

STAFF DISCIPLINARY PROCEDURE

Procedure Statement

The aim of Activate Learning is to give employees as much freedom as possible in how

1.4 Issues of underperformance should be addressed in line with the Capability Procedure.

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- vi. The potential consequences of not achieving the required improvements in conduct.
 - vii. Based on this discussion the line manager may issue the employee with an informal oral warning.
- c. Brief confidential notes will be kept by the manager to record the discussions and any agreed informal action. The outcomes of any discussions should be confirmed in writing to the employee (email correspondence is acceptable). These notes will be retained by the manager for six months but will not be kept on the personal file. However, should the case warrant consideration of formal disciplinary action within this six-month period the notes may

amendments, they can do so

- Officer) authorised to undertake disciplinary action in accordance with this procedure, who will be assisted by a Human Resources representative.
- ii. The Investigation Officer: who will present the case. In exceptional circumstances the management case may be presented by an alternative manager or Human Resources representative.
 - iii. The employee and their chosen representative.
- b. Employees will be given a minimum of five working days' notice in writing of the requirement to attend a disciplinary hearing, to include:
- i. Details of the allegation or complaint.
 - ii. The date, time, and place of the hearing.
 - iii. The right of the employee to be represented or accompanied.
 - iv. Details of the Disciplinary Panel and who will present the management case.
 - v. Any documentation that will be referred to in the hearing in the form of the investigation report.
- c. The employee will be invited to submit to the Disciplinary Panel any documentary evidence they wish to have considered, not less than three working days before the date of the hearing, where reasonably practicable, to allow for an exchange of documents between the parties.
- i. The employee may make a request for witnesses to attend the hearing to the Disciplinary Officer. The Disciplinary Officer has the discretion to grant any such request if they are satisfied the evidence is relevant to the case and will not ordinarily turn down reasonable requests for a witness to attend.
 - ii. The Disciplinary Officer may as an alternative, request that witnesses submit a statement for consideration rather than attend e.g. in instances where an individual is making statements of character rather than has witnessed any incident(s) which formed the basis of the disciplinary case being considered.
 - iii. Any witness will only attend for the section of the hearing where he/she is required to give evidence.
- d. The purpose of the hearing is to provide the opportunity for the employee to respond to the allegations

proved and if so, what level of disciplinary sanction, including and up to dismissal, is appropriate.

i. The decision will normally be provided to the employee orally following adjournment. Written confirmation of the outcome of the hearing, with full reasoning for the decision, will be sent to the employee within a reasonable timeframe.

j. Where a warning is given, support will be identified to help the employee achieve the standard of conduct required, which may include a development plan, staff development etc.

k. Records will be kept of the disciplinary outcome for the period of any warning or a minimum of 12 months in the case of a dismissal and /or any Safeguarding related misconduct matter.

3.4 Formal Levels of Disciplinary Action

Levels of disciplinary action are as follows:

a. **Stage 1**

has been the subject of a Final Written Warning or.

ii. Another instance of misconduct has occurred during the currency of a previous warning and a Final Written Warning has already been issued or.

iii. An allegation of gross misconduct is found to be proven (see Appendix 1 for examples of gross misconduct).

Where a member of staff is dismissed, they will receive a written statement to include:

i. Reasons for dismissal.

ii. The date on which the employment contract will end.

iii. The appropriate period of notice or pay in lieu, if applicable.

iv. Any outstanding payments to be made.

v. The right of appeal.

vi. If, after investigation, an employee is found to have committed an act of gross misconduct, the normal consequence will be summary dismissal without any notice or pay in lieu of notice.

3.5 Alternatives to Dismissal

a. Actions short of dismissal, as an alternative to dismissal, may be considered in exceptional circumstances.

– no matter how small, and even if no more than causing a sense of unease - that an adult working in or on behalf of Activate Learning may have acted in a way that is inconsistent with the Professional Conduct Policy, including inappropriate conduct outside of work, and which does not appear to meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO.

Examples of such behaviour could include, but are not limited to:

Inadvertent or thoughtless behaviour

Being over friendly with students

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GUIDANCE ON WHAT CONSTITUTES MISCONDUCT AND GROSS MISCONDUCT

Examples of acts and behaviour, which render an employee liable to disciplinary action, fall into two broad categories, namely misconduct and gross misconduct. In the case of gross misconduct, Activate Learning may summarily dismiss the employee, that is, dismissal without notice or pay in lieu of notice. Examples of misconduct and gross misconduct are given below, but it must be stressed that this list of examples is not

SUGGESTED FORMAT OF THE DISCIPLINARY HEARING

1. Introduction by Chair

The disciplinary hearing will be chaired by a manager able to take disciplinary action who will be assisted by a Human Resources representative.

The chair will:

- a. Introduce those present.
- b. Explain the purpose of the hearing.
- c. Explain how the hearing will be conducted.

2. Management Case

The Investigating Officer will

APPEALS PROCESS

1. General Principles

- a. The employee can raise an appeal against a disciplinary sanction on the following grounds:
 - i. The procedure: the policy and procedure have not been applied correctly.
 - ii. The decision: the evidence did not support the conclusion reached.
 - iii. The penalty: this was too severe given the circumstances of the case.
 - iv. New evidence: which has genuinely come to light since the first hearing, and which may have a bearing on the outcome.
 - v.

iv. The Appeal Panel will have regard for any new evidence that has been introduced and will allow the employee, or their representative, to comment on this. The Chair of the