

## DISCIPLINARY POLICY

### HR

***NB. This policy is available on the University of Cumbria website and it should be noted that any printed copies are uncontrolled and cannot be guaranteed to constitute the current version of the policy.***

<b>POLICY SCHEDULE</b>	
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Policy lead contact	HR
Approving body	JNCC / EPC
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## A. Policy

### 1. Introduction

- 1.1 The University recognises that disciplinary rules and procedures are necessary for the effective operation of the University by encouraging all employees to achieve and maintain satisfactory standards of conduct and behaviour. The University also recognises that disciplinary rules and procedures are a necessary part of ensuring that all employees are treated fairly and consistently.
- 1.2 Some cases of unsatisfactory conduct or very minor breaches of discipline can be resolved informally, in the first instance, by giving guidance, advice, training, coaching and/or support to the employee concerned. The line manager will ensure that the employee is aware the misconduct has occurred and what improvement is required.
- 1.3 Managers are responsible for addressing conduct and behavioural issues as early as possible and for taking appropriate action. Support and guidance for managers is available from HR who should be contacted before any disciplinary action is taken.
- 1.4 This policy and procedure provides a formal process for resolving disciplinary matters and will be applied fairly in all instances. The need to take disciplinary action will arise where an employee's behaviour and/or conduct falls below the standard required by the University.
- 1.5 This policy and procedure should be used to help and ensure employees uphold the acceptable standards of conduct and to ensure the safety and well-being of all

employees. It is designed to provide a fair and transparent process for dealing with situations where misconduct is alleged.

## **2. Equality, Diversity and Inclusion Statement**

- 2.1 The University values equality and diversity and is committed to maintaining an environment where its employees, students and visitors are treated fairly and with respect at all times. It aims to ensure that its actions and working practices comply with both the spirit and intention of the Human Rights Act (1998) and the Equality Act (2010) which relates to the protected characteristics of age, disability, gender reassignment, marriage & civil partnerships, pregnancy & maternity, race, religion or belief, sex and sexual orientation.
- 2.2 The University supports the need to make reasonable adjustments for disabled employees whose condition means that they cannot fully participate in the process; the University will work with the individual to provide appropriate support. For example, in addition to a chosen companion, it may be appropriate to allow a suitable specialist to attend meetings.
- 2.3 For employees whose first language is not English, it may be appropriate to allow them to be accompanied by someone who can provide support with communication in English. In all cases it is the responsibility of the employee to request such support from HR or their line manager as soon as possible.

## **3. Scope**

- 3.1 This policy and procedure applies to all University of Cumbria employees who work under a contract of employment, with the exception of holders of senior posts<sup>1</sup> for whom separate procedures apply.
- 3.2 Where an employee raises a grievance during a disciplinary process, the disciplinary process will continue and where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

## **4. Policy Principles**

- 4.1 The principles of this policy are to:
- encourage improved behaviour;
  - ensure the lawful, consistent and fair treatment of all employees; and
  - encourage standards of conduct / behaviour which support the efficient and effective operation of the University.
- 4.2 The policy is to be distinguished from:
- 4.2.1 the Performance Improvement Policy which deals with an employee's ability to perform the duties of his/her post in terms of skill, aptitude or qualifications; and

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<sup>1</sup> Holders of senior posts are those posts referred to in the Memorandum and Articles of Association as "Vice-Chancellor, and the holders of such other senior posts of the University as the Board of Directors shall from time to time determine"

- 4.2.2 the Sickness Absence Policy which deals with the management of short and long term sickness absence.
- 4.3 In instances of suspected fraud, the University's Anti-Fraud Policy should be considered as it may be appropriate to deal with the matter under the procedures in the Anti-Fraud Policy in the first instance.
- 4.4 The University will endeavour to find mutually convenient dates and times for investigation meetings, disciplinary hearings and any subsequent appeal hearings.
- 4.5 The University and employees should always seek to fully resolve work related issues. Where this is not possible the University may consider using an independent third party to help resolve the problem. The third party need not come from outside the organisation but could be an internal mediator, so long as they are not involved in the disciplinary issue. In some cases, an external mediator might be appropriate.
- 4.6 No disciplinary action should be taken against an employee before HR has been consulted, the case has been fully investigated and it has been determined at a disciplinary hearing that disciplinary action is the most appropriate sanction.
- 4.7 At every stage of the formal procedure the employee will be informed in writing with details of the allegation(s) being made against them and will be given the opportunity to provide an explanation.
- 4.8 The employee has the right to be accompanied at any disciplinary hearing/meeting, which could result in, a formal warning being issued, the taking of some other disciplinary action, or the confirmation of a warning or some other disciplinary action (appeal hearings).
- 4.9 The chosen companion may be a work colleague, a trade union representative or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. This excludes family and friends. In exceptional circumstances only (such as risk of being professionally 'struck off'), advice from HR should be sought with regard to allowing legal representation.
- 4.10 There is no entitlement to legal representation or accompaniment by any other outside person, with the exception of a trade union official. It is expected that only one individual will accompany the employee, with the exception of circumstances detailed in the Equality, Diversity and Inclusion section.
- 4.11 Under all circumstances, meetings and investigations will be timely and conducted with impartiality and fairness. Timescales will be agreed in writing at the commencement of the process and where it is not practicable to adhere to these time limits, relevant parties will be informed including the reason why and new timescales will be agreed.

- 4.12 At all stages of this procedure, an employee may be suspended on full pay while the allegation is investigated, if it is considered that the circumstances warrant this action.
- 4.13 Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, HR may discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.
- 4.14 Consideration should be given (and advice sought) as to whether the matter also needs to be referred to the relevant professional body.
- 4.15 Employees involved in a disciplinary process will be offered appropriate support (emotional and professional), both during and following an investigation. This may take the form of:
- Occupational Health support;
  - Employees Assistance Programme support;
  - HR Support; or
  - If relevant, a reintegration plan agreed with the line manager (or other manager as appropriate) with support from HR. This may include the appointment of a mentor to further support the employee during the reintegration process.
- 4.16 Where an employee is subject to a formal warning under this policy and procedure, the annual increment will be withheld. An increment will only subsequently be awarded (without back dating) once the warning has expired (but exceptionally longer by agreement with the Director of Student & Staff Services). The next increment will then be awarded at the next normal increment date.
- 4.17 An employee will not be dismissed for a first breach of discipline, except in the case of gross misconduct when the sanction may be summary dismissal without notice and without pay in lieu of notice.
- 4.18 An employee will have the right to appeal against any disciplinary sanction imposed under this policy and procedure.

## **5. Roles and Responsibilities**

In order to support the implementation of this policy, it is the responsibility of:

### **5.1 Employees**

- a) to make all reasonable attempts to attend all meetings and hearings and appropriately answer any allegations of misconduct made under this policy;
- b) to be aware of the University's expectations of its employees as outlined in the code of conduct and other HR policies and procedures
- c) to be aware of the disciplinary policy and procedure
- d) to maintain acceptable standards of conduct / behaviour
- e) to carry out their duties in accordance with their contract of employment and the University's rules and procedures.

## **5.2 Managers**

- a) to be aware of the University's expectations of its employees as outlined in the code of conduct and other HR policies and procedures;
- b) to inform employees in their team of the standards of conduct/behaviour the University expects;
- c) to comply with this disciplinary policy and procedure
- d) to ensure employees are aware of this policy and procedure;
- e) to seek advice from HR before taking any action;
- f) to ensure the fair and consistent application of this policy and procedure; and
- g) to assist, wherever possible, the employee(s) to correct unacceptable conduct / behaviour.

## **5.3 HR Service**

- a) to ensure that this policy and procedure is readily available and understood such that employees are aware of the standards of conduct / behaviour expected of them;
- b) to provide training, support (including administrative support) and guidance on its application;
- c) to review and monitor the operation and effectiveness of the policy and procedure; and
- d) to ensure compliance with legal obligations and the ACAS Code of Practice.

## **6. Confidentiality**

- 6.1 To respect the privacy of all employees, and to promote fair procedures, all information associated with disciplinary investigations, hearings and appeals will be treated as strictly confidential and must not be discussed with any party that is not directly involved.
- 6.2 As far as is reasonably practicable any employee who is involved in, or subject to this policy and procedure, must ensure that they maintain the confidentiality of the process and of University documents, as any unjustified breach of confidentiality may be treated as a separate disciplinary offence. This is subject to an individual's right to seek and obtain appropriate confidential advice or make a disclosure under the Public Interest Disclosure Act, the University's Public Interest Disclosure Policy (Whistleblowing) or otherwise as required by law or any statutory authority.
- 6.3 The outcome of a disciplinary investigation, hearing and/or appeal will remain strictly confidential other than on a genuine need to know basis. Witnesses and/or persons raising allegations have no right to know the outcome of a disciplinary investigation, hearing and/or appeal. However, they will be informed that the University has dealt with the matter.

## **Policy Review**

**UNIVERSITY OF CUMBRIA**

**POLICY DOCUMENT CONTROL SCHEDULE**

*All University of Cumbria Policies must include a completed Policy Document Control Schedule consisting of the Policy Schedule (see front cover) and Review Schedule and (see below) which should be completed as appropriate.*

<b>REVIEW SCHEDULE</b>				
Version no.	Review interval	Reviewed by	Approved by	Date of Approval
V01	2010/2011	HR	EPC/JNCC	24 June 2009
V02 – 01/03/11	2013/2014	Margaret Johnston	EPC/JNCC	24 February 2011
V03 – 010812	2014/2015	Nicky Allen	EPC/JNCC	14 June 2012
V04 – 010813	2015/2016	Nicky Allen	EPC/JNCC	21 June 2013
V05 – 270214	2015/2016	Nicky Allen	JNCC/EPC	15 January 2014
V06 - 010418	2019/2020	Katie Bywater / Vikki Thomas	JNCC/EPC	26 February 2018

## **B. Procedure**

The disciplinary procedure consists of a number of stages. The stage at which the disciplinary procedure will be instigated will depend upon the seriousness of the alleged offence.

### **1. Informal Process**

- 1.1 Where a manager becomes aware of a potential misconduct issue they will initially meet with the employee to discuss the issue in order to establish the facts of the case and determine if further investigation is required.
- 1.2 The University is committed to ensuring that differences and difficulties can be resolved amicably through open communication. Wherever possible, and where appropriate, given the nature of the apparent issue, disciplinary matters will be resolved informally in the first instance by giving guidance or advice to the employee concerned.
- 1.3 It is expected that minor instances of unacceptable behaviour and/or conduct will be dealt with informally by the line manager of the employee. Sometimes the employee may not be aware that their behaviour or actions are causing a problem. Often, issues can be resolved at this point through discussion and clarification. Therefore, the manager will discuss the issues with the employee with a view to coaching them towards improving and sustaining satisfactory behaviour and/or conduct by agreeing where improvement is required.
- 1.4 An internal or external (depending on the circumstances of the matter) facilitator may be used to support the resolution of matters informally and as appropriate.
- 1.5 The employee should seek advice from their line manager, HR or trade union.
- 1.6 The manager should follow up any discussions outside of the formal procedure with a note/email to the employee confirming the key points of the discussion and any agreed development actions. This is to ensure clarity and mutual understanding and explaining that if the informal action does not bring about an improvement, then the formal disciplinary procedure may be instigated.
- 1.7 If an issue has been discussed with an employee informally and the issue has not been resolved, the problem persists or the required improvement is not achieved, or further information becomes available during discussions which makes the matter sufficiently serious, then the formal procedure should be used. 2.

### **2. Mediation**

- 2.1 Mediation is a process by which an impartial person helps others to resolve difficulties between employees. It is a voluntary confidential service that can assist in resolving problems. Mediation is undertaken without any admission of wrongdoing by any party, and without preventing any opportunity to pursue formal action.



- 2.2 If mediation is deemed an option, then this should be raised with HR. Mediators will use their skills to assist, however are not there to monitor, dictate or enforce agreement. A record of the agreement will only be kept if both parties consent to it. The focus is on working together, not determining who was wrong. Employees using mediation tend to reach an agreement that will sort out their problem or improve the situation.

### **3. Appointment of Investigating Officer**

- 3.1 The decision to investigate an allegation will be made by a Senior Leadership Team (SLT) member (or their delegated representative) and/or the Director of Student & Staff Services. Other than in exceptional circumstances, HR must be consulted prior to commencement of a formal investigation.
- 3.2 The Investigating Officer will normally be appointed on the advice of HR. They may be a Manager or Supervisor, where possible of higher grade to the employee, and may be from within or outside the Department/Service dependent upon the circumstances of the case and whether there is a likelihood of a conflict of interest.
- 3.3 The Investigating Officer may be the employee's line manager, if appropriate, or another manager. In exceptional circumstances an appropriate professional external to the University may conduct an investigation.
- 3.4 A member of HR will also be identified to support the Investigating Officer during the investigation.
- 3.5 It is the responsibility of the Investigating Officer to notify the employee who is subject of the allegation(s) of misconduct at the earliest possible stage that an investigation has commenced and to set out the nature of the allegations.
- 3.6 The Investigating Officer will not subsequently act as the Disciplinary Hearing Officer, should there be a case to be heard.

### **4. Investigation**

- 4.1 The objective of the investigation is to establish the facts and gather relevant evidence to enable recommendations to be made on whether there is a disciplinary case to answer and if the case should proceed to a formal disciplinary hearing.
- 4.2 The employee against whom the allegations have been made will be given an opportunity to respond to the allegations and may be accompanied at the investigation meetings by a work colleague or a trade union official.
- 4.3 The investigation will be conducted in a timely manner and may involve one or more meetings with the employee concerned and other individuals as appropriate, in order to establish the full details of the circumstances.
- 4.4 The duration of the investigation will be dependent on the nature and complexity of the allegations and the scope of witnesses to be interviewed.

- 4.5 All parties should make every effort to attend the meetings and provide any relevant information or documents that they wish to be considered during this stage.
- 4.6 Following the investigation a report summarising the investigation and its findings will be completed by the Investigating Officer. The report will also include the Investigating Officers recommendations.
- 4.7 No decision will be taken as to whether the case should be considered at a disciplinary hearing until the investigation has been completed and the report finalised.
- 4.8 The Investigating Officer will discuss the matter with the SLT member (or their delegated representative) and/or the Director or Student & Staff Services, who made the decision to investigate the allegation and they will also make the decision as to whether there is a case to answer and a formal disciplinary hearing will be convened.
- 4.9 The employee will be sent written confirmation that the investigation into the allegation(s) has concluded and received a copy of the Investigating Officer's report (which will include any witness statements and/or evidence gathered). The letter will also confirm that either no further action is to be taken or that the investigation has found there to be a case to answer and a disciplinary hearing is to be arranged.

## **5. Suspension**

- 5.1 There may be instances where suspension with pay is necessary while investigations are carried out, e.g. where relationships have broken down, in gross misconduct cases or where there are risks to an employee's or the University's property or responsibilities to other parties. Exceptionally suspension with pay may be considered where there are reasonable grounds for concern that evidence has been tampered with, destroyed or witnesses pressurised before an investigation is concluded.
- 5.2 Other than in exceptional circumstances (for example outside normal work hours), HR must be consulted prior to the suspension of any employee.
- 5.3 The decision to suspend an employee may only be taken by the Vice-Chancellor (or their delegated official who must be a holder of a Corporate Leader). In exceptional circumstances, in the absence or non-availability of the Vice-Chancellor/delegated official, a manager may require an employee to leave the premises pending a decision on suspension. In such cases a full report will be made at the earliest opportunity to the Vice-Chancellor / delegated official who will then deal with the matter.
- 5.4 It should be made clear to the suspended employee that suspension is not an assumption of guilt and is not considered a disciplinary sanction.
- 5.5 The suspended employee will receive written notification of the suspension, setting out the grounds on which the decision to suspend has been taken.

- 5.6 Suspension should be regularly reviewed to ensure it is not unnecessarily protracted. Reviews should normally take place weekly, but not less than on a monthly basis.
- 5.7 A suspension should normally last no longer than 2 months in duration. The University therefore undertakes to ensure that investigations are carried out in a timely manner. However, it is recognised that in exceptional /complex cases, it may not be possible to adhere to this time limit and the employee will be kept informed of the progress.
- 5.8 An employee who has been suspended for three weeks or more, who has not received imminent notification of an investigation meeting or disciplinary hearing may appeal against the suspension. Notice of such an appeal should be in writing to the Director of Student & Staff Services. The suspension shall continue pending the outcome of the appeal.
- 5.9 Any appeal shall be considered as soon as practicable by a member of SLT (the Suspension Appeal Officer) not previously involved in the case. The appeal will normally take the form of a review of a written submission from the suspended employee.
- 5.10 Following the review of an appeal against suspension, the Suspension Appeal Officer may either confirm or lift the suspension. The decision of the Suspension Appeal Officer will be confirmed in writing to the employee as soon as practicable and normally within 7 calendar days of the appeal review.
- 5.11 Any decision to lift the suspension shall become effective immediately, although actual return to duties might be delayed for a short while to allow arrangements for a smooth return to be put into place.
- 5.12 Should a fitness to work note be received for a suspended employee that declares the employee unfit for work, the University will classify the employee as unfit for work and the University's normal Sickness Absence policy and procedure will apply.

## **6. Disciplinary Hearing**

- 6.1 If it has been decided that there is a disciplinary case to answer then a disciplinary hearing will be arranged. The employee will be informed and invited in writing by letter, and email if appropriate, to the disciplinary hearing, at least 7 calendar days before the hearing date, and will be advised of the following:
- a) The date, time and venue of the hearing;
  - b) Full details of the allegations investigated;
  - c) That the purpose of the hearing is disciplinary and that a disciplinary sanction (including dismissal where appropriate) may result;
  - d) The entitlement to be accompanied by a work colleague or a trade union representative;
  - e) The right to call witnesses and/or present evidence.

- 6.2 The Disciplinary Hearing Officer will not have been involved in the investigation. If dismissal is a potential outcome the Disciplinary Hearing Officer must be a member of Vice Chancellor's Executive (VCE), as detailed in section 8 delegated powers.
- 6.3 The hearing must not take place unless the employee has:
- a) received a copy of the Investigating Officer's report; and
  - b) has been invited in writing to the disciplinary hearing;
  - c) had a reasonable opportunity to consider his/her response to the investigation and its findings.
- 6.4 The employee must take all reasonable steps to attend the hearing. If, for any reason, it is not reasonably practicable for the employee or his/her companion to attend the hearing or they do not have reasonable time to prepare, it may be delayed for up to 7 calendar days. Notice (preferably written) of this delay must be submitted to HR in advance of the hearing and with a minimum of 24 hours notice.
- 6.5 If the employee or their companion (work colleague or trade union representative) still cannot attend a re-arranged hearing without reasonable cause, and a final scheduled date cannot be agreed due to the employee acting unreasonably then the hearing may take place and a decision reached, in the absence of the employee, based on the information presented to the Disciplinary Hearing Officer.
- 6.6 If either the employee or the Investigating Officer wishes to refer to any documents during the disciplinary hearing, copies of the documents should be made available to HR in advance of the meeting (and in any event normally at least 3 working days before the meeting) so they can be passed to the other party prior to the hearing taking place.
- 6.7 If the employee or the Disciplinary Hearing Officer wishes to call witnesses, all parties must be provided with details of the witnesses normally at least 3 working days before the hearing is due to take place so that any necessary arrangements, if not already in place, can be undertaken.
- 6.8 During the disciplinary hearing the employee will be provided with the opportunity to state their case and answer the allegations made against them.
- 6.9 At the disciplinary hearing, a representative of HR<sup>2</sup> will normally accompany the Disciplinary Hearing Officer to advise on policy, procedure and points of law. A note taker will also attend. Notes of the hearing will be provided to the Disciplinary Hearing Officer and the employee to consider and sign as an accurate record.
- 6.10 If the employee raises new evidence and the Disciplinary Hearing Officer decides it should be investigated further, the hearing will be adjourned and will be reconvened once the new evidence has been investigated and considered. Any further investigations will normally be undertaken within 14 calendar days by the Investigating Officer.

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<sup>2</sup>For the avoidance of doubt a meeting held without a representative of the Human Resources Service present shall not be regarded as improperly conducted for the purpose of the Disciplinary Procedure.

- 6.11 Where the Disciplinary Hearing Officer considers that the case has been substantiated they will determine the appropriate disciplinary action. In doing so, they will consider the seriousness of the offence, the actions of the employee, any mitigating factors and the previous employment and conduct record of the employee.
- 6.12 Written confirmation of the outcome of the disciplinary hearing will be sent to the employee within 7 calendar days of the disciplinary hearing date.

## **7. Sanctions**

- 7.1 If a formal warning is issued, an annual increment, due to be awarded during the period that the warning is active, will be withheld. Once the warning expires, and there has been no further misconduct resulting in a further sanction, then the increment will be awarded at the normal point in the following year and will not be backdated.
- 7.2 Following a disciplinary hearing an action plan may be determined which could include the following:
- a) The period over which an improvement is to be achieved.
  - b) Appropriate action to eliminate any identified underlying causes of any misconduct and/or behaviour; and
  - c) When, how and by whom improvement will be reviewed, including at least one interim review.
- 7.3 Following a disciplinary hearing the following formal actions may result:

### **7.3.1 First Written Warning**

A written warning may be issued for matters of misconduct. This first formal warning will remain active for 6-months.

### **7.3.2 Final Written Warning**

A final written warning may be issued if a further similar disciplinary incident or other serious matter arises within a 6-month period of a written warning being issued.

A final written warning may also be issued where the misconduct or disciplinary incident in the view of the Disciplinary Hearing Officer is sufficiently serious to warrant such sanction.

This final written warning will remain active for 12 months.

### **7.3.3 Dismissal**

Dismissal with notice (or with payment in lieu of notice) may be considered as a potential sanction where a further similar disciplinary incident or other

serious matter arises within a 12-month period of a final written warning being issued.

Dismissal with notice (or with payment in lieu of notice) may be considered as a potential sanction where the misconduct is sufficiently serious enough that it is appropriate to warrant such sanction.

An employee who commits an act of gross misconduct may be liable to summary dismissal (i.e. dismissal without notice and without payment in lieu of notice).

#### **7.3.4 Other possible outcomes short of Dismissal**

Depending on the circumstances of the case, consideration may be given to substituting dismissal with a final written warning and could include any reasonable alternative sanction, for example redeployment to alternative post possibly at a lower grade without any pay protection or retraining.

## **8. Delegated Powers**

Under this policy, the following authorities apply:

<b>Action</b>	<b>Delegated Powers</b>	<b>Delegated Right of Appeal</b>
<b>Suspension</b>	Vice Chancellor or their delegated representative who must be a Corporate Leader post holder (Grade 10 or above)	Vice Chancellor or their delegated representative who must be a Corporate Leader post holder (Grade 10 or above)
<b>First written warning</b>	An appropriate line manager	Any higher level manager not previously involved
<b>Final written warning</b>	A Corporate Leader post holder (Grade 10 or above)	A Corporate Leader post holder (Grade 10 or above) not previously involved
<b>Dismissal</b>	VCE member	A VCE member not previously involved

## **9. Records**

Copies of formal warnings will be kept on the employee's personal file and considered spent after a 12-month period of satisfactory conduct and/or behaviour (but exceptionally longer, by agreement of the Director of HR and OD), provided there has been no finding of further misconduct.

## **10. Appeals**

- 10.1 An employee has a right of appeal following the decision of a Disciplinary Hearing Officer to either issue a formal warning or of dismissal.

- 10.2 An employee wishing to appeal against the decision should submit their notice of appeal in writing within 7 calendar days of receiving the outcome of the disciplinary hearing to the Director of Student & Staff Services. The grounds for appeal should be stated and, if applicable, full details of any new evidence provided.
- 10.3 The appeal hearing will be arranged as soon as possible and without unreasonable delay. The employee will be informed and invited in writing by letter, and email if appropriate, to attend the appeal hearing. If the appeal is against dismissal, the employee shall be entitled to 5 calendar days notice of the date, time and venue of the appeal hearing, unless an earlier date has been mutually agreed. For other appeals, the employee will normally be given 7 calendar days' notice of the date, time and venue of the appeal meeting (again unless an earlier date has been mutually agreed).
- 10.4 The employee will be entitled to be accompanied by a work colleague or a trade union representative at the appeal hearing.
- 10.5 The decision of the Appeal Hearing Officer will be sent to the employee in writing within 7 calendar days of the appeal hearing date. This decision is final and there is no further right of appeal.
- 10.6 An employee who has been dismissed as a result of a disciplinary hearing ceases to be an employee from the date on which the dismissal takes effect, irrespective of whether or not an appeal against dismissal has been lodged.

## **11. Misconduct**

The following are examples of breaches of discipline which are considered by the University as sufficiently serious to render the employee liable to disciplinary action. This list is not exclusive or exhaustive:

- a) persistent failure to be in attendance at the place of work at the required time;
- b) absence from work without permission;
- c) failure (in particular deliberate) to report absence correctly;
- d) failure to conform to laid down working practices or procedures required by the University and/or refusal to accept agreed changes in working practices.
- e) refusal to carry out a reasonable instruction;
- f) actions in dealing with members of the public, suppliers, or other outside contractors, which are in any way prejudicial to the University's interests;
- g) unauthorised use and/or failure to take reasonable care of the University's property; and,
- h) abuse of the University's Sickness Absence scheme.

## **12. Gross Misconduct**

- 12.1 Gross misconduct is behaviour of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the University.
- 12.2 Matters that the university view as amounting to gross misconduct include (but are not limited to):
- a) Unauthorised removal of the University's property.

- b) Theft from the University, its employees, students or members of the public, or other offences of dishonesty.
- c) Serious negligence which causes unacceptable loss, damage or injury.
- d) Threatening or abusive language or conduct of a serious nature.
- e) Serious acts of harassment, bullying or sexual misconduct including at social gatherings outside the workplace which are connected with work.
- f) Assault on any person or indecent behaviour by an employee.
- g) The consumption of alcoholic drinks, or drugs not prescribed by a medical practitioner, which reduces the ability of the employee to work with proper effectiveness and with due regard for his/her safety and welfare, and/or the safety and welfare of others, while at work / during working hours.
- h) The commission of a criminal offence which renders the employee unsuitable or unable to carry out the duties for which he/she is employed.
- i) Deliberate falsification of University documents such as overtime sheets, expense claims or flexible working hours record.
- j) Falsification of qualifications which are a stated requirement of employment or which result in financial gain.
- k) Committing an offence as defined by the Bribery Act 2010; that is to make an offer of financial or other advantage to another person intended to induce or reward improper performance of a relevant function or activity or in the knowledge that acceptance would be improper performance, or to accept an offer of a financial or other advantage as detailed above.
- l) Breaches of financial regulations and/or breaches of the University's financial procedure and/or financial losses.
- m) Breaches of the University's regulations for the use of University computing facilities e.g.:
  - Downloading (accessing) or circulating pornographic or other offensive material from the Internet;
  - Use of unlicensed software on the University's IT systems;
  - Illegal downloading and file sharing copyright material at work.
- n) Selling counterfeit goods of any description at work.
- o) Actions while on University business which would constitute a serious risk to health and safety of the employee concerned or of any other person.
- p) Serious breaches of safety regulations endangering other people, including deliberate damage to, neglect of, or misappropriation of safety equipment.
- q) Statutory bars such as the removal or expiry of NMC (nursing and midwifery) registration.
- r) Carrying out external work, which competes or conflicts with the interests of the University, without prior approval, and/or carrying out external work which interferes with professional responsibilities.
- s) Use of for personal benefit or gain, or divulgence of, confidential information belonging to the University or relating to its affairs or dealings.
- t) Failure to reveal full information or lie about criminal background / convictions at the recruitment stage and/or failure to bring to the attention of the University any additions to criminal record gained / arising during employment (for posts requiring DBS Disclosure and Clearance).
- u) Serious breaches of confidence and trust.
- v) Discrimination on illegal grounds including on the grounds of sex, race, disability, sexual orientation, religion or belief and age.



- w) Serious acts which bring the University into disrepute.
- x) For holders of posts requiring Disclosure and Clearance, failure to notify the University as soon as practicable in writing of any subsequent additions to a criminal record from the date of the Disclosure from the Disclosure and Barring Service until the termination of employment with the University.
- y) Failure to comply with the University's Safeguarding Policy.

### **13. References where Dismissal has taken place**

- 13.1 Where an employee is dismissed (subject to the outcome of an appeal), or leaves with unexpired disciplinary action against them, any reference provided by the University will be factual and will normally refer to the fact that the employee was dismissed/had unexpired disciplinary action against them.
- 13.2 In such situations, references should not be given without first consulting HR.

### **14. Criminal Offences**

- 14.1 Where an employee is the subject of a police investigation, charged with, or convicted of a criminal offence this is not normally in itself necessarily reason for disciplinary investigation/action.
- 14.2 Consideration will be given to what effect the investigation, potential charge and/or conviction has on the employee's suitability to do the job, if there is a risk to others or it brings the University's name into disrepute.
- 14.3 The University reserves the right to continue and/or conduct its own investigation and take appropriate disciplinary action.
- 14.4 Employees who are employed in posts, which require disclosure and clearance on appointment, are contractually obliged to inform the University of any additions to their criminal record gained/arising during employment.
- 14.5 If conduct occurs which could be considered a criminal offence, the University will normally advise the relevant authorities.