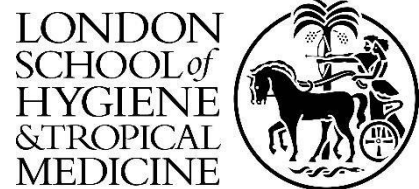


HUMAN RESOURCES

Disciplinary and Dismissal Policy and Procedure for Professional Support Staff



1. Policy

- 1.1 The School's aim through this policy is for managers to help and encourage employees to achieve and maintain appropriate standards of conduct, by means of addressing problems informally as soon as they arise.
- 1.2 Where informal action is not effective or appropriate this disciplinary procedure is a formal means to encourage employees to achieve and maintain appropriate standards of conduct. It enables individual cases to be resolved fairly, consistently and in a timely manner.
- 1.3 This policy will be applied in a non-discriminatory way, in line with the School's Equality and Diversity Policies.

2. Scope of Policy

- 2.1 This policy applies to all Professional Support Staff employed by the School.
- 2.2 The definition of a manager for the purposes of this policy is any member of the School with line management responsibility for one or more members of Professional Support Staff.
- 2.3 Decisions taken under this policy will only be made after thorough investigation of the facts presented and where there are reasonable grounds upon which to sustain a belief that an employee's conduct is a matter for disciplinary action.

3. Exclusions

- 3.1 The policy does not apply to new employees during their probation period of employment with the School, or extension thereof.
- 3.2 The policy relates to misconduct. Therefore it does not apply to:
 - Underperformance that can be attributed to lack of capability, whether skill or aptitude to do the work the employee was employed

to do which would be dealt with through the School's Capability Policy and Procedure for Professional Support Staff.

Underperformance that can be attributed to a medical condition or health concern that may more appropriately be dealt with under the Schools Policy and Procedure for Sickness Management.

4. Overseas Staff

- 4.1 It is the intention that this policy will apply to staff working overseas. It may be necessary to adapt these procedures, for example, where attendance at hearings is not practicable these may be carried out via video-link or any other means as appropriate.

5. Roles and Responsibilities

- 5.1 Employees have a responsibility to:

- Attend work and on time.
- Perform her/his duties to the required standard.
- Comply with reasonable instructions.
- Treat all colleagues and managers with respect.
- Not to disclose confidential information.
- Understand that if her/his conduct or attendance is below a satisfactory level her/his manager has an obligation to address it.
- Comply with any training, development or other measures identified that will enable him/her to reach the required level of conduct, performance or attendance.
- Advise her/his manager of any issue that is affecting their conduct, performance or attendance inside or outside of work, including personal, health or disability issues.

- 5.2 Managers have a responsibility to:

- Recruit, train and manage staff appropriately, thereby minimising the risk of misconduct.
- Set and communicate standards of required conduct, performance or attendance during induction and throughout employment.

- Provide feedback on conduct, performance or attendance to every employee they are responsible for.
- Address issues of conduct, performance or attendance as soon as they become apparent.
- Provide appropriate guidance, training, support and/or assistance to help the employee achieve the required standards of conduct, performance and attendance.

Ensure that actions taken in respect of an employee's work conduct, performance, or attendance are done sensitively and consistently maintaining confidentiality, dignity and equality of opportunity.

5.3 Human Resources have a responsibility to:

- Provide advice in respect of the application of this procedure.
- Support and advise the manager in the process of making an informed, fair and reasonable decision.
- Ensuring that this policy and procedure is updated in line with employment legislation.

5.4 To ensure consistency of the application of this procedure, managers must seek the advice of their HR Partner before invoking the formal Disciplinary and Dismissals Policy and Procedure.

5.5 Should the employee need assistance in understanding either the policy or procedure or any documentation in connection with this, he/she should seek advice from his/her HR Partner or trade union representative.

6. Misconduct and Gross Misconduct

6.1 Disciplinary action would normally be considered in cases of misconduct. There are two levels of misconduct: ordinary misconduct and gross misconduct. Ordinary misconduct is conduct of such a kind as to warrant disciplinary action rather than dismissal for a first offence on the part of the employee. However, repeated instances of ordinary misconduct can lead to dismissal.

6.2 The following are examples of ordinary misconduct; they are for indicative or illustrative purposes only and are not exhaustive:

- Unauthorised absence and unsatisfactory timekeeping;
- Failure to maintain satisfactory standards of work;
- Refusing to comply with reasonable instructions from a supervisor or manager;

- Minor breach of confidentiality, School regulations or conditions of employment.
- 6.3 Gross misconduct is conduct serious enough to destroy fundamentally the contract between employee and employer, making any further working relationship or trust impossible. If on completion of a disciplinary investigation and disciplinary hearing, the School is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or pay in lieu of notice.
- 6.4 The following are examples of gross misconduct; they are for indicative or illustrative purposes only and are not exhaustive:
- Acts of theft, fraud or deliberate falsification of records;
 - Unauthorised possession of goods belonging to the School, its staff or students;
 - Corruption or soliciting or acceptance of bribes;
 - Disorderly conduct;
 - Bullying, harassment or victimisation;
 - Gross and deliberate misuse of School property or name;
 - Serious misuse of School IT resources such as deliberately accessing internet sites for personal use which contain pornographic, offensive or obscene material;
 - Physical or verbal abuse of a colleague, member of the public or employee or an organisation that has business with the School;
 - The possession of illegal drugs on School premises or on School business;
 - Incapacity due to drunkenness;
 - Unauthorised drug taking on School premises or on School business.
 - Misconduct of a sexual nature on School premises or on School business;
 - Acts of gross insubordination, or refusal to comply with legitimate instruction;
 - Gross negligence;
 - Wilful or neglectful misuse or damage to School property or the property of employees causing unacceptable financial loss;
 - Serious breaches of confidentiality, School and/or statutory regulations or conditions of employment;
 - Unreasonable behaviour both on and off School premises that causes serious reputational damage to the School and including the improper use of social media;

- Conviction for an offence outside work affecting staff or external relations, or the employee's ability to perform effectively in the role for which they were employed.

7. Representation

- 7.1 At each stage of the formal disciplinary procedure, the employee has the right to be accompanied by a trade union representative/official or workplace colleague. When arrangements for meetings are confirmed, employees are responsible for notifying their chosen representative of the arrangements and notifying the chair of the meeting or the relevant HR Partner of the name of the person accompanying them in advance.
- 7.2 Disciplinary investigations and hearing are internal procedures. Therefore, attendance as a companion is restricted to officials of recognised trade unions or employees of the School. Solicitors, family members and all other nonemployees will be excluded from investigation meetings and disciplinary hearings.
- 7.3 There is no requirement on a work colleague to accept a request to accompany an employee.
- 7.4 In rare cases where the School feels that the choice of representative may affect the integrity of the process, this will be discussed with the employee, and the School may request that the employee consider nominating an alternative representative.
- 7.5 Employees should take all reasonable steps to attend the disciplinary hearing. Should their chosen companion be unavailable on the given date, the employee shall immediately request a postponement by proposing an alternative date and time, which should be within five working days of the given date. Where this is not possible the employee shall choose an alternative person to accompany him/her to the hearing.
- 7.6 If the reason for the employee or companion being unable to attend the disciplinary hearing is for reasons that were unforeseeable at the time of arranging the meeting/hearing, the employee will be notified of a new date, time and location by the Chair, depending on the stage of the process. The School reserves the right to hold formal Disciplinary hearings in absentia.
- 7.7 The companion will be able to confer with the employee during the Disciplinary hearing and will be allowed to address the hearing in order to put forward and sum up the employee's case, respond on the employee's

behalf to any view expressed at the hearing and ask questions for clarification of any witnesses. The companion will not be able to answer questions on the employee's behalf.

8. Timescales

- 8.1 Whilst every endeavour will be made to comply with timescales, due to the complexity and/or specific circumstances of a case, timescales may be extended. In such circumstances, an employee will be advised of the reasons for the delay.

9. Police or Other Legal Proceedings

- 9.1 The School reserves the right to take appropriate disciplinary action in circumstances where the police are investigating, or legal proceedings have commenced, should such circumstances or proceedings have a bearing on the employee's performance or contractual obligations. It may be necessary to take such disciplinary action before the outcome of the police investigation or legal proceedings is known.
- 9.2 If during the course of an investigation under this procedure alleged criminal offences are suspected, the School reserves the right to refer these to the police.

10. Confidentiality and Data Protection

- 10.1 All those involved in a disciplinary procedure must keep all information relating to the case confidential. Any inappropriate disclosure of information relating to the case may result in disciplinary action.
- 10.2 Audio or visual recording of any meetings are not permitted.

11. Informal Procedure

- 11.1 Minor issues/concerns will be dealt with informally by way of advice, coaching, caution or training as appropriate. Examples of such offences may include an isolated instance of:
- poor timekeeping
 - non-compliance with sickness notification rules
 - repeated minor errors in work

- inappropriate comments or behaviour
 - failure to follow procedures
- 11.2 In these circumstances the employee's line manager would have responsibility for bringing the matter to the attention of the employee and discussing it with them. The manager should meet with the employee to inform them of acceptable behaviour and to outline the expected modifications. The employee should be advised clearly of the standard of behaviour expected of them, and should be cautioned that if they do not improve then they may be subject to formal disciplinary action as set out in section 13.
- 11.3 The manager should make a note of the meeting, together with agreed objectives, expectations and timescales, and this should be sent to the employee for confirmation. The line manager should retain a copy of the meeting notes.
- 11.4 The formal procedure should be invoked where an issue has been discussed with an employee informally and:
- the issue has not been resolved;
 - the required improvements in conduct are not achieved;
 - further information becomes available during discussions which make the matter sufficiently serious.
- 11.5 There is no right to be accompanied by a Trade Union representative or workplace colleague at an informal meeting to discuss conduct. There is no right of appeal against decisions made as part of an informal discussion about conduct.

12. Formal Procedure

- 12.1 Where the informal procedure has not led to improved conduct or in matters that are more serious or in cases of repeated minor breaches, the allegations will be dealt with under the formal disciplinary procedure.
- 12.2 The formal stages of the Disciplinary Procedure are designed to allow a case to progress through the normal management chain and therefore, the employee's line manager will normally carry out the disciplinary investigation and, the line manager's manager will normally Chair the Disciplinary Hearing, if applicable.
- 12.3 For the purposes of this procedure the person carrying out the disciplinary investigation will be referred to as the **'Investigating Officer'** and the person hearing the disciplinary case should it progress to a

disciplinary hearing will be referred to as the '**Chair**'. It may, in certain circumstances, be appropriate for a manager other than the immediate line manager to undertake the disciplinary investigation.

13. Suspension from Work

- 13.1 Suspension is not a disciplinary act, and does not imply that there has been any misconduct. It is a neutral act to allow an effective investigation to take place. Suspension will usually only be considered in cases of very serious allegations, for example those constituting gross misconduct.
- 13.2 Suspension will be on full pay until either a disciplinary hearing takes place or the investigation discontinued. It will normally occur within one working day of the start of a disciplinary investigation and be for as short a period as possible.
- 13.3 The School reserves the right to suspend an employee at any stage of a disciplinary investigation where it emerges that the case is potentially one of gross misconduct, or where conduct of the investigation is being, or may be affected by the presence at work of the employee. Suspension may also be considered in circumstances where the disciplinary investigation is causing distress to the employee.
- 13.4 When suspension of an employee is being considered, the line manager must first consult their HR Partner. A manager, accompanied by their HR Partner, will then meet the employee and explain the reasons for the suspension. The suspension will subsequently be confirmed, in writing, normally within three working days of the meeting. In certain cases, it may be appropriate for a manager other than the immediate line manager to undertake the suspension. The suspension should be reviewed on a regular basis to determine whether it is still appropriate.

14. Disciplinary Investigations

- 14.1 An investigation will be carried out prior to a disciplinary hearing. The extent of the investigation will depend on the seriousness and complexity of the case.
- 14.2 The employee will be informed in writing about the nature of the allegation(s) that will be investigated and the process that will be followed.
- 14.3 The purpose of the investigation is to:

- Establish the nature of the allegations
 - Establish the fact
 - Gather evidence to enable a decision to be taken on whether there is a disciplinary case to answer.
- 14.4 The investigation will normally comprise of discussions with the employee and any relevant witnesses about the matters under consideration. Written records of the discussions will be taken and necessary documentation gathered together.
- 14.5 The Investigating Officer will normally be accompanied by the HR Partner who will advise on procedure.
- 14.6 The role of the Investigating Officer will be:
- To ensure that, where practicable, all relevant facts and witness statements are obtained in relation to the allegation(s);
 - To decide the number and which witnesses are necessary to interview and will arrange to meet with them;
 - To complete the investigation in a confidential manner within an appropriate timescale. The investigation will normally be undertaken within four weeks.
 - To provide a written report outlining the findings of the investigation to the nominated person hearing the case.
- 14.7 Investigatory meetings are part of the process to establish whether disciplinary action is warranted. As part of the investigation the employee who is the subject of the allegation will be asked to attend an investigatory meeting at which s/he may be accompanied. The employee must inform the Investigating Officer of any facts or witnesses that s/he feels are relevant to the case. Where appropriate, witnesses will also be interviewed.
- 14.8 Disciplinary investigations will be completed without unreasonable delay given all the circumstances of the case but would normally be within four weeks. If an extension proves necessary, this will be agreed by the manager with their HR Partner. The employee will be advised of the reasons why, and the likely timescale for the completion of the investigation.
- 14.9 On completion of the investigation, the Investigating Officer will submit a report of her/his findings to the appropriate manager, who will determine next steps. This manager will then take a view on whether:-
1. There is no case to answer.

2. The issue(s) should be dealt with informally.
3. There is a disciplinary case to answer.

14.10 This manager will inform the employee of next steps in writing.

14.11 Where it is established that there is a disciplinary case to answer, the employee should be invited to a disciplinary hearing. The employee will be given at least 5 working days' notice of the hearing.

15. Disciplinary Hearings

15.1 Where it is considered that a disciplinary hearing is necessary the Chair of the disciplinary hearing shall write to the employee, normally within ten working days of receiving the investigation report, giving five days' notice of the meeting to:-

- Confirm the date, time and location of the disciplinary hearing;
- Set out the nature of the alleged misconduct;
- Confirm the names of those in attendance and names of any witnesses being called.
- Provide a copy of the investigating manager's report and any evidence at the same time that s/he is invited to the hearing.
- Confirm the possible outcomes of the hearing*.

*Where the Disciplinary hearing could result in the employee's dismissal they should also be notified of this in writing prior to the hearing.

15.2 In all formal cases, a HR representative should be present to advise on procedure.

15.3 The employee shall be advised of her/his entitlement to be accompanied at the hearing by a work colleague or trade union representative.

15.4 Should the employee wish to be accompanied or call witnesses, it will be her/his responsibility to provide all the appropriate details, including the date, time and location of the hearing, as well as the details and documentation relating to her/his case. The employee should notify the Chair in advance of the hearing who she/he would like to call as witnesses and why. The Chair will ultimately determine which witnesses will be called at the hearing.

- 15.5 The employee shall provide their HR Partner with the names of her/his companion or witnesses at least forty-eight hours before the hearing, if appropriate.
- 15.6 In circumstances where any action is to be taken against a representative of a recognised trade union this will be notified to a full time officer of that union.
- 15.7 The Investigating Officer will also attend the disciplinary hearing to present her/his management case.
- 15.8 Decisions made at a Disciplinary hearing will be confirmed in writing to the employee and the employee will be given the right of appeal.
- 15.9 The procedure to be followed at the disciplinary hearing is detailed in Appendix A.

16. Formal Disciplinary Hearing Outcomes

16.1 Following the hearing, the Chair must decide whether disciplinary action is justified or not. The hearing shall normally be reconvened on the same day for the decision to be given orally to the employee; however if the Chair requires additional time in making the decision, the hearing may be reconvened to a later date or by agreement, the decision will be provided in writing. In all cases, the employee will be provided with the outcome in writing normally within 7 working days unless advised by the Chair that a longer time period is required.

16.2 The potential outcomes following the hearing could therefore be as follows:

16.2.1 No Case to Answer

Where the facts of the case indicate that there is no case to answer the individual will be notified in writing.

16.2.2 Outcomes where there is a Case to Answer

16.2.2.1 Where it is found that there is a case to answer and disciplinary action is justified, the Chair will consider what outcome is appropriate. The outcomes listed below do not need to be applied sequentially but should be determined based on the seriousness of the case.

16.2.2.2 Before making a decision, the Chair will take account of the following when determining which of the potential outcomes available to them will be applied:

- The employee's current disciplinary and general record;

- Actions taken in any previous similar case;
- The explanations or extenuating circumstances provided by the employee; and most importantly;
- Whether the intended action is reasonable under the circumstances.

16.2.3 **No Further Action**

Applied exceptionally where the facts of the case indicate that there is a case to answer but where the Chair determines that the existence of fundamental contributory factors would make the issuing of a formal sanction or informal warning unwarranted and other informal measures would serve no purpose.

16.2.4 **Coaching, Counselling, Mentoring, Training and Retraining**

Where the facts of the case indicate that the matter should be handled informally, this may include the use of coaching, counselling, mentoring, training and retraining.

16.2.4 **Formal Disciplinary Action**

Where the facts of the case call for formal action then the following may be imposed as outlined under Section 17 below:

- i) First Written Warning ii)
Final Written Warning
- iii) Dismissal or Action Short of
Dismissal iv) Summary Dismissal

17. Formal Disciplinary Action Sanctions

17.1 Stage 1 – First Written Warning

17.1.1 If, following a disciplinary hearing, the Chair finds that minor misconduct has occurred; s/he may issue a First Written Warning to the employee.

17.1.2 The warning will be confirmed in writing and a copy placed on the employees HR file for a period of twelve months. It will include improvements required and timescales for improvements to be made. It will warn that action under Stage 2 or Stage 3 will be considered if there is no satisfactory improvement/repeated misconduct and will advise of the right of appeal, along with a copy of the Appeals Procedure.

17.2 **Stage 2 – Final Written Warning**

- 17.2.1 A Final Written Warning would be appropriate for a repetition of an act of misconduct for which the employee has previously received a written warning under Stage 1.
- 17.2.2 A Final Written Warning may also be appropriate for acts of misconduct so serious that the School would wish to dismiss the employee were they to be subsequently repeated.
- 17.2.3 A final warning will remain on the employee's file for a period of twelve months. It will give details of the misconduct, the improvements required and timescales. It will then warn that dismissal under Stage 3 of the procedure will be considered if there is no satisfactory improvement or a repeat of misconduct and will advise on the right to appeal, along with a copy of the Appeals Procedure.

17.3 **Stage 3 – Disciplinary Action, Dismissal or Summary Dismissal**

Dismissal applies to repetitions of minor, serious or major misconduct respectively. Summary dismissal applies to acts of 'gross misconduct' only.

17.3.1 **Dismissal**

- 17.3.1.1 If conduct is still unsatisfactory after a warning under Stage 2 of the procedure, the employee will be provided with a written explanation of the reasons for dismissal by the hearing manager.
- 17.3.1.2 The employee will receive pay in lieu of her/his contractual notice, and any other outstanding monies due to them. For calculation purposes, the employee's last day at work will be the date that the decision was made by the disciplinary panel.

17.3.2 **Summary Dismissal**

- 17.3.2.1 Summary Dismissal only applies to acts of gross misconduct. Please see section 6.4 for examples of gross misconduct. Because of the nature of alleged acts of gross misconduct, the employee will normally be suspended from work on full pay, whilst the Investigating Officer completes an investigation.
- 17.3.2.2 If it is found that an act of gross misconduct has taken place,

the employee will be summarily dismissed without notice, or pay in lieu of notice and the decision will be confirmed in writing as in cases of dismissal. The last day of service will be the date that the decision was made by the disciplinary panel.

17.4 Actions short of dismissal

17.4.1 In serious cases, where dismissal would usually result, actions short of dismissal may be considered. Actions short of dismissal would normally be considered in conjunction with a Final Written Warning. Actions Short of Dismissal may include:-

- Suspension with a partial or total loss of pay for a limited period of time, not exceeding 10 days.
- Modification of duties or role
- Demotion
- Withholding increments
- Transfer to another available role within the School.

Movement through the stages of the disciplinary procedure will not necessarily be in relation to the same offence. The cumulative progress of the process will be determined by the nature and seriousness of the offences.

18. Appeals and Grievances

- 18.1 Employees are entitled to appeal against any disciplinary action taken under the disciplinary procedure by using the Appeals Procedure for Professional Support Staff.
- 18.2 Where a grievance is raised in connection with the disciplinary procedure advice should be sought from Human Resources Department about how to proceed.

Accessibility

If you require any document in an alternative format, for example, in larger print, please contact Human Resources.

Annex A - The procedure at disciplinary hearings

1. The Chair will explain the purpose of the hearing, introduce the parties and outline the procedure.
2. The Investigating Officer will then present her/his case*

- a. He/she may then be questioned, for the purpose of clarification, by the Chair and the employee and/or employee's companion and HR representative.
- b. The employee and/or employee's companion will then be invited to state her/his case. *
- c. The employee may be questioned, for the purposes of clarification, by the Chair and by the Investigating Officer and HR representative. It should be noted that employees, not companions, will be required to answer any questions put to them during the hearing.

*Employees and Management Representatives can call witnesses to support her/his case; either during her/his statement or after questioning has taken place. If witnesses are called they may only be present for the period of her/his statements and questioning. They will be questioned first by the person who called them, then in turn by the other side, the Chair and the HR representative, if necessary. The Chair of the hearing reserves the right to call further witnesses at any stage of the hearing, if he/she feels that it would be helpful to do so for clarification.

3. After each sides case has been presented and each party has had the opportunity to ask questions of clarification, the Chair will ask the employee, and then the Investigating Officer to sum up their case.
4. The hearing will then be adjourned while the facts of the case are considered, and a decision made by the Chair. The hearing shall normally be reconvened on the same day for the decision to be given orally to the employee; however if the Chair requires additional time in making the decision, the hearing may be reconvened to a later date or by agreement, the decision will be provided in writing.
5. The employee will receive written notification of the outcome within seven working days of a disciplinary hearing; this notification shall inform the employee of her/his right of appeal, along with a copy of the Appeals Procedure.

Document Control

Title: *Disciplinary and Dismissals Policy and Procedure for Professional Support Staff*

Applicable to: *Professional Support Staff*

Date last reviewed: *23 September 2014*

Date Equality Impact Assessment Took Place: 02 October 2014

Date discussed and approved by Trade Unions: 16 September 2014

Date document approved by AAC: 14 October 2014

Date that document will be reviewed: *November 2015*

Procedure Owner: *HUMAN RESOURCES*