



University of  
St Andrews

## Disciplinary procedure

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## 1. Introduction

- 1.1 The purpose of the disciplinary procedure is to be corrective if reasonably possible rather than punitive; and it should be recognised that the existence of this policy is to help and encourage employees to achieve and maintain acceptable standards of conduct and to ensure consistent and fair treatment for all.
- 1.2 The disciplinary procedure is intended only as a statement of the University's policy and does not form part of any contract of employment or otherwise have contractual effect. The University reserves the right, with the agreement of all parties involved, to make practical/operational changes to these documented procedures to suit individual case requirements or changes in legislation.

## 2. General principles

- 2.1 The disciplinary procedure will be used where there are possible issues of misconduct. This procedure does not apply to cases where an employee fails to perform to the required standard as a result of lack of skill, capability or training or who has genuine sickness absence. In those cases, reference should be made to the [Capability policy for poor performance](#).
- 2.2 There are three stages of disciplinary action. The University reserves the right to take action at any stage, or to omit stages, depending on the circumstances.
- 2.3 The employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
- 2.4 At every stage in the disciplinary process (other than in respect of informal discussions) the employee will have the right to be accompanied by a University employee, a recognised Trade Union representative or an official employed by a recognised trade union.
- 2.5 Disciplinary action will not be taken against an accredited Trade Union representative until the circumstances of the case have been discussed with both Human Resources and the full time official of the relevant Union unless circumstances are sufficiently serious to warrant immediate action.
- 2.6 The University recognises that many academic and related staff are required to put forward new ideas and controversial or unpopular opinions as part of their contractual obligations related to teaching and research. As such, academic and related staff shall have the freedom within the law to hold and express opinion, to question and test established ideas and received wisdom and to present controversial or unpopular points of view without placing in jeopardy the appointments they hold or any entitlements or privileges they enjoy.
- 2.7 The University's aim during an investigation or disciplinary procedure is to deal with matters sensitively and with due respect for the privacy of any individual's involved. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter with appropriate confidentiality.
- 2.8 An employee will not normally be dismissed for the first breach of discipline unless they are found guilty of gross misconduct, where the penalty may be summary dismissal without pay in lieu of notice.

- 2.9 An employee will not be dismissed or otherwise disciplined automatically because they have been charged with or convicted of a criminal offence or is absent through being in custody.
- 2.10 Where an employee is convicted of a criminal offence, consideration will be given to whether the offence is one that makes the employee unsuitable for the type of work or unacceptable to other employees, students, partners or clients of the University, and if so whether suitable alternative work is available. Following such consideration, the University may initiate a disciplinary process.
- 2.11 Where a grievance is raised during the investigation of a disciplinary allegation or during the disciplinary process, the University will consider whether the investigation or disciplinary process should be postponed until the grievance has been dealt with or whether the cases are sufficiently related in order for both issues to be handled concurrently in the same process.
- 2.12 An employee will have the right to appeal against any disciplinary penalty imposed.
- 2.13 The University recognises the importance of dealing with disciplinary matters without undue delay.
- 2.14 A member of HR will be in attendance at formal meetings.
- 2.15 If an employee has difficulty at any stage of the procedure because of a disability, they should discuss the situation with their manager or a member of Human Resources as soon as possible.

### **3. Minor misconduct**

- 3.1 For cases of minor misconduct recourse to formal disciplinary procedures should normally only be taken once reasonable efforts have been made to remedy the difficulties by informal means.

## **4. Behaviours which may result in disciplinary action**

### **4.1 Acts of misconduct**

- 4.1.1 The following list indicates the types of conduct (these types not being exhaustive) that may lead the University to invoke formal disciplinary procedures:
- Unacceptable behaviour, such as harassment, victimisation, undermining of colleagues or managers, etc.;
  - Misuse of University facilities or name;
  - Poor timekeeping;
  - Unauthorised absences;
  - Repeated or serious failure to follow instructions;
  - Negligence in conduct of duties;
  - Breach of data protection or failure to secure confidential information;
  - Breach of financial regulations;
  - Infringement of University health and safety rules;
  - Any action liable to bring the University into disrepute.

## **4.2 Acts of gross misconduct**

4.2.1 The following provides examples of behaviour (these examples not being exhaustive) that normally are regarded as gross misconduct, which may lead the University to invoke formal disciplinary procedures:

- Theft, fraud, deliberate falsification of records;
- Fighting or assault;
- Deliberate damage to University property;
- Serious acts of bullying, harassment or discrimination;
- Action liable to bring the University into serious disrepute;
- Serious inability to work through being under the influence of alcohol and/or illegal drugs;
- Supplying or consuming controlled drugs on University premises;
- Serious infringement of the University's health and safety rules;
- Serious acts of negligence;
- Serious acts of insubordination;
- Conviction of a criminal offence which makes the employee unsuitable to carry out their duties;
- Serious breach of trust or confidentiality.

4.2.2 This list only gives an indication of what may be considered gross misconduct. Acts that constitute gross misconduct may vary according to the individual's particular role.

## **5. Suspension**

- 5.1 An employee may be suspended on full pay at any stage before, during or after an investigation where the allegations against the employee are serious.
- 5.2 The employee will normally be informed of the suspension orally. Written confirmation of the suspension will be issued within 3 working days.
- 5.3 For the duration of suspension the employee is not permitted to enter any of the University's premises, other than to attend disciplinary proceedings or investigatory interviews, unless they have received prior consent from the person identified as the relevant University contact in the written confirmation of suspension. The employee may be granted reasonable access to University facilities to enable preparation of their case. For the duration of the suspension the employee will be restricted with respect to contact with University staff and students and with respect to engagement with persons outside the University in the capacity of a University employee conducting University business, except where the employee has received prior consent from the person identified as the relevant University contact in the written confirmation of suspension.
- 5.4 The University is entitled to suspend an employee for so long as it deems necessary to carry out an inquiry or investigation into the circumstances and to hold any appropriate disciplinary/appeal hearings. Any period of suspension should not normally exceed 30 working days. Where due to the nature of the case, the suspension is likely to exceed 30 working days, the employee will be notified and provided with an estimated timescale.
- 5.5 A suspension is not considered a disciplinary action and is without prejudice to the outcome of the investigation and any disciplinary hearing that may result.

## 6. Investigation

- 6.1 Disciplinary action will not be undertaken before the facts and any reasonable cause have been established. The pace of any necessary investigation will be dependent upon the complexity of the case and the availability of the relevant parties.
- 6.2 The investigation will usually be carried out by the relevant person as listed below (the “Investigation Manager”) but the University reserves the right to use a different person.

Subject of the Investigation	Investigation Manager
Principal	Non-Executive Member of Court
Members of the University’s Senior Management Team	The Principal
Heads of School/Unit	Member of the Principal’s Office
All other staff	Senior Manager of a School/Unit (where academic member of staff, case will be heard by another academic).

- 6.3 In the event that the Investigation Manager as stated above is not available or in a position to carry out an investigation the University will, at its discretion, determine who is the appropriate person to carry out the investigation. They will be responsible for the conduct of the investigation.

### 6.4 The investigation will be conducted in accordance with the procedure detailed below:

- 6.4.1 The Investigation Manager will conduct the investigation which may include meeting with relevant parties, including where appropriate, witnesses to incident(s) of alleged misconduct. Any witness to the alleged misconduct may be required to make a written statement and sign and date that statement. The Investigation Manager may have a colleague from the University present at such meeting(s) to take notes.
- 6.4.2 The Investigation Manager will normally have a meeting with the employee who is the subject of the allegation. The Investigation Manager will advise the employee of the allegation which has been levelled against them and invite their response. It should be made clear to the employee that this is not a disciplinary hearing. The Investigation Manager will summarise and clarify their understanding of the facts of the situation. The interview will be closed and the Investigation Manager will indicate whether further enquiries will be made, for example, interviewing potential witnesses. Employees are entitled to be accompanied by a colleague, a recognised trade union representative or an official employed by a recognised trade union at the investigation stage.
- 6.4.3 The Investigation Manager will prepare a report based on the findings of the investigation with recommendations as to whether or not a disciplinary hearing is required based upon the findings of the investigation and whether immediate suspension may be warranted if not already in force. A recommendation from the Investigation Manager that there is a prima facie case to consider should proceed to a disciplinary hearing.
- 6.4.4 If the Investigation Manager considers that a formal disciplinary hearing is not warranted and that informal advice, coaching or guidance may be helpful, he/she will discuss the matter with the employee’s line manager, or another appropriate person determined by the University, who may take the appropriate informal action. The discussion with the employee will be in

private, and the employee will be informed that no disciplinary action is being taken. Such an outcome will therefore not constitute a warning.

## 7. The disciplinary hearing

7.1 Where it is considered there is a disciplinary case to answer, a disciplinary hearing will be initiated with assistance from Human Resources regarding the process to be followed. Where the case is against the Director of Human Resources or the member of the Principal's Office responsible for Human Resources, a non-executive member of the University Court will be sourced to undertake the administrative tasks and attend the hearing.

### 7.2 The disciplinary panel

7.2.1 The Disciplinary Panel for a disciplinary hearing will vary depending upon the status of the person being disciplined. The University will seek to appoint a Disciplinary Panel as set out below but reserves the right to modify this arrangement if the University deems it appropriate in the circumstances.

#### 7.2.2 The disciplinary panel will normally be:

- A senior member of staff in the School/Unit, who will serve as Chair; and
- Another senior member of a different School/Unit and/or a member of Human Resources.
- The Panel will not include the Investigation Manager or anyone with a previous substantial involvement in the case.

7.2.3 The appointment of the disciplinary panel for **Heads of School/Unit** will normally be:

- A senior member of the Principal's Office, who will serve as Chair; and
- Another Head of School/Unit or Dean.
- The Panel will not include the Investigation Manager or anyone with a previous substantial involvement in the case.

7.2.4 The appointment of the disciplinary panel for a **Member of the University's Senior Management Team/Principal** will normally consist of:

- Two external non-executive members of the University Court, other than the Senior Governor, one of whom will serve as Chair.
- The Panel will not include the Investigation Manager or anyone with a previous substantial involvement in the case.

7.2.5 The members of any disciplinary panel must have no substantial conflict of interest in the disciplinary hearing and should have had no previous substantial involvement in any stages in the case.

7.2.6 A representative from Human Resources will be in attendance at all disciplinary hearings except as indicated in 7.1 above.

7.2.7 For disciplinary hearings held under 7.2.2, the role of Human Resources may either be as an advisor or as a panel member. The role being undertaken will be explicit in all paperwork issued.

### **7.3 Notification**

- 7.3.1 Human Resources will write to the employee giving them at least 7 working days' notice of the disciplinary hearing. This notification will indicate the date, time, location of the hearing, right to accompaniment and will provide a summary of the case, i.e. nature of complaint. The employee and their representative must ensure that they have scheduled adequate time for the hearing and the University would not expect either the employee or their representative to set a time limit for the hearing. Copies of any paperwork to be used at the disciplinary hearing that are not available at this time will be forwarded to the employee when available, and if reasonably practicable, at least 4 working days prior to the hearing.
- 7.3.2 The employee will be invited to make a written submission to the hearing. This must be submitted to Human Resources at least 2 working days prior to the hearing. At the same time the employee should notify Human Resources of the name, address and status of their accompanying person (if relevant), and of any special requirements that the employee or their accompanying person may have.

### **7.4 Accompaniment**

- 7.4.1 The employee has the right to be accompanied to the disciplinary hearing by another employee of the University, a recognised trade union representative or an official employed by a recognised trade union. In the case of a member of the University's Senior Management Team the accompanying person may be a member of the University Court. The accompanying person may confer with the employee during the hearing and, at the employee's request, may address the Chair/panel and summarise the case at the end. They are not, however, entitled to answer questions on behalf of the employee. Neither the employee nor the University will have legal representation at the hearing.
- 7.4.2 To exercise the right to accompaniment employees must make a reasonable request as described in the [ACAS Code of Practice on Disciplinary and Grievance Procedures](#)
- 7.4.3 The Chair has the authority to allow other individuals to accompany the employee in exceptional circumstances.

### **7.5 Witnesses**

- 7.5.1 Names of any witnesses to be called by the employee must be made available to Human Resources no later than 2 working days prior to the hearing. It is wholly the responsibility of the employee concerned to make initial contact with any individuals they may wish to call as a witness, obtain their agreement, inform them of the date, time and venue of the hearing, and, if necessary, to source witness statements.
- 7.5.2 Assistance from Human Resources may be provided on request, particularly in arranging release from duties to attend the hearing. The Investigation Manager may also call witnesses along with the Chair/Disciplinary Panel. The employee will normally be advised of the names of these witnesses within 2 working days of the hearing except where witnesses may be called in response to identification of the employee's witnesses. The Panel chair has discretion to allow submission of witness statements in the absence of the physical presence of the witnesses or to allow remote audio-visual means for hearing and questioning witnesses.



## **7.6 Attendance at hearing**

- 7.6.1 The employee should take all reasonable steps to attend the hearing on the date/time stated in the written notification. However, the hearing will be re-scheduled to another time if their accompanying person is not available at the chosen time, and the employee proposes a reasonable alternative that is within **5 working days** of the original date (this time limit may be extended only by mutual agreement). If the date/time of the hearing is unsuitable to the employee for another reason he/she should contact Human Resources who will consider whether the hearing can be rescheduled to a mutually convenient time.
- 7.6.2 A hearing will only be deemed to have taken place if the employee concerned has had a reasonable opportunity to attend the Disciplinary hearing. Where an employee fails to attend or remain throughout a scheduled hearing through circumstances out with their control, the hearing or its continuation should be arranged for another time. Where an employee fails to attend or remain throughout such a re-arranged meeting without good reason a decision may be taken in the employees absence based on the evidence available.
- 7.6.3 Employees subject to disciplinary hearings may sometimes be unable to attend by reason of ill health. In such circumstances the employee may be required to submit a medical certificate from their GP. The matter will be referred to an Occupational Health Practitioner who with the employee's consent will discuss the matter with the individual's GP to assess the likely duration of the inability to attend hearings. In the light of such information the Chair may determine whether to proceed with the hearing based on the evidence available or defer for a reasonable period of time. If the employee refuses to consent to an approach to the GP then the Chair will have no option but to base any decision on the information available on whether to defer or proceed in the employee's absence. It is not the intention to penalise staff whose illness genuinely precludes them from attending disciplinary hearings. Any delays to the hearing are not to the advantage of the employee or the University. Each individual case will be evaluated on its own merits but the prime objective will be to eliminate or minimise any delay in holding hearings.
- 7.6.4 The Chair may at their discretion adjourn a hearing and reconvene at a later date if additional evidence needs to be obtained or if additional time is required for the hearing or if other circumstances justify such an adjournment.

## **7.7 The hearing process**

- 7.7.1 At the hearing the complaint against the employee and associated evidence will be presented first, normally by the Investigation Manager, followed by submissions from the employee.
- 7.7.2 Both sides are entitled to call witnesses and will be given the opportunity to raise points about the information provided by witnesses. Normally, direct questions may be put to any witnesses but this is at the discretion of the panel chair. The Disciplinary Panel may also call and question witnesses. After all the submissions have been made and the questioning has been completed, both sides will be asked to summarise the main points of the case. The panel will then withdraw to consider its decision. Further information on the process can be found in [Appendix A](#).

## **7.8 Stages of disciplinary action**

- 7.8.1 The normal expectation is for disciplinary action to progress according to the stages described below. There may, however, be instances where the case is of a sufficiently serious nature that a stage or stages may be passed over in favour of a higher-level disciplinary

action. Where a case is particularly serious, it may be appropriate to move directly to stage 3 (a hearing that could lead to dismissal; see 7.8.4 below). The key stages of disciplinary action are:

## **7.8.2 Stage 1: First Written Warning**

7.8.2.1 If conduct does not meet acceptable standards the employee will normally be given a first written warning. This will set out the nature of the misconduct and the improvement or change in behaviour required. The warning should also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the first written warning will normally be disregarded for disciplinary purposes and expunged from the employee's record.

## **7.8.3 Stage 2: Final Written Warning**

7.8.3.1 A final written warning will be issued if (i) the first offence is of a serious nature, but not sufficiently serious to justify dismissal; (ii) if the employee has failed to respond adequately to a previous written warning that is still current; or (iii) if a further offence of a similar or related nature has occurred after an earlier written warning that is still current. This will give details of the complaint, the improvement or change in behaviour required and the timescale. It will also warn that failure to improve or change behaviour may lead to dismissal or some other action short of dismissal. A record of this final written warning will be held on the employee's record for 1 year. In exceptional cases, depending upon the seriousness and nature of the behaviour or infringement, this period may be longer. After 1 year (or such longer period as may be stipulated), the warning will normally be disregarded for disciplinary purposes and expunged from the employee's record.

## **7.8.4 Stage 3: Dismissal**

7.8.4.1 Dismissal will normally result where:

- The infringement or offence is sufficiently serious;
- The employee is guilty of gross misconduct;
- The employee has failed to respond adequately to a final written warning that is still current; or
- A further offence of a similar or related nature has occurred after a final written warning that is still current.

## **7.9 Authority of the Disciplinary Panel**

7.9.1 The Panel has the authority to:

- Find that the employee has no case to answer and discharge the case.
- Require satisfactory completion of a course of training or developmental activity.
- Issue a first written or final written warning and impose conditions in relation to such warnings.
- Extend the period of the final written warning as an alternative to dismissal.
- Suspend the employee on full, partial or nil pay for a period not exceeding three months.
- Loss of incremental progression for 1 year.
- Demotion or Loss of Seniority in relation to the employee's current role/status in the University.
- Dismiss the employee with the appropriate period of notice or payment in lieu of notice.
- Dismiss the employee without notice and without pay in lieu of notice.

7.9.2 This list is not exhaustive and only gives an indication of what action the University might take following a disciplinary hearing. Any alternative proposals must be approved by the Director of Human Resources.

7.9.3 When deciding upon the level of disciplinary action to take, the Chair/Disciplinary Panel should take into account any previous disciplinary warnings issued that are still current, the actual severity of the problem, the degree of potential harm to the interests of the University and its employees or students, and the explanations given by the employee.

## **7.10 Decision and written notification**

7.10.1 On the basis of the discussion and the evidence provided, the Chair/Panel will adjourn to decide what action, if any, should be taken. The employee will normally be notified of the decision in writing within 7 working days of the conclusion of the hearing.

7.10.2 If a disciplinary warning has been issued, the written notification will set out all the conditions associated with the warning, i.e. reason for the warning, the improvement required, how monitoring will take place, the period for which the warning will be in force, the likely penalties for failure to meet the conditions of the warning, and the employee's right of appeal.

7.10.3 Where the disciplinary action taken is dismissal, the written notification will state the reason for the dismissal, the date on which their employment will terminate (taking into account the employee's required notice period if appropriate), and the employee's right to appeal.

## **8. Appeal**

### **8.1 The right of appeal**

8.1.1 The employee will have the right of appeal against any disciplinary penalty imposed. The grounds for appeal may be substantive or procedural. The written notification of the Disciplinary decision will identify the person to whom the appeal should be made.

8.1.2 A written appeal must be lodged within 10 working days of being in receipt of the disciplinary decision. Any extension to this time limit will only be considered in exceptional circumstances. The appeal should state clearly the ground(s) on which the employee wishes to appeal.

### **8.2 Notification**

8.2.1 Appeals against any disciplinary action/dismissal will normally be held within 20 working days of the appeal being lodged. The employee will be given written notice of the time and date of the appeal hearing, the right to accompaniment, together with names of the individuals who will make up the Appeal Panel at least 5 working days in advance of the hearing taking place.

### **8.3 Accompaniment**

8.3.1 The employee has the right to be accompanied to the disciplinary appeal hearing by another employee of the University, a recognised trade union representative or an official employed by a recognised trade union. In the case of a member of the Senior Management Team the accompanying person may be a member of the University Court. The accompanying person may confer with the employee during the hearing and, at the employee's request, may address the Chair/panel and summarise the case at the end. They are not, however, entitled

to answer questions on behalf of the employee. Neither the employee nor the University will have legal representation at the hearing.

8.3.2 To exercise the right to accompaniment employees must make a reasonable request as described in the [ACAS Code of Practice on Disciplinary and Grievance Procedures](#).

8.3.3 The Chair has the authority to allow other individuals to accompany the employee in exceptional circumstances.

#### **8.4 Witnesses**

8.4.1 Names of any witnesses to be called by the employee must be made available to Human Resources no later than 2 working days prior to the hearing. It is wholly the responsibility of the employee concerned to make initial contact with any individuals they may wish to call as witness, obtain their agreement, inform them of the date, time and venue of the hearing, and, if necessary, to source witness statements. Assistance from Human Resources may be provided on request, particularly in arranging release from duties to attend the hearing. The Chair/Disciplinary Appeal Panel may call witnesses and the employee will normally be advised of the names of these witnesses within 2 working days of the hearing except where witnesses may be called in response to identification of the employee's witnesses. The Panel chair has discretion to allow submission of witness statements in the absence of the physical presence of the witnesses or to allow remote audio-visual means for hearing and questioning witnesses.

#### **8.5 Selection of the appeal panel**

8.5.1 The University will seek to appoint an Appeal Panel in accordance with the following compositions but reserves the right, in exceptional circumstances, to modify or replace the compositions if the University deems it necessary.

8.5.2 An appeal hearing will be initiated with assistance from Human Resources on the process to be followed. Where the case is against the Director of Human Resources or the member of the Principal's Office responsible for Human Resources, a non-executive member of the University Court will be sourced to undertake the administrative tasks and attend the appeal hearing.

##### **8.5.3 The Appeal Panel will normally consist of:**

- The Head of School/Unit, who will serve as Chair of the Panel. Where such an individual is not available or appropriate in the circumstances, or when the appeal concerns a dismissal, the Head of another School/Unit will be appointed or in the case of an academic, an external person drawn from a panel appointed by the Court, following consultation with the recognised Trade Unions, which may include Non-Executive members of Court.
- A manager from out with the School/Unit.
- Those appointed will have had no previous involvement in the case.
- In addition, although it is not a requirement for the constitution of the panel, a TU representative from one of the non-represented unions will normally be asked to sit on the panel. This TU representative will be a full panel member.

8.5.4 The appointment of the Appeal Panel for **Heads of School/Unit** will normally consist of:

- The Principal and Vice-Chancellor, who will serve as Chair of the Panel; and

- An external non-executive member of the University Court.
- Those appointed will have had no previous involvement in the case.

8.5.5 The appointment of the Appeal Panel for **members of the Senior Management Team/Principal** will normally consist of:

- The Senior Governor of the University Court, who will serve as chair of the panel; and
- An external non-executive member of the University Court.
- Those appointed will have had no previous involvement in the case.

8.5.6 The members of any Appeal Panel must have no substantial conflict of interest in the appeal and should have had no substantial previous involvement in earlier stages of the disciplinary case.

8.5.7 The Chair of the Appeal Panel and the panel members will be provided with all the material presented at the original hearing. In addition, the Appeal Panel will be provided with the appellant's letter stating the grounds for the appeal. The employee and the companion will have the right to comment on any new evidence that arises during the appeal before any decision is taken.

8.5.8 The Appeal Panel will hear evidence from both parties, i.e. the employee and the Chair of the original Disciplinary Panel. Both parties will be given the opportunity to present their case and call witnesses.

8.5.9 A representative from Human Resources will be in attendance at all Disciplinary Appeal Hearings except as noted in 8.5.2 above.

## **8.6 Attendance at hearing**

8.6.1 The employee should take all reasonable steps to attend the hearing on the date/time stated in the written notification. However, the hearing will be re-scheduled to another time convenient for the employee and the University if the employee's accompanying person is not available at the chosen time and the employee proposes a reasonable alternative that is within **5 working days** of the original date (this time limit may be extended only by mutual agreement). If the date/time of the hearing is unsuitable to the employee for another reason, he/she should contact Human resources who will consider whether the hearing can be rescheduled to a mutually convenient time.

8.6.2 A hearing will only be deemed to have taken place if the employee concerned has had a reasonable opportunity to attend. Where an employee fails to attend or remain throughout a scheduled hearing through circumstances out with their control, the hearing or its continuation should be arranged for another time. Where an employee fails to attend or remain throughout such a re-arranged meeting without good reason a decision may be taken in the employees absence based on the evidence available.

8.6.3 Employees may sometimes be unable to attend a hearing by reason of ill health. In such circumstances the employee may be required to submit a medical certificate from their GP. The matter will be referred to an Occupational Health Practitioner who with the employee's consent will discuss the matter with the individual's GP to assess the likely duration of the inability to attend hearings. In the light of such information the Chair may determine whether to proceed with the hearing based on the evidence available or defer for a reasonable period of time. If the employee refuses to consent to an approach to the GP then the Chair will have no option but to base any decision on the information on whether to defer or proceed in the

employee's absence. It is not the intention to penalise staff whose illness genuinely precludes them from attending hearings. Any delays to the hearing are not to the advantage of the employee or the University. Each individual case will be evaluated on its own merits but the prime objective will be to eliminate or minimise any delay in holding hearings.

8.6.4 The Chair may at their discretion adjourn a hearing and reconvene at a later date if additional evidence needs to be obtained or if additional time is required for the hearing or if other circumstances justify such an adjournment.

## **8.7 Conduct of the hearing**

8.7.1 At the appeal hearing the reasoning for the original decision of the disciplinary panel will usually be presented first, normally by the chair of the disciplinary panel, followed by the appeal submission from the employee. Both sides are entitled to call witnesses and will be given the opportunity to raise points about the information provided by witnesses. Direct questions may be put to any witnesses at the discretion of the panel chair. The Appeal Panel may also call and question witnesses. After all the submissions have been made and the questioning has been completed, both sides will be asked to summarise the main points of the case. The panel will then withdraw to consider its decision.

## **8.8 Authority of the appeal panel**

8.8.1 Any decision/action taken at appeal will not exceed the severity of the action imposed by the original Disciplinary Panel.

### **8.8.2 The Appeal Panel has the authority to:**

- uphold the original decision;
- annul the original decision and withdraw all disciplinary actions;
- uphold the original decision in whole or in part but withdraw the original disciplinary action(s) in whole or in part and substitute a penalty of lesser or equivalent severity.

## **8.9 Decision and written notification**

8.9.1 On hearing all the evidence the Appeal Panel will adjourn to consider its decision. The decision will be confirmed to the employee in writing within **7 working days** of the conclusion of the hearing.

8.9.2 The Panel may also make recommendations to the original Panel following the appeal hearing.

8.9.3 The decision of the Appeal Panel will be final and will mark the final stage of the University procedures.

### **Note:**

- For the purpose of this document a working day is defined as a weekday Monday – Friday but excluding public holidays and such additional days when the University is deemed closed.
- It is not the University's policy to allow audio or visual recording of meetings or hearings.

<b>Version number</b>	<b>Purpose / changes</b>	<b>Document status</b>	<b>Author of changes, role and school / unit</b>	<b>Date</b>
1.0	Migration of policy to the Governance Zone	Published	Lisa Stewart, Human Resources	10/06/2019

## **Appendix A: The role of the panel at a disciplinary hearing**

The role of the panel at the hearing is to consider the Investigating Manager's evidence in relation to the allegations, and to give the employee an opportunity to state their case in response to the allegations and evidence presented. The whole basis of the hearing is that it must be as objective as possible and afford the employee an opportunity to correct any misunderstandings or misconceptions formed during the investigation, and to present any additional information to enable an accurate assessment of the case to be made.

### **General points on the hearing**

- Keep the hearing formal, but polite, and encourage the employee to speak freely – the aim of the hearing is to establish all the relevant facts.
- Ask open-ended questions to establish the broad picture and to seek clarification, and use closed questions to obtain specific facts.
- Avoid being drawn into arguments – if tempers flare during the hearing it may be appropriate to adjourn for a short period. Do not make personal criticisms.
- If the employee becomes upset or distressed during the hearing allow them time to regain composure before continuing. If the employee becomes too distressed to continue, adjourn the hearing to a later time/date.
- If it has become clear at any point in the hearing that the employee has provided an adequate explanation for their behaviour/performance, etc. or there is no real evidence to support the allegations, the proceedings should be ceased and the case dismissed.
- The hearing should be adjourned if new evidence has arisen during the proceedings, or at the employee's/accompanying person's request, if the Convener of the Panel considers this reasonable/appropriate.

### **Conducting a Disciplinary Hearing**

#### **Chair will:**

- Introduce those present and explain their roles;
- Explain to the employee why they are there;
- The purpose of the disciplinary hearing and how it will be conducted and;
- The nature of the allegations.

#### **Structure of the hearing**

1. The case against the employee will be outlined normally by the relevant investigation Manager, by way of presentation of evidence and/or the calling of witnesses.
2. The employee and/or the accompanying person will have the opportunity to question the Investigation Manager and the witnesses.
3. The Convener and other panel members will have the opportunity to question the Investigation Manager and the witnesses.



4. The Chair confirms that all the evidence has been presented, that there are no further questions and asks the witnesses to leave the hearing.
5. The employee and/or the accompanying person will be allowed to present their case and respond to allegations, calling any witnesses as required.
6. The Investigation Manager will have the opportunity to question the employee and the witnesses. The employee must answer questions directed to them. The representative is not entitled to answer on their behalf.
7. The Chair and other panel members will have the opportunity to question the employee and the witnesses. The employee must answer questions directed to them. The representative is not entitled to answer on their behalf.
8. If at any time, evidence arises which, in the opinion of the Chair, needs further investigation then the hearing will be adjourned and reconvened later.
9. Both sides will be asked to summarise their cases, with the Investigation Manager summarising first.
10. The Chair will ask the employee if they feel they have had a fair hearing and if there is anything further either party wishes to say.
11. The Chair will thank everyone for attending and confirm what will happen next.
12. Both parties should leave the hearing.
13. In private, the Panel will consider the case to decide if the allegations are well-founded, on the balance of probability and, if so, what level of disciplinary action should be taken (consider the gravity of the case – is disciplinary action warranted – if so, at what level?). Consideration should be given to:
  - Any guidance offered by the Disciplinary Procedure and Human Resources;
  - Any precedents;
  - The employee's disciplinary and service record;
  - Any mitigating circumstances.
14. If appropriate, reconvene the hearing and inform the employee of the decision.

**Following the above structure will help ensure that everyone is given the opportunity to present all the relevant points and that the employee is given the fullest opportunity to respond to the allegations against them.**

### **After the Hearing**

- The employee must receive written notification of the decision within 7 working days of the hearing. If action is to be taken the letter should state the level of the warning, the improvement/change in behaviour required, timescales for improvement, monitoring process, support to be given and the review date. It should also inform the employee that they have the right to appeal against any decision made.