

Disciplinary Procedure

For Clerical & Related, Technical and Manual Staff

1 Policy Statement

The University aims to ensure that there will be a fair and systematic approach to the maintenance of standards of conduct affecting all grades of employee within the University.

2 General Principles

1. The following procedure is that referred to in the statement of the conditions of appointment of the employment contract. The procedure conforms with the Employment Protection (Consolidation) Act 1978, as amended by the Trade Union Reform and Employment Rights Act 1993, the Employment Act 2002 (Dispute Resolution) Regulations 2004 and the Advisory Conciliation and Arbitration Service Code of Practice on Disciplinary Practice and Procedures at Work.
2. This procedure is designed to help and encourage all employees to achieve and maintain satisfactory standards of conduct, attendance and job performance and applies to all Clerical & Related, Technical and Manual staff. The aim is to ensure consistent and fair treatment for all.
3. It is recognised that informal action may often be a more satisfactory method of resolving problems and this should be considered before proceeding to formal proceedings.
4. At any formal stage of this procedure an employee has the right to be represented by their Trade Union representative or Official or be accompanied by a fellow University employee of their choice.
5. It is the University's aim to deal with all disciplinary matters promptly. If they are not handled timeously the matter will be referred to the University Secretary.
6. Within the University, Heads of Departments/Schools/Divisions or their Depute or equivalent, have the authority to take or to authorise disciplinary action however, before taking such action the issues should first be discussed with Personnel Services. Any decision therefore to warn or dismiss an employee must be formally discussed with Personnel Services.
7. Disciplinary action should not normally be taken against an accredited Trade Union representative until the circumstances of the case have been discussed with Personnel Services and a full-time official of the Union concerned unless in serious circumstances requiring immediate action.
8. Copies of this procedure will be included on the Personnel Web Site, www.somis.dundee.ac.uk/personnel and available to all members of staff from Personnel Services.

3 Procedure

Disciplinary procedures will be applied in accordance with the following principles set out in the ACAS Code of Practice at <http://www.acas.co.uk/> :-

“Disciplinary procedures should not be viewed primarily as a means of imposing sanctions. They should also be designed to emphasise and encourage improvements in individual conduct.

3.1 Informal Action / Counselling

Informal action may often be a more satisfactory method of resolving problems than a disciplinary meeting and it is likely that any informal action /counselling will be carried out by the employee’s direct line manager or supervisor. It should take the form of a discussion with the objective of encouraging and helping the employee to improve. It must not turn into a disciplinary meeting. It may be identified that additional training, coaching and advice may be needed. The employee should fully understand the outcome of the meeting and that the formal processes will start if there is no improvement or if any improvement fails to be maintained. It is important that arrangements are made to review progress over a specified period.

Brief notes of any agreed informal action should be kept for reference purposes.

3.2 Investigation

It is important to investigate any alleged disciplinary offence both thoroughly and quickly.

Personnel Services should be contacted as quickly as possible by the Head of Department/School/Division or their Depute or equivalent, in order to decide appropriate action. For minor offences, Head of Department/School/Division or their Depute or equivalent may conduct the investigation/interview without a representative from Personnel Services being present. It is recommended that where possible the investigation is undertaken by the Head of Department/School/Division’s Depute or equivalent so the Head of Department/School/Division can conduct the Disciplinary meeting, if required.

An investigation should establish facts. Records, timesheets etc, may have to be checked and witnesses may have to be seen. Facts should be established promptly before memories fade, including taking statements from available witnesses. If an investigatory meeting is to take place with the employee implicated by the allegations, the employee should be advised that it is not part of the disciplinary process but that they may wish to be accompanied by a colleague or a union representative.

In some cases it may be necessary to suspend the employee pending the outcome of the investigation. This would normally be where there appears to be serious misconduct or risk to property or other people. Any suspension will be on full pay. Personnel Services should be contacted in all cases where suspension is being considered.

Once the investigation is complete a recommendation will be made to the Head of Department/School/Division on possible courses of action. These will be - no action, informal action or formal action.

If no action is to be taken the employee will be notified of this in writing. This outcome will be recorded on their personal file. Any evidence collected during the investigation will be destroyed. If informal action is to be taken, the procedure detailed in Section 3.2 will be followed. If there is a need to proceed with formal action, the employee should be called in for a disciplinary interview and the procedure detailed in Section 3.3 will be followed.

It is recognised that situations can arise where it would not be appropriate to use the Disciplinary Procedures and instead other University procedures may be considered. This could include procedures relating to Capability, Sickness Absence, Alcohol and Substance Misuse or Dignity at Work and Study policies.

3.3 The Disciplinary Procedure

In any circumstances in which an employee is to be interviewed and there is a possibility of disciplinary action of any kind being taken as a consequence of the interview, the following procedure must take place.

Step One : Statement of Grounds for Action and Invitation to Meeting

- The employee receives a written communication setting out the nature and details of the alleged offence.
- This communication makes it clear that disciplinary action may be required and the range of disciplinary action that will be considered (ie no action through to possible dismissal).
- The employee is invited to a meeting to discuss the matter and advised of their right to be accompanied by a Trade Union representative/Official or fellow University employee.

Step Two : The Meeting

- Meetings are arranged within a reasonable timescale and at a reasonable location. The employee should make reasonable steps to attend. If they are unable to attend a date will be re-scheduled normally within 5 days of the original date.
- The employee may, if they wish, be accompanied at the meeting by a Trade Union representative/Official or fellow University employee.
- The 'panel' will comprise the Head of Department/School/Division or their Depute or equivalent and generally a representative from Personnel Services.
- An additional representative from the University may be asked to sit on the panel particularly if the matter to be considered requires specialist knowledge (i.e. IT, Finance etc) or if the final outcome could be dismissal.
- If the investigation has been carried out by the Head of Department/School/Division's Depute or equivalent, the Depute or equivalent as 'investigating officer' will present the case. Any material relating to this case will be made available to the employee 5 working days in advance of the meeting.
- At the disciplinary meeting, the employee should be given the right to put their version of events and should be advised of the rights given by the University's procedure.
- If witnesses are to be called or their written statements produced at the meeting, both parties must have received prior warning of who the witnesses to be called are and copies of their written statements at least 5 working days in advance of the meeting.
- At the meeting, the case will be presented by the investigating officer. The employee (or their representative) will have the opportunity to respond and to present their version of events. Witnesses will be called and will be questioned by the panel. The investigating officer and the employee (or their representative) will also have the opportunity to ask questions or clarify any points.
- If it is felt that further investigation is necessary, the meeting can be adjourned to allow further enquiries to take place.
- The Head of Department/School/Division, in conjunction with other members of the panel will decide on what action, if any, is to be taken.
- The employee will receive written communication, as soon as possible following the meeting, setting out the decisions reached at the meeting. The Head of Department/School/Division will have given some indication to the member of staff at the end of the meeting of the likely timescale to be notified of the outcome.
- The communication will make it clear that the employee has a right to appeal and will outline what action must be taken if the employee wishes to assert this right.
- A record of the meeting should also be given to the employee.

Step Three : The Appeal

- Employees who are aggrieved by a written warning or notice of dismissal, including summary dismissal, have a right of appeal.
- In all cases, the written confirmation of disciplinary action shall include reference to the employees' right of appeal and shall specify that an intention to appeal should be submitted in writing, to the University Secretary, against any disciplinary action within 10 days of the receipt by the employee of the written notice of disciplinary action.
- On receipt of an intention to appeal, the University Secretary will set up an Appeal Committee consisting of 3 senior University employees, one of whom should have knowledge of the field of work of the employee, and who have not previously been involved in the case. The Committee will hear the appeal within 5 weeks of the intention to appeal being lodged.
- The employee will be notified of this meeting in writing and will be advised who will sit on the Appeal Committee. The employee must take all reasonable steps to attend this meeting.
- Both the University representative and the employee or his or her representative will submit a written statement of case and the names of any witnesses to the University Secretary, at least five working days prior to the hearing of the appeal. The cases will be circulated together with the names of any witnesses, prior to the hearing of the appeal, to the members of the Appeal Committee; to the University representative; and to the employee or his or her representative.
- The result of the appeal meeting will be communicated to the employee in writing.

This procedure complies with the minimum statutory requirements as set out in the Employment 2002 (Dispute Resolution) Regulations 2004 for dealing with disciplinary or dismissal situations i.e the Standard (Three-Step) Procedure.

3.4 Disciplinary Action

Following a disciplinary interview, if disciplinary action is judged to be necessary the following is a list of the possible outcomes:

(1) **Oral Warning**

An oral warning should normally be the first form of disciplinary action to be taken in connection with any particular failing on the part of an employee, which is not unduly serious. Minor breaches of discipline, misconduct, poor time-keeping, etc., will result in an oral warning.

An oral warning should be confirmed to the employee in writing.

(2) **Written Warnings**

Where more serious disciplinary action is to be taken in the case of misconduct or failure (including failure to respond adequately to a previous oral or written warning) written warnings will be the appropriate action in the first instance.

(i) **First Written Warning**

The employee should be informed that a written warning is to be issued following the disciplinary meeting.

(ii) **Second Written Warning**

A second written warning will include a reference to the fact that the employee may be dismissed in the event of further failings of similar gravity on their part.

(iii) **First and Final Written Warning**

A first and final written warning will be appropriate where an employee's offence is considered to be serious misconduct but not sufficient to justify dismissal.

(3) **Dismissal**

Dismissal is appropriate:-

- a. In cases of gross misconduct.
- b. In cases of serious misconduct following a first and final warning.
- c. Where there is a recurrence of misconduct or failure where a final written warning is still current.

In rare circumstances, employees may be summarily dismissed under these procedures if it is established, after investigation conducted under these procedures and hearing the employee's version of this matter, that there has been an act of gross misconduct, major breach of duty or conduct that brings the University into disrepute. It is not possible to list all the circumstances which would warrant dismissal without previous warnings but the following are examples of misconduct which could warrant such dismissal:

- deliberate falsification of records
- serious breach of safety rules potentially involving loss of life or limb
- theft or fraud, in the course of employment, or on the employer's premises
- being under the influence of drink or drugs
- flagrant failure to follow University procedures
- breach of duty regarding disclosure of confidential information
- deliberate damage to University property or that of other employees
- disorderly or indecent conduct, fighting on University premises, threatening physical violence
- acts of incitement to discriminate or actual acts of discrimination on the grounds of sex, race, religion, colour, ethnic origin, disability or age
- serious abuse of the University's property or name
- deliberately accessing internet sites containing pornographic or obscene material

3.5 Suspension

Where there appears to be serious misconduct, or risk to property or other people, a period of suspension with pay should be considered while the case is being investigated. Personnel Services should be contacted in these circumstances. If suspension is considered appropriate, a letter will be issued confirming the details of the suspension.

3.6 Time Limits

Written warnings shall expire after the lapse of the undernoted periods and shall thereafter not be relevant in any subsequent disciplinary proceedings, although final or first and final warnings may exceptionally specify otherwise. All records of warning shall normally be removed from the employee's personal file after the expiry of the appropriate period.

Oral Warning	6 months
First Written Warning	1 year
Second, or first and final written warning	2 years

There may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force only to lapse very soon after. Where a pattern emerges and there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding how long any current warning should last.

In certain circumstances where the misconduct is so serious, verging on gross misconduct, the warning will remain on the employee's record without a limit of time. Examples of gross misconduct are listed in 3.4(3).

3.7 Written confirmation regarding any warning will state:

- a) Details of the misconduct or performance that has occasioned the warning.
- b) Details of the improvement required and the time limit for this if appropriate.
- c) That any further misconduct will result in :
 - (i) a further warning which unheeded may result in dismissal with appropriate notice
 - or**
 - (ii) dismissal with appropriate notice.
- d) The length of time the warning will remain on the employee's personal file.
- e) Information regarding the employee's right of appeal (see section 3.3)

Written confirmation regarding a dismissal will state:

- a) Details of the misconduct or performance that has led to the dismissal.
- b) Details of the notice period (or payment in lieu of notice) which applies or in the case of summarily dismissal, the fact that no notice will apply.
- c) Information regarding the employee's right of appeal (see section 3.3).

Letters informing employees of warnings, suspension or dismissal will be issued by Personnel Services and copies kept on the individual's personal file.

The Disciplinary Procedure for Clerical and Related, Technical and Manual Staff was revised on 28.3.06 to take account of the statutory dismissal, disciplinary and grievance procedures however it should be noted that the Procedure is now under a wider review and an update policy with associated guidelines will be issued in due course.