# Disciplinary Policy and Procedure

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1. POLICY STATEMENT AND SCOPE

1.1 It is the policy of Royal Holloway, University of London (the College) to ensure that fair and effective arrangements exist for dealing with disciplinary matters. The purpose of the disciplinary procedure is to provide a transparent process so that if problems arise with an employee's conduct College management can take a fair and reasonable course of action to resolve issues and aid improvement. The procedure is based upon principles of natural justice, fairness and equality as underpinned by legislation. This procedure meets the ACAS Code of Practice on Disciplinary and Grievance Procedures and current legislative requirements.

1.2 The purpose of this policy and procedure is:

a) To ensure that the obligations placed on College management are recognised and carried out in a reasonable and consistent manner by those to whom disciplinary authority is delegated.

b) To enable members of staff to understand the circumstances that may give rise to disciplinary action, the procedures to be followed, the remedial action that may be taken and the available rights of representation and appeal.

1.3 This policy and procedure applies to all staff employed by the College.

1.4 This policy and procedure relates to matters of misconduct. Matters relating to underperformance should be addressed in line with the College’s Capability Policy and Procedure.

1.5 The disclosure by an employee of confidential information that relates to some danger, fraud or other illegal or unethical conduct connected with the College, be it of the Council or fellow employees, will not be subject to disciplinary action, provided it is done lawfully, without malice and in the public interest (See the Public Information Disclosure Protocol).

1.6 Data on the number of disciplinary proceedings, reasons for such proceedings, and outcomes will be collected by the Human Resources Department as part of the annual monitoring arrangements. Such data are reported to the Equality and Diversity Steering Group and Committee, and reported to the Joint Negotiating and Consultative Committees on an annual basis. Policy issues arising from the monitoring policy will be investigated by the Human Resources Department and College management as appropriate.

2. PRINCIPLES

2.1 Wherever possible minor issues should be resolved informally and swiftly, without recourse to formal procedures.

2.2 Before initiating any disciplinary proceedings line managers and heads of department should, wherever possible, first seek to resolve any minor issues swiftly through day-to-day supervisory discussion.

2.3 At every stage in the procedure the employee will be advised of the nature of the allegations against them and will be given the opportunity to put their case before a decision is made.

2.4 At all stages of the disciplinary procedure, the employee will have the right to be accompanied by a trade union representative or work colleague of their choice. A representative or companion should not be someone who may have a conflict of interest or who may prejudice the hearing. The representative or companion will have the opportunity to address the hearing but they are not permitted to answer questions on the employee's behalf.
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2.5 A disciplinary investigation will be undertaken before any formal disciplinary hearing is convened.

2.6 No manager or head of department will be responsible for investigating disciplinary allegations that they have instigated, or sit on a panel to consider such allegations.

2.7 No disciplinary sanction will be imposed until after a disciplinary hearing has taken place.

2.8 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.

2.9 Employees have the right of appeal against any disciplinary sanction.

2.10 All stages of this procedure will be treated as confidential.

2.11 Any employees found to be making malicious or vexatious allegations will be subject to disciplinary proceedings.

2.12 This policy and procedure will be applied without any distinction as to sex or gender assignment, age, sexual orientation, marriage and civil partnership status, race, ethnic or national origin, disability, religion or belief, political belief or membership of or activities as part of a trade union.

3. INFORMAL STAGE

A meeting may be convened under the informal stage to consider minor issues of discipline that have not been addressed through day-to-day supervisory discussion. At this meeting requirements for improvement may be specified but no disciplinary sanction may be applied.

3.1 A record of the meeting should be agreed between the line manager (or head of department) and employee, and retained by them for future reference, if necessary.

3.2 It will be appropriate for more serious incidents of misconduct to be dealt with under the formal stage of this procedure in the first instance.

3.3 Prior to commencing formal proceedings a manager should seek advice from the Human Resources Department to ensure all appropriate and reasonable informal resolution has been considered.

4. FORMAL STAGE

4.1 Investigation

4.1.1 The purpose of any disciplinary investigation is not to determine guilt or innocence but to establish whether or not there is a case to be answered.

4.1.2 The investigating manager (or officer) will conduct an investigation to establish the facts of any case and will include all aspects of the allegation(s). The investigating manager will be advised by a member of the Human Resources Department.

4.1.3 Investigations shall be undertaken in an objective and transparent manner. No manager will be responsible for investigating disciplinary allegations they have instigated, or with which they have been involved. In this instance an alternative investigating manager will be appointed by the Human Resources Department.
4.1.4 The employee will be made aware that an investigation will be undertaken and will be provided with details of the allegations against them.

4.1.5 The investigation should be initiated without delay and completed as soon as possible.

4.1.6 A disciplinary investigation may include gathering relevant documentation, signed statements from the employee concerned and any witnesses or affected parties. In the process of investigation it may be necessary for the employee concerned to be interviewed. Guidance on undertaking an investigation is included in Appendix 1.

4.1.7 At the conclusion of a disciplinary investigation, the investigating manager will complete a report outlining the conduct of the investigation and its findings. A template Investigation Report is included in appendix 2.

4.1.8 If it is found that there is no case to answer, then the matter will be concluded and the employee will be notified of the outcome.

4.1.9 If the investigating manager concludes that there is evidence of a case to be answered they will recommend that the matter proceed to a formal disciplinary panel. The report and associated evidence will be submitted to the Disciplinary Panel and a copy will also be provided to the employee in advance of the hearing.

4.2 Formal Hearing

4.2.1 The intention of a disciplinary hearing is to hear the disciplinary allegation(s) and case against the employee concerned, to give the employee the opportunity to respond to the allegation(s) and state their case, and to allow the Panel conducting the hearing to consider all relevant information before making a decision.

4.2.2 For member of Academic staff covered by Statute 9, the panel will be constituted in accordance with that statute, namely

A chair, being an Independent Member of College Council
A senior member of the staff of the College, defined as a Professor, or if appropriate a member of the Senior Management Team, not otherwise concerned with the matter;
A member of academic staff from a list nominated by Academic Board, not otherwise concerned with the matter.
Where appropriate an independent expert or experts relevant to the matter concerned may advise the panel.

4.2.3 Professional Services employees - The Panel will be chaired by a senior manager not previously involved with the case. The Panel will normally be chaired by the employee’s Head of Service or Department and will also include a second senior manager from another department, plus an advisor from the Human Resources Department.

4.2.4 Panels will be provided with administrative support and advice by the Human Resources Department. Panels should be appointed by a member of the Human Resources Department not directly involved with the case.

4.2.5 Any concern about a potential conflict of interest involving a panel member should be raised at the earliest opportunity with the Director of Human Resources or their delegated nominee who will consider the matter and amend the panel membership if appropriate.
4.2.6 The employee will be informed of the details of the allegation(s) and a hearing will be arranged. The employee will be given a minimum of ten working days' advance notice of the hearing date. The notification to attend the hearing will include:

a) The reason for the hearing;
b) The date, time and location of the hearing;
c) The right to be accompanied at the hearing by a trade union representative or a workplace colleague of their own choice;
d) Copies of all evidence, including the investigation report and any witness statements, to which reference is to be made during the hearing.

4.2.7 The employee must make every effort to attend the hearing. Where it may not be practicable for the hearing to proceed on the initially proposed date and time, the Human Resources Department will seek to rearrange the hearing within five days of the original date. If the employee's representative is not available the employee can offer an alternative time and date so long as it is reasonable and falls within five working days of the originally proposed date.

4.2.8 Where a decision to dismiss an employee could substantially influence whether the employee can continue to practise their chosen trade or profession, the employee may request legal representation at the disciplinary hearing.

4.2.9 A Human Resources representative will attend the hearing to take notes and these will form the basis of a formal record of the hearing. These notes will be typed as soon as possible after the hearing and will be made available to all parties. Any concerns about factual inaccuracies of the notes should be raised with the Chair of the Panel within five working days of receipt.

4.2.10 Audio recordings of the proceedings by the employee, their companion or managers are not permissible at any stage of the disciplinary procedure unless required as a reasonable adjustment for an employee with a disability, which must be requested in advance, or if recording is mutually agreed by all parties present. Copies of any audio recordings must be made available to all parties within three working days of proceedings.

4.2.11 The investigating officer will attend the hearing to present the findings of their investigation and to answer questions. They may be accompanied by the Human Resources representative who advised them with the investigation.

4.2.12 If an employee fails to attend the hearing for reasons outside of their control, e.g. sickness, another date may be proposed. If an employee fails to attend the hearing without good reason, the hearing will be rescheduled for the next opportunity. If an employee is absent due to sickness, they may be required to have a consultation with the College's Occupational Health Provider to assess their fitness to attend a hearing. If the employee fails to attend the rescheduled hearing without good reason, the hearing may proceed in their absence and a decision will be made on the evidence available.

4.2.13 The employee should make available to the Human Resources Department any documentation that they intend to refer to at the hearing. This should be provided at least five working days in advance of the hearing so that it can be distributed to all parties.

4.2.14 Witnesses should be available to attend the hearing.

4.2.15 If an employee wishes to call witnesses not involved in the investigation, they should notify the Human Resources representative assisting the Panel of the names of the witnesses they wish to call with a brief reason for each request. The employee is responsible for providing written statements by their witnesses in advance of the hearing and notifying them of the date, time
and location. The Chair is entitled to clarify the purpose of any witness being called and the potential for new and relevant information that the witness can offer.

4.2.16 The order of the disciplinary hearing will be as follows:

a) The Chair of the panel will introduce all parties, and explain the purpose of the hearing and how it will be conducted;
b) The Chair will state that the hearing is being conducted in accordance with the College’s Disciplinary Policy and Procedure and will confirm that a written record of the hearing will be made;
c) The Chair will confirm the allegation(s) that they have been asked to consider;
d) The Chair will state whether any witnesses have been asked to give evidence at the hearing, and, if so, who they are and what arrangements have been made regarding their attendance;
e) The investigating manager (or officer) will present the findings of their report. They will explain the evidence supporting the allegation(s) and will present any witnesses;
f) The employee (or their companion or representative) shall have the opportunity to ask questions of the investigating manager and witnesses;
g) The Panel shall have the opportunity to ask questions of the investigating manager and any witnesses;
h) The employee will then set out their case and present any witnesses in response to the allegation(s);
i) The investigating manager shall have the opportunity to ask questions of the employee and witnesses;
j) The Panel shall have the opportunity to ask any final questions of the employee, investigating manager or witnesses;
k) The investigating manager shall have the opportunity to sum up their case;
l) The employee (or their companion) shall have the opportunity to sum up their case;
m) If considered necessary by the Chair, the hearing shall be adjourned to allow further investigation into the matters raised or to ask questions of any witnesses who were unable to attend the hearing. This should be done with a minimum of delay. If further evidence or witnesses are sought and the Panel rely on this evidence to form a decision, they will reconvene the hearing to allow consideration of the evidence by both parties;
n) The Chair will adjourn the hearing so that the Panel can consider all the evidence and make their decision(s).

4.2.17 The Panel will adjourn after hearing all the evidence to decide whether to dismiss or uphold the disciplinary allegation(s). If the allegation(s) are upheld the Panel will need to decide upon the appropriate sanction to be applied, if any. Where possible, the hearing will be reconvened within one working day to provide the employee with the decision orally. Where this is not possible, for example when the Panel needs longer to consider their decision, the employee will be informed of the outcome in writing within five working days. Where the usual timeframe is not practical, this will be communicated to the employee with reasons and an alternative timeframe.

4.3 Possible Sanctions

4.3.1 No sanction
The employee is exonerated and advised accordingly. No further action will be taken unless new evidence becomes available.

4.3.2 Oral Warning
An oral warning will normally be issued if it is considered that the conduct of the employee has fallen below an acceptable standard and the employee has committed a minor offence.
The employee will receive written details of the nature of the misconduct and the change in behaviour required. The warning will also inform the employee that further consequences will be considered if further misconduct occurs and will confirm the procedure should they wish to appeal. An oral warning will be kept on the employee’s record for 6 months subject to satisfactory conduct.

4.3.3 First written warning
A written warning will normally be issued if:

a) there is no improvement in conduct about which the employee has previously been warned or
b) another related instance has occurred during the currency of a previous warning or
c) misconduct is confirmed and the conduct is of such seriousness that an oral warning is not appropriate.

The employee will receive written details of the nature of the misconduct and the change in behaviour required. The warning will also inform the employee that further consequences will be considered if further misconduct occurs and will confirm the procedure should they wish to appeal. A written warning will be kept on the employee’s record for a maximum of 12 months subject to achieving and sustaining satisfactory conduct.

4.3.4 Final written warning
A final written warning will normally be issued if:

a) a written warning has already been issued following a previous disciplinary hearing and another instance of related misconduct has occurred whilst it is current, or
b) there is no improvement in the conduct about which the employee has previously been warned or
c) the conduct is of such seriousness that an oral or written warning is not appropriate but does not justify dismissal.

The employee will receive written details of the nature of the misconduct and the change in behaviour required. The warning will also inform the employee that further consequences will be considered if further misconduct occurs and that this may include dismissal. The letter will also confirm the procedure should they wish to appeal. A final warning will be kept on the employee’s record for a maximum of 18 months subject to achieving and sustaining satisfactory conduct.

4.3.5 Dismissal
If an allegation of gross misconduct is found to be proven, or if there is no improvement in the conduct within the specified period that has been the subject of a final written warning, dismissal may be considered.

A Disciplinary Panel may in such circumstances impose an alternative to dismissal in the form of extending the period of an existing final written warning for a further twelve months.

Before confirming a recommendation to dismiss the Panel should carefully consider any options short of dismissal, as appropriate.
NOTIFICATION OF OUTCOME

5.1 Where disciplinary sanction short of dismissal is applied, the decision will be confirmed in writing as soon as possible and will include where applicable:

   a) The nature of the disciplinary allegation(s) upheld;
   b) The disciplinary sanction applied;
   c) The consequences of any further failure to adhere to acceptable standards of conduct. (In cases where a final written warning is given it should be made clear that further disciplinary action may result in dismissal);
   d) Confirmation of any corrective action that is required and the timescale within which the improvement is expected;
   e) Confirmation of any support to be provided;
   f) The duration of any warning and the date of its expiry;
   g) The right of appeal.

APPEALS STAGE

6.1 In every case where formal disciplinary sanction is applied, there will be a right of appeal against such sanction together with a right to a hearing. Where an employee feels the decision taken against them is wrong or unjust they should submit notice and grounds of their appeal to the Director of Human Resources in writing within ten working days of receipt of the written confirmation of the disciplinary sanction.

6.2 The employee must be specific about the grounds of the appeal. These will form the agenda for the hearing and determine the parties to be present at the appeal hearing. Appeals may be raised on a number of grounds including:

   a) The procedure: a failure to follow proper procedure
   b) The decision: the evidence did not support the conclusion reached
   c) The sanction: this was disproportionate given the circumstances of the case
   d) New evidence has come to light that was not considered by the original Disciplinary Panel.

If new evidence is submitted as part of the grounds of the appeal, or during the appeal hearing itself, the Panel may decide to rehear the original disciplinary case as part of their consideration of the appeal. In such circumstances it may be necessary to recall the original investigating manager (or officer) and any witnesses who presented evidence at the original hearing.

6.3 For members of Academic staff covered by Statute 9, an Appeals panel will be constituted in accordance with that statute. Membership will consist of two Independent Members, one of whom shall be the chair of the panel, not previously involved in the matter; at least one Member of Academic Staff from the approved list nominated by the Academic, not previously involved in the matter; where appropriate, independent expert or experts relevant to the matter concerned may advise the panel.

6.4 Professional Service employees - Appeals will be heard by a Panel of three senior members of staff, who have not previously been involved in the case. The Panel will be appointed by the Director or Deputy Director of Human Resources. The Panel Chair will be from the next level of management above the manager who chaired the original disciplinary panel. For appeals relating to dismissal, the Chair will be a member of the College Executive Team. The Chair will be assisted by another senior member of staff and either the Director or Deputy Director of Human Resources.
Appeals Panels will be provided with administrative support and advice by the Human Resources Department.

Any concern about a potential conflict of interest involving a panel member should be raised at the earliest opportunity with the Director of Human Resources or their delegated nominee who will consider the matter and amend the panel membership if appropriate.

6.5 Panels should be appointed by a member of the Human Resources Department not directly involved with the case. Any concern about a potential conflict of interest involving a panel member should be raised at the earliest opportunity with the Director of Human Resources or their delegated nominee, who will consider the matter and amend the panel membership if appropriate.

6.6 Once notification and grounds of an appeal have been received, an appeal hearing will be scheduled to take place within twenty working days, or as soon as practicably possible.

6.7 The Human Resources representative will notify the employee and manager who issued the disciplinary sanction of the hearing. The notification to attend the hearing will include:

a) The date, time and place of the hearing;
b) The right of the employee to be represented at the hearing by a trade union representative or a workplace colleague of their own choice;
c) Copies of all documentation which may affect the judgement of the original Panel (including the grounds for appeal, the original disciplinary hearing papers and the letter notifying the employee of the disciplinary action);
d) The identity of the Appeal Panel members.

6.8 The employee must make every effort to attend the appeal hearing. If the employee’s representative is not available the employee can offer an alternative time and date so long as it is reasonable and falls within five working days of the originally proposed date.

6.9 If an employee fails to attend for reasons outside of their control, e.g. sickness, another date may be proposed. If an employee fails to attend the hearing without good reason, the hearing will be rescheduled at the earliest opportunity. If an employee is absent due to sickness, they may be required to have a consultation with the College’s Occupational Health Provider to assess their fitness to attend a hearing. If the employee fails to attend the rescheduled hearing without good reason, the appeal hearing may proceed in their absence and a decision will be made on the evidence available.

6.10 The evidence considered at the original disciplinary hearing will be made available to the Appeal Panel for reference purposes. However, as the purpose of the appeal is not to reconsider all matters, it is the responsibility of the employee to state their case and bring to the attention of the Panel all evidence relevant to their appeal.

6.11 A Human Resources representative will attend the hearing to take notes and these will form the basis of a formal record of the hearing. These notes will be typed as soon as possible after the hearing and will be made available to all parties. Any concerns about factual inaccuracies of the notes should be raised with the Chair of the Panel within five working days of receipt.

6.12 Where necessary and depending on the grounds of the appeal, the original investigating manager (or officer) may be asked to make themselves available to attend the appeal hearing as a witness to answer questions regarding the investigation.
6.13 The order of proceedings for the appeal hearing will be as follows:

a) The Chair will introduce all parties, and explain the purpose of the appeal hearing and how it will be conducted.
b) The Chair will confirm that the appeal hearing is being heard in accordance with the Appeal Procedure contained within the College’s Disciplinary Policy and Procedure.
c) The employee and/or their representative will present the appeal
d) The Chair of the original disciplinary hearing will be given the opportunity to ask questions relating to the appeal
e) The Appeal Panel will ask questions and seek clarification from the employee as necessary.
f) The Chair of the original disciplinary hearing will respond to the appeal
g) The employee will be given the opportunity to ask questions relating to the response given
h) The appeal Panel will ask questions and seek clarification from the original Panel Chair as necessary
i) Both parties will then be given the opportunity to make a short closing statement on their case.
j) The Appeal Panel will adjourn to consider their decision

The Outcome of the Hearing

6.14 The outcome of the appeal hearing will normally be confirmed to the employee in writing, usually within five working days of the hearing. In instances of dismissal, the Appeal Panel will, where possible, reconvene the hearing within 24 hours to notify the employee of their decision. If a decision is given in person, a follow up letter confirming the outcome of the appeal hearing will still be sent to the employee.

6.15 Based on the appeal presented and the associated evidence, the Appeal Panel may either:

a) Uphold the appeal
b) Reject the appeal
c) Require a rehearing of the whole or part of the original case

6.16 Where an appeal is upheld, the Panel may remove the disciplinary sanction or apply a lower level of sanction if appropriate.

6.17 Where an appeal is rejected, the Panel may not apply a higher level of sanction.

6.18 Where a full or partial rehearing is required, the Appeal Panel may conduct such a rehearing should they deem it appropriate. Alternatively they may refer the case to a newly constituted disciplinary Panel.

6.19 The decision of the Appeal Panel is final.

6.20 Records of any disciplinary proceedings will be kept confidential and retained in accordance with the Data Protection Act.

7 SUSPENSION FROM DUTY

7.1 In some circumstances, it may be necessary to suspend an employee from work on full pay while matters are investigated. Suspension must never be used as a disciplinary sanction and does not imply guilt in any way.
7.2 Suspension may be deemed necessary if the continued presence of the employee may inhibit the investigation, where there are risks to an employee’s or the College’s property, or where the work of the College is seriously prejudiced and no other solution is deemed possible.

7.3 Suspension must be for as short a period as possible. Any period of suspension will be kept under regular review. Careful consideration must be given before a decision to suspend is taken and managers must consult with the Human Resources Department beforehand.

7.4 The facts and conditions of the suspension will be confirmed in a letter to the employee immediately. For Academic employees covered by Statute 9 the authority to suspend rests with the Principal or their delegated nominee. For Professional Services employees the authority to suspend rests with the Chief Operating Officer or their delegated nominee. In exceptional circumstances, in the absence of the College Executive Team, the authority to suspend an employee rests with the Director of Human Resources or their delegated nominee.

7.5 Whilst on suspension, the employee should not enter College premises other than under the terms of their suspension. The employee should be reminded that all other contractual obligations remain and that they should keep themselves available for work at the normal working times.

8 OTHER PROVISIONS

8.1 Where an employee raises a grievance complaint alleging a breach of the disciplinary procedure, the disciplinary proceedings will be suspended pending consideration of the grievance.

8.2 Where an employee submits a formal grievance associated with a disciplinary process, the Panel Chair (or the Director or Deputy Director of Human Resources if the matter is under investigation) will consider whether it is appropriate to suspend the disciplinary procedure pending the outcome of the grievance, or, alternatively, deem it appropriate to deal with the issues as part of the disciplinary procedure.

8.3 The College will consider providing appropriate and reasonable support and/or adjustment during formal proceedings, where a member of staff believes that there are circumstances that may impact their ability to participate in the disciplinary procedure. The employee should raise this with the Human Resources Department as soon as possible.

8.4 Where staff are charged or convicted of a criminal offence that may affect their employment, they are required to inform the College as soon as possible. This shall not be regarded as an automatic reason for disciplinary action. Consideration will be given to whether the employee's conduct or conviction merits action because of its employment implications. Factors may include, for example, whether the offence or the type of conduct makes the employee unsuitable to undertake their job or if there is potential to damage the College's reputation. The facts of the case will be established to determine whether formal disciplinary action is required. An investigation and subsequent disciplinary action will be separate to any police investigation or judicial process and may take place in the employee's absence if they are unable to attend meetings/hearings themselves.

8.5 The Human Resources Department shall monitor equality statistics relating to disciplinary action as part of the annual equality monitoring cycle. These statistics will be shared with the College unions on an annual basis at the Joint Negotiating and Consultation Committee meetings. The policy implications of such data will be considered by the Human Resources Department and the senior management of the College.
9 DISCIPLINE IN SPECIAL CASES

Senior Management

9.1 Disciplinary arrangements for the Principal and College Secretary will be considered by the Chair of Council in accordance with College Statutes.

9.2 Senior Administrative employees of the College who report directly to the Principal may only be suspended by the Principal (or Deputy Principal in their absence).

9.3 If there is an allegation of misconduct, the Principal will initiate an investigation into the complaint and decide whether to dismiss the matter or to proceed under the formal disciplinary procedure.

9.4 In a case where the Principal has decided to proceed with a disciplinary hearing, the Principal will request the Council of the College to appoint a Panel to hear the charge or charges and to determine whether the conduct of the employee concerned constitutes gross misconduct or otherwise constitutes a serious complaint relating to the employee’s employment.

9.5 The Panel appointed by Council will consist of a Chair who is a lay member of Council, another lay member of Council and a senior member of staff nominated by the Principal. The Director of Human Resources will also support the Panel in an advisory capacity (unless party to the case already).

9.6 The rules for the disciplinary hearing shall follow the steps outlined in this procedure.

9.7 In the case of an appeal, the Principal will request the Council to appoint an Appeals Panel which should consist of a Chair who is a lay member of Council, another lay member of Council and a senior member of staff nominated by the Principal, none of whom have previously been involved in events leading up to the disciplinary action which is the subject of the appeal.

9.8 Appeals against a disciplinary sanction should be received by the Principal within ten working days of receipt of the letter confirming the disciplinary sanction. This letter must state the grounds for appeal.

9.9 An Appeal Panel will be convened at the request of the Principal to Council as soon as possible but normally within twenty days of receipt of this letter.

9.10 The procedure for the appeal hearing shall follow section 4 of this procedure.

Trade Union Representatives

9.11 No formal disciplinary action should be taken against accredited Trade Union representatives until there has been a discussion with the appropriate official employed by the Trade Union. Suspension of a trade union representative will also be discussed in advance where possible with the appropriate official.

9.12 These procedures shall apply equally to elected trade union representatives. If a trade union representative is required to attend a disciplinary hearing or appeals against the decision of a disciplinary hearing then the Human Resources representative shall ensure that in addition to informing the employee of their right to be accompanied by a trade union representative or colleague, they will also inform the appropriate full time union official as soon as possible and in any case before the date of the hearing or appeal hearing has been finalised.

9.13 The full time official shall also be given a copy of any communication containing the result of such hearing, which is sent to the employee.
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<td>11 May 2016</td>
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<td>Date of implementation</td>
<td>1 August 2016</td>
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<td>Version Number</td>
<td>7</td>
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<tr>
<td>Review Interval</td>
<td>Every three years</td>
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GROSS MISCONDUCT

1. Gross misconduct is behaviour which is so serious or has such serious consequences that a disciplinary panel may impose dismissal without notice for a first offence. Such dismissal without notice is often called summary dismissal.

2. The following list provides some examples of offences which are usually regarded as gross misconduct. This list is not intended to form an exhaustive list.

   a) Theft, including unauthorised possession of goods belonging to the College, its staff or students
   b) Fraud, including deliberate falsification of records
   c) Corruption or bribery
   d) Serious breaches of code of ethics
   e) Serious verbal assault
   f) Physical assault or attempted physical assault
   g) Bullying, harassment and victimisation
   h) Deliberate and serious damage to property.
   i) Deliberate misuse of College property or name
   j) Serious misuse of College IT resources such as deliberately accessing internet sites for personal use which contain pornographic, or obscene material or unauthorised entry to computer records.
   k) Conduct seriously and detrimentally affected due to alcohol, drug or substance misuse
   l) A serious breach of health and safety regulations
   m) A serious breach of confidentiality
   n) Causing loss, damage or injury through gross negligence
   o) Unreasonable behaviour that causes serious damage to the reputation of the college including through improper use of social media.
CONFIDENTIAL DISCIPLINARY INVESTIGATION REPORT

*This template report format is for guidance purposes only and may be changed to reflect the individual circumstances and needs of a case*

<table>
<thead>
<tr>
<th>Department/School</th>
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<tr>
<td>Name of employee subject to investigation</td>
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<tr>
<td>Allegation/Issue</td>
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| Investigating Manager |  |
| HR support |  |

**Background**
- Identify how the situation came to light, what actions have already been taken prior to the investigation commencing, what communications have taken place.
- Provide brief details of the employee subject to the investigation, their employment history, current role, etc.
- Note if employee is suspended and when or if there are any specific changes in place to allow the investigation to take place.

**Remit of Investigation**
- Define the remit of investigation, i.e. what allegations/concerns were identified as in need of investigation (provide concise bullet points list of all allegations, that will be expanded upon in the ‘Findings’ section.
- State policy under which the investigation was carried out (e.g. Disciplinary Policy and Procedure)

**Investigation Process**
Explain how the investigation progressed, including reasons for decisions which were made and the direction the investigation went including:
- A brief description of the methods used to gather information
- A timetable of events
- What documents/evidence were reviewed

**Findings**
Provide a summary of the findings and observations:
- Present the findings separately for each allegation/concern in turn by confirming the facts established by the investigation, identifying the sequence of events, cross-referencing any documentation and highlighting any mitigating factors.
- Avoid using vast extracts from statements – quote directly from the statements where it is necessary. Include signed copies of statements in the report appendices and refer to them as necessary.
- Explain how significant the evidence is
- If the evidence is inconclusive or there is no evidence to substantiate an allegation then say so.
Conclusion

When reviewing the evidence, the investigating manager needs to demonstrate a reasonable belief as to what happened, based on their assessment of the evidence available. The standard of proof for internal investigations and any subsequent disciplinary hearing is based on ‘the balance of probabilities’. The conclusion of an investigatory report should state whether or not there is case to answer and, if so, whether or not the matter should be referred to a disciplinary hearing.

- For each allegation/concern provide an overall fact based opinion on a) whether there is any evidence to support the allegation and b) the strength of the evidence
- Conclusions should be clear and concise and draw out the key facts
- Identify to the reader the strengths and weaknesses in the evidence – identify where evidence can be open to different interpretation.
- Identify any special circumstances/mitigating factors to ensure they are clear in the report and explain their significance.

APPENDICES

The following table gives the names of the people who provided statements for this investigation

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<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Reason</th>
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Record of Evidence

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Signed by Investigating Manager

Date

Signed by HR representative

Date
GUIDANCE FOR MANAGERS CONDUCTING DISCIPLINARY INVESTIGATIONS

1. Introduction

The purpose of a disciplinary investigation is to establish the relevant facts where there is an allegation of misconduct. A thorough and independent investigation carried out fairly will provide managers with the necessary facts and evidence on which appropriate decisions can be made.

Any manager intending to undertake an investigation should seek advice and guidance from the Human Resources Department before doing so. They will provide professional and administrative support through the process.

The investigation is not a hearing to make a decision about a disciplinary sanction. When undertaking a disciplinary investigation it is important that you keep an open mind regarding the outcome and ensure impartiality, fairness and confidentiality throughout the process. It is also important to ensure that you stay focussed on investigating the specific allegations of misconduct.

2. Planning an Investigation

Start by deciding what evidence you will require to establish the facts. Think about whom you will need to interview, what questions you want to ask them and in what order you wish to see individuals. Also consider what other evidence or documentation you might require. Where evidence is likely to perish or be removed or destroyed this should be gathered as a priority.

Where an individual or individuals are subject of the investigation they should be notified at the earliest possible opportunity that an investigation has commenced and the nature of the allegations.

Try to see people as quickly as possible before their recollection of events fade. You should ensure that interviews take place in a venue that provides appropriate privacy and allows them to take place without interruptions. Speak with your Human Resources representative about arrangements for notes to be taken of any meetings.

You should interview the employee accused of misconduct to understand their version of events. The employee should be made aware of the allegations against them and be provided with any documentation that you would want to speak to them about.

It is important that you ensure the investigation is conducted without delay and in a timely manner.

3. Witnesses

When questioning witnesses care should be taken to maintain confidentiality and the full circumstances regarding the allegations should only be revealed if required.

Witnesses may be asked to provide a signed witness statement. Witnesses should be informed that if the case results in a disciplinary hearing they may be required to give evidence.
4.  **Undertaking Investigatory Interviews**

The following list provides suggested areas to cover when undertaking investigatory interviews.

**Opening**
- Explain who you are and introduce other people in the room
- Outline the format of the meeting
- Advise that adjournment may be requested if required
- Highlight an expectation of honesty and confidentiality
- Explain why you are carrying out the investigation
- Clarify that your role is to establish what happened
- Advise that a note of the meeting will be provided and the interviewee will be asked to confirm they are accurate. Advise that the notes of the meeting may be shared with the employee accused of misconduct.

**Questioning**
- Ask the interviewee to tell you what happened in their own words
- Let the individual speak even if they are not describing things in order
- Focus questioning on the allegations and the facts relating to these
- Only explore issues in more detail that are relevant to the case
- Do not make assumptions about what they are saying – ask for further clarification if necessary

**Rounding up**
- Summarise back to the interviewee what you have understood
- Ask if there is anything else relevant that they wish to add
- Confirm if the employee is aware of any other witnesses to the incident and any other documents or evidence that may be relevant
- Explain what will happen next

5. **Notes of Meetings**

Notes of any interviews should be taken by a third party, where possible a member of the Human Resources Department, to ensure they are comprehensive and that you can focus on the questions and responses. Please speak with Human Resources about who would be appropriate to take notes. Whilst it is important to capture key points reflecting the interviewee’s words, the notes are not intended to be a verbatim record of the interview. You should ensure that notes are agreed as an accurate record of the meeting and that these are signed and dated.

Any witness statements provided should also be signed and dated.

6. **Investigation Outcome**

When you have sufficient evidence on which to base a decision, finish the investigation and prepare your report. It is important to take into account all the evidence and to take care to view the matter objectively. The relevance and validity of information collected should also be considered.

An Investigation Report (using the template available) should be provided to summarise the investigation findings and to present the evidence gathered. A decision on whether or not to proceed to a disciplinary hearing should be based on the principle of the balance of probabilities rather than beyond reasonable doubt. Your recommendation can include:

1) No further action is appropriate
2) Informal action, for example coaching or other support
3) That you consider that, on the basis of the evidence, there is a case to answer and that the matter should be referred to a disciplinary hearing.

You should not recommend what level of disciplinary sanction is warranted as this will be considered by the disciplinary Panel.