

**Disciplinary Policy/Procedure**

<b>Approved by</b>	The Executive		
<b>Date approved</b>	October 2015	<b>Status</b>	Approved
<b>Policy owner</b>	Head of HR Operations & Support	<b>Impact assessed</b>	Yes
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## **1.0 Purpose of Policy**

- 1.1 Robert Gordon University is committed to providing a working environment which enables it's workforce to fulfil the expectations of their role.
- 1.2 To ensure the effective operation of the University and the health and safety of employees and students, the University operates a disciplinary policy.
- 1.3 The University's disciplinary policy will be used in cases of misconduct or poor performance where necessary.
- 1.4 The University will ensure disciplinary procedures are applied fairly in all instances. The University reserves the right to implement the procedure whenever conduct or performance issues occur.

## **2.0 Scope of Policy**

- 2.1 The disciplinary policy applies to all employees<sup>1</sup> in full or part-time employment, on permanent, fixed term or temporary contracts of employment.
- 2.2 This policy is not of contractual effect.
- 2.3 The University reserves the right to apply modified procedures during any probationary period in accordance with any probationary scheme which the University may adopt from time to time.

## **3.0 Informal Stage**

- 3.1 The University can utilise the informal stage of the disciplinary policy when a case of minor misconduct or unsatisfactory performance is identified.
- 3.2 Examples of when the informal stage may be used include:
  - a) Failure to follow a reasonable instruction
  - b) Poor timekeeping
  - c) Repeatedly making the same minor mistakes
  - d) Taking too many breaks
  - e) Mildly inappropriate comments or behaviour at work
  - f) Minor breaches of University policies/procedures

*(The above list is not exhaustive and is illustrative only of the varieties of matters justifying the application of the informal stage).*

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<sup>1</sup> This policy also applies to Senior Managers, the Executive, and to the Principal & Vice Chancellor, but separate procedural arrangements may apply.

- 3.3 The employee's manager will informally investigate, which may involve speaking with other staff to establish the facts.
- 3.4 The line manager will arrange a meeting with the employee to discuss what is alleged to have happened. This will be carried out without unreasonable delay, with the aim of encouraging and assisting the employee to address any identified shortfalls in performance, behaviour or conduct. During the meeting the manager may identify any support required, for example: further training, coaching, advice, mediation, on-the-job training and the Employee Assistance Programme (EAP), if appropriate.

#### **4.0 Disciplinary Offences**

- 4.1 The University shall regard the following as matters that would justify the instigation of disciplinary procedures against an employee:-
- a) theft or fraud;
  - b) acts or threats of physical violence;
  - c) acts of dishonesty – e.g. wilful misrepresentation of academic or professional qualifications, provision of inaccurate or misleading information in the initial application for employment
  - d) breaches of any policy, rules or regulations adopted by the University, any legal requirements or code of conduct placed upon the individual by virtue of his employment with the University;
  - e) breaches of any academic, or professional standards – e.g. plagiarism, deliberate or reckless lack of fairness in carrying out the marking of examination papers and/or the assessments of students, research misconduct;
  - f) deliberate and/or serious damage to, or misuse of the University's property or name;
  - g) deliberately accessing internet sites containing pornographic, offensive or obscene material;
  - h) unlawful discrimination;
  - i) bullying, harassment or offensive behaviour, either physical, verbal or psychological;
  - j) any actions or omissions bringing the University into disrepute or prejudicial to good order in the University;
  - k) incapacity at work brought on by alcohol or drugs or any other substance abuse;
  - l) causing loss, damage or injury through serious negligence;
  - m) breach of health and safety rules;
  - n) breach of confidence. e.g. unauthorised disclosure of information relating to an individual or the University
  - o) unauthorised absence, or unacceptable attendance or punctuality;

- p) insubordination, failure to follow management instructions;
- q) failure to reach adequate or acceptable standards of quality and performance in relation to duties;
- r) any communications made in a personal/professional capacity on-line or in other media that either brings the university into disrepute or has the potential to bring the university into disrepute, or breaches confidence, or are considered discriminatory against, or bullying and harassment of, another individual;
- s) any other act or omission that repudiates the contract of employment and/or leads to loss of trust and confidence in an employee, and/or his or her ability to fulfil the duties for which he or she is employed;
- t) deregistration from a professional, statutory or regulatory body, where that registration is a condition of employment.

- 4.2 The above list is not exhaustive and is illustrative only of the types of matters justifying the application of disciplinary procedures.
- 4.3 Each disciplinary offence, if sufficiently serious, could be regarded as gross misconduct and could therefore lead to suspension and/or dismissal.
- 4.4 Where there is an allegation of fraud or any other financial irregularity the investigation will be carried out by the Director of Finance (or his/her nominee), supported by the Head of HR (or his/her nominee).
- 4.5 Where the University believes that the offence may constitute a criminal offence and/or breach the standards required of a regulated body or set by the individual's professional body, the University will report the matter to the relevant organisation.

## **5.0 PVG referrals**

- 5.1 If at any stage of an investigation, a manager believes that there may be grounds under the PVG scheme for reporting the conduct and / or behaviour of an employee under the PVG Referral procedures (whether the employee is in regulated work or not) he/she should inform the relevant member of the Executive and the University's PVG Lead Signatory & Statutory Officer.
- 5.2 Details of what constitutes grounds for a referral can be found by clicking on the link to Disclosure Scotland's guidance: [PVG Referrals](#)

## **6.0 Performance issues**

- 6.1 Informal interventions in dealing with shortfalls in performance will be considered by managers where appropriate.
- 6.2 Ordinarily where an employee's performance does not meet the role requirements the employee will be engaged in a performance improvement process with their manager. This will normally be in the form of an informal performance improvement plan (PIP), the focus of which will be to support the employee in reaching an acceptable and pre-determined level of performance.
- 6.3 If an employee fails to make satisfactory improvement during the informal stage outlined in section 6.2 the disciplinary process will be applied as outlined in section 9.
- 6.4 Where there is evidence of severe performance issues which are detrimental to effective operations relating to the role, the School or Department, it may be appropriate to apply the disciplinary procedure in the first instance. Similarly where a long term performance issue is subsequently brought to light the disciplinary process may be applied in the first instance.
- 6.5 A modified performance improvement process may be adopted if an employee displays performance issues during their probationary period.

## **7.0 Investigation**

- 7.1 An investigation will not be required in every instance and the collation of evidence without investigatory meetings will suffice in almost all cases that have been managed within a performance improvement process.
- 7.2 Where a full investigation is required this will be carried out without unreasonable delay by an Investigating Officer who is not connected in any way to the facts giving rise to the disciplinary charge. The Investigating Officer will be supported by an HR Business Partner/Adviser. Depending on the circumstances it may not be necessary to hold an investigatory meeting with the employee.
- 7.3 The Investigating Officer can, at any time during the course of their investigation, make a recommendation to suspend the employee under investigation.
- 7.4 An investigation does not in itself result in disciplinary action.
- 7.5 An investigatory meeting does not attract the right to be accompanied. Should the employee request to be accompanied this will normally be permitted however this will be on the understanding that the employee's companion will attend in a supportive rather than a participatory capacity. Investigatory meetings will not be rescheduled if the employee's companion is unavailable.

## **8.0 Suspension**

- 8.1 Suspension may be necessary where there are reasonable grounds to believe an employee has been guilty of gross misconduct; where relationships have broken down; or where is a potential risk to the wellbeing of the employee and / or other parties.
- 8.2 The decision to suspend may be taken by the Head of HR Operations & Support, following recommendation by the relevant senior manager.
- 8.3 Suspension itself is a neutral act and does not indicate guilt. It is not a disciplinary sanction nor does it imply that disciplinary action will automatically follow.
- 8.4 The period of suspension will be kept under review to ensure that the circumstances of the case require its continuance

## **9.0 Disciplinary hearing**

- 9.1 A disciplinary hearing will be held if there are reasonable grounds to believe: an employee has carried out an act of misconduct; there is evidence of long term or severe performance issues; or where the employee has failed to make improvement in performance following informal procedures.
- 9.2 The employee will be notified of the disciplinary hearing in writing.
- 9.3 The written notification will contain information on the reasons for the hearing, the possible consequences, and copies of any written evidence including the Investigating Officer's report and witness statements.
- 9.4 The disciplinary hearing will be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case.
- 9.5 The employee must take all reasonable steps to attend the disciplinary hearing.
- 9.6 Where an employee is persistently unable or unwilling to attend a disciplinary hearing without good cause, the disciplinary hearing will proceed in the employee's absence and the University will make a decision on the evidence available.
- 9.7 Employees have a statutory right to be accompanied by a companion to a disciplinary or appeal hearing if they so wish. The companion must be an employee within the University, a trade union representative or an official employed by a trade union.
- 9.8 It will not normally be reasonable for an employee to insist on being accompanied by a companion whose presence will prejudice the hearing or who might have a conflict of interest.
- 9.9 If the companion cannot attend the hearing date, the employee can offer an alternative time and date within five working days of the original date. If the time and date offered by the employee is unsuitable, the Disciplinary Hearing Chair will seek to re-arrange the hearing within the following five working days. If a mutually suitable date and time cannot be found within this extended time period then the Chair will normally confirm a date for the disciplinary hearing and the employee will have to source alternative representation if required.
- 9.10 External legal representation is not permitted at any stage of the disciplinary process.

## **10.0 Format of the Disciplinary hearing**

- 10.1 The Disciplinary Hearing Chair will explain the complaint against the employee and go through the evidence that has been gathered.
- 10.2 The employee will have the opportunity to set out their case and respond to allegations that have been made.
- 10.3 The employee will be given reasonable opportunity to ask questions and present evidence.
- 10.4 Both the Chair and employee can call relevant witnesses and advance notice should be given to the other party.
- 10.5 An HR representative shall accompany the Chair throughout the hearing.
- 10.6 A written summary note of the disciplinary hearing will be taken by a HR representative. Audio or Video recordings of the hearing or investigation meeting(s) are prohibited.
- 10.7 The Chair may adjourn the hearing if appropriate and will confirm the period of adjournment to the employee. Any further evidence gathered during adjournment, and to be considered in proceedings, will be supplied to the employee before reconvening.

## **11.0 Disciplinary decisions**

- 11.1 The Chair will make a decision as soon as possible after the hearing and confirm the outcome and right of appeal in writing to the employee without unreasonable delay. Where allegations are dismissed this will also be confirmed in writing.
- 11.2 If it is decided disciplinary action is warranted a sanction will be issued as follows, otherwise the allegations will be dismissed.
- 11.3 In line with the University's pay policies incremental pay progression will not occur for the duration of any disciplinary sanction which is applied.

## **12.0 Disciplinary outcomes**

- 12.1 **First written warning** - where misconduct is confirmed, but is not sufficiently serious to merit a final written warning, or the employee is performing unsatisfactorily it is usual to give the employee a written warning. The duration of a first written warning is normally one year.

12.2 **Final written warning** - if an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.

12.2.1 Where the employee has a current first written warning, then a further act of misconduct or failure to improve performance within a set period of time will normally result in a final written warning. The duration of a final written warning is normally 2 years.

12.3 **Demotion** - where misconduct is confirmed and the employee has been informed of the decision to dismiss there may thereafter be circumstances where it is considered appropriate to explore the option of offering the employee a demotion to a permanent job at a lower grade, should such a position be available at that point in time.

12.4 There may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding how long any new warning should last.

12.5 Exceptionally therefore the time-scale which applies to a warning may be longer than specified and/or earlier 'spent' warnings may be taken account of in deciding the level of any sanction.

12.6 A 'spent' warning may be relevant in later disciplinary proceedings in relation to issues such as credibility and the level of sanction reasonably to be imposed

### **13.0 Dismissal**

13.1 Acts of gross misconduct are likely to result in dismissal. Some acts of gross misconduct are so serious in themselves or have such serious consequences that they may call for summary dismissal without notice for a first offence.

13.2 Where an employee has a current final written warning, further misconduct or failure to improve performance within the set period following the warning is likely to result in dismissal.

### **14.0 Authority to issue sanctions/dismiss**

Members of the Executive and those on senior manager grades have authority to issue all possible sanctions including taking a decision to dismiss.

## **15.0 Appeal**

- 15.1 Employees have a right to appeal against a disciplinary decision. The employee should appeal in writing within 10 working days of the date of issue of the disciplinary outcome letter, and must clearly state the grounds for appeal.
- 15.2 The appeal will be heard without unreasonable delay.
- 15.3 The appeal will be heard by a manager who has not previously been involved, and who is normally at least at the same level of seniority as the Disciplinary Hearing Chair if not more senior.
- 15.4 Employees have the right to be accompanied as per sections 9.7-9.9 of this policy.
- 15.5 The employee will be informed in writing of the appeal decision as soon as possible. There is no further right of appeal.

## **16.0 Miscellaneous**

### **16.1 Trade Union representatives**

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed. Depending on the circumstances, however after obtaining the employee's agreement, it will also be necessary to inform the relevant national officer employed by the union.

### **16.2 Grievances during a disciplinary case**

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate for both issues to be dealt with concurrently and by the same manager. Advice should be sought from HR on how to deal with this most appropriately.

### **16.3 Record keeping**

Written records from the disciplinary process will be kept and shared with the employee. Records will be treated as confidential and will be held in accordance with the Data Protection Act 1998.

### **16.4 Criminal convictions**

Being charged with or convicted of a criminal offence does not automatically result in disciplinary action. However in circumstances

where the charge or conviction affects or is likely to affect the suitability of the employee for the position in which they are employed and will seriously undermine the University's trust and confidence in the employee, the disciplinary procedure may be applied.

### **16.6 Witnesses**

Employees are under a duty to give statements and co-operate with a disciplinary investigation and give evidence at an investigation, disciplinary or appeal hearing if so required by the University.

Witnesses who request anonymity should, so far as possible, have this respected.

### **16.7 Other complaints**

From time to time complaints may be raised alleging misconduct by a member of staff under another University Policy, e.g. the complaints procedure, whistle-blowing policy, fraud policy or data protection policy. Where an investigation has been carried out under any of these procedures and where the outcome of that investigation shows a potential disciplinary offence has occurred, no further investigation as set out under section 6.0 of this policy will normally be required.

**Human Resources Department  
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