



## **Conduct Policy and Procedure**

### **1 Introduction**

#### **1.1 Purpose and scope**

The policy and procedure is designed to help and encourage all members of staff to achieve and maintain the required standards of conduct, including attendance. The aim is to ensure consistent and fair treatment for all when standards of conduct give rise to problems that cannot be resolved informally.

The policy applies to all staff except those who are within their probationary period who are covered by the appropriate probation policy. Issues of unsatisfactory performance should be addressed in line with the capability policy and procedure.

#### **1.2 Implementation of policy**

The Institute will provide training and guidance for managers to enable them to deal effectively with conduct issues. This may include investigation and mediation skills training.

#### **1.3 Responsibility and accountability**

The Director has overall responsibility and accountability for managing staff relations within the Institute.

The Finance and General Purposes Committee monitors the number of formal disciplinary cases and reviews the operation of the Institute's conduct policy and practices on a regular basis. Information about formal cases is also submitted to the Equal Opportunities Committee on an annual basis and detailed in equality reports.

#### **1.4 Advice and support**

Advice and support on the application of the policy and procedure may be obtained from a member of Human Resources or a trade union representative.

## **2 Principles**

- 2.1 Where appropriate, informal action will always be considered to resolve problems. Informal advice and guidance is not part of the formal procedure and should be given in confidence and normally in private. The advice will be confirmed in writing when failure to improve could lead to formal action. Members of staff are not entitled to representation when informal advice and guidance is being given.
- 2.2 No formal action will be taken until the issue has been fully investigated.
- 2.3 No member of staff will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be dismissal without notice or payment in lieu of notice.
- 2.4 Where formal action is to be taken, the member of staff will be advised of the nature of the complaint against her/him and will be given the opportunity to state her/his case at a formal meeting before any decision is made. Where a warning is given, the member of staff will be provided with the appropriate support to improve his/her conduct.
- 2.5 Where appropriate, the member of staff will be provided with written copies of evidence, which may include witness statements, in advance of a formal meeting. Information relating to an allegation of misconduct, including statements and letters, should not be divulged to any parties not involved in the process.
- 2.6 A member of staff will have the right to be accompanied by a trade union representative or work colleague ('the companion') at all formal stages of the procedure.
- 2.7 A member of staff will have the right to appeal against any formal action taken under the procedure.
- 2.8 Formal warnings will specify the length of time that the warning will remain 'live'. The Institute reserves the right to extend the time period in appropriate circumstances.

## **3 Investigation**

- 3.1 Formal action will not be undertaken until the necessary facts have been established. A member of staff's line manager will promptly and thoroughly investigate any matter that is reasonably believed to have contravened any of the Institute's policies or rules or may otherwise be considered a disciplinary matter. Examples of conduct where formal action is likely to be taken are given in Appendix A – Disciplinary Rules.
- 3.2 Depending on the circumstances of the case, the member of staff may be invited to attend an investigatory interview. If such an interview is held, the

member of staff will be informed at the outset that the interview is an investigatory interview and does not form part of a disciplinary process. There is no statutory right for members of staff to be accompanied at an investigatory interview. Where it is decided that it is not required to convene a formal hearing but informal advice and guidance is appropriate, any resulting discussion will be in private.

- 3.3 The line manager is responsible for the conduct of the investigation. This will involve taking statements from, and usually meeting with, relevant parties, including any witnesses to the alleged misconduct, where appropriate. The line manager may be accompanied by a member of the HR Department to provide advice and guidance. In some potentially more serious cases it will be appropriate for other persons to assist with or lead the investigation. For example, a member of the Internal Audit team may be asked to investigate allegations of financial irregularity<sup>1</sup> or a member of the Information Services Department may be asked to investigate a suspected abuse of computing regulations<sup>2</sup>.
- 3.4 If it is deemed necessary to suspend a member of staff from work while a potential disciplinary matter is being investigated, suspension will be on full pay for such time as is necessary to permit a proper investigation and/or to arrange a hearing date. The Head of Human Resources (or nominee) will immediately write to the member of staff confirming the fact and conditions of the suspension. The suspension will be for as short a period as possible and will be regularly reviewed. Suspension is not a disciplinary penalty.
- 3.5 Conviction of a criminal offence outside the workplace and normal working hours may not necessarily be deemed gross misconduct. This will depend on the nature of the offence and its relevance to the individual's employment and the sentence incurred.

## **4 Disciplinary Procedure**

- 4.1 Where, upon completion of an investigation, there are reasonable grounds to believe that there is a case to answer, the member of staff will be invited to attend a hearing before her/his Head of Department or equivalent.<sup>3</sup> An HR representative will attend to provide professional advice and ensure that there is a written record of the proceedings.
- 4.2 Where dismissal is a likely outcome, the hearing will be before a Panel authorised by the Director consisting of three members of staff who have not previously been involved in the case. For members of staff covered by the Statutes, the Panel will comprise the Director or her/his nominee, a nominee

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<sup>1</sup> In line with the Fraud Response Plan

<sup>2</sup> In line with the Information Security Policy

<sup>3</sup> Head of Academic Department, Head of Support Department, Head of Faculty Administration

of Senate and a lay member of Council and the panel's reasoned decision in writing will be reported to Council.

- 4.3 The HR Department will advise the member of staff in writing that she/he is required to attend a hearing and that she/he has the right to be accompanied by a trade union representative or work colleague. This notification will include details of the complaint that has been made, the outcome of the investigation and any witness statements. The member of staff will be given at least seven working days' notice of the date of the hearing in order to allow her/him to prepare a response.
- 4.4 Where a member of staff's companion is unable to attend a hearing at the notified time, she/he can suggest an alternative date provided it is reasonable and is not more than five working days after the original date.
- 4.5 Where the member of staff is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another date. If the member of staff is unable to attend the rearranged hearing without good reason, the rearranged hearing will take place in the member of staff's absence. In such circumstances the member of staff's companion will be allowed to present the member of staff's case.

## **5 Disciplinary hearing**

- 5.1 At the hearing the member of staff will be invited to give a full explanation of the case against her/him and to ask questions of the line manager concerning the investigation. The member of staff will be able to call her/his own witnesses provided that advance notice has been given of this. Similarly, advance notice must be given if the line manager intends to call relevant witnesses.
- 5.2 The companion has the right to address the hearing to put the member of staff's case and respond on the member of staff's behalf to any view expressed at the hearing. However, the companion may not answer direct questions to the member of staff or address the hearing where the member of staff indicates that she/he does not wish this.
- 5.3 The Head of Department or the Panel, having fully considered the circumstances of the case, will decide what disciplinary action, if any, should be taken. The decision will normally be indicated orally to the member of staff within one working day of the hearing. Where this is not possible, the member of staff will be informed of the reason for the delay and the anticipated length of that delay. Written confirmation of the decision, outlining the reasoning for the decision, will be produced within five working days of the decision being made.

## 6 Levels of Disciplinary Action

Levels of disciplinary action can range from a written warning to dismissal:

- 6.1 **Written warning** - will normally be issued if: there has been no improvement in conduct about which the member of staff has previously been given informal advice and guidance in writing; or another related offence has occurred during the currency of a previous warning; or the conduct is of such seriousness that informal advice and guidance is not appropriate. A written warning will be kept on the member of staff's HR file but, subject to the member of staff achieving and maintaining satisfactory conduct, will be disregarded after a specified period (normally six months).
- 6.2 **Final written warning** - will normally be issued if: a formal warning has already been issued and another offence has occurred whilst this is current; or there has been no improvement in the conduct about which the member of staff has previously be warned; or the conduct is of such seriousness that a written warning is not appropriate. A final written warning will be kept on the member of staff's HR file but, subject to the member of staff achieving and maintaining satisfactory conduct, will be disregarded after a specified period (normally twelve months).
- 6.3 **Dismissal** - will normally occur if an allegation of gross misconduct is found to be proven, or there has been no improvement in the conduct which has been the subject of a final written warning, or another offence has occurred during the currency of a final written warning. Any dismissal for gross misconduct will normally be summary dismissal without notice or payment in lieu of notice. Should the Panel consider, however, that in the light of all the circumstances dismissal is not warranted, alternative disciplinary action may be taken, provided that such action is within the terms of the member of staff's employment contract or is taken with her/his agreement.

## 7 Appeals

- 7.1 A member of staff who wishes to appeal against any disciplinary action should submit notice of appeal to the Head of Human Resources within seven working days of receipt of the written confirmation of the action. The notice of appeal should be in writing and should state the grounds of the appeal.
- 7.2 Appeals may be raised on one or more of the following grounds:
- The procedure - a failure to follow procedure had a material effect on the decision
  - The decision - the evidence did not support the conclusion reached
  - The penalty - was too severe given the circumstances of the case
  - New evidence – which has genuinely come to light since the first hearing
- 7.3 Arrangements will be made for appeals against disciplinary action to be heard as soon as reasonably practicable.

- 7.4 The appellant will be notified as soon as possible, giving at least seven working days' notice, of the time, date and place of the appeal hearing. The appellant will be advised that she/he may be accompanied by a trade union representative or work colleague as before.
- 7.5 Any appeal against the decision to issue a warning will, wherever possible, be heard by a manager who is senior in authority to the person who took the decision. An HR representative will provide professional advice and ensure that there is a written record of the proceedings.
- 7.6 Appeals against dismissal, or alternative disciplinary action (see 6.3 above), will be heard by a Panel authorised by the Director consisting of three people not previously involved in the case. For members of staff covered by the Statutes, the Panel will comprise the Director or her/his nominee, a nominee of Senate and a lay member of Council and the Panel's reasoned decision in writing will be reported to Council.
- 7.7 The senior member of staff or the Panel will consider any representations made by the member of staff or her/his companion, by the manager who conducted the investigation and by the manager who conducted the hearing and imposed the disciplinary sanction. The senior member of staff or the Panel must decide on the basis of all representations, together with any subsequent evidence that may have come to light, whether or not to uphold the disciplinary sanction.
- 7.8 The member of staff will be notified in writing within five working days of the decision. Where an appeal against dismissal is upheld the member of staff will be paid in full from the date of dismissal and continuity of service will be maintained.
- 7.9 The decision reached at the appeal stage will be final.

## **8 Trade Union Branch Officials**

Where a member of staff subject to this policy is also a Trade Union Branch official the HR Department will advise the Regional Officer of any meetings in advance of such meetings. The Regional Officer will be given a copy of any communication following such meetings.

## **9 Review**

This procedure will be periodically reviewed by the Head of Human Resources. Any amendment to it will be notified to members of staff by means of the intranet or by global e-mail.

**Approved by the Finance and General Purposes Committee at its meeting on 20 October 2009**

## Disciplinary Rules

Matters that the Institute views as amounting to disciplinary offences include (but are not limited to):

- failure to observe Institute procedures and regulations;
- bringing the Institute into disrepute;
- breach of health and safety rules;
- bullying;
- harassment or unreasonable behaviour;
- unreasonable refusal to follow an instruction issued by a manager or supervisor;
- unprofessional conduct with students
- misconduct in research<sup>4</sup>
- plagiarism
- poor attendance;
- persistent bad timekeeping;
- unauthorised absence;
- minor damage to Institute property;
- smoking on the Institute's premises

### Gross misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the member of staff and the Institute. In the event that a member of staff commits an act of gross misconduct, the Institute will be entitled to terminate summarily the member of staff's contract of employment without notice or pay in lieu of notice.

The following list provides some examples of offences which are normally regarded as gross misconduct:

- bringing the Institute into serious disrepute;
- a serious breach of health and safety rules;
- a serious breach of confidence resulting from intentional breach of Institute policy or regulations or improper conduct in relation to job responsibilities;
- theft or fraud;
- causing loss, damage or injury through serious negligence;
- physical violence or bullying;
- discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, race, disability, age or religion or belief;
- deliberate and serious damage to property;

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<sup>4</sup> As outlined in the Code of Practice: Misconduct in Research

- serious misuse of the Institute's property or name;
- deliberately accessing internet sites containing pornographic, offensive or obscene material;
- serious insubordination;
- serious incapability at work brought on by alcohol or drugs.

Other acts of misconduct may come within the general definition of gross misconduct.