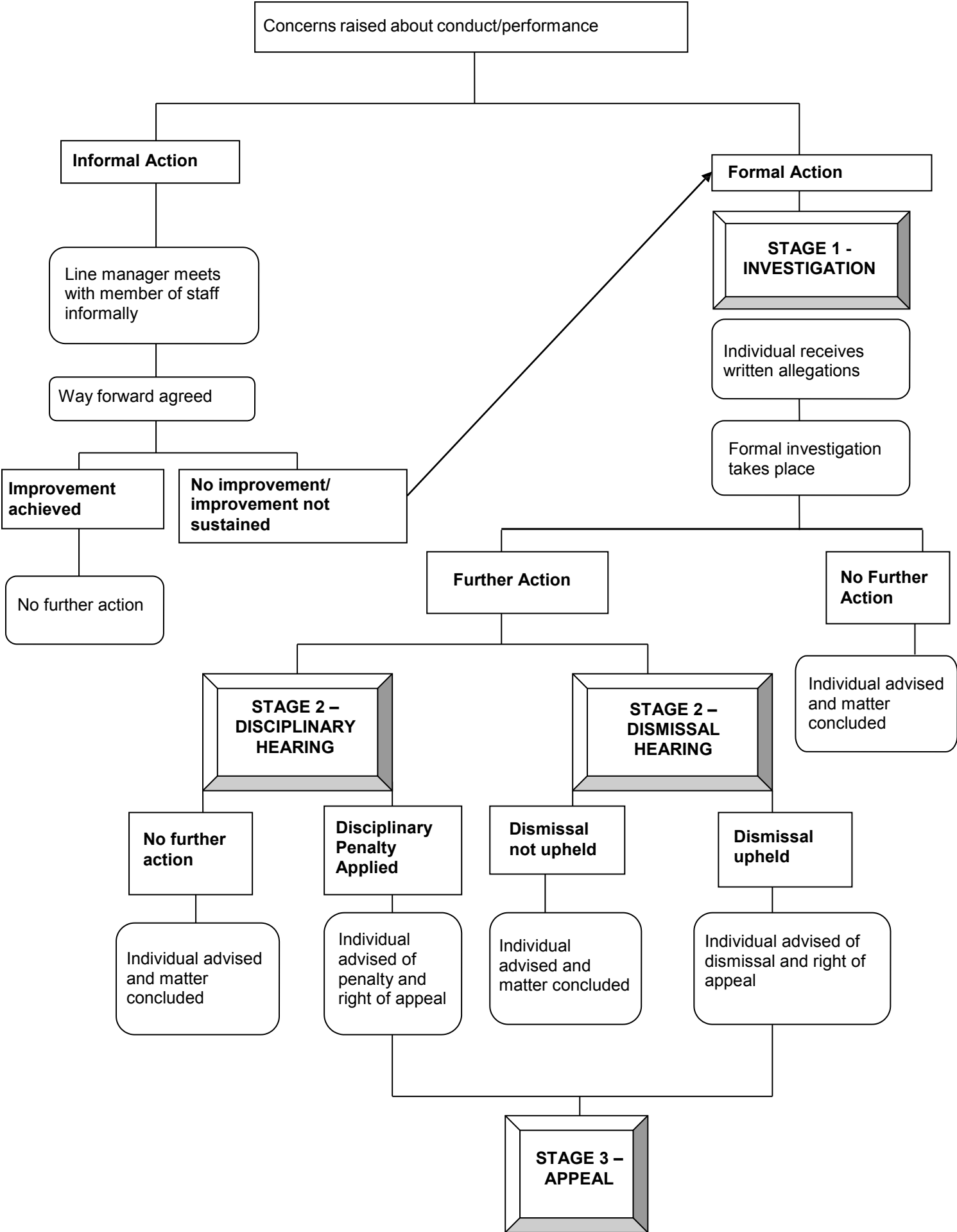
- there is no satisfactory improvement following a Final Warning;
- your conduct is deemed gross misconduct or gross negligence (see Appendix B).

You will not be dismissed for a first breach of discipline except in the case of gross misconduct or gross negligence. If, on completion of the investigation and hearing processes as outlined in the

Procedure, the University is satisfied that gross misconduct or gross negligence has occurred, you will be summarily dismissed without notice or payment in lieu of notice. You will be advised of the reasons for your dismissal and of your right of appeal.

Approved by the University Court on 27 March 2012  
Revised for College restructure July 2017

**DISCIPLINARY PROCEDURE FLOWCHART**





## **GROSS MISCONDUCT**

Gross misconduct occurs where an individual's actions and/or behaviour are deemed serious enough on their own to justify a member of staff's immediate dismissal.

Examples of gross misconduct include, but are not limited to (it should be noted that this list is provided for illustrative purposes only and is not intended to be exhaustive):

- Theft, fraud or misappropriation of University property
- Physical violence or assault on another person (either actual or threatened)
- Deliberate and serious damage to University property
- Inappropriate access to and/or use of the internet, email or other University IT facilities
- A serious breach of health and safety regulations
- A serious breach of any University policy or procedure
- Serious breach of confidence and/or contract
- Serious incapability at work due to being under the influence of alcohol or illegal drugs
- Criminal activity which impacts upon your ability to perform your duties and/or brings the University into disrepute.
- Dishonesty or falsification of documents, including Research Misconduct
- Wilful damage to University property or property belonging to a member of staff, student, supplier or other visitor
- Bullying and/or harassment and all other forms of discriminatory behaviour towards a member of staff, student or member of the public including any discriminatory actions based on race, gender, sexual orientation, religious belief, disability or age
- Unauthorised disclosure or private use of personal data held by the University relating to staff, students, suppliers or other persons associated with the University
- Serious insubordination
- Causing loss, damage or injury through serious negligence
- Receiving a bribe or acting in contravention of the Bribery Act 2010

## **GROSS NEGLIGENCE**

Gross negligence occurs as a result of an error on the part of an individual or individuals due to negligence and the actual or potential consequences of that error are, or could be, serious.

Examples of gross negligence include (it should be noted that this list is provided for illustrative purposes only and is not intended to be exhaustive):

- Serious negligence which causes or has the potential to cause unacceptable loss, damage or injury to other members of staff and/or students and/or third parties
- Failing to secure University property, systems or information
- Failing to follow health and safety procedures to the potential and/or actual detriment of other members of staff and/or students and/or third parties

<b>Title</b>	Disciplinary Procedure
<b>Author / Creator</b>	HR
<b>Owner</b>	Director of People
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<b>Version</b>	2
<b>Date for Next Review</b>	Sept 2021
<b>Audience</b>	All Staff
<b>Related</b>	Appeal Procedure, Grievance
<b>Subject / Description</b>	Provides a clear framework within which any instances of alleged failure to meet acceptable standards of conduct and performance will be addressed in a constructive, fair and equitable manner
<b>Equality Impact Assessment</b>	
<b>Section</b>	HR
<b>Theme</b>	Employment
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