



UNIVERSITY OF ST ANDREWS STUDENTS' ASSOCIATION

STAFF DISCIPLINARY PROCEDURE

1. Introduction

1.1 In the Association, as in any organisation, issues may arise in relation to staff conduct. In the first instance informal counselling, training and advice is usually appropriate for these situations. Advice on approaches to informal resolutions can be obtained from the Human Resources Manager. Normally only after these alternative routes have been exhausted or found to be inappropriate will the following formal disciplinary procedures be used. These procedures are aimed at assisting employees to achieve and maintain the standards required by the Association.

1.2 Informal advice on these procedures is available from the Human Resources Manager or from the recognised trade union (UNISON).

1.3 The disciplinary procedure is intended only as a statement of policy and does not form part of any contract of employment or otherwise have contractual effect. The Association reserves the right, with the agreement of all parties involved, to make practical or operational changes to these documented procedures to suit individual case requirements or changes in legislation. This procedure will be revised in 2015.

2. Principles

2.1 The Association will at all times aim to process disciplinary matters with sensitivity, fairness, and consistency of treatment; in confidence; and without prejudice or undue delay.

2.2 At all stages staff will have the right to know the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.

2.3. Staff will have the right to be accompanied by a colleague, trade union representative or friend to any formal meeting held under this Procedure.

2.4 Where a criminal offence is involved, the Association will not normally take any disciplinary action, other than temporary suspension, until the outcome of any formal legal process is known¹. Where an employee is convicted of a criminal offence, consideration will be given to the nature of the offence and of the employee's duties in deciding on a disciplinary sanction.

2.5 Where a grievance is raised during the disciplinary process, the Association shall consider whether the process should be suspended pending resolution of this grievance or whether disciplinary action should proceed concurrently.

2.6 An employee shall always have the right to appeal against disciplinary sanctions.

2.7 The Human Resources Manager shall attend any meeting under this procedure where he is not otherwise involved to offer guidance and advice.

¹ Staff should note that the Association reserves the right to initiate disciplinary action prior to formal legal procedures where the General Manager judges it is in the interests of the Association to do so.

2.8 It is not the Association's policy to allow audio or visual recording of meetings².

3. Behaviours that may result in Disciplinary Action

3.1 The following lists provide examples of the types of conduct that may lead to the use of these procedures. The list is indicative only and not exhaustive. Other actions might necessitate the use of disciplinary procedures.

3.2 Examples of behaviour likely to be regarded as misconduct

- Poor timekeeping
- Unauthorised absence from work
- Breach of published policies and procedures
- Harassment, victimisation, or other unacceptable behaviour towards colleagues, members, or others
- Negligence in the conduct of duties
- Breach of confidentiality, including Data Protection
- Repeated or serious failure to follow valid instructions
- Financial misconduct or negligence
- Reckless conduct including breach of Health and Safety instructions
- Misuse of Association facilities or name
- Any action liable to bring the Association into disrepute

3.3 Examples of behaviour likely to be regarded as gross misconduct

- Theft, fraud and falsification of records
- Other serious acts of deception or dishonesty
- Fighting and/or assault
- Serious acts of bullying, harassment or discrimination
- Serious or repeated inability to work due to the influence of alcohol and/or other recreational drugs
- Supplying, consuming or possessing controlled drugs on Association premises
- Serious infringements of health and safety
- Serious acts of negligence
- Conviction for a criminal offence that renders the employee unsuitable to carry out his/her duties
- Any action liable to bring the Association into serious disrepute

Acts that constitute gross misconduct may vary according to the individual's particular role. Acts of gross misconduct represent a fundamental breach of the employment relationship and so may be penalised by summary dismissal without pay in lieu of notice.

4. Suspension

4.1 An employee may be suspended on full pay at any stage before, during or after an investigation where the General Manager believes this may be advisable³.

4.2 The employee will normally be informed of the suspension verbally and it will be confirmed in writing within three working days.

² Except where this would qualify as a 'reasonable adjustment' under relevant legislation.

³ If the allegation is against the General Manager, suspension shall be at the discretion of the Chair of Board and the Chair will appoint a suitable person to take the role of the General Manager throughout.

4.3 For the duration of the suspension, the employee is not permitted to enter any Association premises without the permission of the General Manager, other than to attend disciplinary meetings or investigatory interviews. For the duration of the suspension the employee may not act in their capacity as an Association employee without the permission of the General Manager.

4.4 The Association is entitled to suspend an employee for as long as necessary to carry out an investigation and to hold any appropriate disciplinary meetings. Normally this period will not exceed thirty working days: however, where this limit may be exceeded the employee will be notified and provided with an estimated timescale.

4.5 Suspension is not considered a disciplinary sanction and is without prejudice to the outcome of any investigation and/or disciplinary hearing.

5. Investigation

5.1 Disciplinary action will not be taken before the facts of the case have been established. The pace of any investigation will necessarily be dependent on the complexity of the case and the availability of the relevant parties.

5.2 An investigation will normally be carried out by a member of the Senior Management Team or another senior employee, at the discretion of the General Manager.

5.3 The investigation may include meeting with relevant parties, including witnesses, or taking evidence from them by other means including telephone or email. It should be made clear to all parties that any such contact is an investigation and not a disciplinary meeting. Employees accused of misconduct are entitled to be accompanied by a representative and/or to take appropriate advice when asked to participate in an investigation. They shall also be informed of the details of the allegation and the facts as they are understood at that time by the investigator.

5.4 Once an investigation has been concluded, the General Manager may decide either to initiate disciplinary action based on the established facts or to resolve the matter by informal means.

6. Disciplinary Hearings

6.1 Where it is considered that there is a disciplinary case to answer, a Disciplinary Hearing will be held.

6.2 The Disciplinary Panel will normally consist of:

- The General Manager
- A senior member of staff, normally a Head of Department

Neither person should have a substantial previous involvement in the case, including having carried out an investigation, or any other conflict of interest. Where the General Manager has a substantial involvement in the case, a member of the Senior Management Team shall deputise. Where the allegation is against the General Manager, the Panel shall consist of two members of the Students' Association Board selected by the Chair of Board, normally one student member and one non-student member.

6.3 Employees shall be notified in writing of the date of the hearing not less than **five working days** in advance. This notification shall give the date, time, and location of the hearing: details of the right to be accompanied: the names of those who will be present: and a summary of the allegation and the findings of any investigation. Copies of any written evidence may be included

at this time, and in any case will normally be made available not less than **three working days** in advance of the hearing.

6.4 Employees shall be invited to make a written submission to the hearing not less than **two working days** in advance of the hearing date. They must also notify the Association at this time of the name and address of any accompanying person as well as their status (trade union representative, colleague, family member or friend.)

6.5 A person accompanying the employee may, at the employee's request, address the panel on their behalf: and the employee may at any time confer with their accompanying person. Neither the Association nor the employee shall have any legal representation at the hearing. The General Manager has the authority to allow other persons to accompany the employee in exceptional circumstances.

6.6 Either the employee or the Association (including Panel members) may call witnesses. It is the responsibility of the employee to ensure that any witnesses they wish to call are identified and informed of the date, time and place of the hearing, although the Association will facilitate as far as reasonably practicable the availability of witnesses who are Association employees or officers. Written statements from witnesses may be accepted in lieu of attendance at the discretion of the General Manager. Names of witnesses must be supplied to the Association **two working days** in advance, as with accompanying persons.

6.7 Where the employee or their accompanying person is unable to attend the meeting as originally scheduled, the Association will consider requests for the meeting to be rearranged provided the alternative date is within **five working days** of the original date. Requests for rearrangement outside of this timescale are entirely at the discretion of the Association. Reasonable consideration will be given to medical evidence in determining whether to delay a meeting and the timescale for rearranging the hearing. It is not the intention of the Association to penalise staff for genuine inability to attend a hearing. However, it is in the interests of all parties to avoid delay in resolving disciplinary issues, and so in some circumstances it may be necessary to proceed with the meeting in the employee's absence.

6.8 The panel may adjourn and reconvene at a later time where circumstances justify this (for example, if further evidence must be sought).

7 Disciplinary Sanctions

7.1 A **first written warning** may be issued where a Disciplinary Hearing determines that an employee's conduct does not meet acceptable standards. This warning will set out the nature of the misconduct and the nature of the improvement or change in behaviour required. The warning should also advise the employee that a final written warning may be considered if no satisfactory, sustained improvement or change in conduct is observed. A first written warning may remain on file for a period of up to two years. After this period the warning will normally be disregarded for disciplinary purposes and expunged from the employee's record.

7.2 A **final written warning** will be issued where any of the following circumstances apply:

- An offence is serious in nature, but not sufficiently serious to justify dismissal:
- An employee has failed to satisfactorily respond to a first written warning:
- A further offence of a similar or related nature has occurred after an earlier written warning that is still current.

A final written warning will set out the details of the complaint, the improvement or change in behaviour required, and the timescale. It will also warn the employee that a failure to change or

improve behaviour may result in dismissal or some other action short of dismissal. A record of this final written warning may be held on the employee's file for up to two years, or in exceptional cases longer. After this period the warning will normally be disregarded for disciplinary purposes and expunged from the employee's record.

7.3 **Dismissal** will normally result where any of the following circumstances apply:

- The infringement or offence is sufficiently serious:
- The employee is guilty of gross misconduct:
- The employee has failed to satisfactorily respond to a final written warning that is still current:
- A further offence of a similar or related nature has occurred after a final written warning that is still current.

8. Authority of the panel

8.1 The panel has the authority to:

- Find that the employee has no case to answer and dismiss the case.
- Require satisfactory completion of a course of training or developmental activity.
- Issue a first or final written warning and impose conditions in relation to such warnings.
- Extend the period of a final written warning as an alternative to dismissal.
- Suspend an employee on full, partial or nil pay for a period not exceeding three months.
- Dismiss an employee with the appropriate period of notice or payment in lieu of notice.
- Dismiss the employee without notice and without pay in lieu of notice.

8.2 This list is not exhaustive and only gives an indication of the action the Association may take following a disciplinary hearing. The Human Resources Manager must approve alternative proposals.

8.3 When deciding what disciplinary action to take, the Panel should take into account any previous disciplinary warnings issued that are still current, the actual severity of the problem, the degree of harm and potential harm to the Association, its members and others, and the explanations given by the employee including mitigating circumstances.

9. Notification of panel decisions

9.1 After a hearing, the Panel will adjourn to consider what action, if any, should be taken. The employee will normally be notified of the decision of the Panel in writing within **seven working days** of the conclusion of the hearing. If this is not possible for any reason, the employee will be provided with an explanation of the delay.

9.2 If a disciplinary warning is issued by the Panel, the written notification will set out the reason for the warning, the improvement or change in behaviour required, all the conditions associated with the warning, how any monitoring will take place, the period for which the warning will remain in force, the likely penalties for failure to satisfactorily comply with the warning, and the employee's right of appeal.

9.3 Where the disciplinary action taken is dismissal, the written notification will state the reason for the dismissal, the date on which the employment will terminate (taking into account the required notice period if appropriate), and the employee's right to appeal.

10. Appeals

10.1 Employees have the right to appeal against any disciplinary penalty imposed by a disciplinary panel, on substantive and/or procedural grounds. Any such appeal must be lodged with the Chair of the Board within **ten working days** of the date the disciplinary sanction was issued. Any extension to this limit can only be considered by the Chair of Board and only where very exceptional circumstances exist.

10.2 Appeals will usually be heard by a panel consisting of one non-student member of Board (normally the Chair of Board) and one student member of Board (normally the President). The composition of the panel may be varied at the discretion of the Chair of Board, in particular where a member of the panel may have previous involvement in the case or a conflict of interest.

10.3 Appeals will be heard within **twenty working days** of the appeal being lodged. The employee will be notified of the time and place of the appeal hearing, in addition to their right to be accompanied. They will also be informed of the names of the individuals making up the appeal panel and any other attendees. This information will be supplied in writing not less than **five working days** in advance of the hearing.

10.3 The employee may be accompanied to the appeal by a trade union representative, colleague, family member or friend, providing they make a reasonable request under the ACAS Code of Practise 2009. The name and address of the accompanying person must be notified no later than **two working days** in advance of the hearing. The panel has the discretion to allow other persons to accompany the employee in exceptional circumstances. Neither the employee nor the Association shall have legal representation at the hearing. At the request of the employee, the accompanying person may confer with the employee and/or make statements on their behalf.

10.4 Names of any witnesses to be called by the employee must be notified to the panel no later than **two working days** in advance of the hearing. It is the responsibility of the employee to ensure that any witnesses they wish to call are identified and informed of the date, time and place of the hearing, although the Association will facilitate as far as reasonably practicable the availability of witnesses who are Association employees or officers. Written statements from witnesses may be accepted in lieu of attendance at the discretion of the panel. The employee will be provided with the names of any witnesses called by the Association at least **two working days** in advance of the hearing.

10.5 The panel members will be provided with all of the material presented at the original hearing. In addition, the appeal panel will be provided with the appellant's letter stating the grounds for the appeal. The employee and his/her companion will have the right to comment on any new evidence that arises during the appeal before any decision is taken.

10.6 The Appeal Panel will hear evidence from all parties, i.e. the appellant and also a representative of the original disciplinary panel. Both parties shall have the right to present their case and to call witnesses: arrangements for calling witnesses shall be as in Section 6.6 (above). The Appeal Panel may also call witnesses.

10.7 Rules for attendance at appeals shall be as in Section 6.7, above.

10.8 The panel members may adjourn the meeting as necessary, as in Section 6.8 above.

10.9 Normally the panel will begin by hearing the reasoning for the original decision by the disciplinary panel, and then allow the employee to make a statement explaining their reasons for appealing this decision. The panel may then take evidence from, and facilitate questioning by, all parties. When the panel feel that all the evidence has been thoroughly explored, they may

allow both sides to sum up, starting with the representative of the original disciplinary panel. The appeal panel will then withdraw to consider its decision.

10.10 The appeal panel has the authority to:

- Uphold the original decision:
- Annul the original decision and withdraw all disciplinary sanctions:
- Uphold the original decision in part but withdraw the original sanction(s) in whole or in part, and if required substitute alternative measures. These measures cannot be more severe in effect than those taken by the original disciplinary panel.

The panel may also make recommendations to the original panel, Association management or Board based on the outcome of the case.

10.11 The decision of the disciplinary panel will be communicated to all parties in writing within **seven working days** of the conclusion of the hearing. This decision shall be the final stage of the Association procedures.

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