

## DISCIPLINARY POLICY

Brief Description (max 50 words)	This policy outlines the process to be followed where there are concerns relating to the conduct and/or behaviours of UoS employees.
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<a href="#">Equality Impact Assessment</a>	This document has been assessed for equality impact on the protected groups, as set out in the Equality Act 2010. This Policy is applicable as outlined in the 'scope' irrespective of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality, and ethnic or national origins), sexual orientation, religion or belief, marriage, or civil partnership.

### Amendment History

Version	Date	Reviewer Name(s)	Summary of changes
2.1	Oct 24	Jo Campbell	Amendment of the appeal process following dismissal to align with the UoS Appeals process for consistency of approach.
2.2	Jan 25	Emma Gwinnutt	Changed to new template
2.3	June 25	Carol Taylor and Donna Phillips	Review in line with policy schedule. Clarification of roles, responsibilities and title amendments

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## **1. Policy statement**

The University expects all its employees to behave and interact appropriately in the course of their work and to treat all colleagues, students and contacts with dignity and respect in line with our values and associated behaviours. Should employees behaviour fall short of the standards expected of them or if employees are found to be in breach of University policy, we will take action to help the achievement and maintenance of required standards and/or to protect the safety and wellbeing of others.

This policy explains the action we will take to investigate and address any concerns regarding employee conduct, including poor behaviours at work.

The University has a zero-tolerance stance on bullying and harassment. This means we will never ignore any allegations which could amount to bullying and harassment.

This policy does not form part of your contract of employment, and we reserve the right to amend or withdraw it at any time.

## **2. Scope**

This policy applies to:

- University of Suffolk employees who have successfully completed their initial period of employment (probation)

Should service conditions apply to any part of this policy, this will be detailed as relevant.

This policy covers one-off incidents if sufficiently serious and repeated inappropriate/unacceptable behaviour.

Issues relating to conduct during an employee's probationary period will be managed in line with the Probation Policy. Issues relating to absence at work will be managed in line with the Health and Wellbeing Policy. Issues relating to performance will be managed in line with the Managing Performance Policy.

## **3. Principles**

This policy is underpinned by the following principles:

- Everyone involved in the process will be treated fairly, consistently and with dignity and respect.
- Any concerns relating to conduct will be raised with staff at the earliest opportunity. Unless the misconduct is sufficiently serious employees will be given time to address any concerns before any formal action is taken.
- The aim of the process is to improve behaviour or to protect the safety and wellbeing of others and is not primarily about imposing a punishment.
- Any employee subject to formal disciplinary proceedings will have the right to be accompanied by their trade union representative or work colleague.

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- If an employee has difficulty with any stage of this process due to a disability, it is their responsibility to discuss this with their manager or POD as soon as possible.
- The process will be kept as confidential as possible, and information about a case will only be shared with those directly involved or affected. This means that any employees who are the subject of disciplinary proceedings, must not talk about it with anyone else at work, including students, other than those people dealing with the disciplinary case and their chosen companion.
- Audio / Visual recordings of the proceedings by the employee or their companion are not permitted at any stage of this process.
- Where it is not possible to hold a face-to-face meeting, we will conduct the disciplinary meeting remotely. Employee rights will not be affected, and we will ensure that the procedure remains fair and reasonable.
- At all formal stages of this policy there is the right to appeal. Appeals will be heard by a senior manager or panel that has previously not been involved with the case.
- The University will act fairly and consistently when dealing with cases under the Disciplinary Procedure.
- The University will seek to resolve employment issues promptly and transparently at the lowest possible level and, where appropriate, on an informal basis.
- In the event of a Trade Union representative being the subject of a disciplinary investigation, the Chief People Officer (or their nominated deputy) and the branch / regional office of the relevant trade union will be notified. A brief outline of the matter to be investigated will normally be given.

#### **4. Definitions and terminology**

The following terminology will be used throughout this policy:

##### **Companion**

They can be a work colleague or trade union representative. A companion can support those involved in the formal process and assist them in preparing for any meetings, presenting information, supporting the employee, and talking to the employee about their case outside of grievance meetings. They may present information on behalf of the employee at formal meetings, although they may not answer questions on behalf of the employee. Employees who have a disability and need additional support should let the relevant manager or member of POD know. A companion cannot be a witness in the case.

##### **Conduct**

Conduct is shown through behaviour at work. It includes interaction with and treatment of others. Expected conduct is described in university policies.

##### **Commissioning Manager**

The Commissioning Manager will normally be a senior member of the School or Directorate. The Commissioning Manager 'commissions' or initiates the investigation. This person will appoint the Investigating Officer. The Investigating Officer will report their findings to the Commissioning Manager in a report. The Commissioning Manager will decide whether there is a case to answer

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and if a disciplinary hearing is required.

### **Investigating Officer**

This is the person appointed by the Commissioning Manager to investigate concerns or complaints about behaviour or an alleged breach of university policy. This may be the employee's immediate line manager (Band 6 or above), or it could be another University of Suffolk manager. In exceptional circumstances, an independent investigator may be appointed.

The Investigating Officer will present their findings to the Commissioning Manager in the form of a report.

The Investigating Officer will usually have completed either online or in-person training ahead of commencing the investigation. Further details regarding the investigation can be found in Appendix 1.

### **Disciplinary Hearing Panel**

A Hearing Panel will be appointed by POD, and a Chair of the Panel nominated. The panel will normally consist of senior managers from a different School or a Directorate, with the Chair normally being Band 8 or above. They would manage the proceedings during the hearing and, in liaison with the other panel members, determine the outcome of the meeting.

### **Appeal Panel**

The Chair of the appeal panel will normally be senior to the Chair of the disciplinary hearing. They would listen to the appeal and make the final determination of the appeal. If the appeal is against dismissal, the process will follow that as set out in the Appeal Process Following Dismissal.

### **Misconduct**

This is behaviour that is considered unacceptable or inappropriate by the University or is a breach of University policy.

### **Gross Misconduct**

Gross misconduct is behaviour that is considered unacceptable or inappropriate or is a breach of University policy and has a serious and/or harmful impact. Such acts cause damage to the University, harm to others, or result in a breakdown in trust. Examples of misconduct and gross misconduct can be found in Appendix I.

## **5. Links to other relevant policies**

Other useful or relevant University policies and guidance, can be found on Hub:

Probation Policy  
Health and Wellbeing Policy  
Grievance Policy  
Managing Capability Policy  
Bullying, Harassment and Sexual Harassment

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## Appeal Process Following Dismissal

Managers should consult with POD before embarking on any formal disciplinary action. A member of POD will be present at formal disciplinary meetings to provide advice and guidance.

### **6. Informal disciplinary action**

Informal disciplinary action may be taken in appropriate cases. This involves informally discussing the matter with the employee, ensuring they understand the reason for the meeting, clearly defining the conduct that is unacceptable and identifying any remedial action. Meetings of this kind are usually conducted on a one-to-one basis. There is no necessity for managers to be accompanied by a member from POD or for the employee to be accompanied by a work colleague or trade union representative. An accurate record of the meeting and any action plan for improvement should be made and shared with the employee. Employees should be given reasonable time to reach the improvement outlined in the action plan agreed by both parties. The employee should be made aware that if informal attempts to obtain improvement are unsuccessful or the misconduct re-occurs, then formal action may be taken. A review meeting must be held even if the employee has sufficiently improved so that the process can be concluded.

If, during the course of the informal meeting, it becomes apparent that the situation is more serious than first thought and the informal approach is no longer appropriate, the employee should be made aware of this, and the formal disciplinary process instigated as set out below.

### **7. Suspension**

If serious or gross misconduct is alleged the employee may be suspended on full pay and benefits or temporarily deployed on alternative duties. The period of suspension will be as brief as possible in the circumstances and should be kept under review. Suspensions will be agreed in advance with a relevant member of the POD team.

Suspension is a precautionary measure, without prejudice to the outcome of any investigation or subsequent hearing.

As a rule, the line manager will meet with the employee to tell them they are suspended and will write to the suspended employee to confirm the terms of the suspension.

### **8. Formal Disciplinary Hearing**

If informal action does not resolve matters or if, following investigation, the alleged misconduct is considered sufficiently serious to potentially merit formal disciplinary action, the steps outlined below will be taken.

### **9. Inform the employee in writing**

The University will inform the employee in writing of the allegations. The letter will contain sufficient information about the allegations and the possible consequences to enable the employee to respond to these at the disciplinary meeting.

The letter will normally enclose copies of any documents that have been gathered during the investigation process to allow for adequate preparation by the employee.

Possible consequences up to and including dismissal, will be outlined in the letter. The letter will also advise the employee of their right to be accompanied by a Trade Union representative or work colleague (a companion).

Only one representative may attend a Disciplinary hearing. Employees accompanying colleagues during disciplinary interviews and/or meetings will be given reasonable paid time away from their work to fulfil that responsibility. Witnesses to the hearing will not be permitted to be a companion.

## **9.1 The Hearing**

A Disciplinary Hearing panel will be appointed by POD to hear the case where the Commissioning Manager has confirmed a formal Hearing is required. The panel will consist of a minimum of two managers, supported by a member of the POD team. For more complex cases, an additional manager will join the Disciplinary Hearing panel. The meeting should be held without unreasonable delay, whilst allowing the employee reasonable time to prepare their case. The Chair of the panel will write, normally with 48 hours' notice to confirm the date for the hearing.

At the hearing, the Chair of the panel will explain the allegations against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer any allegations that have been made. They will also be given the opportunity to ask questions and present evidence.

It may be appropriate for relevant witnesses to attend the disciplinary hearing, and the employee will be given the opportunity to raise points at the meeting about any information provided by witnesses. Where an employee or the University intends to call a witness, they should notify the other party of this in writing at least 24 hours in advance of the hearing and invite them to attend at the appropriate time.

The Chair of the panel in liaison with the other members of the panel will decide on the outcome, where appropriate, seeking advice from the relevant POD representative. Guidance for holding investigation & disciplinary hearings, can be found at the end of this policy.

After the hearing, the Chair of the panel will notify the employee of the decision in writing. This will normally be done within 5 working days of the hearing. If disciplinary action is taken the employee will be advised of the right to appeal.

## **10. Disciplinary outcomes**

The University has discretion to determine the appropriate disciplinary outcome to apply to an employee who it concludes has committed an act of misconduct. These outcomes (or sanctions) include:

### **10.1 Management Instruction**

This will be where it has been determined that no formal disciplinary action is warranted, but there are concerns that need to be addressed to ensure expectations are clearly understood. The management instruction will set out the standards of conduct and/or performance expected. Failure to follow the instructions or any re-occurrence of similar concerns may result in formal disciplinary action being taken. The instruction will be placed on the employee's file for reference but does not constitute formal disciplinary action.

## **10.2 Written Warning**

This will usually be appropriate for a first proven case of misconduct, and where the misconduct is considered sufficiently serious to warrant a written warning. A written warning will normally apply for 12 months after which time it will be disregarded.

## **10.3 Final Written Warning**

This will usually be appropriate for misconduct where there is already a live written warning on the employee's record or where the misconduct is considered sufficiently serious to warrant a final written warning even although the employee has no live warnings. A final written warning will usually apply for no longer than 24 months after which time it will be disregarded.

## **10.4 Dismissal**

Dismissal will usually be appropriate in respect of the following:

- Repeated or serious misconduct during the first 12 months of an employee's employment. Where the employee is within their initial period of employment (Probation), dismissal due to misconduct will be dealt with under Probationary procedures.
- Further misconduct where there is a live written warning.
- Any gross misconduct regardless of whether there are live warnings.

## **10.5 Warning to employee**

For both management instruction, and written warnings the University will inform the employee of the nature of the misconduct, the change in behaviour required, the likely consequences of further misconduct and the period the warning will remain live for.

Gross misconduct will result in summary (immediate) dismissal without notice or payment in lieu of notice.

Examples of conduct which are likely to amount to gross misconduct can be found at Appendix 2.

If the University decides that dismissal is the appropriate sanction, the employee will be informed in writing of the reasons for the dismissal and the date on which employment will end.

An employee will not normally be dismissed for a first act of misconduct unless the University concludes that it amounts to gross misconduct or where this occurs during the Probationary period and it demonstrates their unsuitability to continue in the role.

## **11. Alternative formal outcomes**

In appropriate cases the University may consider some other sanction short of dismissal e.g., transfer or demotion to another job, or withholding an annual increment for a specified period.

## **12. Appealing the outcome**

The employee may appeal the outcome of a decision made at any formal meeting held under the disciplinary policy. Appeals should be submitted in writing outlining the full grounds for appeal, within



5 working days of the date of the letter confirming the University's decision, to the Chair of the panel hearing the disciplinary. Late submissions will be deemed to be out of time.

The appeal stage is not intended to be a rehearing of the original case. Hence, the grounds for appeal should typically fall within one of the following:

- Procedural error.
- The outcome and recommendations are unreasonable and significantly out of line with the issues considered.
- New information is now available which could not have reasonably been provided when the original outcome was communicated.

Where the appeal relates to new evidence, there should be a clear statement provided outlining the reason why this was not available for consideration at the previous stage.

Appeals against dismissal will be conducted in accordance with the University of Suffolk's Appeal Process Following Dismissal.

### **12.1 The appeal hearing**

The University will invite the employee in writing to attend an appeal hearing, giving no less than 48 hours' notice of the date of the Hearing. The employee may be accompanied by a Trade Union representative or work colleague.

Appeals will be heard by an independent and normally more senior manager who will consider the hearing outcome with an open mind.

If the employee or their Trade Union representative is unable to attend the appeal meeting, steps will be taken to rearrange this within 5 working days of the original date. However, if the employee is persistently unable or unwilling to attend a meeting, the Appeal Manager may review the available materials and reach an outcome based on the information available to them. A decision to proceed in this way will be communicated in writing to the employee in advance.

Appropriate training/guidance will be provided to Appeal Managers and members of Appeal Panels by POD. Further information and guidance on the appeal process is contained in the University of Suffolk's Appeal Procedure.

### **12.2 The appeal outcome**

Once the Appeal Manager has considered all the points raised, they will normally provide a response, in writing, within 10 working days.

The decision of the Appeal Manager is final and there is no further right of appeal.

## **13. Other considerations**

### **13.1 Protection of children**

Allegations concerning the possible abuse of children or vulnerable adults by University staff must be reported immediately to the Chief People Officer (or in their absence, the Deputy Director of People & OD).

The Chief People Officer (or their nominated deputy) may consult confidentially with a University Safeguarding Officer / The University Safeguarding Lead or with the County Council's Social Care Department to decide whether a referral should be under the local Area Child Protection Committee (ACPC). Such processes may take precedence over the University's disciplinary procedures.

### **13.2 Matters requiring specialist advice**

University of Suffolk reserves the right to engage additional support for investigators and/or those hearing disciplinary cases involving complex matters of a specialist nature. For example, in a case involving alleged financial irregularities, the assistance of the University's Auditors may be appropriate during the investigation.

### **13.3 Students as witnesses**

It is the policy of the University not to call students as witnesses at internal hearings if possible. In the event an investigating officer, an employee or their representative(s) wishes to approach a student with a view to securing a witness statement or other testimonial, permission must be sought in writing from the Executive Dean of School or the Provost.

### **13.4 Professional Statutory and Regulatory Bodies (PSRB)**

Where applicable, the University will notify any professional bodies (e.g. Nursing and Midwifery Council (NMC)) of any relevant investigation or disciplinary outcomes.

## **Appendix 1: Investigation**

- The University will investigate the alleged misconduct, without unreasonable delay, carrying out any necessary investigations to establish the facts in any case.
- The individual will be advised in appropriate detail of the allegations that are being investigated.
- The person who carries out the investigation will be different from any member of the panel hearing the disciplinary.
- In exceptional circumstances, an independent investigator may be appointed.
- The Investigating Officer will write up the investigation report.
- The report will include written statements, interview notes, and any other relevant documentary evidence.
- This should be submitted to the Commissioning Manager who will decide whether there is a case to answer and how this should be addressed

The purpose of a disciplinary investigation is to establish the relevant facts where there is an allegation of misconduct. The investigation will not decide about a disciplinary sanction (this will be an outcome of the formal Disciplinary Hearing). Any investigation will be undertaken without undue delay and the individual will be informed in appropriate detail, of the allegations that are to be investigated. The Commissioning Manager will decide if there is sufficient evidence to indicate that there is a case to answer and that a Disciplinary Hearing should be convened.

## Appendix 2: Definitions of Gross Misconduct

**The list is not exhaustive and should only be used as a guide.**

The following are examples of matters that are normally regarded as gross misconduct:

- Theft or fraud.
- Physical violence (actual or threatened).
- Deliberate and serious damage to property.
- Unlawful discrimination, harassment, sexual harassment bullying or intimidation against employees, contractors, students or members of the public on the grounds of sex, sexual orientation, marital or civil partner status, pregnancy and maternity, gender reassignment, race, disability, religion or belief, or age which contravenes the University's EDI Policy e.g. sexual violence, anti-Semitism etc.
- Deliberately accessing internet sites containing pornographic, offensive, or obscene material.
- Defamatory and /or abusive comments regarding the University or its staff through the inappropriate use of social networking technology, electronic web logs (blogs), or other internet sites.
- Intentional or malicious refusal to comply with reasonable instructions or requests made by a line manager within the workplace.
- Bringing the University into serious disrepute, such as serious misuse of University property, name or reputation.
- Giving false information as to qualifications or entitlement to work (including immigration status); using a fraudulent identity or withholding information that would be relevant.
- Incapability to work due to being under the influence of alcohol, illegal drugs or other substances during working hours.
- Serious or repeated breach of health and safety rules or serious misuse of safety equipment.
- Conviction for a criminal offence that, in the University's opinion, may affect the University's reputation or its relationships with staff, students or the public, or otherwise affects the employee's suitability to continue to work for the University.
- Possession, use, supply or attempted supply of illegal drugs.
- Serious neglect of duties, or deliberate breach of the University's procedures.
- Deliberate or malicious unauthorised use, processing or disclosure of personal data which contravenes the University's Data Protection Policy.
- Making untrue/vexatious allegations in bad faith against a colleague.
- Serious misuse of the University's information technology systems (including misuse of developed or licensed software, use of unauthorised software and serious misuse of e-mail and the internet).

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## **Misconduct**

Examples of misconduct for which disciplinary action is appropriate include (but are not limited to):

- Persistent poor timekeeping;
- Breach of our absence reporting procedures;
- Refusal to follow a legitimate management instruction;
- Negligence in performance of duties
- Breach of health and safety rules
- Careless work;
- Time-wasting;
- Disruptive behaviour; and insulting or offensive behaviour towards others, not amounting to serious harassment or bullying.
- Failure to report any criminal conviction or police caution
- Failure to disclose any potential conflicts of interest in personal life or that of a close family member

## **Professional Standards**

Whilst employed by University of Suffolk, if there are any circumstances when an employee's behaviour or conduct in their personal life - including any safeguarding matter, use of social media, criminal offences committed or cautions or warnings received, or any matters concerning them which it deems to be of significant concern, these may be grounds for dismissal. Behaviour, conduct, or outcomes related to matters outside work may include safeguarding matters – including a substantiated Local Authority Designated Officer (LADO) outcome or any other matter of concern which may impact your professional suitability. Such matters may be considered to be gross misconduct, or misconduct, if they affect the employee's ability to carry out their job or have a negative effect on the University's reputation.

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