

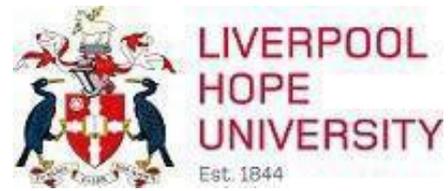


Disciplinary Policy



Reference:	Disciplinary Procedure
Author & Title:	Director of Personnel
Responsible Director:	Director Of Personnel
Last Review Date:	Feb 2021
Ratified by:	Director of Personnel
Date Ratified:	2015
Version:	V2.3
Next review date:	2024

Version history	
Currently V2.3	Minor amendments and ACAS code



DISCIPLINARY PROCEDURE

1. INTRODUCTION

These procedures have been established in accordance with the ACAS Code of Practice Disciplinary and Grievance Procedures. It is expected that the parties to the agreement will do their best to ensure that the spirit and intention of the procedures are honoured at all times.

The parties to this agreement recognise that discipline is essential for ensuring the University's standards of conduct are adhered to and for the safety and well-being of all members of staff. It is also the intention that disciplinary action be considered and applied fairly and equitably. These procedures should be viewed primarily as a means of emphasising and encouraging improvements in individual conduct rather than as a means of imposing sanctions.

2. OBJECTIVES

The objectives of this disciplinary procedure are to:

1. Ensure that University and employees raise and deal with issues promptly and do not unreasonably delay meetings, decisions or confirmation of those decisions;
2. Ensure the University and employees act consistently;
3. Foster good working relationships by providing a mechanism for the timely resolution of disciplinary matters;
4. Resolve matters through informal means wherever possible;
5. Resolve matters in as timely a manner as possible;

3. GENERAL MATTERS

1. **Day to Day Management:** These procedures do not cover matters related to normal day to day management or instruction of members of staff which may include the giving of guidance on what is required of employees in relation to standards of performance and behaviour.
2. **Minor Cases of Misconduct:** Minor cases of misconduct will usually be dealt with through informal advice, coaching and support to encourage improvement. It is important that issues such as these are dealt with straight away by managers.
3. **Induction and Training:** All members of staff should be appropriately trained to be able to carry out their duties and roles effectively and inducted into the culture and processes of the University.



4. **Performance and Capability:** Where a concern relates to a member of staff's performance consideration should be given to applying the Capability Procedures in place of these Disciplinary Procedures.
5. **Disciplinary Matters and Staff Complaints:** Matters which are being considered under the Grievance Procedures may, if determined, be transferred under these Disciplinary Procedures after consultation with Personnel.
6. **Disciplinary Action Against Trade Unions Officers:** Disciplinary standards apply to the conduct of trade union officials as to other employees. The University recognises that disciplinary action against a trade union official may be perceived as action against the union rather than an individual. With this in mind, if disciplinary action is contemplated then the case will be discussed with a senior trade union representative within the University or a full-time official of that union. However, in exceptional circumstances involving a case of gross misconduct, if the full-time official is not available it may be necessary to act immediately. In this event, it must be discussed with the full-time official of the appropriate union before a disciplinary decision is taken.
7. **Suspension:** If at any stage it appears that the suspension of a member of staff is necessary then this will normally be considered by a Pro Vice Chancellor in consultation with Personnel (if a Pro Vice Chancellor cannot consider the suspension then the matter will be referred to another member of USET). There may be instances where suspension with pay is necessary while investigations are carried out. The University has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before the disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing the employee to remain at work.
8. **Separation issues:** It may be necessary to separate those who are involved in providing evidence from the individual being investigated as part of the disciplinary process. This may involve making alternative arrangements for communication channels and/or line management reporting. Any decisions necessary will be taken by an appropriate manager.
9. **Investigation:** No disciplinary action will be taken against an employee until an investigation has taken place. In some cases the investigatory stage may be the collation of evidence by the Investigating Officer or HR Manager for use at the disciplinary hearing.
10. **Implementing the Disciplinary Procedure:** The disciplinary procedure may be implemented at any stage if the employee's alleged misconduct warrants such action
11. **First Offence and Gross Misconduct:** An employee will not be dismissed for a first offence except in the case of gross misconduct.
12. **Confidentiality and electronic transmission:** All documentation and discussion related to meetings and investigations will be treated in a confidential manner by all parties including any witnesses. Failure to maintain confidentiality may result in disciplinary action against any party responsible for the breach.
13. **Criminal convictions outside of work:** Criminal charges or convictions will not be treated as automatic reasons for dismissal but will be considered to assess whether the



offence has a significant impact on the employee's suitability for their continued employment at the University. Any disciplinary action will be subject to investigation and process as detailed in the disciplinary procedure.

14. **Disability:** If the employee has a disability appropriate reasonable adjustments will be made. It may be appropriate to allow him/her to be accompanied by a suitable person because of his/her disability, in addition to a work colleague or trade union representative.
15. **Mediation:** It may be appropriate for the matter to be dealt with by way of mediation, or directed facilitation depending on the nature of the disciplinary matter. This involves the appointment of a third-party mediator, who will discuss the issues raised by the discipline with all of those involved and seek to facilitate a resolution. Mediation will be used only where all parties give informed consent to mediation taking place.

4. RESPONSIBILITIES UNDER THIS POLICY

1. **Employee Responsibilities:** All employees have a responsibility to conduct themselves in a professional manner and with consideration for others. Therefore all employees have a responsibility to familiarise themselves with, and adhere to, the University's policies, rules and procedures which are available on the University intranet. If individual employees are unable to access this information, they must inform their manager who will make alternative arrangements.
2. **Management Responsibilities:** All University managers are responsible for monitoring and reviewing employee performance and conduct and for addressing problems as soon as they are detected.
3. **Personnel Department Responsibilities:** The Personnel Department is responsible for providing advice and guidance to managers on the application of the policy and procedure, and has a specific role to fulfil during the formal stages of the Procedure.

5. INFORMAL ACTION

1. Cases of minor misconduct may be dealt with informally. The manager will speak to the employee in private and discuss the issue to encourage and action improvement, via a two-way conversation. Criticism should be constructive, with the emphasis being on finding ways for the employee to improve and for the improvement to be sustained.
2. Where improvement is required the employee should understand what needs to be done and how their conduct will be reviewed and over what period. This should be confirmed in writing. If improvement is not forthcoming formal action under this policy may then be required
3. Care should be taken to ensure that any informal action does not turn into formal disciplinary action. If during a discussion it becomes obvious that the matter may be more serious, the meeting should be adjourned. The employee should be told that the matter will be continued under the formal disciplinary procedure.



4. Brief notes should be kept by the manager of any agreed informal action for reference purposes, with reviews of progress over specified periods.

6. INVESTIGATION OF GROUNDS FOR ACTION

1. The Investigating Officer¹ will carry out the investigation to find out if there is a disciplinary case to answer. The objective will be to (i) establish the nature of the allegation(s) and whether there is a case to answer, and (ii) give the employee the opportunity to state his/her case.
2. Investigations will be conducted objectively, fairly, reasonably, and lawfully and as quickly as possible without compromising their completeness.
3. The nature of the alleged misconduct could result in suspension of the employee at any stage in the investigation (see Appendix 1).
4. As part of the investigation, the employee may be asked in writing to attend an investigatory interview. The letter will set out the nature of the allegation(s) against the employee and confirm the right to be accompanied by a companion. (see Appendix 2)
5. Where appropriate, witnesses may also be called and signed statements produced.
6. In some cases the investigatory stage may be the collation of evidence by the Investigating Officer for use at the disciplinary hearing
7. At the conclusion of the investigation the employee will be written to. If it is concluded that there is substance to the allegation(s) then the matter will progress to a Formal Disciplinary Meeting as set out below. If it is found that there is no substance to the allegation(s) then the employee will be notified accordingly. If the investigation is not conclusive, the University may provide written guidance to the employee detailing the standards of behaviour necessary to avoid any issues arising again.
8. The following examples are intended to illustrate what can constitute misconduct or gross misconduct. The examples should not, however, be regarded as being either exhaustive or mutually exclusive – much depends on the particular circumstances.

The boundary between misconduct and gross misconduct cannot be rigidly defined; therefore, each alleged breach of the disciplinary rules will be carefully considered at the disciplinary hearing and judged on individual circumstances before any individual action is decided. If there is more than one allegation, all alleged breaches will be considered at the same time and dealt with under one course of proceedings.

MISCONDUCT

- Unreasonable refusal to follow an instruction issued by a manager or supervisor

¹This may also include external consultants if required but they will not make any disciplinary decisions.



- Insubordination
- Persistent bad time-keeping
- Poor attendance
- Smoking in non-designated areas of the University's premises in contravention of the University policy

- Wilful minor damage to University property
- Breach of Confidentiality
- Minor breach of any University regulation or failure to observe University procedures
- Conduct which may bring the University into disrepute

- Conduct which may bring the University into disrepute includes social media material, content or commentary in the public domain which affects the University, causes misconduct or gross misconduct or leads to harassment or bullying. It is the intention of the University that such material in the public domain falls within 'electronically transmitted information'

- Further information about the standards required of colleagues in relation to confidential or electronically transmitted information is detailed in the University's Information Security Policy, the Acceptable Use Policy, and the Portable Data Device Policy. Contravention of the standards detailed in these policies (and any other published University policies) may be considered as potential grounds for disciplinary action under this policy, (even where such policies are not specified), or where the matter is serious enough, be considered Gross Misconduct

- Vexatious use of the University's complaints procedures
- Inappropriate behaviour towards, or relationships with, students
- Misuse of University telephones, computers or other University equipment or vehicles, including private use or use for gain
- Unauthorised absence from work
- Failure to notify absence correctly
- Persistent lateness or inappropriate patterns of absence
- Disruptive or abusive behaviour
- Inappropriate circulation of private documents.

Serious examples of any of the above can amount to gross misconduct.

GROSS MISCONDUCT

- Assault or intimidation of other employees, students, visitors to the University, or members of the public, during working hours or at the work place or at a work-related event
- Wilful or deliberate damage or sabotage to University property or that of other employees



- Disorderly or indecent conduct during working hours, at the workplace or a work related event, including sexual misconduct at work
- Serious professional misconduct, including failure to discharge professional responsibilities
- Serious breach of any University regulation
- Failure to comply with relevant statutory or regulatory requirements
- Unauthorised destruction, mutilation, alteration, addition to, or erasure of, official documents
- Any gross negligence, wilful act or omission in breach of safety regulations endangering life or limb. Please note this is also potentially a criminal offence for which individuals may be held liable
- Reporting for duty (or driving a University vehicle) whilst under the influence of non-medically prescribed drugs or alcohol
- Acts of incitement or discrimination on the grounds of age, gender, disability, sexual orientation, gender reassignment, race, ethnic origin, religion or belief
- Harassment (as defined by Section 26 of the Equality Act 2010), including sexual harassment, unwanted behaviour or conduct, which has the purpose or effect of violating a person's dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment because of, or connected to, one or more of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy, maternity; race; religion or belief; sex and sexual orientation.
- Theft or falsification of records, including infringement of copyright
- Any act of financial dishonesty
- Falsification of records, reports, accounts, expense claims or self-certification forms, whether or not for personal gain
- Breach of duty regarding confidential information or failure to declare an interest, which may be contrary to the best interests of the University
- Serious misuse of University computer systems, including offensive emails or other electronic texts, accessing, or distributing or producing improper pornographic or offensive images
- Convictions for any serious criminal offences whilst an employee of the University
- Serious act(s) of insubordination
- Bringing the name of Hope into serious disrepute
- Making a false declaration on any job application form.

This list is neither exclusive nor exhaustive and is illustrative of the types of matters justifying the application of disciplinary procedures. Any act or omission of a kind not mentioned above could be regarded as either misconduct or gross misconduct, depending on its gravity. Dismissal on the grounds of gross misconduct may occur for acts or omissions not mentioned above which are sufficiently grave or substantial.

7. FORMAL DISCIPLINARY MEETING

1. If, after investigating the allegation(s), there is reasonable evidence that there is a disciplinary case for the employee to answer a formal disciplinary meeting will be heard.



2. Once it has been decided to start disciplinary proceedings, a letter will be sent to the employee (normally at least 7 working days before the disciplinary meeting) informing him/her of:
 - the nature of the allegation(s) and the fact that the meeting is to be a disciplinary one
 - the possible level of seriousness implied by the alleged misconduct
 - the date, time and location of the meeting
 - the right to be accompanied by a companion (see Appendix 2)
 - the names and roles of the people who will be present at the meeting
 - the names of any witnesses to be called by the University.
3. The employee needs to give 5 days advance notification of the details of any relevant witnesses they intend to call.
 - If the employee wishes to submit any documents in advance of the hearing then these should also be made available to the person holding the hearing at least 5 working days in advance
 - The person holding the hearing will make arrangements for copies of all documents (including the report of the investigation) to be made available to all parties at least 3 working days in advance of the hearing.
4. Normally, the disciplinary meeting will be conducted by an appropriate manager more senior than the employee concerned and not previously involved in the matter. An HR Manager will also attend. Depending upon the complexity of the allegation(s) the Director of Personnel or nominee may appoint additional members to the hearing. (e.g. complex fraud/IT cases).
5. The employee and/or his/her companion will be entitled to present his/her case. The employee should be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.
 - 5.1 see Appendix 2 for further information about the role of the companion under this policy
 - 5.2 The statutory right to be accompanied by a companion defines such as a fellow worker, a trade union representative, or an official employed by a trade union (certified as competent by that union to accompany a worker). To exercise the statutory right to be accompanied colleagues must make a reasonable request, and bear in mind the practicalities of the arrangement. If a colleague's chosen companion will not be available at the time proposed for the hearing by the University, the University will postpone the hearing to a time proposed by the colleague, provided that the alternative time is both reasonable and not more than 5 working days after the date originally proposed.
6. If at any time, evidence arises which needs further investigation, the meeting will be adjourned to a later date. The Chair has the right to question any relevant witnesses he/she may deem appropriate in helping to reach a decision.



7. The individual(s) considering the case will decide, based on the balance of probabilities, whether the employee did or did not act or behave in the way cited and then determine what level of disciplinary action should be taken (if any)
8. The manager chairing the hearing will write to the employee informing him/her of the outcome and any level of disciplinary action deemed appropriate as soon as possible normally within 7 working days.

8. LEVELS OF DISCIPLINARY ACTION

Informal Action

Informal action remains an option if the manager chairing the hearing believes that the conduct does not merit a formal sanction under the Disciplinary Policy.

Written Warning

A written warning may be given where:

the employee's misconduct is serious enough to warrant it.

The employee will be advised:

of the reason for the first written warning, the improvements required and the timescale for improvement

of the right to appeal

that, if there is no satisfactory improvement, further disciplinary action will be considered at the next level.

The first written warning will be effective for a maximum of 9 months from the date of the letter following the disciplinary meeting. After that time, it will be disregarded subject to satisfactory conduct. If during the 9 months matters deteriorate further then disciplinary action at the next level or above will be considered immediately.

If the employee has been absent from work for a significant period during the 9 months, the period may be extended, at the discretion of the line manager, by no more than the period of absence from work.

Final Written Warning

A final written warning may be given where:

the employee's misconduct is serious enough to warrant it

the first written warning is still current and there has been no significant improvement

a further related breach of the University's rules occurs.



The employee will be advised:

of the reason for the final written warning, the improvements required and the timescale for improvement

of the right to appeal

that, if there is no satisfactory improvement, this may result in a dismissal.

The final written warning will be effective for 12 months from the date of the letter following the disciplinary meeting. After that time, it will be disregarded subject to satisfactory conduct. If during the 12 months matters deteriorate further then the potential for dismissal will be considered.

If the employee has been absent from work for a significant period during the 12 months, the period may be extended, at the discretion of the line manager, by no more than the period of absence from work.

Dismissal

1. If the employee's misconduct, failure of application to role, or non-adherence to regulations, policy or procedures is serious enough to warrant it, or if a Final Written Warning is still current and there has been no significant improvement, or a further related breach of the University's rules occurs, he/she may be dismissed.
2. Only a member of USET can take the decision to dismiss an employee. The employee will be provided with written reasons for dismissal, the date on which employment is terminated, and the right of appeal. If the dismissal is 'with notice', the notice period will be as stated in the employee's contract of employment, but the University may make a payment in lieu of notice.
3. In cases of gross misconduct the employee may be dismissed summarily without notice. Previous warnings need not have been given.
4. In any case of dismissal the employee has a right of appeal as set out below.

The Appeal

1. The purpose of the appeal is to listen to the employee's concerns and consider whether the outcome taken against the employee was appropriate to the circumstances of the case and procedurally correct.
2. An employee has the right to appeal against the decision of any disciplinary hearing. He/She should submit in writing to the Director of Personnel (or his/her nominee), notice of his/her intention to appeal within 7 working days of receiving the letter confirming the disciplinary action.
3. The appeal must include a clear statement specifying the basis upon which an appeal is made.
4. An appeal should be made on the basis (for example) of one of the following circumstances:
 - the procedure was not used correctly
 - new evidence can reasonably be brought forward



- evidence can reasonably be brought forward
 - the disciplinary action was unreasonable and/or
 - the penalty imposed was disproportionate to the offence.
5. Normally appeals will be conducted by an appropriate manager more senior than the manager who made the original decision and not previously involved in the matter and an individual from Personnel not previously involved with the case to advise. Depending upon the complexity of the allegation(s) the Director of Personnel or nominee may appoint additional members to the hearing. If the appeal was from a senior manager and the Vice Chancellor has heard the original hearing, then the Chair of Staffing Committee or representative of the University Council would hear any appeal.
 6. The role of the Appeals hearing is not to re-hear the case but to review the process that led up to the management decision, ensuring that the procedure was used correctly, the action taken reasonable and to consider any new evidence brought forward.
 7. As soon as reasonably practicable and not less than 7 working days before the hearing the parties will be notified of the time and date of the appeal hearing.
 8. Where disciplinary action has taken the form of dismissal, the appeal procedure will normally be carried out as soon as practicable. The procedure will be as described above except that an Appeals Panel will be convened comprising of three, with a minimum of 1 member of University Council on the panel.

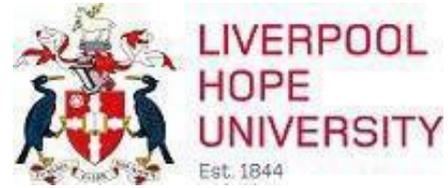
9. Appeals Hearing

1. At the Appeal hearing the employee has the right to be accompanied by a companion. The employee and/or his/her companion, first presents his/her case to the Panel, either personally or in writing.
2. The Chair/Members of the Appeals hearing may put questions to the employee.
3. The Chair has the right to question any relevant witnesses he/she may deem appropriate in helping to reach a decision. This can be done in the hearing or during an adjournment.
4. The employee or his/her companion will make a final submission to the Appeal hearing.
5. The Appeal hearing will consider its decision in private.
6. The Chair of the Appeal hearing will write to the employee informing him/her of the outcome as soon as possible normally within 7 working days.
7. Where an appeal against disciplinary action is not upheld, the level of action previously decided upon may not be increased.

10. Inability to attend the Formal Disciplinary Meeting or Disciplinary Appeal Hearing

If the chosen colleague or trade union representative is unable to attend a scheduled disciplinary or appeal hearing, the member of staff has the right to request a reasonable postponement of the hearing normally for up to 5 working days.

- Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the employer should make the decision on the evidence available.
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11. Equal Opportunities

Liverpool Hope University is committed to the principles of equality and diversity as well as the elimination of discriminatory practices. These principles apply to the treatment of all staff.

This policy together with any supporting procedures will be implemented in a non-discriminatory manner. Members of the University administering the policy are responsible for ensuring that in its application, those to whom the policy applies, shall not receive less favourable treatment on grounds of sex, marital status, gender reassignment, racial group, disability, sexual orientation, religion or belief, age, socio-economic background, trade union membership, family circumstances, or any other irrelevant distinction.



APPENDIX 1

A member of staff may be suspended pending and during an investigation into cases of alleged misconduct. A member of staff will receive notification as to the reason for their suspension. A suspension is not considered as disciplinary action. A suspension is without prejudice to the outcome of the investigation and any formal disciplinary meeting that may result. During suspension all terms and conditions of employment will normally continue. The Pro – Vice Chancellors or their nominee will authorise a suspension.

All employees will be told clearly in writing the reasons that they are suspended and that it will be for as short a period as possible. If a suspended employee wishes to enter University premises for the purpose of obtaining documents or meeting potential witnesses or undertaking other activities associated with the case prior permission must be sought from the HR Manager.

Any member of staff who has been suspended for three weeks or more may appeal against suspension by writing to the Director of Personnel or his/her representative.

An appeal will be limited to considering whether suspension is appropriate in the circumstances. It will not be a hearing of the matter under consideration. The appeal will be considered by a member of the SMT/USET appointed by the Personnel Department

A suspension against which an appeal is made will continue to operate pending the determination of the appeal.



APPENDIX 2

The role of the companion under this policy

The companion may be a trade union representative or work colleague, or an official employed by a trade union.

To exercise the right to be accompanied the employee must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for the employee to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.

The role of the companion is to assist and support the employee by acting as a friend and advisor. The companion is allowed to address the hearing to put and sum up the employee's case, respond on behalf of the worker to any views expressed at the meeting and confer with the employee during the hearing. The companion does not however have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

Colleagues who do not wish to accept an invitation to act as a companion are not obliged to do so.

Companions may attend meetings during working hours without loss of pay.

The companion may assist in the preparation and presentation of the employee's case.

Employees are responsible for ensuring their companions are willing to support them and attend meetings/hearings.

Employees may not appoint a legal representative to act as a companion.

Where a companion is a witness (or is otherwise involved, or is potentially involved) in the investigation of a disciplinary matter, the employee should be advised to select a different companion on the grounds that the presence of that individual may prejudice the hearing.

Date	08.02.21
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Review Date	March 2024