



University of
St Andrews

Disciplinary Hearing Panel: Guidance

Document type	Guidance
Scope (applies to)	All staff
Applicability date	14/03/2022
Review / Expiry date	05/06/2025
Approved date	05/07/2024
Approver	Director
Document owner	Human Resources Officer
School / unit	Human Resources
Document status	Published
Information classification	Public
Equality impact assessment	None
Key terms	Staff/Employee relations/Conduct management
Purpose	Guidance for the disciplinary panel to conduct the disciplinary process from preparation through to conclusion.

Version number	Purpose / changes	Document status	Author of changes, role and school / unit	Date
1.1	Amending the expiry date only to coincide with policy review consultation dates.	Published	Lisa Stewart HR	04/07/2024

1. Introduction

- 1.1 The steps outlined in this guide will help ensure that the Disciplinary Panel are equipped with knowledge and guidance to be able to conduct the disciplinary process from preparation through to its conclusion.
- 1.2 If the Chair or any member of the Disciplinary Panel need further guidance on how to conduct a Disciplinary Hearing, they should speak with the HR representative assigned to the case.

2. Roles and responsibilities

2.1 Disciplinary Panel

- Overall, the Disciplinary Panel's role is to: review the disciplinary papers, which will include evidence gathered during the investigation; conduct the Disciplinary Hearing; and determine and communicate the decision.

2.2 Chair's role

- The Chair will explain the allegation(s) and go through the evidence (received with the invitation to the Disciplinary Hearing).
- The panel will ask questions to attendees to seek clarification on any matters that are unclear.
- The Chair will gather as much information as possible to ascertain whether there is or is not a case to answer, so that they can make a clear, non-judgemental decision about the case.
- The panel may, at their discretion, adjourn a Disciplinary Hearing and reconvene later if additional evidence needs to be obtained/further investigation is required, if additional time is required for the hearing, or if other circumstances justify such an adjournment.

2.3 Employee's role

- The employee will have an opportunity to set out their case, put forward their version of events, respond to the allegation(s), ask questions/raise points, present evidence, and call relevant witnesses (if requested prior to the hearing).

2.4 HR's role

- HR will attend the hearing to provide procedural support and guidance to the Disciplinary Panel and may ask questions for clarity and understanding as and when required. HR will also be responsible for taking notes which will summarise key points.

2.5 Accompanying person's role e.g. Trade Union Representative or work colleague

- The employee has the right to be accompanied by a recognised Trade Union representative, an official employed by a recognised trade union, or a work colleague. At the employee's request, they may address the hearing (put forward the employee's case), ask questions, respond on behalf of the employee to any views expressed at the hearing and confer privately with the employee. They do not have the right to answer questions on the employee's behalf, or to prevent the Disciplinary Panel from explaining their case. Neither the employee nor the University will have legal representation at the hearing.

3. Guidance for the Disciplinary Panel

3.1 Disciplinary hearing preparation

- Read the disciplinary papers to establish the findings from the investigation.
- Read the Disciplinary Policy to ensure understanding and adherence to the procedure.
- Identify any specific issues that need to be explored during the disciplinary process.
- Ensure the Disciplinary Panel meet prior to the hearing to ensure that the panel are comfortable with the format of the hearing and to agree points/issues/questions to be explored.

3.2 Handling a disciplinary hearing: General points

- Keep the hearing formal, but polite and encourage the employee to speak freely.
- Be calm and conduct the hearing with thought and care.
- State factually what the employee has done or not done and avoid expressing personal opinions or making assumptions about the matter.
- Give the employee specific examples regarding the allegations.
- Avoid providing vague statements and generalisations such as, “you have a bad attitude”.
- Slow the pace down when a lot of information is being given.
- Don't be afraid to pause or have a moment of silence to reflect on what has been said.
- Ask the employee to repeat their response to you if you do not understand what has been said.
- Move the employee forward if they start to repeat information already covered or not relevant to the hearing.
- Use verbal (“Thanks for that”, “Help me understand”, “I'd really like to know”) and non-verbal language (open, attentive body language, relaxed body posture (avoid folding arms), steady nods, held but not constant eye contact).
- Use clear, concise, relevant, and understandable questions.
- In circumstances where the employee is argumentative/aggressive, resist getting drawn into the argument and remind the employee of your role and the purpose of the hearing.
- If the employee becomes upset or distressed during the hearing allow them time to regain composure before continuing.
- Check for understanding and seek the employee's agreement that whatever they have done or not done is unacceptable and why this is the case.

3.3 Adjourning the hearing

3.3.1 The Chair should consider adjourning the hearing if:

- new evidence has arisen during the hearing that needs to be investigated/reviewed.
- the employee/accompanying person requests this.
- the employee gets upset, distressed or if tempers flare.
- it has become clear that the employee has provided an adequate explanation for their behaviour/conduct, or there is no real evidence to support the allegations, the proceedings should be ceased, and the case dismissed.

3.4 Interview techniques

- Listen and concentrate to what the employee is saying and respond appropriately.
- Ask questions about sensitive and personal matters with delicacy and empathy.

- Keep questions short and clear.
- Start with open questions and give reasonable opportunity for the employee to provide a response.
- Use closed questions to establish meaning and to seek a specific response, i.e. yes or no.
- Use focused, probing questions, not prying questions.
- Avoid blaming and leading questions.
- Probe responses if the employee has not clearly or accurately answered the question asked.
- Acknowledge the employee's viewpoint and ensure to have an open mind to anything that is said at the hearing.

4. Meeting format

4.1 Introductions and explanations

4.1.1 The Chair will:

- introduce those present and explain their roles. If the employee has brought an accompanying person e.g. TU representative along to the hearing - confirm their role. If the employee has not brought an accompanying person, ask if they are comfortable to proceed without.
- confirm if any witnesses will be called to join the hearing at a later stage.
- confirm that no recordings should be made of the hearing and ask all parties to confirm that they are not recording proceedings and that they are aware to do so without permission is a disciplinary offence.
- confirm that the HR representative will take notes, offer procedural support and advice and may ask questions for clarity. Confirm that these are notes and not a verbatim record of what was said and will be emailed to the employee after the hearing for review and approval.
- state the purpose of the disciplinary hearing and how the hearing will be conducted.
- outline the nature of the allegations and explain what the panel needs from the employee at this hearing.
- confirm that at any point, the meeting can be adjourned if required.
- confirm that if any new evidence or issues come to light that have not already been investigated, the hearing may be adjourned to consider this evidence.
- discuss the parameters of confidentiality and ask if all parties understand and will comply with this requirement.
- check that all parties have received the disciplinary information pack in advance, understand the format for the hearing and have any questions regarding the process.
- ask if the employee is happy to proceed with the hearing.

4.2 Review the allegations

4.2.1 The Chair will:

- confirm with the employee that they have read and considered the outputs from the investigation report into the allegations.
- state precisely what each allegation is and ask the employee to present their case by responding to each allegation separately.
- invite the investigating manager (or equivalent) to summarise their findings (if applicable).
- invite the employee to respond to each of the allegations.

- invite the Disciplinary Panel to ask questions/seek clarity about the allegations.
- invite witnesses to present their account of the allegations (if applicable).
- ask the employee and/or the accompanying person to summarise their case.
- summarise the case from their perspective.
- ask the employee if they have had a fair hearing and if there is anything further the employee and/or the accompanying person would like to add before the hearing ends.

4.3 Summarising the hearing

4.3.1 The Chair will:

- advise the employee that the panel will consider all the information provided during the investigation and the hearing in order to reach a decision.
- confirm that the employee will be notified of the outcome in writing within 10 working days. In some cases, it may be possible to adjourn the hearing and confirm the outcome on the same day. If there is to be a delay to this timescale, the employee will be notified of this and the reasons for it.
- close the hearing by asking the employee and accompanying person to leave the room and remind them of confidentiality parameters.

4.4 Conclusions/outcome

4.4.1 The panel will consider the case, in private after the hearing is concluded and decide if there is a case to answer. The panel will base their decision on the evidence that has been heard and if appropriate, on the balance of probabilities.

- If new evidence or issues have been raised, further investigation may be needed before a decision can be reached.
- If the panel decide not to uphold the allegation/s, no sanction will be required but recommendations may be given.
- If the panel decide that there is a case to answer, they must consider if this constitutes misconduct or gross misconduct and what disciplinary sanction is appropriate.

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1.0	Updated guidance to support the Disciplinary Policy.	Published	Lisa Stewart HR	14/03/2022
1.1	Amending the expiry date only to coincide with policy review consultation dates.	Published	Lisa Stewart HR	04/07/2024