

APPROVED BY COUNCIL
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ROYAL HOLLOWAY
University of London

DISCIPLINARY POLICY AND PROCEDURE
(for all staff other than academic teaching staff)

DISCIPLINARY PROCEDURE
(for all staff other than academic teaching staff)

1. INTRODUCTION

1.1 Policy Statement

1.1.1 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. Discipline is of paramount importance for the conduct of the College's affairs and for the safety and well-being of all employees. It is thus essential that any disciplinary action be considered and applied equitably and fairly. This procedure meets the requirements of the Employment Rights Act 1996, the Employment Relations Act 1999 and the ACAS Code on Disciplinary Practice and Procedure in Employment.

1.2 The purposes of this document are:-

- (a) to ensure that the obligations placed on the College 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 which may give rise to disciplinary action, the procedures to be followed, the remedial action which may be taken and the available rights of representation and appeal.

1.3 This procedure applies to all staff employed by the College who have completed their probation period, except academic teaching staff who are dealt with separately under Statute 25 of the Revised Statutes of the College.

1.4 Disciplinary arrangements on behalf of Senior Administrative staff of the College who report direct to the Principal are set out in Section 10 of the procedure.

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

2. COUNSELLING

2.1 The day to day supervision of staff and the monitoring of conduct is part of the normal management process and is outside the scope of the formal procedure for dealing with breaches of discipline. There is likely to be less recourse to the formal procedure if deficiencies in an employee's conduct are brought to their attention at the earliest possible stage by the appropriate Manager. Counselling is the most appropriate means of resolving deficiencies at the outset.

3. PRINCIPLES

- 3.1 No formal disciplinary action, including dismissal, will be taken against an employee until after the matter has been fully investigated and a disciplinary hearing has taken place.
- 3.2 At every stage in the procedure employees will be advised of the nature of the complaint against them and will be given the opportunity to put their case before any decision is made.
- 3.3 At all stages of the formal disciplinary procedure, the employee will have the right to be accompanied by a trade union representative (including the trade union solicitor) or work colleague of their choice.
- 3.4 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.
- 3.5 An employee will have the right of appeal against any disciplinary penalty imposed.
- 3.6 Disciplinary hearings will be conducted in accordance with the procedure set out in the attached Disciplinary Appeals Procedure.
- 3.7 This procedure may be implemented at any stage if it is considered that the employee's misconduct warrants such an action.
- 3.8 The constitution of and procedure to be adopted by an Appeals Panel is set out in Annex on page 10.
- 3.9 A record of disciplinary action taken against an employee will be kept on the employee's confidential file in the Personnel department and will be expunged from the records of the file after the specified time limit of the sanction has elapsed. Staff have the right of access to their files, under the Data Protection Act on the payment of the appropriate fee to the College Secretary.
- 3.10 Training will be provided as appropriate to ensure as far as possible that disciplinary matters are handled properly and fairly.
- 3.11 Officers of the Personnel department are available to give advice and assistance to both parties to disciplinary action prior to formal hearings. They will attend all disciplinary hearings to advise and assist the Managers or members conducting the hearings or any appeals against disciplinary action. Different Managers and members will be involved at different stages to ensure recognition of the principles of natural justice.

4. INVESTIGATION OF POTENTIAL DISCIPLINARY INCIDENTS

- 4.1 When an incident takes place, usually as the result of the personal conduct of a member of staff, and there is an indication that a formal disciplinary hearing may be required, an investigation should be undertaken into the circumstances surrounding the case (An indicative list of the sources of rules and regulations in which a failure to comply could potentially lead to disciplinary action can be found in the Staff handbook). The investigation should be carried out by a suitable senior member of staff in the department, rather than the manager who will hear the case. If this is impractical, the hearing should be undertaken by a suitable, senior Manager from another department, as determined by the Head of Personnel.
- 4.2. The investigation should take place as soon as possible, and may include signed statements from the member of staff concerned, and any material witnesses or affected parties. In the process of investigation it may be necessary for the employee concerned to be interviewed. This interview is purely investigative and does not form part of the disciplinary process, although the employee should be advised that disciplinary proceedings might follow. If during the investigation it was found that there was no case to be answered, then the matter

would be concluded and the member of staff notified accordingly. The formal hearing would be heard by a manager who did not carry out the investigation.

5. PRIOR TO THE HEARING

5.1 The employee will be informed of the details of the allegation and a hearing will be convened. The employee will be given a minimum of three working days' advance notice of the hearing date which may be extended if the employee so requests. The employee may offer an alternative time and date as long as it is reasonable.

5.2 The notification to attend a hearing will include:-

- (a) the reason for the hearing;
- (b) the date, time and place of the hearing;
- (c) the right of the employee to be represented at the hearing by a trade union representative (including the trade union solicitor) or a workplace colleague of their own choice. If the representative is not available the employee can offer an alternative time and date so long as it is reasonable and falls before the end of the period of five working days beginning with the first working day after the day proposed by the manager/supervisor;
- (d) copies of any available supporting documentary evidence, including witnesses' statements, to which reference is to be made at the hearing. Where possible, witnesses should be available to attend the interview, unless the employee accepts in advance that the witness statements are statements of fact. The employee should also make available to the manager any documentation which he/she intends to refer to at the interview.

6. SUSPENSION FROM DUTY

6.1 In certain circumstances it may be necessary for an individual to be removed from duty while an investigation is undertaken. This would be appropriate in circumstances which appear to involve gross misconduct or which are considered to be in the interest of the department and/or the individual.

6.2 Suspension is not a disciplinary sanction and the suspended member of staff will receive his/her full pay during this period.

6.3 Suspension should be for the shortest practicable period of time and will be confirmed in writing by the manager or Personnel department as appropriate.

6.4 The power to suspend normally rests with a Head of Department. In certain circumstances a line manager may authorise suspension from duty. All decisions to suspend should be notified to the Personnel department immediately.

6.5 Whilst on suspension, the member of staff should not enter the College premises without the express written permission of the manager who carried out the suspension. The member of staff should be reminded that all other contractual obligations remain and that they should keep themselves available for work at the normal working times.

7. THE DISCIPLINARY HEARING

7.1 The intention of the hearing is to give the employee every opportunity of stating their case and to allow the manager conducting the hearing to consider all relevant information before making a final decision.

7.2 The hearing will be conducted by the appropriate manager assisted by a representative of the Personnel department (see section 3.11).

- 7.3 The employee will be informed as to the reason why their conduct is thought to warrant disciplinary action supported by any documentary evidence and witnesses.
- 7.4 The employee and/or their representative will be entitled to ask questions and to present their case and to call witnesses.
- 7.5 The employee and witnesses may be questioned, as may any witnesses called by the employer's side.
- 7.6 Where the appropriate manager referred to in 7.2 or the Personnel representative considers that further information or discussion is required, the hearing will be adjourned for a specific period.
- 7.7 Once all the evidence has been presented, each party will have the opportunity to sum up their case. The management case will be presented first followed by the employee and/or their representative. No new evidence can be heard at this stage.
- 7.8 The manager conducting the hearing will adjourn in order to assess the evidence presented and to make the decision.

8. THE OUTCOME OF THE HEARING

- 8.1 The manager conducting the hearing will select the most appropriate outcome from the following:-

8.1.1 No sanction

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

8.1.2 First Stage Warning

A first stage warning (often referred to as Oral) may be given if conduct or performance does not meet acceptable standards.

- (i) If a first stage warning is considered appropriate, it will be confirmed in writing by the manager who conducted the hearing within five working days of the hearing and will include:
- the date of the hearing
 - the circumstances which gave rise to the warning, specifying the misconduct
 - any requirements relating to conduct or associated behaviour including timescales for improvement where appropriate
 - that repetition of the offence or other misconduct will lead to further disciplinary action which may include termination of employment
 - that the employee may submit a formal written appeal against the warning to the Head of Personnel within five working days of receipt of the letter containing the warning.
- (ii) The manager conducting the hearing may, if appropriate, indicate the period within which any improvement in conduct must take place which should not exceed three months from the date of the hearing. It should be made clear that any recurrence may lead to further action. It is important that any points agreed for further action should be monitored and followed up so that the employee is made aware of any continued shortcomings.

- (iii) If no appeal is made or, if following the hearing the Appeals Panel confirms the warning, a note of the first stage warning will be kept on the employee's personal file in the Personnel Department and a copy given to the employee. It will be spent after six months subject to satisfactory conduct.

8.1.3 Second Stage Warning

A second stage warning (often referred to as a first written warning) will be issued in the case of more serious misconduct, or if a further offence occurs.

- (i) If a second stage warning is considered appropriate, it will be confirmed in writing by the manager who conducted the hearing within five working days of the hearing and will include:
- the date of the hearing
 - the circumstances which gave rise to the warning, specifying the misconduct
 - any requirements relating to conduct or associated behaviour including timescales for improvement where appropriate
 - reference to any previous first stage warnings
 - that repetition of the offence or other misconduct will lead to further disciplinary action which may include termination of employment
 - that the employee may submit a formal written appeal against the warning to the Head of Personnel within five working days of receipt of the letter containing the warning
- (ii) If no appeal is made or, if following the hearing the Appeals Panel confirms the warning, a note of the second stage warning will be kept on the employee's personal file in the Personnel Department and a copy given to the employee. It will be spent after twelve months subject to satisfactory conduct.

8.1.4 Third Stage

A third stage warning (often referred to as a final written warning) will be issued in the case of serious misconduct (short of gross misconduct), or if, despite previous warnings, there has been further misconduct or a failure to improve within a reasonable period of time.

- (i) If a third stage warning is considered appropriate it will be confirmed in writing by the manager who conducted the hearing within five working days of the hearing and will include the following:-
- the date of the hearing and the names of those present
 - the circumstances which gave rise to the warning specifying the nature of the allegation against the employee
 - any requirements relating to conduct or associated behaviour including timescales for improvement where appropriate
 - reference to any previous warnings
 - that repetition of the offence may lead to termination of employment
 - that the employee may submit a formal written appeal against the warning to the Head of Personnel within five working days of receipt of the letter containing the stage three final written warning
- (ii) If no appeal is made against the final written warning or if the Appeals Panel confirms the warning, it will remain on file for a period of two years. After that time it shall be removed from the file and the employee notified accordingly provided that there have been no further transgressions during this period.

8.1.5 **Fourth Stage - Dismissal**

An employee may be dismissed by the College either for a further offence after a stage three warning or for gross misconduct.

(i) Dismissal for a further offence after a stage three written warning

Formal notice of intention to dismiss will usually be given by the manager hearing the case in the presence of the representative from the Personnel department. It will be confirmed by letter in writing sent by recorded delivery under the signature of the Principal within five working days of the hearing. The letter will include the following details:-

- the date of the hearing and the names of those present
- the circumstances which led to the dismissal including details of any previous warnings
- the period of notice and effective date of termination of service, taking into account the employee's length of service
- notice that the employee may submit a formal written appeal against dismissal to the Principal within five working days of the receipt of the letter from the Principal confirming the dismissal. Any such letter must stipulate the grounds upon which the appeal is made .

(ii) Dismissal for Gross Misconduct

Gross misconduct is conduct of such a nature that the employer is justified in no longer tolerating the continued presence at work of the employee concerned. In cases of gross misconduct an employee may be dismissed summarily without having received any previous warnings. Examples of gross misconduct are:-

- Assault
- Being seriously under the influence of alcohol or (non prescribed) drugs during working hours
- Theft
- Any act constituting a criminal offence affecting employment
- Fraud, or any such offence bearing financial implications
- Malicious damage
- Flagrant disregard of Health and Safety Regulations
- Gross negligence
- Abuse
- Harassment
- Discrimination

The above list is not exhaustive. There may be other instances of gross misconduct which could affect the member of staff's suitability for continued employment with the College.

9. APPEALS

In every case where disciplinary action is taken there will be a right of appeal against such action together with a right to a hearing on submission of a formal written appeal against the action to the Principal or Head of Personnel where appropriate, within five working days of receipt of the letter containing the notice of the sanction (See attached Disciplinary Appeals Procedure).

Any such appeal will be a review of the evidence presented, the action taken and procedure adopted, not a rehearing of the matter. If during the course of the Appeal in the opinion of the Personnel representative to the original panel, any significant or substantial new evidence is

presented, then the Appeal Hearing may be stopped at that stage and the matter remitted to a freshly constituted disciplinary panel.

10. DISCIPLINE IN SPECIAL CASES

10.1 Senior Administrative Staff of the College

- 10.1.1 Senior Administrative staff of the College who report directly to the Principal can be suspended only by the Principal (or the Senior Vice-Principal standing in for the Principal in his/her absence).
- 10.1.2 If there is an allegation concerning conduct which does not meet acceptable standards, the Principal will institute an investigation into the complaint and decide whether to dismiss the matter, or to proceed under the formal disciplinary procedure.
- 10.1.3 In a case where the Principal has decided to proceed with a disciplinary hearing, he or she will request the Council to appoint a Panel to hear the charge or charges and to determine whether the conduct of the member of staff concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to the member of staff's employment.
- 10.1.4 The Panel appointed by the Council will consist of a Chairperson who is a lay member of Council, another lay member of Council and a senior member of staff nominated by the Principal. The Head of Personnel will be in attendance in an advisory capacity (unless party to the case already).
- 10.1.5 The rules for the disciplinary hearing shall follow the steps set out in Section 7 of this procedure.
- 10.1.6 In case of an appeal, the Principal will request the Council to appoint an appeals panel which should consist of a Chairperson 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 personally involved in events leading up to the disciplinary action which is the subject of the appeal.

10.2 Trade Union Representatives

- 10.2.1 These procedures shall apply equally to those members of staff who are appointed or elected, under a trade union's rules, to represent members of the trade union employed by the College. However, on any occasion where such a trade union representative is to be the subject of a disciplinary interview or hearing, the Head of Personnel, in addition to informing the member of staff of their right to be accompanied by a trade union representative (including the trade union solicitor) or colleague, shall inform the appropriate full-time union official as quickly as is reasonably practical and, in any case, before the date of the interview or hearing is fixed
- 10.2.2 The full-time trade union official shall also be given a copy of any communication containing the result of such a disciplinary interview or hearing, which is sent to the member of staff.

11. PROBATIONARY SERVICE

- 11.1 The foregoing does not apply to the dismissal of a probationer. The appropriate procedure in that case is detailed in the agreement with the employee under probation.

12. MALICIOUS OR FALSE ALLEGATIONS

- 12.1 Allegations which after investigation are found to have been prompted by malice or are demonstrated to be false will expose the person making the allegation to serious disciplinary action.

13. **GRIEVANCES**

If at any time during the disciplinary procedure a related grievance is lodged by any party involved, the disciplinary investigation/hearing will be suspended until the grievance has been dealt with accordingly (See separate Grievance Procedure).

**DISCIPLINARY APPEALS PROCEDURE
(for all staff other than academic teaching staff)**

1. INTRODUCTION

- 1.1 In all cases where disciplinary action is taken, there will be a right to an appeal against such action at a formal hearing.

An appeal hearing is not a re-evaluation of the evidence but an assessment that procedures were followed correctly, the judgement of the original manager was fair and that the penalty imposed was appropriate.

2. NOTIFICATION

2.1.1 First, Second and Third Stage Warnings

Formal written notification of an appeal must be made to the Head of Personnel within five working days of receipt of the letter containing the warning. This letter must contain the grounds for the appeal

2.2 Fourth Stage Dismissal

Formal written notification of an appeal must be made to the Principal within five working days of receipt of the letter confirming the dismissal. This letter must contain the grounds for the appeal

3.1 PROCEDURE

Once notification of an appeal has been received (see Section 2) then an appeal against disciplinary action will be heard as soon as possible but normally within twenty working days.

3.1 Panel Membership

3.1.1 First and second stage warnings

Appeals should be heard by the next level of management above the manager who has taken the action, with a Personnel representative.

Where a Head of Department has issued the written warning then the appeal should be heard by another Head of Department, a Faculty Dean or a Vice-Principal as appropriate, who has not previously been involved in the case. This should be agreed between the Personnel representative and the member of staff, in consultation with a trade union representative if so requested.

If necessary the manager and Personnel representative hearing the appeal will ask a manager who is experienced in the field of work in which the member of staff is employed, to advise him/her on matters arising during the course of the hearing which relate to the professional conduct or competence of the appellant

3.1.2 Third Stage or Fourth Stage - Dismissal

Appeals against a third stage warning or fourth stage dismissal will be heard by a Committee of three senior members of staff, who have not previously been involved in the case and who shall be appointed by the Head of Personnel

4. PRIOR TO THE HEARING

- 4.1 The Personnel representative to the original hearing will examine any new evidence. If in the opinion of the Personnel representative there is any significant or substantial new evidence then the matter will be remitted to a freshly constituted disciplinary panel. No new evidence should be submitted during the appeal hearing.
- 4.2 The Personnel representative will notify the employee and manager who issued the disciplinary action of the hearing.
- 4.3 The notification to attend the hearing must 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 (including the trade union solicitor) or a colleague of their own choice. If the representative is not available the employee can offer an alternative time and date so long as it is reasonable and falls before the end of the period of five working days beginning with the first working day after the day proposed by the manager/supervisor;
 - (c) Copies of any supporting documentation which may affect the judgement of the original panel. Where possible, witnesses should be available to attend the interview, unless the employee and manager both accept that the witness statements are statements of fact.
 - (d) The identity of the person conducting the meeting and of the Personnel representative
- 4.4 The Personnel representative will confirm the following to the Panel hearing the appeal
- (a) the date, time and place of the hearing;
 - (b) the grounds for the appeal, accompanied by all relevant correspondence and documentation, including any previous warnings and witness statements.

5. THE APPEAL HEARING

5.1 Procedure

- 5.1.1 The manager concerned will normally chair the hearing.
- 5.1.2 At any point during the appeal hearing the manager or panel hearing the appeal may ask questions
- 5.1.3 The member of staff or their representative will present his/her case and call witnesses as appropriate. The manager who presented the management case will be entitled to ask questions relating to the evidence given.
- 5.1.4 The manager who took the disciplinary action will confirm the management case, calling witnesses as appropriate and the member of staff and his/her representative will be entitled to ask questions relating to the evidence given and procedures followed.
- 5.1.5 No new evidence should be submitted during the appeal hearing.
- 5.1.6 Both parties will then be given the opportunity to make a short summary statement on their case. The manager confirming the management case has the right to speak last.
- 5.1.7 Both parties will withdraw to enable the Panel to consider the evidence.
- 5.1.8 The appeals panel may, at their discretion, adjourn the appeal in order that clarification of points raised may be produced by either party or for any other reason.

6. THE OUTCOME OF THE APPEAL HEARING

6.1 Confirmation

The decision of the original hearing is upheld and any action points agreed during the original hearing are to be followed up.

6.2 Change of Sanction

If it is the view of the appeal panel that the original decision was inappropriate a new decision is issued with an appropriate penalty.

A record of the original hearing and the appeal will be placed on the employee's personal file as appropriate (see section 7.1)

6.3 Set Aside

If it is the view of the manager hearing the appeal, or the appeals panel that the decision of the original manager was unfair and the employee is exonerated from the charges, then no penalty is imposed.

In this case no further action is to be taken and all records of the original offence and hearing will be removed from the personal file of the employee.

6.4 In all cases the decision of the appeal panel is final and will be confirmed in writing to all parties within five working days of the hearing. There is no further right of appeal within the College.

7. APPEALS IN SPECIAL CASES

7.1 Senior Administrative Staff of the College

7.1.1 Appeals against disciplinary action taken against Senior Administrative Staff of the College who report directly to the Principal (see Section 10 of the Disciplinary Procedure), should be received by the Principal within five working days of the receipt of the letter from the panel appointed by Council. This letter must state the grounds for the appeal.

7.1.2 An appeals panel will be convened at the request of the Principal to Council within as soon as possible but normally within twenty days of receipt of this letter.

7.1.3 An appeals panel will consist of two lay members of Council and a senior member of staff nominated by the Principal, none of whom have previously been personally involved in events leading up to the disciplinary action which is the subject of the appeal.

7.1.4 Procedures for the appeal hearing shall follow the steps set out in Section 5 and 6 of this procedure.

7.2 Trade Union Representatives

7.2.1 These procedures shall apply equally to those members of staff who are appointed or elected, under a trade union's rules, to represent members of the trade union employed by the College. If a trade union representative appeals against the decision of a disciplinary hearing then the Personnel representative shall ensure that in addition to informing the member of staff of their right to be accompanied by a trade union representative (including the trade union solicitor) or colleague, shall inform the appropriate full-time union official as quickly as is reasonably practical and, in any case, before the date of the interview or hearing is fixed

- 7.2.2 The full-time trade union official shall also be given a copy of any communication containing the result of such disciplinary appeal interview or hearing, which is sent to the member of staff.