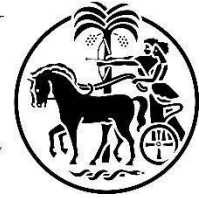


# HUMAN RESOURCES

## Disciplinary Policy and Procedure

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MEDICINE



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| <b>Title</b>          | Disciplinary Policy and Procedure                                    |
| <b>Document Type</b>  | Policy   |
| <b>Document owner</b> | Director of Human Resources  |
| <b>Approved by</b>    | HR Policy Committee and Joint Negotiating and Consultative Committee |
| <b>Approval date</b>  | 10 May 2024  |
| <b>Review date</b>    | January 2026   |
| <b>Version</b>        | 1.0  |

### Policy

1. LSHTM's aim through this policy and procedure 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.
2. LSHTM is committed to developing and maintaining high standards of individual conduct, attendance and job performance and believes that all employees should aim to conduct themselves in accordance with LSHTM's [core values](#) of acting with integrity, embracing difference, working together, and creating impact.
3. This procedure is designed to deal with misconduct, including inappropriate behaviour online. Where an employee is unable to reach or maintain the required standards of job performance through a lack of knowledge, skill or ability, LSHTM's capability procedure should be used. Cases of genuine sickness absence should not be dealt with under this disciplinary procedure.
4. There may be circumstances where it is unclear whether an issue arises as a result of misconduct or poor performance. Following appropriate assessment, LSHTM reserves the right to determine, at the discretion of the Director of Human Resources or their nominated designate, which procedure should be applied in any particular circumstances.
5. No disciplinary action will be taken until a matter has been fully investigated.

6. Employees have the right to appeal against dismissal or other formal disciplinary action in the manner provided below.
7. The procedure may be implemented at any stage if the employee's conduct warrants it.
8. This policy is intended to enable LSHTM to provide education, promote learning and engage in research efficiently and sustainably; - to apply the principles of justice and fairness.
9. Nothing in this Policy shall be construed in any way as limiting academic freedom of academic staff, as defined in the Higher Education (Freedom of Speech) Act 2023;
10. 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.
11. This policy will be applied in a non-discriminatory way, in line with LSHTM's Equality Diversity and Inclusion policies.

## **Scope of Policy and Procedure**

12. This procedure applies only to LSHTM employed staff who have completed their probationary period and been confirmed in their post, with the exception of the Director, who is subject to a different procedure.
13. This Policy is designed to reflect the ACAS Code of Practice and Guidance on Disciplinary Practice and Procedures post 5 April 2009 and ensure LSHTM's compliance with its provisions.
14. The definition of a manager for the purposes of this policy is any employee of LSHTM with line management responsibility for one or more members of staff.
15. 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.

16. For substantive clinical academic staff, the relevant NHS Trust's policy and procedure for Maintaining High Professional Standards in the Modern NHS will apply in the application of any formal procedure.

## **Exclusions**

17. The policy does not apply to employees during their probation period of employment with LSHTM, or extension thereof.
18. The policy does not prejudice, alter or affect any rights acquired by members of academic staff whose contract of employment in force was entered into before 20th November 1987, which are to be construed in accordance with subsections (3) to (6) of section 204 of the Education Reform Act 1988.
19. 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 application of another specific policy in force such as the School's Capability Policy and Procedure or the Good Research Practice Policy.
  - 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.

## **Overseas Staff**

20. It is the intention that this policy will apply to LSHTM employees 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.

## **Roles and Responsibilities**

21. **Employees have a responsibility to:**
  - Attend work and on time.
  - Perform their duties to the required standard.
  - Adhere to LSHTM's Values and its behaviour framework.

- Comply with reasonable instructions.
- Treat all colleagues and managers with respect.
- Not to disclose confidential information about others that could be perceived to breach confidentiality requirements associated with formal disciplinary procedures, and/or data protection policies and requirements. Understand that if their conduct or attendance is below a satisfactory level their manager has an obligation to address it.
- Comply with any training, development or other measures identified that will enable them to reach the required level of conduct, performance or attendance.
- Advise their manager of any issue that is affecting their conduct, performance or attendance inside or outside of work, including personal, health or disability issues.

**22. Managers have a responsibility to:**

- Recruit, induct, 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.

**23. 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.

24. To ensure consistency of the application of this procedure, managers must seek the advice of their HR Partner before invoking the formal Disciplinary Procedure and before taking any specific action under this procedure.

Should the employee need assistance in understanding either the policy or procedure or any documentation in connection with this, they should seek advice from their HR Partner or trade union representative.

## **Confidentiality and Data Protection**

25. All those involved in a disciplinary case must keep all information relating to the case confidential. Any inappropriate disclosure of information relating to the case may result in disciplinary action.
26. Audio or visual recording of informal or formal meetings is not permitted. Unless permitted by LSHTM in specific circumstances, for example to accommodate a disabled employee by way of a reasonable adjustment under the Equality Act 2010.

## **Representation**

27. At each stage of the formal disciplinary procedure, an 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.
28. 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 non-employees will be excluded from investigation meetings and disciplinary hearings.
29. There is no requirement for a work colleague to accept a request to accompany an employee.
30. 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 them to the hearing.

31. 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. LSHTM reserves the right to hold formal Disciplinary hearings in absentia.
32. 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.

## **Timescales**

33. Whilst every endeavour will be made to comply with any specified timescales in this policy and procedure, 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.

## **Misconduct and Gross Misconduct**

34. Disciplinary action would normally be considered in cases of misconduct. There are two levels of misconduct: 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.
35. The following are examples of 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, LSHTM Regulations, policies or conditions of employment.
36. 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.

37. 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 LSHTM, 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 LSHTM IT resources such as deliberately accessing internet sites for personal use which contain pornographic, offensive, unlawful or obscene material;
  - Physical or verbal abuse of a colleague, member of the public or employee or an organisation that has business with LSHTM;
  - Engaging in relationships in breach of the Staff and Students Personal Relationships Policy;
  - The possession of illegal drugs on School premises or on School business;
  - Incapacity due to drunkenness;
  - Unauthorised drug taking on LSHTM premises or on LSHTM 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 LSHTM 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 on or off LSHTM premises that causes serious reputational damage to LSHTM 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.
  - Engaging in behaviours that are not aligned with LSHTM Values and its behaviour framework.

### **Police or Other Legal Proceedings**

38. LSHTM 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.

39. If during the course of an investigation under this procedure alleged criminal offences are suspected, LSHTM reserves the right to refer these to the police.

## **Suspension from Work**

40. 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.
41. 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.
42. LSHTM 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.
43. 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.

## **Informal Procedure**

44. Minor issues/concerns will be dealt with informally by way of advice, coaching, caution or training as appropriate, and Representation (see 27) will not apply to such instances. Examples of such offences may include an isolated instance of:
- Poor timekeeping
  - Non-compliance with sickness notification rules
  - Repeated minor errors in work
  - Certain isolated instances of inappropriate comments or behaviour
  - A single instance of failure to follow procedures



45. 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 without delay to orally 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 below.
46. 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.
47. In cases of minor concerns, 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.
48. 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, e.g., issuing an informal warning, as part of an informal discussion about conduct.

## **Formal Procedure**

### **Formal Procedure: General**

49. Before taking formal disciplinary action, managers should first discuss the issue with the Human Resources Department – normally the designated HR Partner. Any decision to formally warn or dismiss a member of staff must be formally discussed with an appropriate member of the Human Resources Department.
50. 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.

51. 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.
52. 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 or LSHTM may appoint an external investigator to carry out the investigation in appropriate cases.
53. Where a case progresses to a formal hearing (including the appeal hearing), the hearing chair for an academic colleague will normally be a member of academic staff. Similarly, the hearing chair for a Professional Services colleague will normally be a member of Professional Services staff. Hearing chairs will be of suitable seniority for the individual who is subject to the hearing.

### **Formal Procedure: Disciplinary Investigations**

54. An investigation will be carried out prior to a disciplinary hearing in all events. The extent of the investigation will depend on the seriousness and complexity of the case.
55. 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.
56. The purpose of the investigation is for LSHTM to:
  - Establish the nature of the allegations against an employee.
  - Establish a fair and balanced view of the facts relating to the allegations.
  - Gather evidence to enable a decision to be taken on whether there is a disciplinary case to answer and therefore to proceed with a disciplinary hearing.
57. Investigations will normally comprise of investigatory interviews with the employee and any relevant witnesses about the matters under consideration. The interviews are solely for the purpose of fact-finding and determining whether there is a case to answer. Written records of the discussions will be taken and necessary documentation gathered together. No decision on disciplinary sanctions will be taken until after a disciplinary hearing has been held.

58. The HR Department will usually appoint an Investigating Officer to carry out the investigation. The Investigating Officer may be accompanied by an appropriate member of the HR Department.
59. 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.
  - To provide a written report outlining the findings of the investigation to the nominated person hearing the case. Appropriate papers will also be shared with the individual subject to the hearing.
60. 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. Under the ACAS Code of Practice the employee does not have the right to bring a companion to an investigatory meeting. LSHTM will allow a companion (work colleague, trade union representative or an official employed by a trade union) to attend investigatory meetings of the person who is the subject of the disciplinary procedure. It is the employee's responsibility to arrange for the companion to attend the interview and inform the Investigating Officer who the companion will be, in good time. However, in the interests of expediency investigatory interviews will not usually be rearranged if the preferred companion is unavailable. 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.
61. 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 Investigating Officer with the HR Partner. The employee will be advised of the reasons why, and the likely timescale for the completion of the investigation.
62. On completion of the investigation, the Investigating Officer will submit a report of their findings to the Director of HR, or their nominated designate, who will decide whether there are reasonable grounds to believe that there is a case to answer. If this is the case, a disciplinary hearing will be convened.

63. A Chair will be assigned by the Director of HR. The chair would be the manager of the employee who is the subject of the disciplinary charge, and/or another designated manager at a similar level in consultation with HR.
64. The Chair should not be the same person who undertook the investigation, except under exceptional circumstances.
65. If it is determined that no action is to be taken, the member of staff 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.
66. If informal action is to be taken, the procedure detailed above (see 44) will be followed.
67. If there is a need to proceed with formal action, the member of staff will be informed in writing and the procedure detailed below will be followed. The employee will be given at least 5 working days' notice of the hearing.
68. The written notification of formal action should contain sufficient information about the alleged misconduct and its possible consequences to enable the member of staff to prepare to answer the case at a disciplinary hearing.

### **Formal Procedure: Disciplinary Hearings**

69. If following an investigation, the Director of HR or their delegated representative, who in no event will be the Investigating Officer, decides to take formal action, the member of staff will receive written communication, normally from the Hearing Chair, setting out the nature and details of the alleged offence. They will be provided with copies of any written evidence considered which may include witness statements, subject to any necessary redactions.
70. The written communication will make it clear that disciplinary action may be required and the range of disciplinary sanctions that will be considered.
71. The member of staff will be invited to a meeting to discuss the matter and explicitly advised of their right to be accompanied by their trade union representative/official or fellow LSHTM colleague, and will be advised that an HR representative will attend the hearing.

72. Should the employee wish to be accompanied or call witnesses, it will be their 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.
73. For hearings that could result in dismissal, the panel will consist of a Chair assigned by the Director of HR and another manager of appropriate seniority. An HR representative will be present at the hearing to advise on matters of policy and procedure.
74. For hearings with potential outcomes less than dismissal, the hearing will consist of a Chair assigned by the Director of HR. In both cases the Chair will be the ultimate decision maker.
75. The Disciplinary meeting should be held without unreasonable delay, whilst allowing the member of staff reasonable time to prepare their case. The member of staff and their representative should make every effort to attend. If they are unable to attend for valid reasons consideration will be given to a postponement and a date will be re-scheduled normally within 5 days of the original date. If a member of staff continues to be unavailable to attend a meeting without good cause for two instances, LSHTM may ultimately conclude that a decision will be made on the evidence available.
76. A provision for any reasonable adjustments to accommodate the needs of a person with disabilities must be considered.
77. The member of staff may, if they wish, be accompanied at the meeting by their trade union representative/official or LSHTM colleague. In exceptional cases the member of staff may also (or alternatively) be accompanied by another person who would act as an interpreter.
78. Disciplinary action should not normally be taken against an accredited Trade Union representative until the circumstances of the case have been discussed with Human Resources and a full-time official of the Union concerned unless in serious circumstances requiring immediate action.
79. The disciplinary matter will normally be heard by the Chair. In all formal cases, an HR representative will be present to advise on procedure. An additional representative

from the School may be asked to sit on a panel alongside the Chair, particularly if the matter to be considered requires specialist knowledge.

80. If the investigation has been carried out by an Investigating Officer, they will explain the complaint against the member of staff and go through the evidence that has been gathered. At the meeting, the member of staff should be advised of their rights under this procedure. The member of staff or their representative will be allowed to set out their case and their version of events in response to any allegations that have been made.
81. A note taker who is not involved in the case should be asked to take a minute of the meeting.
82. If the Chair considers that further investigations are necessary, the hearing can be adjourned to allow further enquiries to take place.
83. Upon conclusion of the hearing, the Chair, will decide on what action, if any, is to be taken.
84. The Disciplinary hearing outcome will normally be communicated to the member of staff within five working days of the disciplinary hearing.
85. The letter will make it clear that the member of staff has a right to appeal and will outline what action must be taken if the member of staff wishes to assert this right.
86. A record of the meeting will also be given to the member of staff at the same time.

### **Formal Procedure: The procedure at disciplinary hearings**

87. The Chair will explain the purpose of the hearing, introduce the parties and outline the procedure.
88. The Investigating Officer will then present their case.
89. The Investigating Officer may then be questioned, for the purpose of clarification, by the Chair and the employee and/or employee's companion and HR representative.
90. The employee and/or employee's companion will then be invited to state their case.

91. 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.
92. Employees and Management Representatives can call witnesses to support their case; either during their statement or after questioning has taken place. If witnesses are called, they may only be present for the period of their 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 they feel that it would be helpful to do so for clarification.
93. After each side's 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.
94. 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, which should be no later than five working days later, or by agreement, the decision will be provided in writing.

### **Formal Procedure: Disciplinary Hearing Outcomes**

95. 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 5 working days unless advised by the Chair that a longer time period is required.
96. The potential outcomes following the hearing could therefore be as follows:

#### 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.

#### Outcomes where there is a Case to Answer

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

#### 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.

#### 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.

### **Levels of Formal Disciplinary Sanctions**

97. In any instance (including the first instance) the Chair may issue a first written warning, final written warning or dismissal if the misconduct is serious enough. The appropriate sanction will depend on the seriousness of the case in question
98. The levels of formal disciplinary sanctions that may be applied are as follows:
99. Where it is found that such a disciplinary offence has occurred, the facts of the case call for formal action then the following may be imposed as outlined below:
  - i) First Written Warning



- ii) Final Written Warning
- iii) Dismissal
- iv) Summary Dismissal

## **Formal Disciplinary Sanctions**

### **100. First Written Warning**

- i) A first written warning is normally issued to the employee where conduct or behaviour does not meet LSHTM's standards or there is no improvement in conduct about which the employee has previously been warned informally. If, following a disciplinary hearing, the Chair finds that such a disciplinary offence has occurred, a written warning will be issued to the employee. The warning will be confirmed in writing and a copy placed on the employee's HR file for a period of twelve months at which point it will lapse subject to satisfactory standards being maintained. In exceptional circumstances this timescale may be amended with agreement from the Director of HR or their nominated designate. The warning will:
  - ii) Set out the nature of the offence committed
  - iii) Inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
  - iv) Specify the period for which the warning will remain live, after such period the warning will normally lapse; and
  - v) State that the employee may appeal against the warning.

### **101. Final Written Warning**

A final written warning will remain on the employee's file for a period of 12 months at which point it will lapse subject to satisfactory standards being maintained. In exceptional circumstances this timescale may be amended with agreement from the Director of HR or their nominated designate.

102. A final written warning would normally be issued to the employee:

- For a repetition of an act of misconduct for which the employee has previously received a first written warning and another instance of misconduct has occurred while it is current; or
- Where there is no improvement in the conduct about which the employee has previously been warned; or
- For acts of misconduct so serious that a first written warning is not appropriate but would not justify dismissal but would justify dismissal if the employee were to repeat the misconduct. Such a warning will:

- Set out the nature of the offence committed
- Inform the employee that further misconduct is likely to result in dismissal
- Specify the period for which the warning will remain live, after such a period the warning will usually lapse; and
- State that the employee may appeal against the warning.

## **Dismissal**

103. Dismissal applies to repetitions of minor, serious or major misconduct respectively.

Summary dismissal applies to acts of 'gross misconduct' only. No provision in this section shall enable the body or person having the duty to reach a decision to dismiss any member of staff unless the reason for their dismissal may in the circumstances reasonably be treated as a sufficient reason for dismissing them.

104. Dismissal will normally occur if:

there is no improvement in the conduct which has been the subject of a final written warning within the specified period; or

105. Another instance of misconduct has occurred before the expiration of an existing final written warning; or

106. An allegation of gross misconduct is upheld (which leads to summary dismissal without notice).

107. The employee will be provided with a written explanation of the reasons for dismissal by the Chair of the hearing.

108. 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 Chair.

## **Summary Dismissal**

109. Summary Dismissal only applies to acts of gross misconduct, (see 36 and 37 above 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.

110. 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 Chair.

111. A decision to dismiss will be implemented immediately. In the event that the appeal is successful, the employee will be given full continuous service and reinstated on the payroll and will be paid any back-payments of salary they may be due.

## **Appeals**

112. An employee has the right of appeal against any formal disciplinary sanction.

Sanctions including dismissal or warnings will remain in place pending the outcome of any appeal.

113. The employee must send their written notice of appeal to the Director of HR or their nominated designate, within 5 working days from the date of receipt of the disciplinary outcome letter, clearly stating the grounds for the appeal which are limited to:

- i) New evidence which was not available at the first hearing. This requires an explanation as to why this evidence was not presented at the first hearing.
- ii) The issues had been misunderstood resulting in a perverse outcome.
- iii) The disproportionate nature of the disciplinary sanction and reason why.
- iv) Procedural failure or irregularities.

114. Every effort will be made to hear the disciplinary appeal as soon as reasonably possible. The employee will be given the right to be accompanied at the appeal hearing by a companion who is employed by a trade union or workplace colleague and an HR representative will be present.

115. For appeals against a sanction less than dismissal, the appeal will be heard by a Chair not involved in the original disciplinary hearing assigned by the Director of HR or designated HR representative. For appeals against dismissal, the hearing panel will consist of a Chair assigned by the Director of HR and an appropriate senior manager both of whom would not have been involved in the original disciplinary hearing. An HR representative will be present at the hearing to advise on matters of policy and procedure. In both cases, the Chair of the Appeal Panel will be the ultimate decision maker.

116. The Appeal Chair will set the date for the appeal hearing, and will expect the employee to make all reasonable efforts to attend at the date stipulated.
117. The appeal will ordinarily be conducted by way of a review of the decision to issue a sanction, as opposed to a rehearing. That is, the appeal will involve a determination as to whether the decision was one which a reasonable person could have made, on the basis of the evidence and arguments which were presented to that decision maker, taking into account the employee's reason for appeal (within the appeal criteria above).
118. In exceptional circumstances the Appeal Chair will determine that the appeal will be conducted as a rehearing. Such a decision will be entirely at the discretion of the Appeal Chair.
119. The Appeal Chair will make their decision as soon as reasonably practicable after the appeal hearing, and will communicate that decision in writing to the employee, ideally within 10 working days.
120. The Appeal Chair has the right to uphold or overturn the original sanction either in part or in full, and to apply lesser or greater sanctions if deemed appropriate. The written decision of the Appeal Chair will be final and will conclude this procedure.

## **Grievances**

121. Where a grievance is raised in connection with the disciplinary procedure, advice should be sought from Human Resources Department about how to proceed.

## **Accessibility**

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