

# University of Aberdeen

## Disciplinary Procedure

### 1. Purpose

1.1 The University of Aberdeen expects a professional and consistent standard of conduct, behaviour, and attendance from all members of staff. This Procedure determines the process to be followed when there is an alleged failure to meet such standards.

### 2. Aim

2.1 The aim of the Procedure is to encourage and maintain positive staff behaviour and to protect the safety and wellbeing of staff by setting out a clear framework under which any instances of alleged failure to meet the required standards are addressed in a constructive, fair and equitable manner.

### 3. Scope

3.1 The Disciplinary Procedure applies to all staff employed by the University and in all instances where formal disciplinary action is regarded as necessary. This Procedure also applies to Honorary and Emeritus staff at the University.

3.2 Some staff may be afforded additional protections under the Ordinance of the University Court of the University of Aberdeen No. 142 [Employment] 7 December 2010 and in line with the Further and Higher Education (Scotland) Act 2005. These staff members are referred to as “Relevant Persons” within this Procedure.<sup>1</sup>

### 4. Principles

4.1 The University is committed to caring for the wellbeing, health, and safety of its diverse community, supporting and developing people to achieve their full potential. The following Principles outline the University’s approach to this commitment in this Procedure.

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<sup>1</sup> 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.

4.2 This Procedure will be applied consistently, promptly, impartially, and reasonably to ensure fairness.

4.3 No disciplinary penalty will be awarded against an employee until the allegations have been fully investigated. The process for investigation is defined in the Investigation Procedure <https://www.abdn.ac.uk/staffnet/governance/search-policy-zone-399.php>.

4.4 All parties involved in a disciplinary process have an obligation to maintain confidentiality. Breaches of confidentiality will be taken seriously and may result in disciplinary action.

4.5 The University will not make electronic or digital recordings of meetings or telephone calls without all-party consent. Normally, a minute will be taken to summarise the key points. This minute is not intended to be a verbatim record.

4.6 At every stage of the Procedure, the Member of Staff Under Investigation will be advised of the nature of the allegation against them and will be given the opportunity to state their case before a decision is made as to whether a disciplinary penalty is applied.

4.7 A Member of Staff Under Investigation may be accompanied to any investigation meeting or hearing by a work colleague or Trade Union Representative, at every stage of the investigation and formal process. The Member of Staff Under Investigation must notify the panel of their representative prior to a meeting.

## **5. Disciplinary Procedure – The Process**

5.1 The Disciplinary Procedure comprises an Informal and a Formal stage and process.

5.2 Each step and action in the Informal and Formal process will be undertaken as quickly as practicable. The HRR (Human Resources Representative) will provide regular updates to The Member of Staff Under Investigation.

## **6. Informal Disciplinary Process**

6.1 Where minor instances of misconduct or initial concerns about performance are identified, it is the expectation that they will be dealt with informally, normally by the Line Manager. Examples may include:

- poor timekeeping.
- not following reporting procedures for absence.
- minor breaches of University policies or procedures.

6.2 Normally a Line Manager will review concerns which may include speaking with appropriate individuals to ascertain the background to the situation. If further action

is required following this initial review, a Line Manager will normally address concerns via discussion with the staff member, advising them of the standards expected with the objective of facilitating improvement. This may include identifying support mechanisms such as training; coaching; work shadowing; or the use of mediation and/or facilitated meetings. On occasion, invoking other University policies and procedures (such as the Capability Procedure) may be appropriate.

6.3 If there is no improvement, if improvement is not sustained, or if the alleged misconduct is more serious or persistent, formal action may be taken.

## **7. Formal Disciplinary Process**

7. 1.1 Where informal action does not lead to improved behaviour, or where the alleged misconduct is more serious or where persistent incidents have been identified, the formal process should be initiated.

7.1.2. For a definition of what could constitute misconduct and examples of potential offences of gross misconduct, which could lead to formal action please refer to the Disciplinary Guidance document.

7.1.3 There are 3 stages within the formal disciplinary process:

### **7.2 Stage 1 – Investigation**

7.2.1 An investigation under the Investigation Procedure will be undertaken in the first instance to ascertain the facts of the case.

7.2.2 The Line Manager in discussion with the HRR should determine in advance who will be the Commissioning Officer and Investigating Officer. The Investigating Officer will be responsible for producing an Investigation Report which will indicate if the matter should be taken forward through the Disciplinary Procedure and attend a Disciplinary Hearing.

### **7.3 Stage 2 - Disciplinary Hearing**

7.3.1 Where, following receipt of an investigation report, the Commissioning Officer decides that there is a case to answer, with the support of an HRR they should appoint a Hearing Officer, and establish a Disciplinary Hearing to consider the recommendations of the Investigation Report and whether the application of any disciplinary penalty or other action would be appropriate.

7.3.2 Where possible a Disciplinary Hearing will normally be heard by an individual at the same level (or next highest 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 nor otherwise involved with the ongoing disciplinary proceedings.

7.3.3 Where an Investigation Report has recommended that disciplinary action up to and including dismissal should be considered, where possible the Disciplinary Hearing will normally be heard by an individual at the same level (or next highest 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 nor otherwise involved with the ongoing disciplinary proceedings.

7.3.4 Where consideration of disciplinary action up to and including dismissal involves a Relevant Person the Disciplinary Hearing will usually be heard by the Head of School/Director of Section and at least one other Relevant Person who has not been subject to or otherwise connected with the ongoing disciplinary proceedings.

7.3.5 All Disciplinary Hearings will be supported by an HRR who will normally take a minute of the meeting and provide guidance on the process. Minutes are not intended to be a verbatim record.

7.3.6 Members of Staff Under Investigation will usually receive the outcome of the Hearing within three working days.

7.3.7 Disciplinary penalties will be considered spent after the time specified or as otherwise notified at the time of the warning or other penalty being given.

### **7.3.8 Outcomes of Disciplinary Hearings**

On the conclusion of the formal Disciplinary process the possible outcomes of the Disciplinary Hearing will be one of the following:

- No disciplinary action
- Verbal Warning – (verbal warning will be confirmed in writing)
- First Written Warning
- Final Written Warning
- Other Action Short of Dismissal
- Dismissal
  - With notice
  - Without notice

Further information on these outcomes is provided in Guidance Document 5 Outcomes of Disciplinary Hearings.

The role of the HRR is to advise on procedure, custom and practice and precedent. Whilst a Hearing Officer may seek advice from the HRR, the conclusions on whether a disciplinary penalty will be applied or not will be their own.

## **7.4 Stage 3 - Appeal**

7.4.1 Members of Staff Under Investigation are entitled to appeal against any disciplinary penalty issued (up to and including dismissal). Notification of an intention to appeal, together with the detailed grounds of appeal must be made in writing within ten working days from the date of issue of the decision of the Disciplinary Hearing.

7.4.2 In the case of dismissal with notice, the Appeal Hearing should be heard, wherever possible within the contractual notice period applicable from the date of the dismissal.

## **8. Overlap with Other Procedures**

8.1 It is recognised that other University policies or procedures may be invoked while the Disciplinary Procedure is in process.

8.2 Where a Member of Staff raises a grievance during a disciplinary process, consideration will be given as to how the complaint will be addressed, considering the specific circumstances of the grievance raised. In some cases, the grievance may be dealt with as part of the disciplinary process, or the process may be temporarily suspended or both issues will be dealt with concurrently.

## **9. Discretionary Leave and Suspension**

9.1 Sometimes, situations can arise which need to be addressed quickly and which may result in staff being asked or requesting to stop work and go home for a period. Such situations may include, but are not limited to, times when a staff member is very distressed about an incident, their Line Manager becomes seriously concerned about their welfare should they remain in the workplace, or if the staff member is finding it difficult to cope at work in the period preceding a hearing. Such action is not counted as suspension, sick leave or annual leave.

9.2 Suspension is intended to facilitate the investigation and disciplinary process and is not a punitive action. There is no inference of guilt as a result of suspension and normal remuneration will be maintained. Appropriate support for the staff members health and wellbeing will be provided as necessary.

9.3 Members of Staff Under investigation may be suspended from work by the Commissioning Officer (or other appropriate individual) at any stage of the Investigation or Disciplinary Procedures while the University considers the alleged matter. Suspension may be appropriate in the following circumstances:

- where the Head of School/Section or the Commissioning Officer (or other appropriate individual) considers that continuation at work may be prejudicial to the

ongoing investigation and any Disciplinary Hearing and/or detrimental to the work of the School/Section, students or University property

- where the health and safety of the Member of Staff or others may be adversely affected by continuation at work
- the Member of Staff Under Investigation is the subject of criminal proceedings

9.4 Suspension is for no longer than 4 weeks in the first instance, ideally during which time the investigation will be undertaken. The period of suspension will be kept under review and staff will be notified if an extension is necessary to complete the investigation or if the suspension can be ended early.

9.5 If appropriate to the circumstances, as an alternative to suspension consideration will be given to reallocation to a different team or workplace location.

9.6 During suspension an individual's access to University buildings, emails and shared drives may be removed. If this is the case, it will be confirmed by the Commissioning Officer or other appropriate person.

9.7 Any individual who is suspended will be assigned a named contact for the period of suspension, who will keep them updated with the during the investigation or disciplinary process.

## **10. Criminal charges or convictions**

10.1 If a member of staff has been charged or convicted of a criminal offence, they must tell the University as soon as possible. The University will not automatically make a decision about their employment. An investigation will be carried out (please refer to Investigation Procedure) and, if appropriate, a Disciplinary Hearing will be arranged. Any decision to impose a sanction, including ending employment, will be based on the nature of the criminal offence and/or its impact in relation to the staff member's role and/or on the University's reputation.

## **11. Staff Support and Wellbeing**

11.1 The University recognises that involvement in an investigation can be stressful for all parties. It is important to consider the wellbeing and mental health of all staff involved. The Investigating Officer and HRR should be mindful of this throughout the process and if they have concerns these should be raised appropriately. If staff members have concerns, they can raise these with the Investigating Officer and/or HRR.

11.2 Please refer to the Disciplinary Guidance document for the most up to date information on sources of support available to members of staff.

## **12. Equality Act 2010 Considerations**

If a staff member has requirements at any stage of the procedures related to a disability or any other protected characteristic or wishes to inform the University of a relevant medical condition, the staff member should contact the HRR who can discuss appropriate support, such as reasonable adjustments.

## **13 Data Retention**

13.1 Outcomes of Disciplinary Hearings will be stored in line with the University's record retention schedule and in accordance with the General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA).

## **14. Monitoring**

14.1 HR will monitor cases/outcomes and share appropriate information confidentially, e.g. as part of annual monitoring exercises.

## **15. Related Policies and Procedures**

Grievance Procedure

Investigation Procedure

Addressing Gender-based Violence and Sexual Harassment Policy

Research Misconduct Procedure

Fraud Policy

Dignity at Work

These policies and procedures may be found in the Policy Zone on StaffNet.

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